

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

APPEAL No. 39 OF 2024

M/s. KGISL Technologies and
Infrastructures Private Limited,
Rep. by its Authorised Signatory,
Mr. R.Maheswaran

...Appellant.

-Vs-

1.State Level Environmental Impact
Assessment Authority (SEIAA)
Rep. by its Member Secretary,
3rd Floor, Panagal Maaligai,
No.1, Jeenis Road, Saidapet,
Chennai-600 035

2. State Level Expert Appraisal Committee
(SEAC), Rep. by its Chairman,
3rd Floor, Panagal Maaligai,
No. 1, Jeenis Road, Saidapet,
Chennai-600 035

....Respondents

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Dated at Chennai this the 18th day of July, 2024.



Counsel for Respondents-1&2

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI
Appeal No.39 of 2024 (SZ)

M/s. KGISL Technologies and Infrastructures Private Limited
Rep. by its Authorised Signatory,
Mr. R. Maheswaran

... Appellants

Vs

1.State Level Environment Impact Assessment Authority (SEIAA),
Rep. by its Member Secretary,
3rd Floor, Panagal Maaligai, No.1, Jeenis Road,
Saidapet, Chennai - 600 015.
Email: seiaamstn@gmail.com
Phone No. 044-24359973

2.State Level Expert Appraisal Committee (SEAC),
Rep. by its Chairman,
3rd Floor, Panagal Maaligai, No.1, Jeenis Road,
Saidapet, Chennai - 600 015.
Email: seacchairmanin@gmail.com
Phone No. 044-24359973.

... Respondents

COUNTER AFFIDAVIT FILED ON BEHALF OF SEIAA - TAMIL NADU.

THE 1st & 2nd RESPONDENTS

I, A.R. Rahul Nadh, I.A.S., aged about 36 years, working as Member Secretary, State Level Environment Impact Assessment Authority, Tamil Nadu (SEIAA-TN) having office at Third Floor, Panagal Maaligai, Saidapet, Chennai - 600015, do hereby solemnly affirm and sincerely state as follows:



Member Secretary
STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY - TN
Panagal Maaligai, No.1, Jeenis Road,
Saidapet, Chennai - 15

2.

1.I am filing this counter affidavit on behalf of the 1st& 2nd Respondents herein and as such I am well acquainted with the facts and the circumstances of the case from the records available in this office.

2.I state that I have perused the appeal and deny the averments and allegations stated therein except those that are specifically admitted hereunder and put the Appellant to strict proof of the same.

3.It is respectfully submitted that the project proponent M/s. KGISL Technologies and Infrastructures Private Limited has applied for Environmental Clearance for the Residential Apartment Building complex in S.F.No. 376/1B, 376/2B, 377/3, Keeranatham Village, Coimbatore North Taluk, Coimbatore District, Tamil Nadu vide application dated 23.07.2010. This project is covered under category "B" of Item 8 (a) "Building & Construction" of the Schedule to the EIA Notification, 2006 as amended.

4.It is respectfully submitted that SEIAA-TN observed that this proposal comes under violation category hence it was recommended to the Government of Tamil Nadu to initiate credible action against the project proponent under section 15 of the Environment (Protection) Act, 1986 vide letter dated 09.05.2013. Subsequently Government of Tamil Nadu directed TNPCB to initiate appropriate legal action against the Project Proponent under the Environment (Protection) Act, 1986 vide letter dated 05.07.2013.

5.It is respectfully submitted that TNPCB had filed a case against the project proponent before the Coimbatore Judicial Magistrate court vide C.C.No. 200 of 2014.



Member Secretary
STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY - TN
Panagal Malignal, No.1, Jeemis Road,
Saldapet, Chennai - 15

6. It is respectfully submitted that, Thiru. V. Sankara Subramanian had filed an Original Application No. 74 of 2017 in the Hon'ble National Green Tribunal (Southern Zone) against the construction of housing project by M/s KGISL Trust and M/s KGISL Technologies & Infrastructure Pvt. Ltd., Coimbatore, Tamilnadu without obtaining prior EC from the competent authority under EIA Notification, 2006 as amended.

7. The project proponent M/s. KGISL Technologies and Infrastructure Private Limited had applied Environmental Clearance application in the MoEF&CC, New Delhi under violation category for the Construction of Residential Apartment Project "KGISL PLATINA" at S.F.No. 375/5B (P), 376/1D (P), 376/2B (P), 377/3 (P), Keeranatham Village, Annur Taluk, Coimbatore District, Tamil Nadu vide application dated 29.07.2017. The same application was transferred from MoEF&CC, New Delhi to SEIAA-TN dated 28.03.2018.

8. The Terms of Reference (ToR) under violation was issued to the project proponent by SEIAA-TN vide Letter No. SEIAA-TN/F.No.372/SEAC-CXVII/Violation/ToR-566/2018 dt 07.08.2018.

9. It is submitted that the Hon'ble NGT has passed an interim order dated 21.01.2020 stated as follows:

"37. So considering these aspects we feel it appropriate that fifth respondent is directed to pay an interim compensation of Rs.8 crores and that amount can be deposited before the CPCB within a period of two months and the same can be utilized by the CPCB for restoration of ecology lost.

38. Further, in order to assess the actual compensation payable we constitute a committee comprising of CPCB, SPCB, SEIAA, Regional Office of MoEF, Council for Scientific and Industrial Research and IIT, Chennai. SPCB will be the nodal agency for



coordination and providing necessary logistics for this purpose and the committee shall submit a report within a period of three months to this Tribunal through e-mail at ngtszfilng@gmail.com."

It is respectfully submitted that based on the above order the Project Proponent had filed an appeal in the Hon'ble Supreme Court vide Civil Appeal No. 3891 of 2020, M/s KGISL Technologies and Infrastructure Pvt. Ltd. vs. V. Sankara Subramanian & Ors.

10. The Hon'ble National Green Tribunal has disposed the case with the following Order dated 27.04.2022 in Original Application No. 74 of 2017

"2. The matter first came up for hearing on 31.03.2017 when the Tribunal issued notice to the respondents, including the Project Proponents (PPs), SEIAA Tamil Nadu and State PCB who have filed their respective replies. Vide order dated 21.01.2020, the Tribunal constituted a Committee to assess compensation for construction of the project in violation of the statutory mandate and fixed interim compensation of Rs. 8 Crores, to be deposited with the CPCB within two months for restoration of the environment. The Committee has yet to fix final compensation on the ground that the PP has filed a Writ Petition in the High Court. We note that the Writ Petition was later dismissed as withdrawn on 10.11.2021

6. It is patent that there is substantial question of environment about legality of construction of the project without requisite EC. It is undisputed that project has been constructed in violation of mandatory requirement of EC. Thus, answer to the question is that the construction is illegal. Further order in such situation is either to direct demolition of the project or applying the principle of proportionality in terms of judgments of the Hon'ble Supreme Court inter alia in Alembic Chemicals v. Rohit Prajapatil, Keystone Realtors (P) Ltd. v. Anil v. Tharthare2, M/s Goel Ganga Developers India Pvt. Ltd. v. Union of India3 and Mantri Techzone Pvt. Ltd. v. Forward Foundation and Ors.4, to make the PP accountable in terms of compensation for restoration of the environment

7. Having regard to the totality of circumstances, we adopt the second course and direct that compensation be assessed by the

Committee already constituted, following due process of law. Order of the Tribunal fixing interim compensation and final determination of compensation by the Committee will be subject to the order of the Hon'ble Supreme Court in pending appeal filed by Respondent No. 5, PP being Civil Appeal No. 3891 of 2020, M/s KGISL Technologies and Infrastructure Pvt. Ltd. v. V. Sankara Subramanian"

11. Subsequently, the Project Proponent, M/s. KGISL Technologies and Infrastructures Private Limited, had applied for Environmental Clearance under violation category for the Existing Residential Apartment Building complex in S.F.No. 375/5B (Pt), 376/1B (Pt), 376/2B (Pt), 377/3 (Pt) of Keeranatham Village, Annur Taluk, Coimbatore District, Tamil Nadu. The project/activity is covered under category "B" of Item 8 (a) "Building & Construction" of the Schedule to the EIA Notification, 2006 vide online proposal number SIA/TN/MIN/423025/2023, dated 22.03.2023.

12. It is respectfully submitted that the proposal was placed in the 369th SEAC Meeting held on 20.04.2023.

Based on the presentation and document furnished by the project proponent, SEAC decided to obtain the following additional particulars from the proponent:

- i. To revise the ecological damage assessment as per CPCB Guidelines.
- ii. Actual Data pertaining to the Water usage and Ground Water recharge and Ground Water Table.
- iii. Minimum 50% of Roof Area must be covered with Solar Panels.
- iv. Enumeration of Trees within the Green Belt Area.
- v. Revised EMP shall be submitted.

