

**BEFORE THE NATIONAL GREEN TRIBUNAL (SZ),
SITTING AT CHENNAI
ORIGINAL APPLICATION No. 57 OF 2017 (SZ)**

BETWEEN:

Heritage Estate Apartment Owners Association

...**APPLICANT**

AND

Ministry of Environment and Forest and Ors.

...**RESPONDENTS**

**WRITTEN SUBMISSIONS TO THE REPORT BY THE JOINT COMMITTEE
CONSTITUTED BY HON'BLE NATIONAL GREEN TRIBUNAL,
SOUTHERN ZONE, CHENNAI, AS PER ORDERS DATED 19/08/2020**

The Advocate for the Respondent No.3 seeks to submit at follows:

1. The captioned matter has been filed by the Applicant under Section 14 read with Section 18(1) and (2) of the National Green Tribunal Act, 2010 seeking the following reliefs:

“A. Issue an order or direction, directing the Respondent No.3 (KPCL) not to put up any kind of power generation plant in the site, and to restore the Green Cover that was removed for the construction activity in the project site and order restitution of environment in and around the project site;

B. Issue an Order or direction to the Respondents, for restitution of environment and to ensure protection of Bio diversity of the Puttenahalli and Yelahanka Lakes and to ensure protection of life and property of the residents residing near the vicinity of the proposed power plant at Yelahanka;

C. Grant such other relief/ reliefs as this Hon'ble Tribunal deems fit in the facts and circumstances of the case, in the interest of Justice.”

Contentions of the Applicant

2. In the Application, the Applicant has contended that the Power Plant should have been categorised as a Category 'A' Project as per the General Conditions of the EIA notification, as the Puttenahalli Lake being a Bird Conservation



Reserve, is situated 500 metres away from the Project. Consequently, the Applicant alleges that the State Level Environmental Impact Assessment Agency (“SEIAA”) did not have the jurisdiction to issue the Environmental Clearance (“EC”) to the Respondent No.3 and the same came under the jurisdiction of the Ministry of Environment, Forests and Climate Change (“MOEFCC”). The Applicant has also contended that the Respondent No.3 misrepresented facts in Form-I submitted to the SEIAA for the Environmental Clearance. Further, it contends that Respondent No. 3 failed to conduct a mandatory public hearing for the Project before the EC was granted. The Applicant also alleges that the Respondent No.3 has commenced pre-construction work by clearing thick vegetation present in the plant premises and permission to cut the trees have been issued in violation of the Karnataka Preservation of Trees Act, 1976. The Applicant has raised concerns that the storage and handling of natural gas (methane) at the plant with no buffer zones around would likely pose a risk of gas leakage and related disasters. The Applicant further alleges that though the Power Plant meets emission and sound norms meant for an industrial zone, the Plant would not meet the emission and sound norms as specified under the Schedule to the Noise Pollution (Regulation and Control) Rules, 2000 for a residential zone and this would pose a serious threat to the health and peaceful living of the residents. The Applicants also contends that the proposed height of the emission stacks for the Power Plant is 45 m and the height of the Applicant’s Apartment Complex is about 40 m, which are almost equal in height resulting in severe inconvenience to the Applicant due to high Stack Mouth temperatures at 100 degrees and high NOx, SOx emissions. The Applicant has also raised concerns that as the water requirement of the power plant shall be met by the BWSSB, by supplying “treated water” from its treatment plants located at Hebbal and Jakkur, the water that was previously being let out into the lakes will be utilised by the Power Plant, therefore the lakes would run dry up and this in turn would cause an imbalance in the ecosystem. It also raised concerns about possible effluents being released into the surrounding lakes from the Power Plant.



Contentions of the Respondent No.3:

3. It is submitted that the contentions raised by the Applicant are without any merit. With respect to the EC issued by the SEIAA to the Respondent No.3, it is submitted that the Environmental Clearance for the Power Plant was issued on 01/09/2015, while the Puttenahalli Lake was notified as a Bird Conservation Reserve only 10/09/2015 (Annexure 8 of the Original Application at Pg. 116). The EC for the Power Plant was therefore issued prior to the Puttenahalli lake being notified as a Bird Conservation Reserve and therefore the General Conditions were not applicable to the Respondent No.3's project and the SEIAA was competent to issue the EC. The Applicant seeks to apply the notification pertaining to Puttenahalli Lake with retrospective effect, which is *ex facie* illegal and impermissible. While the Respondent No.3 appreciates the importance of Puttenahalli Lake and has conducted its EIA and undertaken project construction after taking into account the same, the Applicant seeks to scuttle a vital power infrastructure project by raising technical objections that question the *vires* of the SEIAA based on such a retrospective application of the 10/09/2015 notification. The Applicant submits that such a stand is untenable and the contention that the MOEFCC was the competent authority to issue EC is liable to be rejected.
4. With respect to the submissions made by the Respondent No.3 in Form 1, there has been no misrepresentation by the Respondent No.3. Notwithstanding the same, a subsequent detailed study considering all material facts as required by the Terms of Reference ("TOR") issued by SEIAA, was conducted and the EIA Report put together, pursuant to the TOR, included all the findings of the in-depth study and this was relied upon by the SEIAA to issue the EC.
5. With respect to the averment that there was no Public Consultation carried out pursuant to the EIA Notification it is submitted that, the SEIAA vide its letter dated 19/01/2015 had exempted the Respondent No.3 from having to conduct a public consultation as per Section 7(III)(i)(b) of the EIA Notification. Further



