

Application No. 243 of 2021

P.Prakash,
S/o Ponnurangam,
No.16, MuthaiyaGounder Street,
Kalitheerthalkuppam,
Madagadipet (Post),
Puducherry-605107.

... Applicant

Vs.

1. The Chairman,
National Highways Authority of India,
C 5&6, Sector-10, Dwarka,
New Delhi-110 075.
2. The Chief Engineer,
Central office, PWD,
34, Lal Bahadur sastri St,
Puducherry-605 001.
3. The Member Secretary,
No.15,3rd Cross st,
Mariamman Nagar,
Karamanikuppam,
Puducherry-605 004.
4. The Director, Department of Science, Technology and Environment,
III Floor,PHB Building Anna Nagar,
Puducherry-605 005.

... Respondents

REPLY AFFIDAVIT FILED ON BEHALF OF RESPONDENT No 1 .

I, S.Sakthivel, do hereby solemnly affirm and sincerely state as follows:

I am holding the post of Deputy General Manager (Tech) cum Project Director, for NHAI, PIU Puducherry as such am well acquainted with the facts of the case from the records. As such am competent to swear this


**Dy. General Manager (T) &
Project Director, NHAI
PIU - Puducherry.**

reply affidavit and also authorised by the before this Hon'ble Tribunal. I have read the Application filed by the Applicants and I deny each and every one of the allegations and averments contained therein, except those that are specifically admitted herein, and put the applicant to strict proof of the same.

PROJECT BACK GROUND:

A. It is respectfully submitted that the National Highway No. 45A (New No. NH332 & NH32) is a part of East Coast road connecting from Chennai to Nagapattinam and further link to Rameshwaram, Tuticorin and Kanyakumari. It is a very important corridor connecting major ports viz., Chennai and Tuticorin and minor ports including Puducherry, Cuddalore, Sirkazhi & Karaikal. The stretch is passing through Tamil Nadu and Puducherry UT connecting many Pilgrim centers including Chidambaram Natarajar temple, Navagraha temples etc., and tourist places like Pitchavaram, Puducherry Auroville etc., Total length of existing NH is 194.00km and proposed project length will be 179.555km. This connectivity will be useful for the coastal districts and it will decongest NH45 (Chennai – Trichy corridor) which is carrying traffic more than the capacity of the road.

B. This project has been conceived with the aim to provide a network of good quality highways in India. With the up-gradation of this highway to four lane facility, smooth and safe traffic flow will be ensured with substantial gain in terms of reduced Vehicle Operating Cost (VOC), emission of pollution and reduced travel time, apart from arresting accidents. The development scheme will ensure that the road capacity, speed and safety match with minimum benchmark for National Highways and will contribute


Dy. General Manager (T) &
Project Director, NHAI
PIU - Puducherry.

towards the overall economic development of the region. It will save time and cost for road users of coastal district to reach Chennai and other parts of Tamil Nadu. The project stretch enables to provide an uninterrupted flow of traffic around 18750 PCU. The proposed route is well connected with the existing road infrastructure (including nearby National and State Highways) and is accessible through NH-45, NH-36, NH-532, NH-81, NH-83, SH-09, SH68, SH-138, SH-70, SH-212, SH-210, SH-64, SH-22, SH-149, SH 147, SH 67, SH 148.

PROJECT FACILITIES:

The total length of brown field and green field alignment is 75.645 km and 103.910 km respectively. The project includes formation of 08 numbers of bypasses. The major features of this project are 11 Nos. of ROBs, 30/16/22 Nos. of Flyovers/Vehicle Under Pass (VUP)/ Light Vehicle Under Pass (LVUP) respectively and 18 Nos. of major bridges and 02 Nos. of Trumpets. The entire length of the project highway has designed for Rigid Pavement.

LOCATION:

The project stretch starts from Villupuram (km0/000) and ends at Nagapattinam (km179/555). Project road traverses through six districts viz., Villupuram, Cuddalore, Mayiladuthurai and Nagapattinam in the State of Tamil Nadu and Puducherry & Karaikal in Puducherry UT.


Dy. General Manager (T) &
Project Director, NHAI
PIU - Puducherry.

PARAWISE REPLY:

1. With regard paragraph 1, it is submitted that the Project Stretch has been divided into Four Packages:

- i. Villupuram (D.Ch: 0+000) to Puducherry (D.Ch: 29+000)
- ii. Puducherry (D.Ch. 29+000) to Poondiyankuppam (D.Ch: 67+000)
- iii. Poondiyankuppam (D.Ch: 67+000) to Sattanathapuram (D.Ch: 123+800)
- iv. Sattanathapuram (D.Ch: 123+800) to Nagapattinam (D.Ch: 179+555)

2. With regard to paragraph 2, the averments are denied as contrary to fact. It is submitted that the total number of Palm Trees falling under the Proposed Project Highway is 636 nos. for which the necessary valuation reports has been received from Additional Director of Agriculture, Puducherry on 29.08.2018. The Sub Collector, Villianur vide letter 5864/SCRS/LA/NHAI/Tree Cutting/2021/249/29 dated 21.12.2021 has informed that the custodian of the land may take the decision to cut the trees. Accordingly the answering respondent vide office letter no. 1717 dated 27.12.2021 and letter no. 0052 dated 11.01.2022, has requested the Executive Engineer, PWD (Irrigation), Puducherry to handover the respective irrigation land to NHAI. After obtaining the land ownership, the felling of trees will be carried out. As per the MOEFF guidelines, compensatory afforestation shall be carried out in 1:10 ratio even during the


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PIU - Puducherry.**

execution of the project Highway, after the construction of particular stretch of change of project Highway is completed.

