

**BEFORE THE NATIONAL GREEN TRIBUNAL  
SOUTHERN ZONE, CHENNAI**

**Application No.29 of 2016 (SZ)**

**In the matter of**

1. N. Subrahmanyam  
S/o. N. Balaramaiah  
39/20, Navalar Street  
Rani Anna Nagar  
Arumbakkam  
Chennai.600 106



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Applicant(s)

Vs

सत्यमेव जयते

1. Union of India  
Rep. by its Secretary  
The Ministry of Environment Forests and  
Climate Change  
New Delhi.
2. The Secretary to Government of Tamil Nadu  
Department of Environment & Forests  
Fort St. George, Chennai.600 009
3. The Ministry of Road Transport and Highways  
Regional Office at C-1-A, Rajaji Bhavan  
Besant Nagar, Chennai.600 090
4. The Chief Engineer  
Highways Department,  
Government of Tamil Nadu  
Chepauk, Chennai.
5. The Divisional Engineer (Vellore)  
Jawans Bhavan Building, 1<sup>st</sup> Floor (East)  
Vellore-I, Kudikadu  
Cuddalore – 607 005
6. The Divisional Engineer (Salem)  
74, Vijaya Ragavan Nagar  
Jagirammalayam (P.O)  
Salem-636 302
7. The Divisional Engineer (Thanjavur)  
National Highways  
Thanjavur-613 009

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Respondent(s)

**Counsel appearing for the applicant:**

**M/s. TaauRs Associates  
Mr. S. Kamalesh Kannan  
Mr. S. Sai Sathya Jith**

**Counsel appearing for the Respondents:**

**Mrs. Me. Sarashwathy for R-1  
M/s. M.K. Subramanian and  
P. Velmani for R-2  
Mr. Su. Srinivasan  
Assistant Solicitor General for R-3  
M/s. Abdul Saleem, S. Saravanan and  
Mrs. Vidyalakshmi Vipin for R-4 to R-7**

**ORDER**

**PRESENT:**

**HON'BLE SHRI DR. P. JYOTHIMANI, JUDICIAL MEMBER**

**HON'BLE SHRI P.S. RAO, EXPERT MEMBER**

**DATED: 21<sup>st</sup> APRIL, 2016**

Whether the Judgement is allowed to be published on the Internet – Yes/No  
Whether the Judgement is to be published in the All India NGT Reporter – Yes/No

1. We have heard the learned counsel for the applicant as well as the respondents. This application is filed seeking for a permanent injunction against the respondent authorities from proceeding with the project of expansion of National Highway awarded subsequent to common tender Notification dated 9.4.2015 involving cutting and removal of trees. According to the applicant, the Tender notification dated 9.4.2015 for providing paved shoulder in Km 81/0 – 203/0, including reconstruction and widening of culvert in NH 234 (New NH 38), is more than 100 km and therefore under the EIA Notification, 2006 it requires Environmental Clearance (EC). On the other hand, it is seen that the same came to be considered before the Hon'ble First Bench of High Court of Madras in the *Suo motu* W.P. No.27391 of 2015 and in the final order dated 22.3.2016 the Hon'ble High Court has clearly considered the validity of the tender Notification dated 9.4.2015 in the light of the cutting of trees and directed afforestation by planting 10 saplings against every tree uprooted as follows:

*“ The National Highways department has the benefit of the report of the Consultant and in terms of what is suggested, which has been accepted, as against the total prevailing tree cover of 23,472 numbers relating to three projects, the number of trees to be uprooted have been reduced from 7,698 to 4,216 and 1,792 trees are required to be pruned. In addition, the contractors will be adhering to the requirement of plantation of 10 saplings against every tree uprooted and carry out landscaping as per the manual of specification and IRC standards and also to maintain the planted saplings during the road maintenance period of four years. Thus 43,620 saplings would be re-planted on the three project stretches and the total tree cover is expected to grow to 64,946.”*

2. According to the learned counsel appearing for the 1<sup>st</sup> respondent MoEF & CC and the 3<sup>rd</sup> respondent, Ministry of Road Transport and Highways, this issue has already been dealt with by the Hon'ble High Court of Madras and decided. Hence, it cannot be again reopened further. However, the counsel appearing for the applicant would submit that for cutting of trees the project of widening of the road to the extent of 100 Km it is covered EIA Notification, 2006 and therefore prior EC should have been obtained. However, in the reply filed by the 3<sup>rd</sup> respondent, it is clearly stated that the extent is only 98 Km and therefore it does not require prior EC. We have also referred to the EIA Notification, 2006 wherein under Clause 7(f) of the schedule to the Notification in respect of National Highways it is stated that the expansion greater than 30 Km involving additional right of way greater than 20<sup>m</sup> involving land acquisition, requires prior EC from the MoEF & CC. However, by a subsequent amendment carried out to the said Notification on 22.8.2013, clearance of MoEF is required in cases of expansion of National Highways is greater than 100 km involving additional right of way or land acquisition greater than 40<sup>m</sup> on existing alignment and 60<sup>m</sup> on re-alignment or by-passes. It is no doubt that if it is more than 100 Km prior EC is required but in the light of the reply filed by the 3<sup>rd</sup> respondent stating that the extent is only 98 Km we are unable to accept the contention of the learned counsel for the applicant that prior EC is required for the said project.

3. In view of the same and moreover taking note of the fact that in the application, the applicant has restricted prayer only in respect of the cutting of trees and the issue is already properly dealt with by the Hon'ble High Court of Madras, there is no necessity for this Tribunal to reconsider the same in the light of the reasons stated above. Hence, the application fails and the same is dismissed.

4. Needless to say that on the basis of certain subsequent events, if the applicant is advised, it is always open to the applicant to work out his remedy in the manner known to law. No cost as to cost.

Justice Dr. P. Jyothimani  
Judicial Member

P.S.Rao  
Expert Member

NGT