Hence, the SEAC decided to constitute a sub-committee to make on-site inspection to assess the present status of the proposed project,

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environmental settings and **to assess ecological damage assessment whether it is being carried out in accordance with CPCB Guidelines**, Remediation plan, Natural resource augmentation and Community resource augmentation. After the receipt of the additional details from the proponent and the evaluation report by the Sub-committee, the SEAC will deliberate on the issue of Environmental Clearance under violation category. SEAC also decided to request **SEIAA-TN to initiate action under Sec. 19 of the Environment (Protection) Act, to be taken for violation cases, in accordance with law.**

13.It is respectfully submitted that the State Expert Appraisal Committee (SEAC) Tamil Nadu constituted a sub-committee vide Lr. No. SEAC-TN/372/Site-Inspection/2022, dated 20.04.2023 to inspect and study the field condition for the said proposal.

14.It is respectfully submitted that the said proposal was placed in the 616th SEIAA meeting held on 10.05.2023. The authority accepted the decision of 369th SEAC meeting held on 20.04.2023 and decided to request the Member Secretary, SEIAA to communicate the 369th SEAC minutes to the project proponent and to the State Government/TNPCB against project proponent under the provisions of Section 19 of the Environment (Protection) Act, 1986 as per the EIA Notification dated: 14.03.2017 as amended 08.03.2018 with a copy to TNPCB.

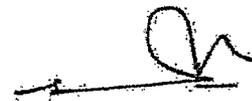
15.It is respectfully submitted that **the Sub-committee had inspected the project site on 03.06.2023 and the inspection report was placed in the 404th Meeting of SEAC held on 25.08.2023. After detailed deliberation, SEAC decided to recommend the proposal to**



Member Secretary
STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY - TN
Panagal Malligal, No.1, Jeeris Road,
Saldaipati, Chennai - 15

SEIAA for grant of Environmental Clearance subject to the following conditions stated therein in addition to the normal conditions:

1. The decision to issue EC is subject to outcome in the cases pending before the Hon'ble Supreme Court of India and Hon'ble NGT (SZ) in this regard.
2. As per the MoEF& CC Notification, S.O.1030 (E) dated:08.03.2018, "The project proponent shall submit a bank guarantee equivalent to the amount of remediation plan and Natural and Community Resource Augmentation Plan with the State Pollution Control Board and the quantification will be recommended by the Expert Appraisal Committee for category A projects or by the State or Union territory level Expert Appraisal Committee for category B projects, as the case may be, and finalized by the concerned Regulatory Authority and the bank guarantee shall be deposited."
3. Accordingly, the amount prescribed for Ecological remediation (Rs. 1,36,93,750/-), natural resource augmentation (Rs. 4,00,50,000) & community resource augmentation (Rs. **1,42,56,250/-**), is Rs. **6,80,00,000/-**. The project proponent should remit the amount of Rs. Rs. **6.80 crore** in the form of bank guarantee to Tamil Nadu Pollution Control Board and submit acknowledgment of the same to SEIAA-TN. The amount shall be utilized for the ecological damage remediation plan, Natural resource augmentation plan & Community resource augmentation plan as indicated.
4. The project proponent shall carry out the works assigned under ecological damage, natural resource augmentation and community resource augmentation within a period of one year from the date of issue of EC. If not, the bank guarantee will be forfeited to TNPCB without further notice.



16. It is respectfully submitted that subsequently, the subject was placed in **655th SEIAA meeting** held on 19.09.2023. The Authority after detailed deliberation, decided that since a court case is pending before Hon'ble Supreme Court (Civil Appeal No. 3891/2020) and hence decided to keep in abeyance until the disposal of the case pending before Hon'ble Supreme court. Upon receipt of final judgement, further deliberation shall be done. In view of the above, the Authority decided to refer back the proposal to SEAC to furnish remarks.

17. It is respectfully submitted that the Project Proponent vide letter dated 04.10.2023, received by this office on 06.10.2023 had given a representation to SEIAA which inter alia states as follows,

"... Further, the SEAC in the meeting held on 25.08.2023 had requested us to install roof top solar panels in accordance with the revised norms for which we had duly complied the same by spending Rs. 90 lacs as per our letter dated 09.08.2023 thereby contributing to the green power energy in the project. It should be noted that while the company had completed the project during December 2014 and sold more than 433 dwelling units by 2018. However, to comply with directions of SEIAA department, the company has already spent a sum of Rs. 90 Lacs during July 2023. Under the above circumstances, we request your good self to drop further proceedings on the basis of the report dated 25.08.2023 and not demand any compensation in terms of your report dated 25.08.2023 and oblige."

The above representation was placed in the 668th Authority meeting held on 01.11.2023. Hence, Authority after detailed deliberation, decided to forward the above representation received from the proponent and the committee shall examine the above representation and shall furnish its recommendation to SEIAA to take further course of action.



Member Secretary
STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY - TN
Panagal Manigai, No.1, Jeehis Road,
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18. It is respectfully submitted that based on the above facts, the proposal was again placed in **430th SEAC meeting** held on 14.12.2023. The Committee carefully examined the representation given by the Project Proponent in its letter dated 04.10.2023. The representations made by the Project Proponent and the remarks of the Committee are given below.

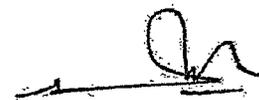
1. First, according to PP their case shouldn't have been dealt with as a violation case:

The Committee has already gone through the facts involved in the case and has concluded that the proposal is a violation case & Violation ToR was issued vide Letter No. SEIAA-TN/ F.No.372/ SEAC-CXVII/ Violation/ ToR-566/ 2018 dated:07.08.2018. The PP also accepted & submitted EIA report as per laid down procedure in EIA Notification, 2006. Hence, PP's representation that their proposal is not a violation is liable to be rejected as Project proponent himself had accepted the violation ToR & had undergone process.

2. Second, the PP has represented against the amount of penalty determined by SEAC:

SEAC has been following the guidelines finalised by CPCB to evaluate Environmental Compensation which has also been accepted by NGT. The formula and the various values assigned to various parameters have been explained in detail in the 404th SEAC meeting minutes. Therefore, SEAC finds no reason to re-examine the amount of compensation already determined based on CPCB Guidelines.

3. Third, the company has pointed out that, the Sub-Committee appointed by SEAC has arrived at Rs. 2.7 Crores as penalty while the SEAC has set the compensation at Rs. 6.80 Crores:



Member Secretary
STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY - TN
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The Sub-Committee was Constituted to make an on-spot inspection & the Sub-Committee had given their recommendation based on the data furnished by PP during the site visit. The views of the Sub-Committee are only recommendatory in nature and SEAC takes final decision after considering all aspects including the recommendation of the subcommittee.

4. **Finally, the PP has requested the SEIAA to drop further proceeding based on Committee's environmental compensation as determined by the Committee:**

The Committee is of the view that SEIAA may immediately take a decision based on the recommendation of SEAC irrespective of the case pending before Hon'ble Supreme Court as it is not an impediment for arriving at the final decision. In fact, the PP has submitted the decision of SEAC by way of additional affidavit. Further, in SEAC recommendation it has been clearly stated that the EC is subject to the outcome of a case pending before Hon'ble Supreme Court.

19. The Committee therefore recommended SEIAA that immediate action may be taken to instruct the project proponent to remit the amount by way of **Bank Guarantee within 3 weeks**. Further, the PP may also be informed that if they fail to comply, stringent penal actions will be initiated which may include action to demolish the building after following the due course of law.

20. It is respectfully submitted that the proposal was placed in the 687th Authority meeting held on 09.01.2024. Hence, in view of the above, in continuation to the earlier minutes, Authority decided to accept the decision taken by SEAC and decided to request the Member Secretary,

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SEIAA to inform the Project Proponent to furnish the following particulars as recommended by SEAC in the Minutes of 404th SEAC Meeting held on 25.08.2023.

- i. As per the MoEF& CC Notification, S.O.1030 (E) dated:08.03.2018, "The project proponent shall submit a bank guarantee equivalent to the amount of remediation plan and Natural and Community Resource Augmentation Plan with the State Pollution Control Board and the quantification will be recommended by the Expert Appraisal Committee for category A projects or by the State or Union territory level Expert Appraisal Committee for category B projects, as the case may be, and finalized by the concerned Regulatory Authority and the bank guarantee shall be deposited. Further, if the PP fails to comply, stringent penal actions will be initiated as per the direction given by SEAC in its 430th SEAC meeting held on 14.12.2023.
- ii. Accordingly, the amount prescribed for Ecological remediation (Rs. 1,36,93,750/-), natural resource augmentation (Rs. 4,00,50,000) & community resource augmentation (Rs. 1,42,56,250/-), is Rs. 6,80,00,000/-. The project proponent should remit the amount of Rs. 6.80 crore in the form of bank guarantee to Tamil Nadu Pollution Control Board and submit acknowledgment of the same to SEIAA-TN. The amount shall be utilized for the ecological damage remediation plan, Natural resource augmentation plan & Community resource augmentation plan as indicated.
- iii. The project proponent shall carry out the works assigned under ecological damage, natural resource augmentation and community resource augmentation within a period of one year from the date of issue of EC. If not, the bank guarantee will be forfeited to TNPCCB without further notice.



Member Secretary
STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY - TN
Panagal Maligai, No.1, Jeeris Road,
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- iv. The project proponent shall submit the proof for the action taken by the state Government/TNPCB against project proponent under the provisions of section 19 of the Environment (Protection) Act, 1986 as per the EIA Notification dated: 14.03.2017 and amended 08.03.2018.

