

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL, SOUTHERN
ZONE, AT CHENNAI**

**I.A. NO. OF 2021
IN
ORIGINAL APPLICATION NO. 13 OF 2020**

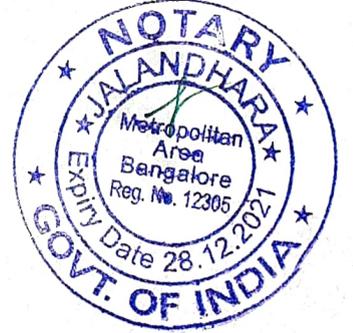
Padma Kodali
W/o Kodali Srinivasa Rao
Harvanahalli Village
Chilakanahatti Post, Hosapete Taluk
Ballari District, Karnataka State
Email: srinivaskodali1958@gmail.com

...Applicant

-VS-

1. State Environmental Impact Assessment Authority
Environment and Forest Department
Represented by its Member Secretary
M.S. Building, IV-Gate, 7th Floor
Bengaluru - 560 001.
Karnataka State
Email: msseiaakarnataka@gmail.com
2. Karnataka State Pollution Control Board
Rep. by its Member secretary
"Parisara Bhavana", 1st to 5th Floor
No. 49, Church Street,
Bengaluru - 56001.
Karnataka State
Email: memsecy@kspcb.gov.in
3. M/s. Sree Sai Industries
Sy. Nos. 36/C1 & 36/C2
Haruvanahalli Village
Hosapete Taluk, Ballari District
Karnataka State
Email: arjunkbs@gmail.com

...Respondents

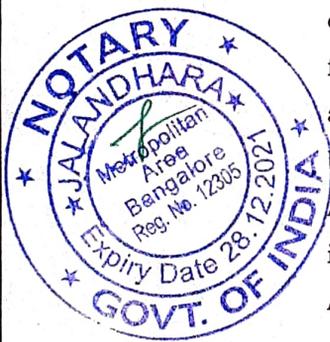


COUNTER AFFIDAVIT OF RESPONDENT NO. 3

I, H.M. Anu, wife of Mr. Suru Gangaraj, aged about 37 years, proprietor of M/s. Sree Sai Industries, a proprietorship firm, having office at Sy. Nos. 36-C1 & 36-C2, Haruvanahalli Village, Hospet Taluk, Ballari District, presently in Bengaluru, do hereby solemnly affirm and sincerely state as follows:

For SREE SAI INDUSTRIES
[Signature]
Proprietor

1. I submit that I am the sole proprietor of the Respondent No. 3 herein. I submit that I am well acquainted with the facts and circumstances of the case. I submit that I am competent to depose this Affidavit.
2. I submit that the Applicant has preferred the captioned Interlocutory Application seeking this Hon'ble Tribunal, *inter alia*, to restrain Respondent No. 3 from continuing its operation with alleged major infractions as mentioned by the Applicant and thus render justice. I submit that the instant Counter Affidavit is being preferred in reply to the captioned Interlocutory Application. I submit that the Respondent No. 3 is collating the necessary documents required to counter the averments made by the Applicant in the Original Application. I submit that the Respondent No. 3 humbly craves the leave of this Hon'ble Tribunal to prefer its Counter Affidavit to the Original Application at a later stage.
3. I submit that it is pertinent to the state that the Respondent No. 3 was provided with the Notice in captioned Original Application *vide* the orders of this Hon'ble Tribunal dated February 15, 2021.
4. I submit that all the averments made by the Applicant in the captioned Interlocutory Application is hereby denied as being false, frivolous and vexatious, except those that are specifically admitted herein. I submit that nothing shall be deemed to have been admitted for want of specific traversal. I submit that the Applicant herein has misled this Hon'ble Tribunal by intentionally making false allegations. I submit that the Applicant is guilty of *suppressio veri* and *suggestio falsi*; as explained hereinbelow and for this reason alone the captioned Interlocutory Application is liable to be dismissed.
5. At the outset, despite having obtained the Environmental Clearance for operating a Cement Grinding Unit, the Respondent No. 3 has neither commenced building the factory nor has commenced any operation, for Cement Grinding Unit. I submit that the Applicant is well aware of the same, and has



For SREE SAL INDUSTRIES

Proprietor

nevertheless, preferred the captioned Original Application and the Interlocutory Application frivolously.

