

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI
M.A.No.70 of 2016
in
Application No. 102 of 2016 (SZ)**

Applicant/s

M. Saravanan
Villapuram, Madurai

Respondents

1. The Secretary to Government
Environment & Forest Dept
Chennai
2. The Principal Chief Conservator of
Forest, Chennai
3. The Conservator of Forest, Madurai
4. The District Collector, Theni
5. The Wildlife Warden
Meghamalai Wildlife Sanctuary,
6. The Superintending Engineer
Highways Dept, Theni

Counsel appearing for appellant

M/s. M.R. Sivakumar

Counsel appearing for respondents

Mr. M.K. Subramanian
And P. Velmani for R1 to R5
Mr.Abdul Saleem, S.Saravanan
Vidyalakshmi for R6

Date and Remarks	Orders of the Tribunal
Item No. 8 2 nd June 2016.	<p>The original application is for the purpose of prohibiting the respondents, particularly respondents 3 to 6 from illegally widening 35 km road stretch between Thenpalani and Highways in Theni District leading to Meghamalai.</p> <p>By our order dated 28.4.2016 taking note of the fact that for widening of the road in the hill of terrain, the respondents have not obtained EC as well as FC which was also appeared in "The Hindu" we passed an order of injunction against the respondents 3 to 6 from further proceeding with the widening of 35 km road stretch between Thenpalani and Highways in Theni District, including</p>

cutting of any trees, until further orders from this Tribunal.

The respondents 4 and 6 have filed the above M.A.70 of 2016 for vacating the said order. In the affidavit filed in support of the said application it is stated that permission from various authorities, including Revenue Department as well as the Forest Officers have been obtained for the purpose of widening the road, apart from stating that the revenue records maintained by the District Collector shows that the area is categorised as "Salai" and therefore it is not a forest area. With the above averments that "Salai" is a road poramboke which is not being part of the forest area, the above application for vacating the interim order has been filed. It is also stated that the roads leading to Meghamaai are in a highly dilapidated condition and it is impossible for the people working in the hilly terrain to reach the other place. It is also stated that the existing road stretch from km 0/0 to km 6/0 passes through the plain terrain and km 6/0 to km 35/0 from Thenpalani to Highways passes through the hill terrain. The right of way available is 14 to 22 m which is sufficient for the widening of road to Intermediate Lane standard.

As per the EIA Notification 2006, in the Schedule to the said Notification Clause 7(f) the 4th column deals with the State Highway Expansion Projects in hilly terrain (Above 1000 m AMSL) and or ecologically sensitive areas). Therefore, as per EIA Notification it is clear that in respect of hilly terrain, this place admittedly is a hilly terrain, the prior Environmental Clearance is required for the

purpose of widening of road, if it is belonging to State Highways. It is also admitted that the road which is already in existence is a State Highway. However, stretch of road from 0-6 km is stated to be in plain terrain which may not require any Environmental Clearance. In view of the admitted position that from 6-35 km area is a hilly terrain even if some of the portions are less than 1000 m height, EC is a required condition since SEAC has to make necessary study of impacts. This is relevant because it is the case of the applicant and also not disputed. In these hilly terrain there are always possibilities of soil erosion which leads to disastrous consequences, affecting the ecology of the area.

In such view of the matter, the interim order passed by this Tribunal is made absolute, however, subject to following conditions:

1. In respect of stretch 0-6 km, which is a plain terrain area, it is always open to the respondents to proceed with the work, however, without cutting the trees and in case of necessity only after obtaining permission from the authority competent.
2. In respect of 6-35 km which is hilly terrain, no expansion activity shall be carried on by any of the respondents, except after obtaining E.C., from the authority competent under the EIA Notification, 2006. This order does not prevent the respondents from maintaining by way of repair or otherwise of the existing road.
3. The above order shall be strictly complied with by all the respondents, particularly the 1st respondent shall ensure that

no breach of this order is effected and file a Status Report on the next date of hearing.

Accordingly, M.A.No.70 of 2016 stands disposed of.

The respondents shall file their reply in the main application within 3 weeks from today after serving advance copy to the learned counsel appearing for the applicant who shall be entitled to file rejoinder, if any, within two weeks thereafter.

Post the main application on 26.07.2016.

....., JM
(Justice Dr.P. Jyothimani)

.....,EM
(Shri P.S. Rao)

