

IN THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE BENCH AT CHENNAI

ORIGINAL APPLICATION NO.20 OF 2021

IN THE MATTER OF:

1. Oggu Srinivasa Reddy
S/o.Kesava Reddy, age 46 years,
Occ: Agriculture,R/o.Narayanapuram &
Rajerla Village, Sathupalli Mandal,
Khammam District,Telangana.

2. Chintala Bharat Kumar Reddy
S/o.Surender Reddy, Age 24 years,
Occ: Software Engineer,
R/o.Rajerla village, Sathupalli Mandal,
Khammam District,Telangana

...APPLICANTS

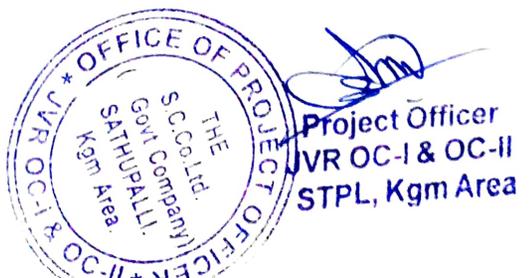
VERSUS

1. Union of India,
Through the Secretary,
Ministry of Environment, Forest & Climate Change,
Indira Paryavaran Bhavan,
Jor Bag, New Delhi-110003.
Phone: 010-24695262,
E-Mail: secy_moef@nic.in

2. Telangana State Pollution Control Board,
Rep. by its Chairman,
A-3, Paryavaran Bhavan, Industrial Estate,
Sanath Nagar, Hyderabad 500 018.
Phone:91-(040)23815630
E-Mail id: tspcb@gov.in.

3. The Singareni Collieries Company Limited,
Rep. by its Chairman & Managing Director,
Singareni Bhavan, Redhills,
Hyderabad, Telangana
Phone No.040-23300132.
E-Mail Id: mkt-import@scclmines.com.

... RESPONDENTS



COUNTER AFFIDAVIT ON BEHALF OF RESPONDENT NO.3
THE SINGARENI COLLIERIES COMPANY LIMITED (SCCL)]

I, S. Venkata Chary, Son of Sri Satyanarayana, aged about 53 years, currently working as Project Officer of JVR Opencast Mines in the Singareni Collieries Company Limited, R/o. Sathupalli, Khammam District, Telangana State, do hereby solemnly affirm and state on oath as follows:

1. I am working as Project Officer of JVR Opencast Mines in the 3rd Respondent Company and I am authorized to depose on behalf of Respondent No.3 herein to file this Counter Affidavit.
2. I have read and understood the contents of Application and deny all the material allegations made therein, except those that are specifically admitted hereunder.
3. At the outset, it is submitted that the Application is barred by law of limitation. As the Application has to be filed within a period of 30 days from the date of order or decision under Sec.16 of the NGT Act. In the instant case, Environment Clearance(EC) has been granted on 28-3-2010 and Forest Clearance(FC) on 31-5-2017, but the applicant/petitioner for the reasons best known, has filed the Application after a lapse of about 11 years in case of EC and 3 ½ years in case of FC. Therefore, the application is liable to be dismissed in limine.



4. It is submitted that the present Original Application filed by the petitioners before this Hon'ble Tribunal with interim prayer to direct to:

- (i) Stop the mining activities being done in 776.20 hectares in Lankepalli and Rejarla Village in Khammam District by the 3rd respondent pending disposal of the above Original Application; and
- (ii) With main prayer to set-aside the proceedings dated 30-06-2017 issued by the 1st respondent herein by declaring that the 3rd Respondent has violated the conditions stipulated herein and further restrain the said respondent from continuing mining in respect of area which is subject matter of above said proceedings and to issue appropriate directions by declaring the impugned action, as illegal, arbitrary and violative of provisions contained in Article 14, 21 and 48-A of the Constitution of India.

5. It is submitted that the Singareni Collieries Company Limited (in short SCCL), the Respondent No.3 herein, is a Government Company within the meaning of Sec-617 of Companies Act,1956 and Sec.2(20) of Companies Act,2013, jointly owned by the Government of Telangana and Government of India on 51:49 equity basis, exclusively engaged in the work of exploration, excavation, extraction and winning of coal. The Respondent No.3




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is currently operating 20 opencast and 26 underground mines in six

(6) Districts of Telangana State.