It is respectfully submitted that in view of the above, a letter was addressed to the Project Proponent vide this office Letter No. SEIAA-TN/F.No.372/2023 dated 12.01.2024.

21. It is respectfully submitted that the Hon'ble Supreme Court has disposed the Civil Appeal No. 3891 of 2020 with the following orders dated 07.02.2024,

"2. We see no reason to interfere with the order of the National Green Tribunal.

3. We take note of the fact that, there is no interim order passed by this Court while issuing notice on 10.12.2021 in the Civil Appeal. Till date the decision of the Tribunal directing payment of Rs. 8 crores as interim compensation has not been complied with by the appellant. While dismissing the Civil Appeal, we direct the Tribunal to initiate immediate action for compliance of the direction issued by the Tribunal."

22. It is respectfully submitted that subsequently, a letter along with Order of the Hon'ble Supreme court in Civil Appeal No. 3891 of 2020 was received from the Government of Tamilnadu vide Letter No. 14389/EC.3/2017-21, dated: 21.02.2024, the same was received in this office on 01.03.2024. The same was placed in the 703rd Authority meeting held on 13.03.2024. The Authority after detailed deliberation, decided to forward the Order of the Hon'ble Supreme court in Civil Appeal No. 3891 of 2020 along with the Government letter to the committee to examine and furnish its remarks to SEIAA to take further course of action.



23.It is respectfully submitted that in the meantime the Project Proponent has furnished the copy of Bank Guarantee (BG NO. T20GPE240755001, dated: 15.03.2024 for an amount of Rs.6,80,00,000/-) submitted to TNPCB vide his letter dated 19.03.2024 & copy of acknowledgement obtained from TNPCB for the submission of Bank Guarantee. Also, the proponent has submitted the details of court case filed by TNPCB before the Judicial Magistrate Court-II, Coimbatore vide C.C. No. 200 of 2014, dated 29.01.2014 against the Project Proponent.

24.It is respectfully submitted that the above said proposal was placed in the 707th Authority meeting held on 01.04.2024. During deliberation the Authority decided to refer back the proposal to SEAC for remarks / recommendations

25.It is respectfully submitted that subsequently the Order of the Hon'ble Supreme Court of India in Civil Appeal No. 3891 of 2020 dated 07.02.2024 was placed in the 458th SEAC meeting held on 04.04.2024. In the meeting SEAC examined the matter in detail and decided that the recommendation already made may be kept in abeyance and the Project Proponent may be directed to approach the Hon'ble National Green Tribunal to determine the final compensation vide Para No. 7 of the Hon'ble NGT Order dt. 27.04.2022 in Original Application No. 74/2017 (SZ).

26.It is respectfully submitted that the subject was placed in the **717th Authority meeting held on 06.05.2024**. The Authority accepted the decision of SEAC in the 458th SEAC meeting and decided to request Member Secretary, SEIAA to communicate the minutes of 458th SEAC meeting to the project proponent.



Member Secretary
STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY - TN
Panagal Maligai, No.1, Jeenis Road,
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27.It is respectfully submitted that the PP vide his letter dated 17.05.2024 has furnished the Hon'ble NGT Order dated 13.05.2024 in Miscellaneous Application No.04 of 2024 in Original Application No.74 of 2017 (SZ) and requested SEIAA for return of the Bank Guarantee submitted to TNPCB (BG NO. T20GPE240755001, dated: 15.03.2024 for an amount of Rs.6,80,00,000/-). The Hon'ble NGT (SZ) has in its order dated 13.05.2024 has issued the following direction to the Proponent.

"7. Therefore, as a last opportunity, we grant 2 (Two) weeks' time from today for the Project Proponent to deposit a sum of Rs.8 Crores with the CPCB as originally directed in the Original Application No.74 of 2017 (SZ), failing which, the said amount would be collected with interest at 12% per annum from the date of the original order."

28.It is respectfully submitted that the subject was placed in the 722nd Authority meeting held on 20.05.2024. In view of the above, the Authority decided to refer back the proposal to SEAC for remarks / recommendations.

29.It is respectfully submitted that the proposal was placed before the SEAC in its 470th meeting held on 24.05.2024. The Committee carefully examined the representation made by the Project Proponent with reference to the final order passed by the Hon'ble Supreme Court in this case and the subsequent directions of the Hon'ble NGT. The Hon'ble Supreme Court has dismissed the appeal filed by the proponent against the direction of Hon'ble NGT (SZ) in Original Application No. 74 of 2017 (SZ) dated 21.01.2020, directing the proponent to comply with the orders of NGT. The Hon'ble NGT in its order dated 13.05.2024 had directed the PP to deposit a sum of Rs. 8 Crores with CPCB within a period of two weeks. Under the circumstances, the PP has requested SEIAA to release/return the Bank Guarantee for a sum of Rs. 6.8 Crores already deposited with TNPCB.



30. The SEAC noted that Hon'ble NGT (SZ) in its order dated 21.01.2020 has constituted a separate sub-committee to finalize the Environmental Compensation and has directed the committee to take note of guidelines provided in the MoEF&CC Notification dated 14.03.2017.

SEAC, therefore, decided to recommend the following:

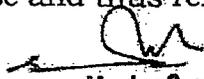
- 1) As the final compensation will be decided by the committee constituted by Hon'ble NGT (SZ), the compensation already determined by SEIAA, based on the recommendation made by SEAC, may be treated as cancelled subject to final disposal of the case by the Hon'ble NGT (SZ).
- 2) Consequently, the Bank Guarantee already submitted by PP may be returned to the PP as requested by him without prejudice to any further course of action that may be taken by the Authority on the final order of the Hon'ble NGT in the case.

31. It is respectfully submitted that SEIAA vide Lr.No. SEIAA-TN/F.No.372/2023/BG/ dated 11.06.2024 requested TNPCB to return the bank guarantee submitted by the project proponent.

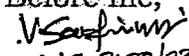
32. It is respectfully submitted that TNPCB returned the Bank Guarantee to the project proponent and informed this office vide Lr.No. TNPCB/T2 F.024674/BG/2023 Dated 24.06.2024.

It is therefore prayed that this Hon'ble Tribunal may be pleased to record and pass orders as this Hon'ble Tribunal may deem to fit and proper in light of the facts and circumstances of this case and thus render justice.

Solemnly affirmed in Chennai
On this the 18th day of July 2024
signed his name in my presence


Member Secretary
STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY - TN
Panagal Mallai, No.1, Jeanis Road,
Seldapet, Chennai - 15

Before me,


MS. 3483/23

No. 319, 46 street, Ch-01

Advocate, Chennai

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

APPEAL No. 39 OF 2024

M/s. KGISL Technologies and
Infrastructures Private Limited,
Rep. by its Authorised Signatory,
Mr. R.Maheswaran

...Appellant.

-Vs-

1.State Level Environmental Impact
Assessment Authority (SEIAA)
Rep. by its Member Secretary,
3rd Floor, Panagal Maaligai,
No.1, Jeenis Road, Saidapet,
Chennai-600 035

2. State Level Expert Appraisal Committee
(SEAC), Rep. by its Chairman,
3rd Floor, Panagal Maaligai,
No. 1, Jeenis Road, Saidapet,
Chennai-600 035

....Respondents

COUNTER FILED BY RESPONDENTS-1&2

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Agenda No: 470-TA-01

(File No: 372/2023)

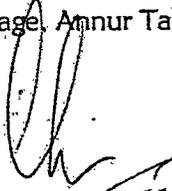
Existing Residential Apartment Building complex in S.F. No. 375/5B (Pt), 376/1B (Pt), 376/2B (Pt), 377/3 (Pt) of Keeranatham Village, Annur Taluk, Coimbatore District, Tamil Nadu by M/s. KGISL Technologies and Infrastructures Private Limited - For Environmental Clearance under violation category. (SIA/TN/MIN/423025/2023, dated: 22.03.2023)

The SEAC noted the following:

1. The Proponent, M/s. KGISL Technologies and Infrastructures Private Limited, has applied for Environmental Clearance under violation category for the Existing Residential Apartment Building complex in S.F.No. 375/5B (Pt), 376/1B (Pt), 376/2B (Pt), 377/3 (Pt) of Keeranatham Village, Annur Taluk, Coimbatore District, Tamil Nadu.
2. The project/ activity is covered under Category "B" of Item 8 (a) "Building & Construction" of the Schedule to the EIA Notification,2006.
3. TOR under violation category was issued vide Letter No. SEIAA-TN/F.No. 372/SEAC-CXVII/Violation/ToR-566/2018 dated:07.08.2018.
4. EIA Report was submitted on: 24.03.2023.
5. Earlier the proposal was placed in the 369th SEAC Meeting held on 20.04.2023 and the SEAC decided to constitute a sub-committee to make on-site inspection to assess the present status of the proposed project, environmental settings and to assess ecological damage assessment whether it is being carried out in accordance with CPCB Guidelines, remediation plan, natural resource augmentation and community resource augmentation.
6. Based on the above, The State Expert Appraisal Committee.(SEAC) Tamil Nadu constituted a sub-committee vide its Lr. No. SEAC-TN/372/Site-Inspection/2022, dated 20.04.2023; based on Minutes of the 369th SEAC Meeting, held on 20.04.2023, to inspect and study the field condition for the proposal seeking EC for the Existing Residential Apartment Building complex in S.F.No. 375/5B (Pt), 376/1B (Pt), 376/2B (Pt), 377/3 (Pt) of Keeranatham Village, Annur Taluk.


