

BEFORE THE NATIONAL GREEN TRIBUNAL (SZ) AT CHENNAI

Appeal No. 34 of 2020

1. G. Praveena
D/o D. Gurunathan ,
Aged about 37 years
568, Santhapet, Manallur Village, Gumudipoondi Taluk,
Thiruvallur District, 601 201
email - yogeshwaranadv@gmail.com
ph – 9566254546 & anrApplicant/Appellants
Vs.

1. The Union of India
Rep. by its Secretary to Government
Ministry of Environment & Forests & Climate Change
Indira Paryavaran Bhavan, Jor Bagh,
New Delhi.
Email : secy-moef@nic.in
Ph No : 011 - 24695262

2. The State Industries Promotion Corporation of Tamilnadu Ltd (SIPCOT)
Rep by its Managing Director
19/A, Rukmani Lakshmi pathy Road
Chennai - 08
Email : md@sipcot.in
Ph No: 044-45261796 ...Respondents/Respondent

PRELIMINARY REJOINDER FILED BY G.PRAVEENA

I, G. Praveena D/o D. Gurunathan , Aged about 37 years, 568, Santhapet, Manallur Village, Gumudipoondi Taluk, Thiruvallur District, 601 201 do hereby solemnly affirm and sincerely state as follows:

1. I submit that I am the 1st applicant herein and I am authorized to swear this affidavit on behalf of the 2nd applicant also.
2. I submit that I have been served with the voluminous counter affidavit of the 2nd respondent only on 15.03.2021, after the IA seeking interim orders and to advance hearing were served on the 2nd respondent. I submit that the 1st respondent served its Counter affidavit only on 20.03.2021 and the 2nd respondent also served another additional typed set of papers only on 20.03.2021. I submit that I require reasonable time to peruse, cogitate and file a detailed response to the counter affidavits filed by the respondents in the present matter. However, the following preliminary reply, restricted only to the issue of

requirement of mandatory prior approval from the NBWL is submitted for the consideration of this Hon'ble Court.

Permission from National Board for Wildlife (NBWL)

3. It is submitted that it appears from the counter affidavit and documents filed by the 2nd respondent that they are confused between Eco sensitive Zone (ESZ) Notified on the Andhra Pradesh side of the Pulicat bird sanctuary by the Andhra Pradesh Government and the default ESZ on the Tamilnadu side. The 2nd respondent also appears to be under a misconception regarding obtaining permission from NBWL and forest clearance under Section 2 of the Forest (Conservation) Act, 1980.
4. It is admitted by the project proponent that the Pulicat Bird sanctuary is 5.77 km away from the project site. Pursuant to orders of the Hon'ble Supreme Court in W.P No. 460 of 2004 (Goa Foundation Vs Union of India), a distance of 10 KM around protected areas like Sanctuaries, National parks were maintained as Eco Sensitive Zones and projects to be located in the ESZ were required to obtain clearance from the NBWL. It is submitted that various OM/ circulars were issued by the 1st respondent on the procedure for such clearance and the latest OM dated 08.08.2019 has been filed by the 2nd respondent at page 141 of its typed set.
5. A reading of para 18 of the counter filed in the present appeal would show that the 2nd respondent has asserted that the project site is outside the notified ESZ and hence clearance from NBWL is not necessary. This assertion is made by relying on the Notification dated 26.06.2015 issued by the 1st respondent notifying ESZ on the ANDHRA PRADESH side of the Pulicat lake. This Notification is not relevant for industries to be located on the Tamilnadu side. The Notification dated 26.06.2015 declares ESZ as 2 KM on the Andhra side.
6. In so far as the Tamilnadu side of the Pulicat bird sanctuary is concerned, it is clear from the reply of the reply of the Wildlife warden dated 21.08.2016 (Annexure A17 at page 142 of File B part I of the appellant) that *"the Eco sensitive zone is deemed to be 10 km around the sanctuary till declaration / notification of Eco sensitive zone"*.

7. The fact that the project is located within 10 KM is not in dispute. In the impugned EC at para 3 the information furnished by the 2nd respondent and its consultant have been reproduced and at xxiii and xxiv (page 38 of 2nd respondent's typed set), the 2nd respondent has stated that he pullicat sanctuary is located 5.77 KM away and hence NBWL permission has been applied and has falsely stated that the project site is not located in the ESZ at (xxiv).
8. It is further submitted that the present case is covered by 4 (iii) of the OM dated 08.08.2019 which clearly states that for projects / activities located within 10 KM wherein ESZ has not been Notified, then prior clearance from the Standing committee of the National Board for Wildlife is mandatory. (Please see page 141@142 of 2nd respondent's typed set)
9. The MoEF's counter at para 11 also reflects that NBWL permission has been applied and at para 14 the MOEF has extracted the condition from the EC prescribing that other necessary clearances have to be obtained. It is also submitted that it is not clear from the project proponent's counter affidavit whether they have even obtained consent to establish from the TNPCB also before commencing with the site clearance activity.
10. It is thus clear that it is mandatory that prior permission from the NBWL has to be obtained. The 2nd respondent could not have commenced any activity at the project site without such clearance and the site clearing activity or any activity cannot be undertaken. In fact, as per the guidelines dated 09.02.2011 issued by the 1st respondent, establishment of industries causing pollution has been identified as a prohibited activity.
11. It is thus clear beyond doubt that no activity can be undertaken without mandatory prior clearance from the NBWL. It is submitted that the 2nd respondent has also filed several documents about the accreditation status of M/s Hubert enviro care systems but the original EIA was prepared by M/s CEHS, Annamalai university and it is not in dispute that they lacked the necessary accreditation. I reserve my right

to file a detailed reply on this issue and other issues raised in the matter and crave the leave of this Hon'ble Tribunal.

It is prayed that this Hon'ble Tribunal be pleased to take this reply on record and thus render justice.

G. Praveena

Solemnly affirmed on this the 22nd day]
of March 2021 and]
signed her name in my presence]

Before me,  E.no. 4939/2018
R. Rajesh
No. 71/35, 1E, First Floor
Venkatesh Bhawan
Armenian Street
Parry, Ch-1
Advocate, Thiruvallur

BEFORE THE NATIONAL GREEN TRIBUNAL (SZ) AT CHENNAI

Appeal No. 34 of 2020

G. Praveena & Anr

.. Appellant

Vs

Union of India & anr

.. Respondents

PRELIMINARY REJOINDER FILED BY G.PRAVEENA

M/s Yogeshwaran

Counsel for the Appellant

8:47

4G 



Preliminary rejoinder in Appeal 34 of 2020.



me 8:46 AM



to rameshv23, advocatesarashw... 

Dear Madam / Sir,

Please find attached the preliminary rejoinder filed by the appellant in the subject mentioned appeal.

Thank you.

Appeal No. 34 of
2020 - Prelimin...



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 Reply

 Reply all

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