6. In reply to paras-1 to 3, it is submitted that Jalagam Vengal Rao Opencast Mine-I (JVR OC-I) and Jalagam Vengal Rao Opencast Mine-II (JVR OC-II) of the Respondent No.3, are located in Sathupalli Area, Khammam District of Telangana State. The coal mining operations in JVR-OC I mine started in the year 2005 and coal reserves in the mine were exhausted by the end of 2019-20. Coal production in JVR OC II Project started in 2017-18. It is submitted that Applicants are the residents of Rejerla Village, Sathupalli Mandal, Khammam Dist, Telangana State.
7. In reply to para-4, it is submitted that the Respondent Company has obtained Environment Clearance (EC) for Jalagam Vengal Rao Opencast project-II from Ministry of Environment, Forest & Climate Change (MoEF&CC), New Delhi, vide Lr. No. J-11015/268/2007-IA.II (M), dt. 28.03.2010. A copy of Environment Clearance and Forest Clearance are enclosed as **Annexures-I & II**.
8. In reply to averments at para-5 & 6, that there is a specified condition in the said EC that no coal transport by road is permitted and the Respondent No.3 has violated the said condition, are false and hence denied. The applicants are put to strict proof of the same. In reply, it is submitted that the MoEF&CC stipulated



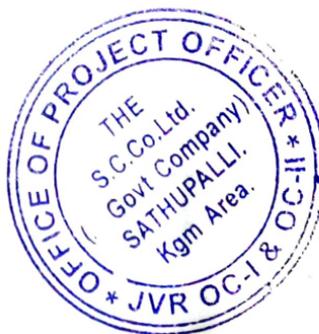

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specific condition No. 2(A) (viii) in Environment Clearance letter that "No coal transportation shall be undertaken by road". Further, the Respondent Company has requested the MoEF&CC, vide Lr. No. CRP/ENV/A/405/568 dated 16th August, 2013 to modify the condition of rail transport and permit to transport coal from the proposed project by road to the linked customers till the railway line is completed.

It is submitted that the MoEF&CC considered the request of SCCL for modification of the condition in EC letter during the 19th EAC Meeting held on 14th August, 2014 and accorded permission stating that "the railway line should come into operation within a period of three years and until that time the coal may be transported by road with mechanically covered trucks". A copy of EAC Minutes are enclosed as **Annexure-III**.

The Respondent No.3 again requested MoEF&CC, vide Lr. No. CRP/ENV/ A/405/665 dated 19thDecember,2018 to modify the condition of rail transport and permit to transport coal from the proposed project by road to the linked customer's up to 31.03.2022. It is submitted that the delay in completion of railway line, was due to Covid-19.

It is submitted that during the 8th EAC Meeting held on 11th February, 2021, MoEF&CC considered the request of the Respondent No.3 for modification of the condition 2(viii) in EC




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letter, and accorded permission up to 31st December 2021. The EAC Minutes are enclosed as **Annexure-IV**.

9. It is further submitted that the JVR OC-II Project was commissioned only on 01st September, 2017, after diversion of forest land and obtaining other statutory permissions. However, keeping in view the delay in commencement of railway line works, the Respondent No.3 requested MoEF&CC to extend the validity period of modification already granted to specific condition No. 2(A) (viii) of the Environmental Clearance to enable the Respondent No.3 to transport of coal by road mode. The proposal was discussed in the 8th EAC Meeting held on 11.02.2021. The EAC after deliberations and considering the advance status of implementation of railway line recommended the proposal in for grant of amendment in Environment Clearance of Jalgam Vengal Rao Opencast Project-II with the extension of permission for transportation of coal by road mode till the end of December 2021 in the Minutes of Meeting.

It is pertinent to mention that coal from JVR OC-II mine is not being transported through Rejerla Village as averred by the Applicants. But, it is being transported from mine to RCHP (Rudrampur Coal Handling Plant), Kothagudem, through tarpaulin covered trucks in order to prevent environment pollution. A plan showing coal transportation route is enclosed as **Annexure-V**.



