

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
SOUTHERN ZONE, CHENNAI**

IN

ORIGINAL APPLICATION No. 88 OF 2020 (SZ)

IN THE MATTER OF: -

Meenava Thanthai K.R. Selvaraj Kumar,
Meenavar Nala
Sangam

.....Applicant(s)

-VERSUS-

Union of India & Ors.

..... Respondent(s)

**REPLY AFFIDAVIT ON BEHALF OF RESPONDENT NO. 1, MINISTRY OF
ENVIRONMENT, FOREST AND CLIMATE CHANGE**

MOST RESPECTFULLY SHOWETH: -

I, Dr.R.Sridhar S/o P.Rengarajan aged about 41 years, presently working as Scientist 'D', in the Ministry of Environment, Forest & Climate Change (hereinafter referred to as MoEF& CC)do hereby, in my official capacity, solemnly affirm and state on oath as follows:-

1. That I am duly authorized and competent to swear the present reply affidavit on behalf of Ministry of Environment, Forest and Climate Change (herein after referred as MoEF&CC).
2. That the contents of the application, unless specifically admitted, are denied to the extent that they are inconsistent with submissions made hereinafter.
3. That the instant reply is being filed by the Answering Respondent without prejudice to his right to file a fuller and more detailed reply at a later stage, if so necessary.
4. The Ministry of Environment, Forest & Climate Change has notified Environment Impact Assessment (EIA) Notification, 2006 under the provisions of the Environment (Protection) Act, 1986 which deals with the process to grant prior Environment Clearances. As per EIA Notification, 2006 and subsequent amendments, all new projects or activities listed in the Schedule, Expansion and modernization of existing projects or activities listed in the Schedule, any change in product - mix in an existing manufacturing unit requires Environmental Clearance from the concerned authorities. No activity can commence before grant of Environment Clearance.
5. Further, the EIA Notification, 2006 has decentralized the environmental clearance process by categorizing the developmental projects in two categories, i.e., Category 'A' project and Category B. The 'Category 'A' projects are appraised at Central level by the Sectoral Expert Appraisal Committee (EAC) and Category


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'B' projects are appraised at State Level Expert Appraisal Committee (SEAC). State Level Environment Impact Assessment Authority (SEIAA) and State Level Expert Appraisal Committee (SEAC) are constituted to provide clearance to Category B process.

6. That, the EIA is a process involving the following four important stages namely, Stage (1) Screening, Stage (2) - Scoping – i.e. prescribing Terms of Reference (TOR) for undertaking detailed Environment Impact assessment studies, Stage (3)- Public Consultation–to be conducted by the respective State /UT Pollution Control Board/Committee, and Stage (4) -Appraisal – by Expert Appraisal Committees (EACs)/ State Level Expert Appraisal Committees (SEACs).
7. That, as per “General Condition” under the EIA notification, 2006, “Any project or activity specified in Category ‘B’ is treated as Category ‘A’, if located in whole or in part within 5 km from the boundary of (i) Protected Areas notified under the Wild Life (Protection) Act, 1972, (ii) Critically Polluted areas as notified by the Central Pollution Control Board from time to time, (iii) Notified Eco-sensitive areas, (iv) inter-State boundaries and international boundaries”. These projects are appraised at the Central Level by the EAC.
8. That under the provisions of EIA Notification, 2006, Synthetic Organic Chemical Industries is covered under entry 5 (f) of the Schedule to the EIA Notification, 2006. The entry 5(f) of the Schedule of EIA Notification 2006 provides as follows:

Project or Activity	Category with threshold limit		Conditions if any	
	A	B		
(a) (1)	(2)	(3)	(4)	(5)
5(f)	Synthetic organic chemicals industry (dyes & dyes intermediates; drugs and intermediates excluding drug formulations; synthetic rubbers; basic organic chemicals, other synthetic organic chemicals and chemical intermediates)	Located outside the notified industrial area/ estate except small units as defined in column (5)	(i) Located in notified industrial area/ estate. (ii) Small units as defined in column (5)	General as well as specific conditions shall apply. Small units: with water consumption <25 cu mt per day, fuel consumption <25 TPD and not covered in the category of MAH units as per the Management, Storage and Import of Hazardous Chemical Rules, 1989. Note: API vide notification dated 27.03.2020, 15.10.2020 & 16.07.2021 treated as Cat. B2 (upto 31.12.2021)


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9. That the aforementioned entry 5(f) is categorized as Category 'A' and Category 'B' depending upon the location of the industry for which Environmental Clearance is sought. If the industry is located outside the notified industrial area, then it is qualified as Category 'A' project and such projects are appraised by the Sectoral Expert Appraisal Committees (EACs) and approved by the Ministry of Environment, Forest and Climate Change. However, if the industry is located within a notified industrial area, it is qualified as category 'B' project to be appraised by the State Level Expert Appraisal Committees (SEACs) and approved by the State Environmental Impact Assessment Authorities (SEIAAs) in the respective States/UTs.
10. That, as per the extant provisions, the manufacturing of bulk drug and active pharmaceutical ingredients (API) requires a prior Environment Clearance under category A of item 5(f) 'Synthetic organic chemicals industry' of EIA Notification, 2006. All such units attracting the said provisions are allowed to commence their activities only after obtaining prior EC. Further, As per S.O. 1223(E) dated 27/03/2020 and S.O. 3636 (E) dated 15/10/2020 and 16.07.2021, issued by the Ministry, all projects in respect of active pharmaceutical ingredients (API) are to be appraised as Category "B2" upto 31/12/2021 at Center or State level depending upon the applicability of general conditions, as stated at para 7.
11. That as per the EIA Notification, 1994, any person who desires to undertake any new project in any part of India or the expansion or modernization of any existing industry or project listed in the Schedule shall have to apply for Environmental Clearance to the competent authority. However, since the respondent unit started its operations prior 1994, exemption has been granted to the unit under EIA Notification, 1994. However, in case the industry undergoes any expansion or modernization subsequent to EIA Notification 2006, it is required to obtain prior Environmental Clearance as per the provisions of the said notification.
12. Further, as per the records available and the report of the Hon'ble committee constituted by the Hon'ble NGT vide order dated 26/06/2021 wherein officer of the Regional Office of the answering respondent was also a member.
13. That, the respondent unit has not submitted any application for Environment Clearance to the answering respondent i.e. at Central level herein. A copy of the form 1 submitted to SEIAA by the respondent industry is annexed as **ANNEXURE A/1**.
14. It is submitted that the present reply affidavit may kindly be taken on record and into consideration and the Hon'ble Tribunal may pass appropriate Order(s), direction(s) as deemed fit and proper under the facts and circumstances of the present case.
15. That other/ancillary issues raised in the appeal under reply do not pertain to the answering respondent. The Answering Respondent seeks leave to make additional submissions, if required, during the course of the proceedings.


DEPONENT

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VERIFICATION

Verified at Chennai on this 30th day of September, 2021 that the contents of the above affidavit are correct to my knowledge and belief based on official records and nothing material has been concealed there from.

**DEPONENT**

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