

BEFORE THE NATIONAL GREEN TRIBUNAL (SOUTHERN ZONE)
BENCH, CHENNAI

APPEAL No. 28/2025

BETWEEN

M/s BRUNDHAVANA FOUNDATION

... APPELLANT

AND

S.E.I.A.A., KARNATAKA

... RESPONDENT

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Through



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REPLY STATEMENT FILED BY THE RESPONDENT (SEIAA, KARNATAKA)

The Respondent respectfully submits as follows: -

1. At the outset, the above appeal filed by the appellant is not maintainable in law facts. Hence the above appeal is liable to be rejected in limine. The respondent seeks the leave of this Hon'ble Court to submit statement of objections comprehensively instead of parawise reply and denial/admission. All averments which are not specifically admitted herein are hereby denied as false.
2. That the respondent submits that the appellant is a registered Trust which was registered on 16/07/2020. The respondent had issued Environment Clearance to the appellant on 06/08/2024 to run Common Bio-medical Waste Treatment Facility at Plot No.



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83/8, Sy. No. 96, Nandur Kesaratagi Industrial Area, 1st Phase, Nandur (K) Village, Kalaburagi Taluk & District based on the recommendation of State Expert Appraisal Committee. The State Expert Appraisal Committee had recommended the proposal for issue of Environment Clearance based on the information furnished by the appellant in Form – 1, Form 1A and other documents annexed to the application.

3. That the respondent submits that earlier, the appellant was running Common Bio-medical Waste Treatment Facility at Sy. No. 270, Sharan Sirasgi Village, Afzalpur Road, Kalaburagi after entering into an agreement with District Bio-medical Waste Management Committee on 31/07/2020 and took over the plant from Centre for Environment Education which was earlier running the facility.
4. The respondent submits that subsequently, it came to the respondent's notice that the appellant has failed to disclose material facts including details of past violations while operating a similar Common Bio-Medical Waste Treatment Facility (CBWTF) in a different location without full compliance of BMW Rules, 2016 and other statutory mandates. Hence, the respondent issued a



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notice dated 26/11/2024 calling upon the appellant to show cause as to why action should not be initiated against it for the reasons stated therein. After considering the reply dated 03/12/2024 given by the appellant to the show cause notice, the respondent decided to keep the Environment Clearance in abeyance till further orders vide order dated 04/01/2025 under Section 5 of Environment (Protection) Act, 1986 for the reasons stated in the below paragraphs.

5. The respondent submits that this is a classic situation involving suppression of material facts and SEIAA actually has strong and settled grounds to defend an abeyance order especially in the context of bio-medical waste (BMW) facilities, which are treated as high-risk environmental activities. Disclosure of past violations, prosecutions, closure directions or non-compliances is a mandatory and material requirement under EIA Notification, 2006, Form-1 / Form-1A and Standard EC conditions. It is a settled proposition of law that Non-disclosure of material facts by the project proponent amounts to fraud on the regulator and fraud, in principle vitiates everything. An EC obtained by misrepresentation or concealment is voidable and liable to be recalled. Had the past violations been disclosed, the EC



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application would have undergone enhanced scrutiny, possibly fresh appraisal, or rejection. The EC was therefore obtained by suppression of material facts.

6. The respondent submits that while it has no express review power, it retains inherent powers to correct decisions obtained by fraud to prevent environmental harm and protect public interest. The Regulatory authorities are not functus officio when decision is induced by withholding vital information and continuing operations pose environmental risk. The respondent further submits that keeping the Environment Clearance in Abeyance is not cancellation but it is a temporary regulatory safeguard pending clarification.

7. The respondent submits that Precautionary Principle is part of Article 21 jurisprudence especially applicable to BMW plants, which involve i) Incineration ii) Toxic emissions and iii) Public health risks. When past violations involving similar operations are concealed, the respondent is duty-bound to adopt a precautionary approach and prevent possible irreversible environmental damage. Past environmental track record is a legitimate consideration for grant of Environmental clearance



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which is based on the credibility and compliance capacity of the Project Proponent. Suppression of Bio-medical Waste Management violations in previous operations undermines the integrity of the appraisal process.

8. The respondent submits that Environment clearance is a conditional permission and not an absolute right to the project proponent. No equity lies in favour of the project proponent who has suppressed material facts and misled the authority. Legitimate expectation cannot arise from an order obtained by suppression or misrepresentation. In matters involving public health, regulatory caution overrides commercial inconvenience.
9. EC applications under the EIA Notification, 2006 require full disclosure of *past compliance history* of the project proponent. The non-disclosure by the PP amounts to concealment of material information which would materially influence the appraisal process, and therefore, the EC granted was *tainted by misrepresentation*. It is a settled legal position that suppression of material facts/vital information vitiates the entire clearance process and may be grounds for either recall or abeyance of clearance. This Authority acted in exercise of its regulatory



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powers to ensure environmental protection and compliance with statutory procedures.

10. SEIAA has the duty and regulatory jurisdiction to ensure environmental protection and safeguard public health in discharge of its obligations under the EIA Notification, 2006 and the Environment (Protection) Act, 1986. An EC obtained without full disclosure of material information undermines the object and purpose of environmental appraisal and polluter accountability. SEIAA acted within its powers to keep the EC in abeyance to enable a thorough inquiry, verification of disclosures, and to prevent environmental harm pending resolution.

11. The fact that the PP is running a similar plant with numerous documented non-compliance complaints is "material information." This history is critical for the SEIAA to: Assess the "competency" and "track record" of the proponent in handling hazardous biomedical waste. Determine whether the proponent is a "repeat violator," which would necessitate stricter conditions or a refusal to grant fresh clearance to prevent further ecological damage. Evaluate the cumulative environmental impact if the



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new plant operates with the same systemic failures as the earlier one.

12. The abeyance order does not arrest the project's lawful rights but ensures that EC stands suspended until the PP furnishes complete and correct information. There is *no* frustration of legitimate expectations since no vested right can arise when a statutory authority acts to correct or clarify procedural irregularities.

PRAYER

In view of the above, it is therefore respectfully prayed that this Hon'ble Tribunal may kindly be pleased to:

- (a) Dismiss the Original Application;
- (b) Uphold the abeyance order passed by SEIAA;
- (c) Direct the Project Proponent to disclose correct facts and material history;
- (d) Pass any other order as deemed fit in the interest of justice and public welfare.



Advocate for Respondent

Place: Bangalore

Date: 27/01/2026



Respondent

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