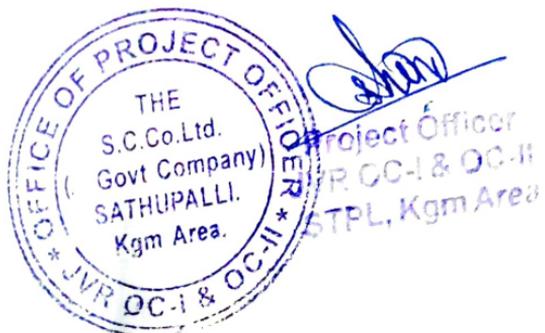

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10. In reply to para-7, regarding discharge of mine water, it is submitted that a modern Coal Handling Plant(CHP) with built-in environmental safeguards of 10 MTPA capacity is being constructed at the project at a cost of Rs. 398 crores. A railway line of 54.1 km. length is being constructed through railways from Sathupalli to Bhadrachalam Road (Kothagudem) at a total cost of Rs. 927.94 crores of which the Respondent No.3 share is Rs. 618.55 crores. A railway siding of 3.5 km. is also being constructed for transport of coal from CHP by rail mode. The coal transportation will be switched over to rail mode after completion of railway line by S.C. Railway authorities.

It is submitted that previously, excess mine water was discharged into Jeenugupally water tank. However, due to closure of Jalagam Vengal Rao OC-I operations, the discharge of excess mine water into Jeenugupally water tank has been discontinued.

However, the excess mine water is channeled through settling tanks for removal of suspended solids and the treated water is only discharged into nearby agriculture tanks after meeting the desired standards. The analysis data of mine discharge water of JVR OC-II is enclosed as **Annexure-VI**.

The excess mine water has been discharged into nearby agriculture tanks like kistaram tank as per the request of local villagers and they are able to raise two crops in a year.



11. In reply to para-8, regarding earmarking 45 crores for capital and revenue expenditure for environmental measures, it is submitted that the mining operations in JVR OC-II started in the year 2017 and the capital and revenue expenditure details were being furnished to Regional Office of MoEF&CC along with six monthly compliance reports. The expenditure incurred for the previous six months period is being reported in half yearly compliance reports. The latest half-yearly compliance report is also being placed in SCCL website. So far, a total capital expenditure of Rs.0.14 crores was spent on environment protection measures against the provision of 1.8 cr.

The annual revenue expenditure on environment protection is furnished hereunder:

- 1) 2018-19: Rs. 8.67 Crores
- 2) 2019-20: Rs. 14.35 Crores
- 3) 2020-21: Rs. 15.83 Crores

Hence, a total amount of Rs.38.99 crores was so far spent towards capital and revenue expenditure on environmental protection measures.

12. In reply to para-9, regarding forest land can be mined subject to Forest Clearance, it is submitted that according to condition No. 2. A (i) of Environment Clearance letter of JVR OC-II Project "No mining operations shall be undertaken in 776.20 ha. of forest land




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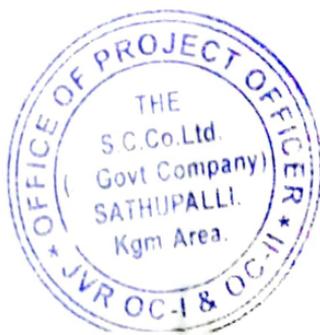
until prior clearance has been obtained under the provisions of Forest Conservation Act, 1980".

Accordingly, the mining operations in forest land started in September 2017 only after obtaining Forest Land(FL) diversion for 776.20 ha. of forest land vide Lr. F.No. 8-56/2014-FC, dt. 31.05.2017. Also, while granting Stage-II permission for diversion of forest land, it was stipulated at condition 2 (vi) that user agency shall obtain Environment Clearance as per the provisions of Environment (Protection) Act, 1986, before the work for the project is initiated.

