

**IN BEFORE THE HON'BLE NATIONAL GREEN
TRIBUNAL SOUTHERN ZONE, CHENNAI BENCH
ORIGINAL APPLICATION No. 104 of 2020 (SZ)**

IN THE MATTER OF:-

Mr Rajesh Ghantayath

....Applicant

VERSUS

Union of India & ors

....Respondents

**REPLY AFFIDAVIT ON BEHALF OF RESPONDENT NO.1, MINISTRY
OF ENVIRONMENT, FOREST AND CLIMATE CHANGE**

MOST RESPECTFULLY SHOWETH:

I, E. Thirunavukkarasu working as Scientist 'E' in the Integrated Regional Office of the Ministry of Environment, Forest and Climate Change (MoEF&CC), at Bangalore the deponent herein do hereby solemnly affirm and state on oath as under:-

1. That I am authorized by the Competent Authority at Head Office, New Delhi to swear the present counter affidavit on behalf of Respondent No.1.
2. That the Answering Respondent is not replying to the present application in parawise manner, however, the Answering Respondent craves leave to file a detailed affidavit as and when necessary and required by this Hon'ble Tribunal.
3. The applicant filed the instant application praying, inter-alia, to direct the Karnataka State Environment Impact Assessment Authority to revoke the Environmental Clearance dated 28.08.2015 granted to the Respondent No.8 (namely M/S MOTHER EARTH ENVIRON TECH PRIVATE

LIMITED) in view of the blatant violation of the various condition of the EC.

4. It is submitted that under the Environment (Protection) Act, 1986 read with Environment (Protection) Rules, 1986, the Answering Respondent has issued a notification number S.O. 1533(E) dated 14th September, 2006 (hereinafter referred to as the "EIA Notification, 2006"), in suppression of the notification number S.O.60(E) dated 27th January, 1994.
5. That as per the EIA Notification, 2006, the following projects or activities shall require prior environmental clearance from the concerned regulatory authority, which shall hereinafter referred to be as the Central Government in the Ministry of Environment and Forests for matters falling under Category 'A' in the Schedule and at State level the State Environment Impact Assessment Authority (SEIAA) for matters falling under Category 'B' in the said Schedule.
6. It is submitted that the Treatment, Storage and Disposal Facilities (TSDFs) are covered under entry 7(d) of the Schedule to the EIA Notification, 2006 with details as under:

	Project or Activity	Category with threshold limit		Conditions if any
		A	B	
(1)	(2)	(3)	(4)	(5)
7		Physical Infrastructure including Environmental Services		
7(d)	Treatment, storage and disposal facilities (TSDFs)	All integrated facilities having incineration & landfill or incineration alone	All facilities having land fill only.	General Condition shall Apply

7. That as per the schedule above, all Treatment, storage and disposal facilities (TSDFs) projects having land fill only falls under category 'B' of the EIA Notification, 2006 and requires appraisal by the State Level Expert Appraisal Committees (SEACs) and approved by the State Level Environment Impact Assessment Authorities (SEIAAs). Further, that as per the EIA Notification, 2006, in the absence of a duly constituted SEIAA/SEAC, a category 'B' project shall be considered at the Central Level as category 'B' project.
8. It is submitted that the environmental clearances dated 28.08.2015 has been granted to the project in question by the SEIAA Karnataka and all documents/reports related to grant of EC in question are with the SEIAA Karnataka.
9. That this Hon'ble Tribunal vide its order dated 10.07.2020 constituted a Joint committee to inspect the project in question. The relevant portion of the order dated 10.07.2020 is reproduced herein below:

"So, considering the circumstances in order to ascertain the real state of affairs and further action to be taken, we feel it appropriate to appoint a Joint Committee comprising of Senior Officer from Regional office, Ministry of Environment, Forest & Climate Change (MoEF & CC), Bangalore, a Senior Officer/Scientist from Regional Office, Central Pollution Control Board (CPCB) of Bangalore, District Collector, Ramnagar District, Karnataka State, Senior Officer from Karnataka State Environment Impact Assessment Authority (KSEIAA), Bangalore, a Senior Scientist or Expert in Environmental Engineering from National Institute of Technology (NIT), Surathkal, Karnataka and a Senior Officer from the Karnataka State Pollution Control Board (KSPCB) to inspect the area in question and submit a factual and action report if there is any violation found.