6. I submit that the Respondent No. 3 had sought approval for "Mineral Benefication & Ground Granulated Blast Furnace Slag Manufacturing" unit, from the Department of Industries and Commerce, Government of Karnataka. The District Level Single Window Clearance Committee Ballari, Department of Industries and Commerce, Government of Karnataka, *vide* No.DIC/BLY/DLSWA/152/4.13/2019-20/271, dated, 13.06.2019, had approved the project proposal of the Respondent No. 3 for "Mineral Benefication & Ground Granulated Blast Furnace Slag Manufacturing" unit. I submit that in the said approval the District Level Single Window Committee had permitted the Respondent No. 3 to establish the said project at Sy. No.s 36-C1 & 36-C2 at Hauvanahalli, Hosapete Taluk, Ballari District, to an extent of total 6.21 Acres I submit that these land were then to be acquired by Karnataka Industrial Development Board ('**KIADB**') under the single unit complex and leased to the Respondent No.3 for the project.
7. I submit that GGBS is Ground Granulated Blast Furnace Slag, is used as an ingredient in ready mix concrete manufacturing units. I submit that Ground Granulated Blast Furnace Slag and Cement are completely different products.
8. I submit that the Ground Granulated Blast Furnace Slag is an orange category industry and not covered under the EIA 2006 Notification, and therefore, does not require Environmental Clearance. I submit that pursuant to the application preferred by the Respondent No.3, the Respondent No. 2 had issued the Consent for Establishment of the Ground Granulated Blast Furnace Slag manufacturing unit to the Respondent No. 3 *vide* Consent Order No. CTE-315040, dated 26.09.2019. I submit that the said Consent For Establishment is valid upto 27.08.2024. I submit that pursuant to the application preferred by the Respondent No. 3, the Respondent No. 2 had issued the Consent For Operation *vide* Combined Consent Order No. AW-322582, dated 30.12.2020, for the Respondent No. 3 to operate the GGBS manufacturing unit. I submit that the Respondent



FOR SREE SAI INDUSTRIES
11.11.21

Proprietor

No. 3 had applied to the Grampanchayath seeking No Objection Certificate for the GGBS manufacturing unit, on 20.08.2019 and 11.12.2019. I submit the Grampanchayath had issued a No Objection Certificate *vide* Letter dated 15.10.2020.

9. I submit that the land on which the Ground Granulated Blast Furnace Slag manufacturing unit has been constructed was acquired to allot to the Respondent No. 3 by the State Government of Karnataka *vide* G.O. CI-36 SPQ(E) 2019, Bengaluru dated 29.06.2019. I submit that the said land has been declared as Industrial area by the Government of Karnataka. I submit that therefore they are automatically classified to be used for industrial purposes including Ground Granulated Blast Furnace Slag manufacturing unit. I submit that the said land were allotted to the Respondent No. 3 on lease-cum-sale basis by KIADB *vide* Allotment Letter No. KIADB/HO/Allot/SUC-22926-2812/2020-21, dated 22.07.2020. I submit that KIADB issued with possession certificate for the said land to the Respondent No. 3 *vide* No.KIADB/BALLARI/DO/234/2020-21, dated 05.08.2020. I submit that post the completion of the construction of the manufacturing unit the Respondent No. 2 issued the Consent For Operation.

10. I submit that the Respondent No. 3 with an interest to have cement grinding unit in the said land, had applied for Environmental Clearance from the Respondent No. 1. I submit that after due consideration of the application, the Respondent No.1 was pleased to issue the Environmental Clearance for establishment of Cement Grinding Unit to the Respondent No. 3 at the said land *vide* No.SEIAA 34 IND 2019, dated 11.12.2019. I submit that thereafter the District Level Single Window Clearance Committee Ballari, Department of Industries and Commerce, Government of Karnataka, *vide* No.DIC/BLY/DLSWA/156/11/2020-21/405, dated 12.10.2020 approved the proposal of the Respondent No. 3 to establish and operate a Cement Grinding Unit in the said land already allocated to the Respondent No. 3. However, the Respondent No. 3 has neither commenced the construction nor the



For SREE SAI INDUSTRIES

[Handwritten Signature]

Proprietor

operation, of the Cement Manufacturing Unit as yet. I submit the Respondent No. 3 proposes to establish and operate the Cement Grinding Unit only after seeking the remaining approvals from the appropriate authorities.

11. I submit that all the approval for construction and operation of the GGBS manufacturing unit were duly sought for by the Respondent No. 3 and issued by the appropriate authorities. I submit that GGBS manufacturing is performed in a closed shed and dust collectors and bag filters are used in the unit to avoid any pollution. I submit that the GGBS manufacturing unit was duly constructed and the Respondent No. 3 production of GGBS only on 11.02.2021.