MEMBER SECRETARY
SEAC -TN

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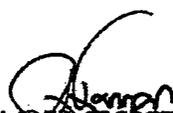

CHAIRMAN
SEAC- TN

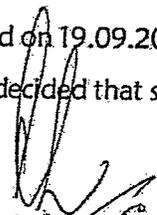
Coimbatore District, Tamil Nadu. The Committee comprised of Shri R. Thangaprakasam, Member, SEAC-TN & Shri K. Kumar, Member, SEAC-TN.

7. The above Sub-committee's report was placed in the 404th Meeting of SEAC held on 25.08.2023. After detailed deliberation, SEAC decided to recommend the proposal to SEIAA for grant of Environmental Clearance subject to the following conditions stated therein in addition to the normal conditions:

- i. The decision to issue EC is subject outcome in the cases pending before the Hon'ble Supreme Court of India and Hon'ble NGT (SZ) in this regard.
- ii. As per the MoEF& CC Notification, S.O.1030 (E) dated:08.03.2018, "The project proponent shall submit a bank guarantee equivalent to the amount of remediation plan and Natural and Community Resource Augmentation Plan with the State Pollution Control Board and the quantification will be recommended by the Expert Appraisal Committee for category A projects or by the State or Union territory level Expert Appraisal Committee for category B projects, as the case may be, and finalized by the concerned Regulatory Authority and the bank guarantee shall be deposited.
- iii. Accordingly, the amount prescribed for Ecological remediation (Rs. 1,36,93,750/-), natural resource augmentation (Rs. 4,00,50,000) & community resource augmentation (Rs. 1,42,56,250/-), is Rs. 6,80,00,000/-. The project proponent should remit the amount of Rs. 6.80 crore in the form of bank guarantee to Tamil Nadu Pollution Control Board and submit acknowledgment of the same to SEIAA-TN. The amount shall be utilized for the ecological damage remediation plan, Natural resource augmentation plan & Community resource augmentation plan as indicated.
- iv. The project proponent shall carry out the works assigned under ecological damage, natural resource augmentation and community resource augmentation within a period of one year from the date of issue of EC. If not, the bank guarantee will be forfeited to TNPCB without further notice.

8. Subsequently, the subject was placed in 655th SEIAA meeting held on 19.09.2023. In the view of the above, Authority after detailed deliberation, decided that since


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SEAC -TN


CHAIRMAN
SEAC- TN

a court case is pending before Hon'ble Supreme Court (Civil Appeal No. 3891/2020), decided to keep in abeyance until the disposal of the case pending before Hon'ble Supreme court. Upon the receipt of final judgement, further deliberation shall be done.

9. Further, proponent vide letter dated: 04.10.2023, received by this office on 06.10.2023 had given a representation which inter alia states as follows.

"... Further, the SEAC in the meeting held on 25.08.2023 had requested us to install roof top solar panels in accordance with the revised norms for which we had duly complied the same by spending Rs. 90 lacs as per our letter dated 09.08.2023 thereby contributing to the green power energy in the project. It should be noted that while the company had completed the project during December 2014 and sold more than 433 dwelling units by 2018. However, to comply with directions of SEIAA department, the company has already spent a sum of Rs. 90 Lacs during July 2023.

Under the above circumstances, we request your good self to drop further proceedings on the basis of the report dated 25.08.2023 and not demand any compensation in terms of your report dated 25.08.2023 and oblige."

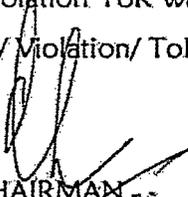
10. The above representation received from the proponent was placed in the 668th Authority meeting held on 01.11.2023. Hence, Authority after detailed deliberation, decided to forward the above representation received from the proponent and the committee shall examine the above representation and shall furnish its recommendation to SEIAA to take further course of action.

11. Based on the above facts, the proposal was again placed in 430th SEAC meeting held on 14.12.2023. The Committee carefully examined the representation given by the PP in its letter dated 04.10.2023. The representations made by the PP and the remarks of the Committee are given below.

i. First, according to PP their case shouldn't have been dealt with as a violation case: -

The Committee has already gone through the facts involved in the case and has concluded that the proposal is a violation case & Violation ToR was issued vide Letter No. SEIAA-TN/ F.No.372/ SEAC-CXVII/ Violation/ ToR-


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SEAC -TN


CHAIRMAN --
SEAC -TN

566/2018 dated:07.08.2018. The PP also accepted & submitted EIA report as per laid down procedure in EIA Notification, 2006. Hence, PP's representation that their proposal is not a violation is liable to be rejected as Project proponent himself had accepted the violation ToR & had undergone process.

- ii. **Second, the PP has represented against the amount of penalty determined by SEAC:-**

SEAC has been following the guidelines finalised by CPCB to evaluate Environmental Compensation which has also been accepted by NGT. The formula and the various values assigned to various parameters have been explained in detail in the 404th SEAC meeting minutes. Therefore, SEAC finds no reason to re-examine the amount of compensation already determined based on CPCB Guidelines.

- iii. **Third, the company has pointed out that, the Sub-Committee appointed by SEAC has arrived at Rs. 2.7 Crores as penalty while the SEAC has set the compensation at Rs. 6.80 Crores: -**

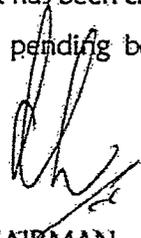
The Sub-Committee was Constituted to make an on-spot inspection & the Sub-Committee had given their recommendation based on the data furnished by PP during the site visit. The views of the Sub-Committee are only recommendatory in nature and SEAC takes final decision after considering all aspects including the recommendation of the subcommittee.

- iv. **Finally, the PP has requested the SEIAA to drop further proceeding based on committee's environmental compensation as determined by the Committee.**

The Committee is of the view that SEIAA may immediately take a decision based on the recommendation of SEAC irrespective of the case pending before Hon'ble Supreme Court as it is not an impediment for arriving at the final decision. In fact, the PP has submitted the decision of SEAC by way of additional affidavit. Further, in SEAC recommendation it has been clearly stated that the EC is subject to the outcome of a case pending before Hon'ble Supreme Court.


MEMBER SECRETARY
SEAC -TN

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CHAIRMAN
SEAC- TN

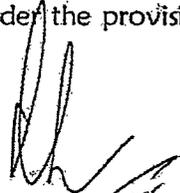
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12. Subsequently, the proposal was placed in the 687th Authority meeting held on 09.01.2024. Hence, in the view of the above, in continuation to the earlier minutes, Authority decided to accept the decision taken by SEAC and decided to request the Member Secretary, SEIAA to inform the proponent to furnish the following particulars as recommended by SEAC in the Minutes of 404th SEAC Meeting held on 25.08.2023.

- i. As per the MoEF& CC Notification, S.O.1030 (E) dated:08.03.2018, "The project proponent shall submit a bank guarantee equivalent to the amount of remediation plan and Natural and Community Resource Augmentation Plan with the State Pollution Control Board and the quantification will be recommended by the Expert Appraisal Committee for category A projects or by the State or Union territory level Expert Appraisal Committee for category B projects, as the case may be, and finalized by the concerned Regulatory Authority and the bank guarantee shall be deposited. Further, if the PP fails to comply, stringent penal actions will be initiated as per the direction given by SEAC in it's 430th SEAC meeting held on 14.12.2023.
- ii. Accordingly, the amount prescribed for Ecological remediation (Rs. 1,36,93,750/-), natural resource augmentation (Rs. 4,00,50,000) & community resource augmentation (Rs. 1,42,56,250/-), is Rs. 6,80,00,000/-. The project proponent should remit the amount of Rs. 6.80 crore in the form of bank guarantee to Tamil Nadu Pollution Control Board and submit acknowledgment of the same to SEIAA-TN. The amount shall be utilized for the ecological damage remediation plan, Natural resource augmentation plan & Community resource augmentation plan as indicated.
- iii. The project proponent shall carry out the works assigned under ecological damage, natural resource augmentation and community resource augmentation within a period of one year from the date of issue of EC. If not, the bank guarantee will be forfeited to TNPCB without further notice.
- iv. The project proponent shall submit the proof for the action taken by the state Government/TNPCB against project proponent under the provisions


MEMBER SECRETARY
SEAC -TN

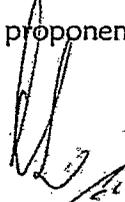
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CHAIRMAN
SEAC -TN

of section 19 of the Environment (Protection) Act, 1986 as per the EIA Notification dated: 14.03.2017 and amended 08.03.2018.