It is pertinent to mention that the EC and FC proposals will be discussed separately by independent committees i.e., EAC and FAC in MoEF&CC. The condition stipulated in Environment Clearance and Forest Land Clearance letters indicates that both the clearances are mandatory prior to commissioning of the project.

As the Respondent No.3 started the mining operations in September 2017 after obtaining Environment Clearance on 28.03.2010 and Forest Clearance on 31.05.2017, the conditions stipulated in both EC and FL Clearances have been complied with.

3. In reply to para-10, regarding mining operation in Forest Land, it is submitted that the MoEF&CC, New Delhi, accorded Environment Clearance for JVR OC-II under the provisions of Environment Impact Assessment Notification, 2006 and its subsequent




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amendments subject to compliance of terms and conditions. One of the specific conditions of EC letter states that mining shall not be taken in forest land until prior FL Clearance is obtained. The Respondent No.3 strictly complied with this condition and mining operations started only after obtaining FL Clearance.

14. In reply to para-11, regarding obtaining Environment Clearance subsequent to Proceedings dt.30-3-2017, it is submitted that Respondent No.3 commenced mining operations in JVR OC-II project only after obtaining Environment Clearance and Forest Clearance. Since, Environment Clearance is already available for the project; there is no need to obtain EC once again after grant of FL Clearance. Hence, the allegation of the petitioners that mining in forest land as illegal, is not true and correct and the same is denied.

15. In reply to para-12, it is submitted that the allegation that illegal mining is done in forest land and the Respondent No.3 is liable for payment of compensation for environment damage caused by illegal mining, is incorrect. Hence denied. The Applicant is put to strict proof of the same. The MoEF&CC, Regional Office, has been inspecting the project periodically and monitoring the compliance of Environment Clearance/Forest Clearance/Consent For Operation conditions. EC compliance reports are being submitted to Regional Office of MoEF&CC and Telangana State


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Pollution Control Board(TSPCB) on half yearly basis and copy of compliance report for the period ending September 2020 is enclosed as **Annexure-VII**.

16. In reply to para-13, regarding enhancement of production to 10 MTPA from 5 MTPA, it is submitted that the Respondent No.3 submitted an application to MoEF&CC on 05.04.2019 for the proposed Jalagam Vengal Rao Opencast Mine (I&II Expansion) for enhancing rated coal production from 5 MTPA to 10 MTPA(Million Tonnes Per Annum).

In this connection, Regional Office of MoEF&CC, Chennai inspected JVR OC-II project on 19.07.2019 for monitoring the compliance of EC conditions and subsequently issued a certified compliance report. The Respondent No.3 submitted compliance status on the non-compliances observed by MoEF&CC Regional Office. A copy of Certified Compliance Report (CCR) issued by MoEF&CC, Regional Office and latest status on the non-compliances mentioned in the CCR are enclosed as **Annexure-VIII**.

The CCR of existing EC of JVR OC-II issued by MoEF&CC, Regional Office, Chennai and the latest compliance status of EC conditions were submitted to MoEF&CC for grant of EC for expansion proposal.



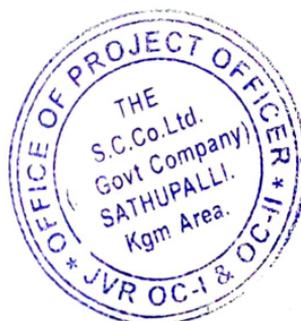

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In this connection, MoEF&CC sought further details from the Respondent No.3 on the expansion proposal, which includes EC for JVR OC-I Exp. under violation category on account of enhanced coal production, rectification of violation with respect to transportation of coal by road, status of NGT filed against these mines and reasons for merger of both JVR OC-I and JVR OC-II mines.

The Respondent No.3 already obtained EC for JVR OC-I Exp. under violation category (copy of EC is enclosed as **Annexure-IX**). Also, EAC recommended for extension of permission for coal transportation by road till the end of December 2021. The Respondent No.3 will furnish a comprehensive reply to MoEF&CC on all these aspects for further considerations of proposal.