12. I submit that in the land in Sy. Nos. 36-C1 and 36-C2, the Respondent No. 3 has constructed and is operating a Ground Granulated Blast Furnace Slag manufacturing unit and not Cement Manufacturing Unit, as wrongly alleged by the Applicant. I submit that the fact that the Respondent No. 3 has established only a Ground Granulated Blast Furnace Slag manufacturing unit in the said land has also been substantiated by the Joint Inspection Report, dated 18.03.2021, of the State Environmental Impact Assessment Authority, and Karnataka State Pollution Control Board, filed in furtherance to the directions of this Hon'ble Tribunal. I submit that however to the shock and surprise of the Respondent No.3 the Applicant makes no whisper about the Ground Granulated Blast Furnace Slag manufacturing and, with *mala fide*, wrongly alleges that the Respondent No.3 is operating cement manufacturing unit. I submit that the Applicant made no averment whatsoever about the GGBS manufacturing unit. I therefore submit that the captioned Interlocutory Application is liable to be dismissed on this ground alone.

13. I submit that the Applicant's claim that her poultry is about 200 meters from the Ground Granulated Blast Furnace Slag manufacturing unit is denied as being false, froivolous, and vexatious, and the Applicant is put to strict proof of the same. I submit that the Applicant's poultry unit, albeit being run without proper approval, is at a distance of 463.62 meters from



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the Ground Granulated Blast Furnace Slag manufacturing unit. I submit that therefore it is highly unlikely the Applicant is affected by the Ground Granulated Blast Furnace Slag manufacturing unit. I submit that therefore the captioned Interlocutory Application is liable to be dismissed on this ground also.

14. I submit that the Applicant's averment that the operation of industry had commenced in November 2020 is hereby denied as being false, frivolous, and vexatious, and the Applicant is put to strict proof of the same. I submit that the Respondent No. 3 commenced the operations of the Ground Granulated Blast Furnace Slag manufacturing unit only on 11th February 2021, after seeking all requisite approvals. I submit that therefore the Applicant's claim is against facts. I submit that the Applicant has not provided any documents to substantiate the said claims on the commencement of the operations, and this only shows that the said claim of the Applicant is devoid of any merit.

15. I submit that the averment made by the Applicant that the Ground Granulated Blast Furnace Slag manufacturing unit is on the bank of Heere-Kere is denied as being false, frivolous, and vexatious, and the Applicant is put to strict proof of the same. I submit that the Ground Granulated Blast Furnace Slag manufacturing unit is not situated on the bank Heere-Kere Lake. I submit that the fact that the unit is not situated on the Heere-Kere Lake has also been substantiated by the Joint Inspection Report, dated 18.03.2021, of the State Environmental Impact Assessment Authority, and Karnataka State Pollution Control Board, filed in furtherance to the directions of Hon'ble Tribunal.

16. I submit that the averment made by the Applicant that the cement dust are accumulated on top of the lake water which is not even 10 meters away from the unit and is sinking to the bottom of the lake is hereby denied as being false, frivolous and vexatious, and the Applicant is put to strict proof of the same. I submit that no cement particle could have settled on top of the lake as no cement was manufactured by the Respondent No. 3.



For SREE SAI INDUSTRIES

[Signature]

Proprietor

I submit that photographs submitted by the Applicant allegedly depicting the cement particles on the top of the lake. I submit that the contents of the said photographs are doctored. I submit that the said photographs could not be showing cement particles when the Respondent No. 3 does not have any cement grinding unit, and therefore, cannot be relied upon. I therefore submit that the captioned Interlocutory Application is liable to be dismissed on this ground also.

17. I submit that the land on which the Ground Granulated Blast Furnace Slag manufacturing unit is established was acquired the Department of Industries and Commerce, Government of Karnataka, in the year 2019 and the same has been declared as Industrial area. I submit that the said land has been handed over to KIADB for being allotted to the Respondent No. 3. I submit that the averment of the Applicant that the said land was converted into an industrial area in February 2020 is denied as being false, frivolous, and vexatious. I submit that the captioned Interlocutory Application is liable to be dismissed on this ground also.

It is therefore most humbly prayed that this Hon'ble Tribunal may be pleased to dismiss the captioned Interlocutory Application *in limine*, and pass such further or other order as this Hon'ble Tribunal deems fit in the facts and circumstances of the case, and thus render justice.

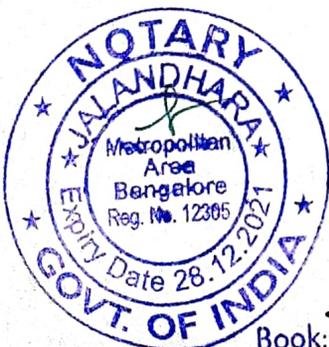
For SREE SAI INDUSTRIES

[Signature]

Deponent Proprietor

Solemnly affirmed at Bengaluru,
this the 19th day of
April 2021 and the
deponent signed her
name in my presence.)
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Before me,



Advocate

SWORN TO BEFORE ME
[Signature] 19/04/2021
JALANDHARA
Advocate & Notary
Govt. of India
26, 4th Cross, Bhoopasandra
R.M.V, 2nd Stage, Bangalore - 560 094

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Reg. No: 162 Dated: 19/04/2021