13. Subsequently, a letter was received from the Government vide Letter No. 14389/EC.3/2017-21, dated: 21.02.2024, enclosing the final order passed by the Hon'ble Supreme Court in CA No. 3891 of 2020 filed by the proponent against the order of NGT. The matter was placed in the 703rd Authority meeting held on 13.03.2024. The Authority after detailed deliberation, decided to forward the above letter received from the Government to the committee for furnishing its remarks.
14. Meanwhile, the proponent vide his letter 19.03.2024 has furnished the copy of Bank Guarantee submitted to TNPCB; & copy of acknowledgement obtained from TNPCB for the submission of BG (BG NO. T20GPE240755001, dated: 15.03.2024 for an amount of Rs.6,80,00,000/-). Also, the proponent has submitted the details of court case filed by TNPCB in the Judicial Magistrate Court-II, Coimbatore vide C.C. No. 200 of 2014, dated 29.01.2014 against the proponent.
15. The subject was placed in the 707th Authority meeting held on 01.04.2024. In view of the above, the Authority decided to refer back the proposal to SEAC for remarks / recommendations.
16. Based on the above, the proposal was again placed in the 458th SEAC Meeting held on 04.04.2024. In view of the Order of Hon'ble Supreme Court of India in Civil Appeal No. 3891 of 2020 dated 07.02.2024, the SEAC examined the matter in detail and decided that the recommendation already made may be kept in abeyance and the PP may be directed to approach the Hon'ble National Green Tribunal to determine the final compensation vide Para No. 7 of Hon'ble NGT Order dt. 27.04.2022 in Original Application No. 74/2017 (SZ).
17. Subsequently, the subject was placed in the 717th Authority meeting held on 06.05.2024. The Authority noted that the subject was appraised in the 458th SEAC meeting held on 04.04.2024. In view of the above, the Authority accepted the decision of SEAC and decided to request Member Secretary, SEIAA to communicate the minutes of 458th SEAC meeting to the project proponent.


MEMBER SECRETARY
SEAC -TN


CHAIRMAN
SEAC- TN

18. The PP vide his letter dated 17.05.2024 has furnished the Hon'ble NGT Order dated 13.05.2024 in Miscellaneous Application No.04 of 2024 in Original Application No.74 of 2017 (SZ) and requested SEIAA for return of the Bank Guarantee submitted to TNPCB (BG NO. T20GPE240755001, dated: 15.03.2024 for an amount of Rs.6,80,00,000/-). The Hon'ble NGT (SZ) has in its order dated 13.05.2024 has issued the following direction to the Proponent.

"7. Therefore, as a last opportunity, we grant 2 (Two) weeks' time from today for the Project Proponent to deposit a sum of Rs.8 Crores with the CPCB as originally directed in the Original Application No.74 of 2017 (SZ), failing which, the said amount would be collected with interest at 12% per annum from the date of the original order."

19. The subject was placed in the 722nd Authority meeting held on 20.05.2024. In view of the above, the Authority decided to refer back the proposal to SEAC for remarks / recommendations.

The Committee carefully examined the representation made by the Project Proponent with reference to the final order passed by the Hon'ble Supreme Court in this case and the subsequent directions of the Hon'ble NGT. The Hon'ble Supreme Court has dismissed the appeal filed by the proponent against the direction of Hon'ble NGT (SZ) in Original Application No. 74 of 2017 (SZ) dated 21.01.2020, directing the proponent to comply with the orders of NGT. The Hon'ble NGT in its order dated 13.05.2024 had directed the PP to deposit a sum of Rs. 8 Crores with CPCB within a period of two weeks. Under the circumstances, the PP has requested SEIAA to release/return the Bank Guarantee for a sum of Rs. 6.8 Crores already deposited with TNPCB.

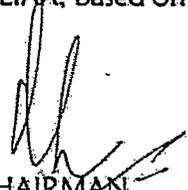
The SEAC noted that Hon'ble NGT (SZ) in its order dated 21.01.2020 has constituted a separate sub-committee to finalize the Environmental Compensation and has directed the committee to take note of guidelines provided in the MoEF&CC Notification dated 14.03.2017.

SEAC, therefore, decided to recommend the following:

- 1) As the final compensation will be decided by the committee constituted by Hon'ble NGT (SZ), the compensation already determined by SEIAA, based on the


MEMBER SECRETARY
SEAC -TN

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CHAIRMAN
SEAC -TN

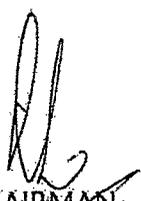
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recommendation made by SEAC, may be treated as cancelled subject to final disposal of the case by the Hon'ble NGT (SZ).

- 2) Consequently, the Bank Guarantee already submitted by PP may be returned to the PP as requested by him without prejudice to any further course of action that may be taken by the Authority on the final order of the Hon'ble NGT in the case.



MEMBER SECRETARY
SEAC -TN



CHAIRMAN
SEAC -TN

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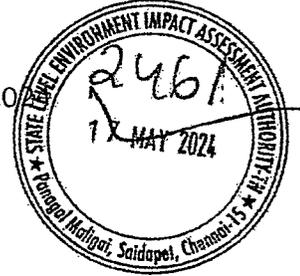
KGISL Technologies and Infrastructures Private Limited

KGiSTL

365, KGISL Campus, Thudiyalur Road, Saravanampatti, Coimbatore - 641 035 INDIA
Phone No : 91 (422) - 441-9999 | E-mail : accts-istl@kcggroup.in | Website : www.kgisl.com

Legal

May 17, 2024



BY HAND DELIVERY

To

The Member Secretary,
State Level Environmental Impact
Assessment Authority (SEIAA)
3rd Floor, Panagal Maaligai,
No.1, Jeenis Road, Saidapet,
Chennai - 600 035

Respected Sir,

Sub: O.A.No.74 of 2017 (SZ) on the files of Hon'ble National
Green Tribunal, Southern Zone, Chennai

FILE NO. 372

Ref: Bank Guarantee bearing No.T20GPGE240755001
dated 15.03.2024 for Rs.6,80,00,000/=
submitted on 18.03.2024 along with our covering
letter dated 18.03.2024 to the Member Secretary,
Tamil Nadu Pollution Control Board, Chennai

The Bank Guarantee referred to above was submitted favouring Tamil Nadu Pollution Control Board pursuant to your letter dated 12.02.2024. The Hon'ble National Green Tribunal did not accept the submission of Bank Guarantee for sum of Rs.6.80 crores by observing that there was no direction to that effect. In fact the Hon'ble Tribunal by its order dated 21.01.2020 directed us to deposit a sum of Rs.8.00 crores by way of interim compensation to Central Pollution Control Board. This order was challenged by us before the Hon'ble Supreme

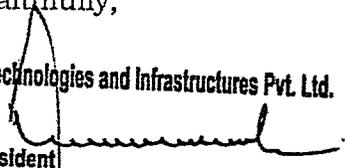
Court of India in Civil Appeal No.3891 of 2020 and the order dated 21.01.2020 passed by the Hon'ble Tribunal got confirmed.

By the order dated 13.05.2024, the Hon'ble Tribunal directed us to deposit the sum of Rs.8.00 crores with the Central Pollution Control Board within a period of 2 weeks. In order to mobilise the funds, we need the return of the above Bank Guarantee of Rs.6.80 crores submitted by us so as to enable us to make the payment of Rs.8.00 crores to Central Pollution Control Board as directed by the Hon'ble Tribunal.

We therefore request your goodself to return the Bank Guarantee bearing No. No.T20GPGE240755001 dated 15.03.2024 at the earliest without any further delay to enable us to deposit the sum of Rs.8.00 crores to the Central Pollution Control Board

Yours faithfully,

KGISL Technologies and Infrastructures Pvt. Ltd.


**Vice President
(Finance & Infrastructure)**

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Item No.1:-

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI

(Through Video Conference)

Miscellaneous Application No.04 of 2024 in
Original Application No.74 of 2017 (SZ)

IN THE MATTER OF:

V. Sankara Subramaniam & Ors.

...Applicant(s)

Versus

The State of Tamil Nadu,
Rep. by its Secretary to Government,
Department of Environment and Forest,
Chennai and Ors.

...Respondent(s)

Date of hearing: 13.05.2024.

CORAM:

HON'BLE Smt. JUSTICE PUSHPA SATHYANARAYANA, JUDICIAL MEMBER

HON'BLE Dr. ARUN KUMAR VERMA, EXPERT MEMBER

For Applicant(s): None.

For Respondent(s): Dr. D. Shanmuganathan for R1.
Mr. G.M. Syed Nurullah Sheriff for R2.
Mr. S. Sai Sathya Jith for R3
Mr. V. Kalyanaraman for R4 & R5.