the Office Memorandum dated 04/04/2016, relied upon by the Applicant stating that large scale projects especially thermal projects in Industrial areas would not be exempt from holding Public Consultations, was issued after the EC was obtained on 01/09/2015 and published by Respondent No.3 in the newspaper and this did not apply to project of the Respondent No.3 which had already been approved. Further, with respect to the Applicant's contention regarding felling of Trees during the construction of the project, it is submitted that the permission for felling of the standing trees were obtained in a phased manner as per the need of the project and with an attempt to avoid cutting of trees where it was unnecessary. There has been no violation of the Karnataka Preservation of Trees Act, 1976 by the Respondent No.3 as alleged by the Applicant. The Respondent No.3 has now planted 2000 tree saplings in two phases in the plant site pursuant to the terms of the EC. With respect to allegations that the Respondent No.3 would not be abiding by the sound levels required in residential areas, it is submitted that the Power Plant is located in a pre-existing Industrial Zone and would be required to maintain the levels specified for an industrial zone. In spite of the same, the Respondent No.3 is installing acoustic barriers/enclosures for its machinery and planting a buffer zone of trees to further decrease the sound levels below the specified norms. Noise monitoring systems in the Plant site will also be set up to ensure continuous monitoring of sound levels generated from the Plant.

6. With respect to the concerns raised regarding maintenance of water level in the lakes it is submitted that water requirements for the power plant shall be met by supply of "treated water" from its BWSSB treatment plants located at Hebbal and Jakkur. It is submitted that due to an increase in the contributing area and completion of sewage network, even after the treated sewage water is diverted to the Plant there will be sufficient treated water to let into the lakes and therefore the lakes will maintain the water levels therein. Further, the Respondent No.3 is operating on a zero liquid discharge basis and therefore no effluents will be released from the Power Plant.



7. With respect to concerns of leakage of Natural Gas, it is submitted that the gas pipeline is constructed with technology that detects any leakage of the gas and the supply of gas through the pipelines will be shut off immediately preventing any disasters. Therefore, adequate safeguards have been deployed for the same. M/s GAIL has safely and successfully executed similar pipelines in the metros like Delhi, Mumbai, and Chennai, to meet the domestic/ Industrial/ automobile requirements. With respect to stack height and emissions, the Respondent No.3 has increased the chimney height to 60 mts, in consideration of the health concerns of the neighbouring residents. Further, as Natural gas is being used for this project, particulate matter i.e. NO_x, SO_x levels would be at (25 ppm) which is low and well within the limits (75 ppm) prescribed by Central Pollution Control Board.

8. The Hon'ble Tribunal has by way of its Order dated 19/08/2020, appointed a Joint Committee to give a factual finding on certain questions raised by the Tribunal. The undersigned Counsel for the Respondent No.3 most humbly submits that the Committee appointed has made a site visit and has dealt with all the questions upon which they were to give a factual finding in the report. The Joint Committee examined the compliance status of EC conditions and Consent for Operation order and observed that no violations have been committed by the 3rd Respondent. The Committee has also observed that as per the documents / monitoring reports on air, water and noise, the construction phase has not caused any environmental degradation. The Committee observed that NO_x SO_x and heat emissions from the plant would extremely low and that there would be no discharge of effluents from the plant into the lakes. Therefore, no violation which invites compensation or remedial measures was noted by the Joint Committee.

9. It is also pertinent to state that the Applicant has also not filed any objections to the Committee's Report and nor has any infirmities in the Respondent No.3's construction or project implementation been identified before it during the course of hearings. In such circumstances and in view of the submissions



made hereinabove, the Respondent No.3 proceeds on the basis that the scope of review now pertains to the answering Respondent's compliance with the Committee's recommendations.

10. It is submitted that the Committee has made certain recommendations in its report and the Respondent No.3 has already taken steps towards implementation of the said recommendations of the Joint Committee in consultation with the Karnataka State Pollution Control Board ("KSPCB"). It is also submitted that most recommendations given by the Committee have also been included in the EC Conditions and are already being followed by Respondent No.3. (*Clause 8 and 10 of the Specific Conditions and Clause 1 and 8 of the General Conditions of the Environmental Clearance, found at Annexure A4, Pg 88 of the Application*)

11. The steps taken by Respondent No.3 thus far are as follows:

a. Re Noise reduction measures and monitoring: With respect to the monitoring and reduction of Noise generated from the Power Plant, as per the recommendations of the Committee, the Respondent No.3 along with the KSPCB have surveyed and identified 3 (three) locations along the northern boundary (towards where the residences are located) have been finalised for noise monitoring. A tender is being issued for installation of Noise Monitoring Stations and the measured Noise Levels from the Noise Monitoring Stations will be interfaced with the Day and Night visible Data Display System in front of the main Gate of the Plant so that Noise Levels will be displayed to the public. There will also be a provision for data transfer of the Noise Levels to the KSPCB server from the Noise Monitoring Station. The Respondent No.3 will also be undertaking further noise mitigation measures by appointment of a specialised consultant who will advise on the same. A tender is being issued for this purpose. It is further submitted that the Whistling Noise at the Plant is likely caused due to the commissioning of machinery and once the Plant is completely commissioned the Noise generated from the Plant will significantly reduce.