- 10 That in compliance of order dated 10.07.2020 the inspection was carried out by the Joint Committee on 03.09.2020 and submitted a report. The observations/suggestions of the said committee are as under:

S.N O	TO BE IMPLEMENTED TIME LINE	TIME LINE
1	The existing compound walls (cement bricks) around the Cell No.1 shall be completely replaced with reinforced concrete wall having 3 feet height above the storage height of landfills to avoid any unforeseen. (i.e. North side – 125 m and West side – 155 m).	6 Months
2	The existing metal sheet provided on the Eastern side of TSDF about 176 m shall be replaced with compound wall immediately excluding the buffer area of KIADB, the height shall be maintained 3 feet above landfill height.	3 Months
3	To re- estimate the surface run off generation as per the maximum rainfall of the area and reconstruct the existing surface runoff collection tanks with adequate storage capacity with a holding time of 2 days.	2 Months
4	Tree plantation made on the embankment of Cell 1 shall be removed, as there is a possibility of causing damage to the liner system of Cell 1	1 Month
5	Re-verification of stability of side slopes of the landfills by a reputed organisation to ensure the acceptable factors of safety and submission of the report.	3 Month

The Joint Committee is of the opinion that in addition to implementation of above recommendations as per timeline mentioned, there is a need to constitute

a separate Expert Committee to approve & review the post closure plans of TSDF and its execution as per the Criteria. The Expert Committee shall also to review the implementation of Joint Committee recommendations for timely implementation. The Expert Committee may comprise members from NIT-K, IISc, MoEF &CC, CPCB, KSPCB, etc. and KSPCB may be identified as Nodal Agency for the same. The expenditure of Expert Committee shall be met by MEEPL.

11. It is submitted that this answering respondent constitutes SEIAAs/SEAC in respective States/UTs under the provisions of the EIA Notification, 2006 as amended from time to time, which function as autonomous body as per the powers delegated to them as per the provisions of EIA Notification 2006 as amended from time to time. As such, role of this Answering Respondent is very limited in the instant matter.
12. Further, the Answering Respondent vide Notification No. S O 637(E) dated 28.02.2014, has authorized the SEIAAs which have been constituted by the Central Government under sub-section (3) of section 3 of the Environment (Protection) Act, 1986, for the purpose of the Section 19 of Environment (Protection) Act, 1986 and therefore SEIAA, Karnataka is empowered to take action against the violations, if any."
13. It is submitted that the Applicant made representation with this Answering Respondent on 25.05.2021 and requested to revoke Environmental Clearance dated 09.11.2020 issued by the answering respondent to M/s Mother Earth Environ Tech Private Limited for setting up of Integrated with incineration and land fill facility at Plot No. 667 to 679, Karnataka Industrial Area Development Board, Harohalli Industrial Area Phase III, District Ramangara, Karnataka.
14. It is submitted that in pursuant to above said representation, this Answering Respondent vide its letter dated 30.06.2021 requested SEIAA, Karnataka to take

necessary action in the matter under intimation of the Answering Respondent and submit the action taken report. It is further submitted that the copy of the aforesaid letter dated 30.06.2021 was also sent to RO, MOEFCC. **A Copy of letter dated 30.06.2021 is annexed herewith as Annexure – I.**

15. It is submitted that the present counter affidavit may kindly be taken on record and into consideration and the Hon'ble Tribunal may pass appropriate Order(s), direction(s) as deemed fit and proper under the facts and circumstances of the present case.
16. That other/ancillary issues raised in the application under reply do not pertain to the answering respondent. The Answering Respondent seeks leave to make additional submissions, if required, during the course of the proceedings.

VERIFICATION

Verified at Bangalore on 30th day of June, 2021 that the contents of the above affidavit are derived from the official records and nothing material has been concealed therefrom.


DEPONENT

Shri E. Thirunavukarasu
वैज्ञानिक "ई"
Scientist "E"
भारत सरकार/Government of India
पर्यावरण वन एवं जलवायु परिवर्तन मंत्रालय
Ministry of Environment, Forest & Climate Change
क्षेत्रीय कार्यालय (दक्षिण क्षेत्र)
Regional Office, (Southern Zone)
बेंगलूरु/Bengaluru.


DEPONENT

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