ORDER

1. In **Original Application No.74 of 2017 (SZ)**, this Tribunal had constituted a committee to assess the compensation for the construction of the project in violation of the statutory mandate and fixed the interim compensation of Rs.8 Crores to be deposited with the Central Pollution Control Board (CPCB) within two months for restoration of the environment.
2. Against the said order, an appeal was preferred by the Project Proponent (Respondent No.5 herein) before the Hon'ble Supreme Court in **Civil Appeal No.3891 of 2020**. The Hon'ble Supreme Court, while dismissing the appeal vide Order dated 07.02.2024, directed this Tribunal to initiate immediate action for compliance of the directions issued by this Tribunal viz., the payment of Rs.8 Crores as interim compensation. This Miscellaneous Application [M.A. No.04 of 2024 (SZ)] was taken up pursuant to the said direction.
3. Today, the learned counsel for the Project Proponent represents that a sum of Rs.6.80 Crores was deposited on 15.03.2024 with the SEIAA - Tamil Nadu.
4. In the last order, the Tamil Nadu Pollution Control Board was directed to find out the status of the order and whether they have complied with it or not.

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5. The learned counsel for the Tamil Nadu Pollution Control Board would represent that the said amount of Rs.8 Crores was not yet deposited with the CPCB as directed.
6. To be noted is that the direction was given at least two years ago and the Project Proponent has not deposited even a penny.
7. Therefore, as a last opportunity, we grant 2 (Two) weeks time from today for the Project Proponent to deposit a sum of Rs.8 Crores with the CPCB as originally directed in the Original Application No.74 of 2017 (SZ), failing which, the said amount would be collected with interest at 12% per annum from the date of the original order.
8. Post the matter on 27.05.2024.

Sd/-
Smt. Justice Pushpa Sathyanarayana, JM

Sd/-
Dr. Arun Kumar Verma, EM

M.A. No.04/2024 (SZ) in
O.A. No.74/2017 (SZ)
13th May, 2024. Mn.

March 19, 2024

**The Member Secretary,
State Level Environment Impact Assessment Authority, Tamilnadu
3rd Floor, Panagal Maligai,
No.1, Jeenis Road, Saidapet,
Chennai - 600 015.**

Dear Sir,

Sub : Environmental Clearance under violation notification for the construction of Residential Apartment Building Complex in SF No. 375/5B Pt, 376/1B Pt, 376/2B Pt and 377/3 Pt at Keeranatham Village, Annur Taluk, Coimbatore District in Tamil Nadu - Submitting Bank Guarantee - reg.

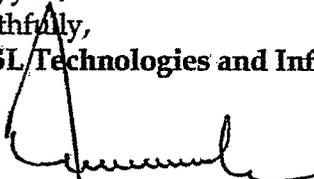
Ref : 1. Your Letter No.SEIAA-TN/F.No.372/2023 dated 12.01.2024 received on 21.02.2024.
2. Minutes of the 404th meeting of SEAC held on 25.08.2023.
3. Minutes of the 655th meeting of SEIAA held on 19.09.2023.
3.. Minutes of the 430th meeting of SEAC held on 14.12.2023.
4. Minutes of the 687th meeting of SEIAA held on 09.01.2024.

In continuation to the reference cited above, we wish to inform you that we have submitted the bank guarantee for an amount of Rs.6,80,00,000/- (Rupees Six Crores Eighty Lakhs Only) to Tamil Nadu Pollution Control Board, Chennai on 19.03.2024. The copy of acknowledgement towards submission of bank guarantee to Tamil Nadu Pollution Control Board is enclosed herewith for your kind reference.

Also, we wish to inform you that TNPCB has initiated the action against us in Judicial Magistrate Court, Coimbatore. The case details are enclosed herewith for your kind reference.

We request you to kindly consider the above details and issue us the Environmental clearance at the earliest. The receipt of this letter may kindly be acknowledged.

Thanking you,
Yours faithfully,
For KGISL Technologies and Infrastructures Private Limited,


R. Maheswaran.
(Vice-President - Finance and Infrastructure)
Enlc: As stated above.



March 18, 2024

The Member Secretary,
Tamilnadu Pollution Control Board,
76, Mount Salai, Guindy,
Chennai - 600 032.

Dear Sir,

Sub : Environmental Clearance under violation notification for the construction of Residential Apartment Building Complex in SF No. 375/5B Pt, 376/1B Pt, 376/2B Pt and 377/3 Pt at Keeranatham Village, Annur Taluk, Coimbatore District in Tamil Nadu - Submitting Bank Guarantee - reg.

Ref : 1. SEIAA Letter No.SEIAA-TN/F.No.372/2023 dated 12.01.2024 received on 21.02.2024.

2. Minutes of the 404th meeting of SEAC held on 25.08.2023.

3. Minutes of the 687th meeting of SEIAA held on 19.09.2023.

3.. Minutes of the 430th meeting of SEAC held on 14.12.2023.

4. Minutes of the 687th meeting of SEIAA held on 09.01.2024.

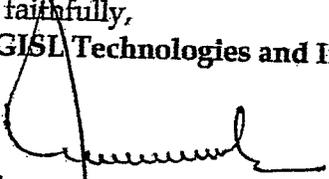
With reference to the above, we herewith submit the Bank Guarantee vide No.T20GPGE240755001 dated 15.03.2024 for an amount of 6,80,00,000/- (Rupees Six Crores Eighty Lakhs Only) drawn in your favour on the Canara Bank, KGISL Branch, Saravanampatti, Coimbatore as direct by State Level Environment Impact Assessment Authority towards issuance of environment Clearance under violation category.

We request you to kindly acknowledge the same.

Thanking you,

Yours faithfully,

For KGISL Technologies and Infrastructures Private Limited,



R. Maheswaran.

(Vice-President - Finance and Infrastructure)

Enlc: As stated above.



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TAMIL NADU POLLUTION CONTROL BOARD



From
Dr. Jayanthi M. I.F.S.,
Chairperson,
Tamil Nadu Pollution Control Board,
76, Mount Salai, Guindy,
Chennai – 600 032.

To
The Vice President Finance & Infrastructure,
M/s. KGISL Technologies & Infrastructure P Ltd
No. 365, KGISL Campus, Thudiyalur Road,
Saravanampatti,
Coimbatore-641035.

Lr.No. TNPCB/T2 F.024674/BG/2023 Dated: 24.06.2024

Sub: TNPCB – Industries – M/s. KGISL Technologies & Infrastructure P Ltd,
named as "Platina" located at S.F.No.376/1B & 377/1B, Keeranatham
Village, Annur Taluk, Coimbatore District – Return of Original BG.No.
T20GPGE240755001 dated:15.03.2024 Expiry date:12.03.2026 for
Rs. 6,80,00,000/- (Rupees Six Crore and Eighty lakhs only) - Reg

- Ref:** 1. Original BG No: T20GPGE240755001, Dt. 15.03.2024 for Amount:
Rs. 6,80,00,000/- (Rupees Six Crore and Eighty lakhs only) with Expiry
date: 12.03.2026 & Claim Expiry date: 12.03.2026 from Canara Bank,
Coimbatore Branch (Enclosed).
2. MS, SEIAA-TN Letter No, SEIAA-TN/F/No,372/2023/BG dated:11.06.2024.

I invite your attention to the reference 1st cited, wherein Bank Guarantee No.
BG No: T20GPGE240755001, Dt. 15.03.2024 for Amount: Rs. 6,80,00,000/-
(Rupees Six Crore and Eighty lakhs only) with Expiry date: 12.03.2026 & Claim
Expiry date: 12.03.2026 has been furnished by your unit of M/s. KGISL
Technologies and Infrastructure Private Limited, Keeranatham village, Annur Taluk,
Coimbatore District, Tamil Nadu in order to carryout the works assigned under
Ecological Damage, and Community Resource Augmentation.

Now the SEIAA-TN vide letter dated:11.06.2024 has requested TNPCB to
return the bank guarantee submitted by the project proponent for an amount of
Rs.6,80,00,000/- in order to enable the PP to submit the Bank Guarantee as directed
by the Hon'ble NGT (SZ) in its order dated: 13.05.2024 with CPCB in the
Miscellaneous Application No.04 of 2024 in original Application No. 74 of 2017.

In view of the above, it is informed that, Board has decided to return the
above BGD and hence, the original Bank Guarantee BG.No. T20GPGE240755001
dated:15.03.2024 Expiry date:12.03.2026 for Rs. 6,80,00,000/- (Rupees Six Crore
and Eighty lakhs only) submitted by the unit is hereby returned to the unit.

The receipt of this letter with Bank Guarantee shall be acknowledged.

Encl: Original BG No: T20GPGE240755001, Dt. 15.03.2024 for Amount:
Rs. 6,80,00,000/-.

Nathan
24/6/24
For Chairperson

Copy to :

1. The District Environmental Engineer,
Tamilnadu Pollution Control Board
Coimbatore North.
2. The Member Secretary,
STATE ENVIRONMENT IMPACT ASSESSMENT AUTHORITY (SEIAA)
3rd Floor, Panagal Maaligai, No.1, Jeenis Road, Saidapet,
Chennai - 600 015 - For information



THIRU. A.R. RAHUL NADH, I.A.S
MEMBER SECRETARY

STATE LEVEL ENVIRONMENT IMPACT
ASSESSMENT AUTHORITY-TAMILNADU

3rd Floor, Panagal Maaligai,
No.1, Jeenis Road, Saidapet,
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Lr. No. SEIAA-TN/F.No.372/2023/BG/ dated: 11.06.2024

To

The Chairperson,
Tamil Nadu Pollution Control Board,
76, Mount Salai,
Guindy, Chennai - 32.