3. With regard to paragraph 3, it is submitted that the copy of the petition and order of the NGT dated 22.12.2021 has been communicated to the DPR consultant for review and reexamination. Accordingly, the Technical consultant has furnished a detailed report as follows:

a. In Madagadipet village, the Construction Width of the Project Highway will be 10m inside pond and the existing Right of Way (RoW) of the road is between 40m to 45m. Since the proposed RoW is 45m, no major land acquisition/damage to the pond is envisaged. However, suitable mitigation measures will be adopted to maintain the present storage area as well as the existing storage capacity of the Tank. The additional lands surrounding the pond have to be acquired to maintain the spread area with the support of Puducherry UT.

b. In Thiruvandarkoil village (opposite to FCI Godown), the Construction Width of the Project Highway will be 10m and the existing RoW of the road is between 25m to 30m. The proposed RoW is 45m and concentric widening is proposed where the increase in RoW is equally distributed on both sides (7.5m on each side). Hence, no closure of pond is proposed. The requisite permission for construction of structure (retaining wall) has been obtained from


Dy. General Manager (T) &
Project Director, NHAI
PIU - Puducherry.

Mannadipet Commune Panchayat vide 68-149/MCP/2018-19/W dated 15.03.2019. However, restoring the volume of pond affected is recommended as a mitigation measure and also silt fencing is recommended at perennial surface water sources to maintain surface water quality to mitigate silt deposition. The additional lands surrounding the pond have to be acquired to maintain the spread area with support of Puducherry UT.

4. With regard to paragraph 4, it is submitted that no Public utilities shall be closed due to proposed project. The Canal is observed on the LHS of the Project Highway for a length of 1040m (Km. 19/980 to 20/250 (LHS) & Km. 21/980 to Km. 22/750 (LHS)). Necessary action is being taken to construct the Project Highway without disturbing the said canal.

5. With regard to paragraph 5, it is submitted that the project right of way does not fall inside the water spread area rather only affect the tank bund. Since road will be formed over the bund and accordingly, the tank bund will also get strengthened.

COMPLIANCE REPORT FOR THE NGT ORDER DATED 22.12.2021:

6 In compliance to the direction of this Hon'ble Tribunal made vide order dated 22.12.2021, the following submissions are made:

- a. The status of work in the stretch mentioned by the petitioner remain same. The project was awarded to M/s. DBL


 Dy. General Manager (T) &
 Project Director, NHAI
 PIU - Puducherry.

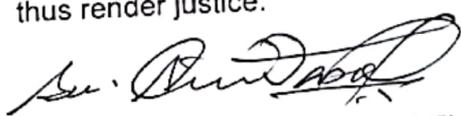
Viluppuram Highways Private Limited on 17.03.2021 and the concession agreement was signed on 17.05.2021. The appointed date was declared as 25.11.2021 with construction period of 2 years.

- b. No trees have been cut by the NHAI and status quo is being maintained in the above location. However, concerned authorities have given instructions that custodian of the land may cut the trees (636 Palm Trees). The PWD (Irrigation) Puducherry has been requested to handover the above land to NHAI. Since the palm trees are much taller, it is difficult to relocate the same. However, the feasibility of relocation of trees is also being explored. In any event, new (grown up) plants will be taken up in 1:10 ratio.
- c. All the above water bodies are kept undisturbed. As directed, the status quo is being maintained.
- d. With regard to change of alignment it is respectfully submitted that for the instant project, land acquisition proceedings were completed long ago, even compensation for the lands were also disbursed to the land owners as determined by the CALA. In Puducherry District, the available ROW is around 45m which was already acquired by the Puducherry U.T. in 1992. The same has been handed over to NHAI for implementation of this project. Hence, NHAI has not initiated any fresh Land Acquisition in Puducherry U.T. However, in Villupuram District, the Land Acquisition was initiated by NHAI and the land


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Project Director, NHAI
PIU - Puducherry.

acquisition (additional) has been restricted to 40m as per the directions of the Hon'ble Supreme Court. It is pertinent to point out that the declaration notification under section 3D(1) of NH Act 1956 was published in the gazette of India on 02.07.2015. By virtue of sub section (2) of Section 3D of NH Act 1956, on publication of notification under section 3D(1), the acquired lands are absolutely vest with Central Government free from any encumbrances. Hence, at this stage acquired lands are to be utilised for the construction of Highway as per the approved alignment and any change alignment at this stage would not only affect the other land owners but is also long drawn process and would cost additional financial burden on the state exchequer. It is reported that the impact of the alignment over the water bodies will be minimum and hence recommended to maintain the water spread area as a mitigation measure. Hence, it is submitted that, the water spread area will be maintained by acquiring the additional land surrounding the water ponds with the support of the Puducherry UT.

For the reasons stated above, it is humbly prayed that the Hon'ble Tribunal may be pleased to dispose of the instant application as devoid of merits and Hon'ble Tribunal may be pleased to pass appropriate orders as it may deem fit and proper in the facts and circumstances of the case and thus render justice.


COUNSEL FOR 1st RESPONDENT


RESPONDENT
Dy. General Manager (T) &
Project Director, NHA
PIU - Puducherry.

VERIFICATION

I, S.Sakthivel, do hereby verify that what is stated above in paras is true to the best of my knowledge and belief, based on official records.

Verified at Chennai on this the 23rd day of February, 2022


RESPONDENT (T) &
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BEFORE THE NATIONAL GREEN
TRIBUNAL (SZ) CHENNAI

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P.Prakash ... Applicant

Vs.

The Chairman
National Highways Authority of India
New Delhi.
and three others. ... Respondents

Reply statement filed on
behalf of Respondent No .1 .

Su.SRINIVASAN (475/1993)

Counsel for Respondent No. 1

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