- b. Re Plantation of Green Belt:** The Respondent No.3 has already planted 1000 tree saplings in the first phase of plantation and has completed planting 1000 more tree saplings in the second phase. The same is concentrated on the North Western boundary where the residences are located. Species planted include Mahogany, Neem, Akashmallige, Kodamba and Ashoka. 6 Acres of Plantation has been done.
- c. Re Zero Liquid Discharge:** The civil works for setting up the Zero Liquid Discharge Plant is almost completed. Electrical and mechanical equipment installation is on-going. The same will be completed prior to commissioning.
- d. Re pollution abatement measures as per the Environmental Management Plan (EMP) and safety measures as per On-Site Emergency Plan:** EMP is being followed by the Respondent No.3 and updates are being sent to KSPCB and MOEFCC. The Respondent No.3 is following the on-site emergency plan and is regularly conducting mock drills as per the same.
- e. Release of 50,000 fish lings of "Dodda Gende (Major Carps)" and other local variety:** The release of the 50,000 fishlings have been delayed due to the lockdown in force due to Covid-19 pandemic. The same will be done upon lifting of the lockdown. It is submitted that the recommendations state that the studies should be conducted regarding the impact of the plant on the Fish population in the above lakes once in every two years for a period of 10 years after the commissioning of the Plant. Therefore, the nature of the study herein is on-going and the impact of the Plant on the fish population can be done and shall be done consistently, once the Plant has been commissioned.
- f. Re Study regarding protection, conservation and restoration of wetland:** It is submitted that the survey of the wetland and surrounding



areas has been carried out by the Respondent No.3 in the EIA Report; it is learnt that the Department of Forest, Ecology and Environment, Government of Karnataka, the Respondent No.5 herein has also conducted a site visit and filed an Counter Affidavit (which has been submitted before this Tribunal) and a survey has also been done by the Joint Committee herein and no adverse findings have been made so far. Notwithstanding the same, the Respondent No.3 is ready and willing to carry out further studies, if so required by this Hon'ble Tribunal. Furthermore, in order to ensure that any studies in this regard are completed at the earliest with the participation of the foremost field experts, the Respondent No.3 proposes that this study be undertaken by a member of the Indian Institute of Science, Bangalore(IISc) and the same be put before the Department of Forest, Ecology and Environment, Government of Karnataka for its comments and suggestions.

12. It is humbly submitted that the Respondent No.3 intends to fully comply with the Committee recommendations including carrying out the recommended continuing studies. Apart from the continuing studies, measures addressing the Committee recommendations are already being carried out by the Respondent No.3 as mentioned hereinabove . In such circumstances, it is humbly submitted that the present application is liable to be disposed of, recording the Committee's recommendations.

13. It is submitted that the Power Plant is essential for meeting the electricity requirements in Bengaluru. The citizens of Bengaluru and the industrial areas of Bengaluru have been suffering due to chronic shortage of power, especially during the summer months. Further, Bengaluru consumes more than 40% of the power generated in the State of Karnataka. Currently, power generated in far off places is being transmitted to Bengaluru which results in transmission losses as well as deprivation of power to other parts of Karnataka. The Power plant will enable Respondent No.3 to cater to the domestic and industrial needs of the state and particularly to the peak load demand of the rapidly developing



city of Bangalore. It is further submitted that the Power Plant is extremely essential for the stabilisation of the State Power Grid of Karnataka. Respondent No.3 is presently using renewable sources of energy such as solar and wind etc. for the generation of power. However, as these sources are undependable/ not consistent there is a requirement to have a dependable source of power which can be ramped up to balance the grid when these sources are disrupted and there is a variation of load. The Power Plant would therefore greatly improve the flexibility of the Power Grid by providing electricity to tide over any shortfall that may arise due to temporary non-availability of renewable sources of energy. Further, Gas turbines have a special feature of fast start ups by which the unit is synchronized in a short time. This will clearly stabilize the grid in case of tripping of other power stations connected to a single grid in case of emergency. Therefore, the Power Plant is extremely important for the generation of power within the State of Karnataka as it will be the primary source of power to the city of Bangalore.

Wherefore, it is prayed that the report of the Joint Committee set up as per the Orders of this Tribunal dated 19/08/2020 be accepted and the instant matter be disposed of accordingly.

Place: Bangalore
Date: 12/06/2021



Advocate for the Respondent No.3