Sir,

Sub: SEIAA-TN – Proposal seeking Environmental Clearance under violation Notification dated 14.03.2017 & 08.03.2018 of MoEF&CC for the Existing Residential Apartment Building complex in S.F.No. 375/5B (Pt), 376/1B (Pt), 376/2B (Pt), 377/3 (Pt) of Keeranatham Village, Annur Taluk, Coimbatore District, Tamil Nadu by M/s. KGISL Technologies and Infrastructures Private Limited – PP request for release/return of Bank Guarantee – Recommended for return of Bank Guarantee – Reg

- Ref:**
1. MoEF & CC Notification S.O.804 (E) dated 14.03.2017
 2. MoEF & CC Notification S.O.1030 (E) dated 08.03.2018
 3. ToR under violation category issued by SEIAA-TN vide Letter No. SEIAA-TN/F.No. 372/SEAC-CXVII/Violation/ToR-566/2018 dated:07.08.2018
 4. Online Proposal No. SIA/TN/MIN/423025/2023, dated: 22.03.2023 (Violation EC)
 5. Proponent submitted EIA report to SEIAA-TN on 24.03.2023
 6. Minutes of the 369th SEAC meeting held on 20.04.2023
 7. Site inspection by the sub-committee on 03.06.2023
 8. Minutes of the 404th SEAC meeting held on 25.08.2023
 9. Minutes of the 655th SEIAA meeting held on 19.09.2023
 10. Proponent request letter dated: 06.10.2023
 11. Minutes of the 668th SEIAA meeting held on 01.11.2023
 12. Minutes of the 430th SEAC meeting held on 14.12.2023

13. Minutes of the 68th SEIAA meeting held on 09.01.2024
14. Hon'ble Supreme Court of India Order dated 07.02.2024 in Civil Appeal No. 3891 of 2020
15. Minutes of the 703rd SEIAA meeting held on 13.03.2024
16. Proponent reply dated: 19.03.2024
17. Minutes of the 707th SEIAA meeting held on 01.04.2024
18. Minutes of the 458th SEAC meeting held on 04.04.2024
19. Minutes of the 717th SEIAA meeting held on 06.05.2024
20. Hon'ble NGT (SZ) Order dated 13.05.2024 in Miscellaneous Application No.04 of 2024 in Original Application No.74 of 2017 (SZ)
21. Proponent request letter dated: 17.05.2024
22. Minutes of the 722nd SEIAA meeting held on 20.05.2024
23. Minutes of the 470th SEAC meeting held on 24.05.2024
24. Minutes of the 725th SEIAA meeting held on 29.05.2024

It is informed that, the Project Proponent M/s. KGISL Technologies and Infrastructures Private Limited applied seeking Environmental Clearance under violation category for the Existing Residential Apartment Building complex in S.F.No. 375/5B (Pt), 376/1B (Pt), 376/2B (Pt), 377/3 (Pt) of Keeranatham Village, Annur Taluk, Coimbatore District, Tamil Nadu. The project/activity is covered under Category "B" of Item 8(a) "Building & Construction" of the Schedule to the EIA Notification, 2006. ToR under violation category was issued to the Project Proponent vide Letter No. SEIAA-TN/F.No. 372/SEAC-CXVII/Violation/ToR-566/2018 dated:07.08.2018. EIA Report was submitted by the project proponent on 24.03.2023.

Earlier, the said proposal was placed in the 369th SEAC Meeting held on 20.04.2023 and the SEAC decided to constitute a sub-committee to make on-site inspection to assess the present status of the proposed project, environmental settings and **to assess ecological damage assessment whether it is being carried out in accordance with CPCB Guidelines**, remediation plan, natural resource augmentation and community resource augmentation.

Based on the above, the State Expert Appraisal Committee (SEAC) Tamil Nadu constituted a sub-committee vide its Lr. No. SEAC-TN/372/Site-Inspection/2022, dated 20.04.2023; based on Minutes of the 369th SEAC Meeting, held on 20.04.2023, to inspect and study the field condition for the proposal seeking EC for the Existing Residential Apartment Building complex in S.F.No. 375/5B (Pt), 376/1B (Pt), 376/2B (Pt), 377/3 (Pt) of Keeranatham Village, Annur Taluk,

Coimbatore District. Tamil Nadu. The Committee comprised of Shri R. Thangaprakasam. Member, SEAC-TN & Shri K. Kumar. Member, SEAC-TN.

The above Sub-committee's report was placed in the 404th Meeting of SEAC held on 25.08.2023. After detailed deliberation, SEAC decided to recommend the proposal to SEIAA for grant of Environmental Clearance subject to the following conditions stated therein in addition to the normal conditions:

- i. **The decision to issue EC is subject outcome in the cases pending before the Hon'ble Supreme Court of India and Hon'ble NGT (SZ) in this regard.**
- ii. As per the MoEF& CC Notification. S.O.1030 (E) dated:08.03.2018, "The project proponent shall submit a bank guarantee equivalent to the amount of remediation plan and Natural and Community Resource Augmentation Plan with the State Pollution Control Board and the quantification will be recommended by the Expert Appraisal Committee for category A projects or by the State or Union territory level Expert Appraisal Committee for category B projects, as the case may be, and finalized by the concerned Regulatory Authority and the bank guarantee shall be deposited.
- iii. Accordingly, the amount prescribed for Ecological remediation (Rs. 1,36,93,750/-), natural resource augmentation (Rs. 4,00,50,000) & community resource augmentation (Rs. 1,42,56,250/-), is Rs. 6,80,00,000/-. The project proponent should remit the amount of **Rs. 6.80 crore** in the form of bank guarantee to Tamil Nadu Pollution Control Board and submit acknowledgment of the same to SEIAA-TN. The amount shall be utilized for the ecological damage remediation plan, Natural resource augmentation plan & Community resource augmentation plan as indicated.
- iv. The project proponent shall carry out the works assigned under ecological damage, natural resource augmentation and community resource augmentation within a period of one year from the date of issue of EC. If not, the bank guarantee will be forfeited to TNPCB without further notice.

Subsequently, the subject was placed in 655th SEIAA meeting held on 19.09.2023. In the view of the above, Authority after detailed deliberation, decided that since a court case is pending before Hon'ble Supreme Court (Civil Appeal No. 3891/2020), decided to keep in abeyance until the disposal of the case pending before Hon'ble Supreme court. Upon the receipt of final judgement, further deliberation shall be done.

Further, proponent vide letter dated: 04.10.2023, received by this office on 06.10.2023 had given a representation which inter alia states as follows,

"... Further, the SEAC in the meeting held on 25.08.2023 had requested us to install roof top solar panels in accordance with the revised norms for which we had duly complied the same by spending Rs. 90 lacs as per our letter dated 09.08.2023 thereby contributing to the green power energy in the project. It should be noted that while the company had completed the project during December 2014 and sold more than 433 dwelling units by 2018. However, to comply with directions of SEIAA department, the company has already spent a sum of Rs. 90 Lacs during July 2023.

Under the above circumstances, we request your good self to drop further proceedings on the basis of the report dated 25.08.2023 and not demand any compensation in terms of your report dated 25.08.2023 and oblige."

The above representation received from the proponent was placed in the 668th Authority meeting held on 01.11.2023. Hence, Authority after detailed deliberation, decided to forward the above representation received from the proponent and the committee shall examine the above representation and shall furnish its recommendation to SEIAA to take further course of action.

Based on the above facts, the proposal was again placed in 430th SEAC meeting held on 14.12.2023. The Committee carefully examined the representation given by the PP in its letter dated 04.10.2023. The representations made by the PP and the remarks of the Committee are given below.

i. First, according to PP their case shouldn't have been dealt with as a violation case:-

The Committee has already gone through the facts involved in the case and has concluded that the proposal is a violation case & Violation ToR was issued vide Letter No. SEIAA-TN/F.No.372/SEAC-CXVII/Violation/ToR-566/2018 dated:07.08.2018. The PP also accepted & submitted EIA report as per laid down procedure in EIA Notification, 2006. Hence, PP's representation that their proposal is not a violation is liable to be rejected as Project proponent himself had accepted the violation ToR & had undergone process.

ii. Second, the PP has represented against the amount of penalty determined by SEAC:-

SEAC has been following the guidelines finalised by CPCB to evaluate Environmental Compensation which has also been accepted by NGT. The formula and the various values assigned to various parameters have been explained in detail in the 404th SEAC meeting minutes. Therefore, SEAC finds no reason to re-examine the amount of compensation already determined based on CPCB Guidelines.

- iii. **Third, the company has pointed out that, the Sub-Committee appointed by SEAC has arrived at Rs. 2.7 Crores as penalty while the SEAC has set the compensation at Rs. 6.80 Crores:-**

The Sub-Committee was Constituted to make an on-spot inspection & the Sub-Committee had given their recommendation based on the data furnished by PP during the site visit. The views of the Sub-Committee are only recommendatory in nature and SEAC takes final decision after considering all aspects including the recommendation of the subcommittee.

