

BEFORE THE NATIONAL GREEN TRIBUNAL SOUTH BENCH AT CHENNAI

APPEAL No. 29 OF 2020

S.K. VIJAYAKUMAR

....APPELLANT

Vs

KARNATAKA STATE ENVIRONMENTAL IMPACT ASSESSMENT AUTHORITY & 6
Ors

.....RESPONDENTS

COUNTER AFFIDAVIT FILED ON BEHALF OF THE 3rd RESPONDENT

I, P.Sindhuja, W/o. _____, aged about _____ years, having office at Regional office, Karnataka State Pollution Control Board, Urban Eco Park, 100 Feet Road, 3rd Phase, Peenya Industrial Estate, Bengaluru – 560 058, do hereby solemnly affirm and sincerely state as follows:

1. I state that I am working as Environmental Officer at the Regional Office at Dobbaballapura and I am authorised to swear this affidavit on behalf of the 3rd Respondent. I am conversant with the facts and circumstances of the present case.
2. I state that at the outset all the allegations, averments/statements raised in this Appeal filed by the Appellant are denied as false except those specifically admitted hereunder.
3. I state that the 3rd Respondent KSPCB has not violated the MoEF Notification dated 14.03.2017 as the Consent has been issued to the 2nd Respondent Project Proponent on 28.02.2018 for the period up to 30.06.2021 for 5 products only for which the Environmental Clearance (EC) has been issued from Department of Ecology and Environment, Government of Karnataka vide Order dated 20.08.1992 with Order No. DEE 117 EPC 91.
4. I state that the 3rd Respondent KSPCB had issued Consent for Establishment (CFE) on 08.08.1992 for 5 products for which the EC

has been obtained from the Department of Ecology and Environment, Government of Karnataka vide Order No. DEE 117 EPC 91.

5. I state that, in reference to Para 4 of the Appeal, the 2nd Respondent Project Proponent has purchased 5.7 acres of private land and the Karnataka Industrial Area Development Board (KIADB) had allotted 1.92 acres, which amounts to a total of 7.6 Acres. The Project Proponent is carrying out manufacturing in the KIADB allotted land while using the privately purchased land for installing Effluent Treatment Plant/Sewage Treatment Plant, and as a storage yard.

6. I state that the 2nd Respondent Project Proponent was issued CFE up to 30.06.2008 for the product Pheiramine Maleate/Base with capacity 2.40 TPA instead of the 2.40 TPM as per the Consent Application dated 01.07.2007 filed by the Project Proponent. Therefore, the production capacity was reduced from 37.66 TPA to 11.24 TPA. Following that, in the year 2012, the Project Proponent has applied for CFE-expansion to stop existing 3 out of the 5 products namely Amino Bangamidine Dihydrochloride, Aceturic acid and Pheminramine MaleateBase and to include additional 7 products namely Oxyphenonium Bromide, Oxybutynin Hydro chloride, Clidinium Bromide, Isopropamide Iodide, Mebrophenhydramine Hydrochloride, Carbinoxamine Maleate and Buprenophine Hydrochloride, in TPA.

7. I state that the above referred CFE-expansion Application of the Project Proponent was placed before Technical Advisory Committee (TAC) held on 07.05.2011 and 29.09.2011. It was placed before the Consent Committee Meeting (CCM) on 18.11.2011 and the Committee had decided to issue the CFE-expansion for 9 products (existing 2 + 7 new products) to the capacity of 10.29 TPA as there was no increase in pollution load. Accordingly, CFE-expansion approval was issued by the 3rd Respondent KSPCB on 08.08.2012 with the condition that the 2nd

Respondent Project Proponent shall inform the MoEF, Government of India and SEIAA, Government of Karnataka about the modification programme and along with the claim with respect to no additional pollution load. Hence, the production capacity was reduced from 11.24 TPA to 10.29 TPA along with the increase in number of products to 9.

8. I state that in the year 2014 the 2nd Respondent Project Proponent had once again applied for an CFE-Expansion in his Application dated 20.05.2014 for an additional 10 products along with the existing 9 products to be manufactured in the existing facility. This Application was placed before the Consent Committee Meeting held on 06.12.2014 and the Committee after detailed deliberation recommended that the applicability of EC from SEIAA must be verified. Accordingly, it was referred before TAC meeting on 23.12.2014 and as per the TAC decision the 2nd Respondent Project Proponent had submitted the required details.

9. I state that following TAC decision, the Application was once again placed before the Consent Committee Meeting on 26.06.2015, wherein the Committee recommended the issue of CFE-Expansion on the condition that an affidavit is obtained from the Project Proponent that there will be no increase in the pollution load due to change in the product mix. The KPSCB received the Affidavit dated 17.07.2015 from the Project Proponent. Taking in to account the detailed discussions and deliberations before the TAC and CCM, the KPSCB had issued the CFE-Expansion on 12.08.2015 for the additional 10 products along with the existing 9 products i.e., total of 19 products with the condition that the Project Proponent inform the MoEF, Government of India and SEIAA, Government of Karnataka about the modification programme and also place a claim with respect to no additional pollution load.