Hence, the Respondent No.3 is not deviating from procedural norms in seeking Environment Clearance for the proposed Jalagam Vengal Rao Opencast Mine (I&II Expansion) for enhancing rated coal production from 5 MTPA to 10 MTPA.

17. In reply to paras-14 & 15, regarding coal transportation in core zone or buffer zone by road, it is submitted that the work is under progress for construction of CHP (Coal Handling Plant), conveyor belt from CHP to silo bunker, railway siding and Railway Line from Sathupalli to Bhadrachalam Road(Kothagudem). Hence, the

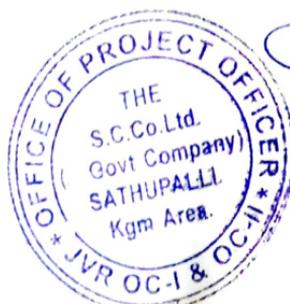



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Respondent No.3 will comply with the condition of switching over to rail mode of coal transportation as per EC amendment recommended by EAC. It is submitted that as averred that the village of Rejerla is in buffer zone as per EC proceedings dated 28-3-2010 and the village is severely affected by illegal mining, is denied and the applicants are put to strict proof of the same. It is submitted that coal from JVR OC-II mine is not being transported through Rejerla Village as averred by the petitioners. But, it is being transported from mine to RCHP, Kothagudem, through tarpaulin covered trucks in order to prevent environment pollution.

18. In reply to para-16, it is submitted that the Respondent No.3 acquired private land (agricultural land) by paying suitable compensation to the land losers as per Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation & Resettlement, Act, 2013.

19. In reply to para-17, it is submitted that the Respondent No.3 will implement environment management plan in the project for prevention and control of pollution and also for reclamation of mined out areas. Pollution mitigation measures are being implemented in the project for safeguarding the environment thereby ensuring sustainable coal mining operations.



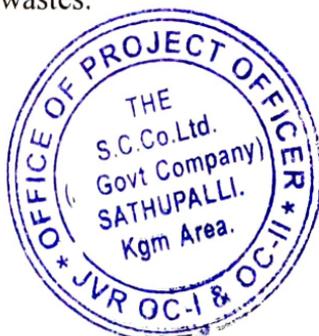

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The environmental monitoring of air, water and noise pollution is being monitored through Environment Protection Training and Research Institute (EPTRI), Hyderabad, a CPCB recognized and NABL accredited laboratory and the monitored data is being submitted to regulatory authorities, MoEF&CC and TSPCB on regular basis. The environmental data monitored in and around the project indicates that the parameters are well within the stipulated limits. The air, water and noise level data monitored in and around the mine, is enclosed as **Annexure-X**.

20. In reply to para-18, regarding Social Impact Assessment, it has been mentioned at point No.4.26.2.1 of Environment Management Plan(EMP) that there will not be any significant impact on land use and topography of the area due to washery operations. Relevant extracts of the EMP are enclosed **Annexure-XI**.

The washery operations are planned so as to ensure zero discharge of effluents, asphaltting of internal roads and proper disposal of solid rejects under land management.

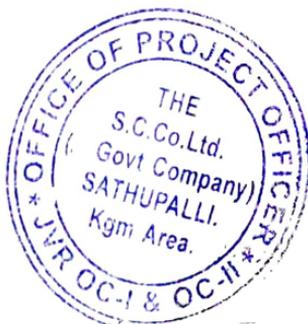
21. It is submitted that at clause- 4.26.1.1 of EMP, it is mentioned that there will be impact on land use and topography, which will be limited to plant area only. However, a suitable mitigation plan has been incorporated for management of land in and around the washery and disposal of wastes.




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It is mentioned at 4.26.2.1 of EMP that there will not be any significant impact on the surrounding environment by adopting suitable land mitigation measures within the plant area.