- iv. **Finally, the PP has requested the SEIAA to drop further proceeding based on committee's environmental compensation as determined by the Committee.**

The Committee is of the view that SEIAA may immediately take a decision based on the recommendation of SEAC irrespective of the case pending before Hon'ble Supreme Court as it is not an impediment for arriving at the final decision. In fact, the PP has submitted the decision of SEAC by way of additional affidavit. Further, in SEAC recommendation it has been clearly stated that the EC is subject to the outcome of a case pending before Hon'ble Supreme Court.

Subsequently, the proposal was placed in the 687th Authority meeting held on 09.01.2024. Hence, in the view of the above, in continuation to the earlier minutes, Authority decided to accept the decision taken by SEAC and decided to request the Member Secretary, SEIAA to inform the proponent to furnish the following particulars as recommended by SEAC in the Minutes of 404th SEAC Meeting held on 25.08.2023,

- i. As per the MoEF& CC Notification, S.O.1030 (E) dated:08.03.2018, "The project proponent shall submit a bank guarantee equivalent to the amount of remediation plan and Natural and Community Resource Augmentation Plan with the State Pollution Control Board and the quantification will be recommended by the Expert Appraisal Committee for category A projects or by the State or Union territory level Expert Appraisal Committee for category B projects, as the case may be, and finalized by the concerned Regulatory Authority and the bank guarantee shall be deposited. Further, if the PP fails to comply, stringent penal actions will be initiated as per the direction given by SEAC in it's 430th SEAC meeting held on 14.12.2023.
- ii. Accordingly, the amount prescribed for Ecological remediation (Rs. 1,36,93,750/-), natural resource augmentation (Rs. 4,00,50,000) & community resource augmentation (Rs. 1,42,56,250/-), is Rs. 6,80,00,000/. The project proponent should remit the amount

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- of Rs. 6.80 crore in the form of bank guarantee to Tamil Nadu Pollution Control Board and submit acknowledgment of the same to SEIAA-TN. The amount shall be utilized for the ecological damage remediation plan, Natural resource augmentation plan & Community resource augmentation plan as indicated.
- iii. The project proponent shall carry out the works assigned under ecological damage, natural resource augmentation and community resource augmentation within a period of one year from the date of issue of EC. If not, the bank guarantee will be forfeited to TNPCB without further notice.
 - iv. The project proponent shall submit the proof for the action taken by the state Government/TNPCB against project proponent under the provisions of section 19 of the Environment (Protection) Act, 1986 as per the EIA Notification dated: 14.03.2017 and amended 08.03.2018.

Subsequently, a letter was received from the Government vide Letter No. 14389/EC.3/2017-21, dated: 21.02.2024, enclosing the final order passed by the Hon'ble Supreme Court in CA No. 3891 of 2020 filed by the proponent against the order of NGT. The matter was placed in the 703rd Authority meeting held on 13.03.2024. The Authority after detailed deliberation, decided to forward the above letter received from the Government to the committee for furnishing its remarks.

Meanwhile, the proponent vide his letter 19.03.2024 has furnished the copy of Bank Guarantee submitted to TNPCB & copy of acknowledgement obtained from TNPCB for the submission of BG (BG NO. T20GPE240755001, dated: 15.03.2024 for an amount of Rs.6,80,00,000/-). Also, the proponent has submitted the details of court case filed by TNPCB in the Judicial Magistrate Court-II, Coimbatore vide C.C. No. 200 of 2014, dated 29.01.2014 against the proponent.

The subject was placed in the 707th Authority meeting held on 01.04.2024. In view of the above, the Authority decided to refer back the proposal to SEAC for remarks / recommendations.

Based on the above, the proposal was again placed in the 458th SEAC Meeting held on 04.04.2024. In view of the Order of Hon'ble Supreme Court of India in Civil Appeal No. 3891 of 2020 dated 07.02.2024, the SEAC examined the matter in detail and decided that the recommendation already made may be kept in abeyance and the PP may be directed to approach the Hon'ble National Green Tribunal to determine the final compensation vide Para No. 7 of Hon'ble NGT Order dt. 27.04.2022 in Original Application No. 74/2017 (SZ).

Subsequently, the subject was placed in the 717th Authority meeting held on 06.05.2024. The Authority noted that the subject was appraised in the 458th SEAC meeting held on 04.04.2024. In view of the above, the Authority accepted the decision of SEAC and decided to request Member Secretary, SEIAA to communicate the minutes of 458th SEAC meeting to the project proponent.

The PP vide his letter dated 17.05.2024 has furnished the Hon'ble NGT Order dated 13.05.2024 in Miscellaneous Application No.04 of 2024 in Original Application No.74 of 2017 (SZ) and requested SEIAA for return of the Bank Guarantee submitted to TNPCB (BG NO. T20GPE240755001, dated: 15.03.2024 for an amount of Rs.6,80,00,000/-). The Hon'ble NGT (SZ) in its order dated 13.05.2024 has issued the following direction to the Proponent.

"7. Therefore, as a last opportunity, we grant 2 (Two) weeks' time from today for the Project Proponent to deposit a sum of Rs.8 Crores with the CPCB as originally directed in the Original Application No.74 of 2017 (SZ), failing which, the said amount would be collected with interest at 12% per annum from the date of the original order."

The subject was placed in the 722nd Authority meeting held on 20.05.2024. In view of the above, the Authority decided to refer back the proposal to SEAC for remarks / recommendations.

The proposal was placed in the 470th SEAC meeting held on 24.05.2024. **The Committee carefully examined the representation made by the Project Proponent with reference to the final order passed by the Hon'ble Supreme Court in this case and the subsequent directions of the Hon'ble NGT (SZ). The Hon'ble Supreme Court has dismissed the appeal filed by the proponent against the direction of Hon'ble NGT (SZ) in Original Application No. 74 of 2017 (SZ) dated 21.01.2020, directing the proponent to comply with the orders of Hon'ble NGT (SZ). The Hon'ble NGT in its order dated 13.05.2024 had directed the PP to deposit a sum of Rs. 8 Crores with CPCB within a period of two weeks. Under the circumstances, the PP has requested SEIAA to release/return the Bank Guarantee for a sum of Rs. 6.8 Crores already deposited with TNPCB.**

The SEAC noted that Hon'ble NGT (SZ) in its order dated 21.01.2020 has constituted a separate sub-committee to finalize the Environmental Compensation and has directed the committee to take note of guidelines provided in the MoEF&CC Notification dated 14.03.2017.

SEAC, therefore, decided to recommend the following:

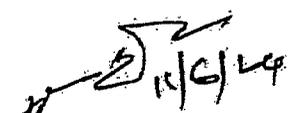
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- 1) As the final compensation will be decided by the committee constituted by the Hon'ble NGT (SZ), the compensation already determined by SEIAA, based on the recommendation made by SEAC, may be treated as cancelled subject to final disposal of the case by the Hon'ble NGT (SZ).
- 2) Consequently, the Bank Guarantee already submitted by PP may be returned to the PP as requested by him without prejudice to any further course of action that may be taken by the Authority on the final order of the Hon'ble NGT in the case.

Subsequently, the proposal was placed in the 725th SEIAA meeting held on 29.05.2024. In the view of the above, SEIAA accepts the decision of SEAC and decided to request Member Secretary to communicate the above decision of SEAC to The Chairperson, TNPCB, with all the facts and history of the proposal, to return the Bank Guarantee submitted by the PP vide BG NO. T20GRE240755001, dated: 15.03.2024 for an amount of Rs.6,80,00,000/- in order to enable the PP to submit the Bank Guarantee as directed by Hon'ble NGT (SZ) in its order dated: 13.05.2024 with CPCB in the Miscellaneous Application No.04 of 2024 in original Application No. 74 of 2017, as requested by the PP vide letter dated: 17.05.2024.

Hence, TNPCB is requested to return the bank guarantee submitted by the project proponent for an amount of Rs.6,80,00,000/- in order to enable the PP to submit the Bank Guarantee as directed by the Hon'ble NGT (SZ) in its order dated: 13.05.2024 with CPCB in the Miscellaneous Application No.04 of 2024 in original Application No. 74 of 2017.

The receipt of the letter may be acknowledged.


For MEMBER SECRETARY
SEIAA-TN


11/06/2024

Copy to:

M/s. KGISL Technologies & Infrastructures Pvt. Ltd.,
365, KGISL Campus,
Thudiyalur Road,
Saravanampatti,
Coimbatore - 641 035.

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

APPEAL No. 39 OF 2024

M/s. KGISL Technologies and
Infrastructures Private Limited,
Rep. by its Authorised Signatory,
Mr. R.Maheswaran

...Appellant.

-Vs-

1.State Level Environmental Impact
Assessment Authority (SEIAA)
Rep. by its Member Secretary,
3rd Floor, Panagal Maaligai,
No.1, Jeenis Road, Saidapet,
Chennai-600 035

2. State Level Expert Appraisal Committee
(SEAC), Rep. by its Chairman,
3rd Floor, Panagal Maaligai,
No. 1, Jeenis Road, Saidapet,
Chennai-600 035

....Respondents

INDEX TO THE DOCUMENTS FILED BY RESPONDENTS-1&2

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