10. I state that only the Consent for Establishment - Expansion was issued and in the meantime, the Project Proponent had filed for Consent for Operations - Expansion. The KPSCB, in office letter dated 10.02.2016, informed that EC for the expanded products must be obtained and returned the CFO-Expansion Application filed by the Project Proponent directing them to resubmit along with the requisite EC copies.
11. I state that, in respect to Para 5 of the Appeal, that the Project Proponent had once again applied for consent for a period from 01.07.2016 to 30.06.2021. The Regional Officer, Doddaballapur, KSPCB forwarded the CFO Application on 06.10.2016 with the recommendation to KPSCB to refuse consent as the Project Proponent had failed to obtain the requisite EC and initiate action under Section 33(A) of Water Act, 1974 and Section 31 (A) of Air Act, 1981. Further, the RO, Doddaballapur had issued Notice dated 07.01.2017 to the Project Proponent with the direction to obtain EC. On 03.03.2017 the RO, Doddaballapur had addressed an office letter to RSEO, Bangalore North, KSPCB with the recommendation to issue NPD against the Project Proponent for non-compliances. Accordingly, the KSPCB had issued NPD under Section 33(A) of Water Act, 1974 and Section 31 (A) of Air Act, 1981 on 03.03.2017 and called upon the Project Proponent to submit the EC copy.
12. I state that taking into consideration the above office letters of the RO, Doddaballapur, KPSCB had issued Notice of Proposed Direction on 03.03.2017 to the Project Proponent directing them to submit EC copies and called for Technical Presentation on 03.04.2017.
13. I state that during Technical Presentation on 03.04.2017, a direction was issued to the Project Proponent to apply and obtain EC within 3 months and also to issue CFO for the period upto 30.06.2021 for the

products which are having EC during 1992. On the basis of the direction issued during the Technical Presentation, the KSPCB granted the CFO on 28.08.2018 for five products for the period up to 30.06.2021.

14. I state that in reference to Para 7 of the Appeal, the KSPCB has taken steps in accordance with the MoEF Notification dated 14.03.2017 as the RO, Doddaballapur had initially recommended refusal of consent seeing as the Project Proponent had not obtained the necessary EC. In fact the RO, Doddaballapur recommended initiating NPD for non-compliance against the Project Proponent and the same was issued. It was based on the directions given during Technical Presentation on 03.04.2017 the KSPCB had granted CFO on 28.02.2018 for 5 products for the period up to 30.06.2021.

15. I state that the Project Proponent has deposited bank guarantee equivalent to the amount of remediation plan and natural and community Resources Augmentation plan with the KSPCB. The bank guarantee has been deposited by the Project Proponent prior to the grant of EC for 19 products vide Order dated 24.08.2020 with No. SEIAA 15 IND (VIOL) 2018. In fact, the Order also stipulated the Project Proponent must deposit a bank guarantee with the KSPCB.

16. I state with respect to Para 8 of the Appeal, it is pertinent to point out that the KSPCB is not the competent authority to issue EC. Furthermore, as previously mentioned the Project Proponent had already deposited bank guarantee equivalent to the amount of remediation plan and natural and community Resource Augmentation Plan with the KSPCB.

17. I state that in reference to Para 9 of the Appeal, the KSPCB has complied and diligently taken all the steps as mentioned in Para 11

above and furthermore, the Project Proponent has deposited the bank guarantee as elaborated in Para 15 above.

18. I state that the various zones provided under the Notification dated 18.11.2013 are as below:

The Notification categorized the Tippagondanahalli Reservoir catchment area in to Four Zones based on vicinity and sensitivity comprising of areas specified in Column 2 of the Schedule falling under the corresponding zone specified in Column 1 thereof and also specify the nature of restricted or regulated activities in these areas in Column (3) and the Authorities responsible for regulating the activities in Column (4). The complete Doddaballapura Industrial area 3rd Phase falls within Zone – 1. The Schedule of Zone – I is as below:

Zone	Area Covered	Nature of restricted/regulated activities	Authorities responsible for regulation
(1)	(2)	(3)	(4)
Zone - 1	Entire Reservoir (TGR) catchment area specified in annexure to this Notification	<p>a. Regulation and exploitation of ground water</p> <p>b. No fresh leases or license for mining, quarrying and stone crushers shall be granted</p> <p>c. No person shall dispose solid as well as liquid waste in this area without scientific processing.</p> <p>d. To ensure adoption of rainwater harvesting systems in all the new and existing buildings, within six months from the date of issue of this order.</p>	<p>Director, Mines</p> <p>Department of Urban Development</p> <p>1. Bangalore Water Supply and Sewage Board</p> <p>2. Nelamangala Planning Authority</p> <p>Secretary, Department of Agriculture/Horticulture</p>

		e. To promote organic farming including bio-fertilizer and bio-pesticide.	
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It is noted that as per above stipulations no mining, quarrying, and stone crushing activities are allowed to be carried out in the said industrial area, the industrial units are treating the liquid wastes in their respective STPs and ETPs with Zero Liquid Discharge (ZLD) concept and there is no provision of discharging liquid wastes without scientific treatment. Rainwater Harvesting Systems are adopted by industries.

19. I state that although the above referred Notification prohibited the mining, quarrying, and stone crushing activities, it does not prohibit the establishment of industries.
20. I state that with regard to the allegation in Para 21 that objections raised during public consultation have not been considered the KSPCB is denied and state that they issued a Notification which was published in daily newspaper such as the Hindu and Vijay Karnataka on 28.12.2019. A Notification was also published by RO, Doddaballapura local paper Sarvajjanika Samaseye dated 01.01.2020.
21. I state that with respect to Para 22 as mentioned above Siting Criteria Guidelines referred by the KSPCB has not been notified by the Government.

It is therefore humbly prayed that this Hon'ble Tribunal may be pleased to record the above mentioned facts and pass such order or orders as this Hon'ble Tribunal may deem fit and proper in the interest of justice.

Solemnly affirmed at Chennai on this
the 01st day of May 2021 and signed
his name in my presence.

Before me

Advocate :: Chennai