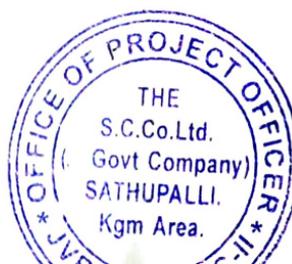
22. In reply to para-19, it is submitted that public hearing was conducted on 21-5-2009 near Kommepalli Village, Sathupalli Mandal, as per the directions of District Collector. Kommepalli Village was selected as suitable site for conducting public hearing as Kommepalli village was completely relocated under R&R plan and the most affected village due to the mining operations in JVR OC-II Project.
23. In reply to para-20, it is submitted that Conveyor belt and railway track are already under construction as envisaged in the project. Photographs showing the progress of CHP, railway siding and Railway line from Sathupalli to Bhadrachalam Road (Kothagudem) are enclosed as **Annexure-XII**.
24. In reply to para-21, it is submitted that though EC was granted on 28.03.2010, the actual mining operations started in JVR OC-II Project from 01.09.2017. The EC for enhanced capacity will be granted by MoEF&CC only after ensuring the compliance of existing EC and CCR submitted by the Regional Office of MoEF&CC, Chennai.
25. In reply to para-22, it is submitted that the Respondent No.3 submitted certified compliance reports of EC granted to JVR OC-II




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projects to MoEF&CC while seeking Environment Clearance for the proposed enhancement of coal production from 5 MTPA to 10 MTPA.

26. In reply to para-23, it is submitted that it is mandatory to seek Environment Clearance for coal mining projects under EIA Notification, 2006 issued by MoEF&CC under Environment (Protection) Act, 1986 and Forestry Clearance for diversion of forest land for mining purpose under Forest (Conservation) Act, 1980. Though both the clearances are distinct in nature, it is mandatory requirement to seek both the clearances prior to commencement of coal mining operations. The Respondent No.3 obtained EC and FC from MoEF&CC and complied with relevant conditions.
27. In reply to para-24, it is submitted that the Respondent No.3 has been treating the mine discharge water in settling ponds and discharging water in to nearby agriculture tanks after meeting the desired norms. The quality of mine discharge water and that of receiving water bodies is being periodically monitored through a third party laboratory i.e. Environment Protection, Training and Research Institute (EPTRI), Hyderabad, a Central Pollution Control Board (CPCB) recognized and National Accreditation Board for Testing and Calibration Laboratories (NABL) accredited laboratory.




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As the mining operations of JVR OC-I have been completed, the discharge of water into agriculture tanks i.e., Jeenugupalli Tank has been discontinued with effect from 14-2-2020.

28. In reply to para-25, it is submitted that water spraying is being continuously done on the haul roads using 3 Nos. of 28 KL, 5 Nos. of 20 KL, 2 Nos. of 15 KL, and 1 No.12 KL contractual water sprinklers for controlling fugitive dust emissions. Coal transport vehicles are optimally loaded and covered with tarpaulin sheets for controlling air pollution.
29. In reply to para-26, it is submitted that wet drilling operations are being carried out for controlling dust generation. Also, controlled blasting operations are being done using non-electric delay detonators (NONELs) so as to control blast induced ground vibrations. Also, scientific studies are being carried out for carrying out blasting near habitations and prior approval of Directorate General Of Mines Safety (DGMS) is being obtained. The conditions stipulated in scientific studies and DGMS permissions are being strictly implemented.
30. In reply to para-27, it is submitted that the violation on account of excess production beyond the sanctioned EC capacity in JVR OC-I has been regularized by obtaining EC for enhanced capacity under violation category. Extension of permission for transportation of




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coal from JVR OC-II to RCHP by road mode has been obtained till the end of December 2021.

31. In reply to para-28, it is submitted that there is no cause of action to file the present Original Application as the applicants have not challenged the EC and FC granted to JVR OC-II project within a stipulated time frame and making a complaint now at this juncture clearly indicates malafide intention on their part to disrupt coal mining operations, which will have serious impact on production and supply of coal to thermal power plants in the region as per fuel supply agreements.
32. It is submitted that the Answering Respondent reserves his right to file an Additional Counter affidavit during the course of hearing in the said Application as and when required.
33. In view of the above mentioned facts, this Hon'ble Tribunal may be pleased to dismiss the application or pass orders as may deem fit in the interest of justice. The Answering Respondent prays accordingly.

Sworn and signed before me on this the
___ day of March, 2021 at _____.



Before me

Attestor


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