

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO. 2025 OF 2019

**IN THE MATTER OF:**

G. Sundarrajan

...Appellant

Versus

Union of India

...Respondents

**AFFIDAVIT IN RESPONSE TO THE 'ADDITIONAL AFFIDAVIT  
FILED ON BEHALF OF THE 2<sup>ND</sup> RESPONDENT- STATE OF TAMIL  
NADU' BY THE RESPONDENT NO. 5**

I, Gobinda Majumder, S/O\_Bhabaranjan Majumdar aged about 55 years, working as Professor at Tata Institute of Fundamental Research, 1, Homi Bhabha Road, Mumbai - 400005, do hereby solemnly affirm and sincerely state on oath as under:

1. I am, in my official capacity, fully conversant with the facts and circumstances of the case and competent to swear this affidavit.
2. The Answering Respondent is constrained to file the instant affidavit in response to the additional affidavit filed by the State of Tamil Nadu dated 15.02.2022, wherein the State has changed its stand and taken an inconsistent, self-contradictory position before this Hon'ble Court, without any change in circumstances.
3. All the averments made in the appeal, as well as the 'additional affidavit' under reply are denied to the extent that they are inconsistent with the contents of this affidavit and the affidavits already filed on behalf of the Answering Respondent. No averment may be deemed to be admitted unless specifically admitted herein.



4. The contents of the earlier affidavit filed by the Answering Respondent may be read along with this affidavit, and are not being repeated for the sake of brevity.
5. The present affidavit filed by the State of Tamil Nadu, dated 15.02.2022, is in total negation of the affidavit filed earlier by the State on 06/13.08.2019. However, it seeks to cover up the fact of having taken a diametrically opposite stand by calling the present affidavit an additional affidavit. As a further cover up, it does not seek to pray for the relief that it in fact desires to have, as disclosed in the body of the affidavit, while merely praying for appropriate orders, in the same manner as was prayed in the earlier affidavit of 06/13.08.2019.
6. The difference between the two affidavits is clear from the fact that the earlier affidavit, dated 06/13.08.2019, mentions that the Revenue Department, Government of Tamil Nadu has transferred 26.82.5 hectares of land for the project free of cost to the Project Proponent, namely the Tata Institute of Fundamental Research, Respondent No. 5, which is the host institute for the project. The affidavit states that the Government of Tamil Nadu has provided fencing arrangement around the property. Additionally, it has also built an water tank with a capacity of 12 lakh litres just for this project. The affidavit also states that '*Infrastructural support is provided by the Government of Tamil Nadu*'. It is therefore obvious that the Government of Tamil Nadu was practically sponsoring and supporting this project.
7. There was a change of Government after the elections held to the Legislative Assembly of Tamil Nadu in April, 2021. With this came a total change of stance by the new political party. It may be that political parties may form the Government, and would come and go, but, there is only one State of Tamil Nadu as a corporation sole which never changes. In other words, the mere fact



that there has been a change in the political party in power cannot result in the State of Tamil Nadu taking a stand contrary to the stand taken earlier by it, while being governed by a rival party.

8. The fact that the stand that is now being taken is contrary to the earlier stand is very clear from the fact that the present Chief Minister has presented a memorandum during his meeting with the Hon'ble Prime Minister of India on 17.6.2021, and requested him not to implement the project in view of considering "*the serious repercussions of the project activities*". A series of objections to the project have been set out in the new different affidavit filed by an officer representing the State of Tamil Nadu. These objections have not been taken up by the State of Tamil Nadu, there being only one party to the lis, being "The State of Tamil Nadu", and hence, it is respectfully submitted that this new affidavit, wholly contrary to the earlier affidavit filed on behalf of the State of Tamil Nadu, raising objections not raised before the NGT is not permissible.
9. The following judgments would support the stand that is being set out in the present affidavit.

9.1. In the case of ***A.P. Dairy Development Corpn. Federation v. B. Narasimha Reddy***, (2011) 9 SCC 286, this Hon'ble Court held as follows:

*"40. In the matter of the Government of a State, the succeeding Government is duty-bound to continue and carry on the unfinished job of the previous Government, for the reason that the action is that of the "State", within the meaning of Article 12 of the Constitution, which continues to subsist and therefore, it is not required that the new Government can plead contrary to the State action taken by the previous Government in respect of a particular subject. The State, being a continuing body can be stopped from changing its stand in a given case, but where after holding enquiry it came to the conclusion that action was not in conformity with law, the doctrine of estoppel would not apply. Thus, unless the act done by the*





previous Government is found to be contrary to the statutory provisions, unreasonable or against policy, the State should not change its stand merely because the other political party has come into power. "Political agenda of an individual or a political party should not be subversive of rule of law." The Government has to rise above the nexus of vested interest and nepotism, etc. as the principles of governance have to be tested on the touchstone of justice, equity and fair play. The decision must be taken in good faith and must be legitimate. (Vide *Onkar Lal Bajaj v. Union of India* [(2003) 2 SCC 673 : AIR 2003 SC 2562], *State of Karnataka v. All India Manufacturers Organisation* [(2006) 4 SCC 683] and *State of T.N. v. K. Shyam Sunder* [(2011) 8 SCC 737].)

9.2. Similarly, in the case of *State of Haryana v. State of Punjab*, (2002) 2 SCC 507, this Court held:

"16. ...What really bothers us most is the functioning of the political parties, who assume power to do whatever that suits them and whatever would catch the vote bank. They forget for a moment that the Constitution conceives of a Government to be manned by the representatives of the people, who get themselves elected in an election. The decisions taken at the governmental level should not be so easily nullified by a change of Government and by some other political party assuming power, particularly when such a decision affects some other State and the interest of the nation as a whole. It cannot be disputed that so far as the policy is concerned, a political party assuming power is entitled to engraft the political philosophy behind the party, since that must be held to be the will of the people. But in the matter of governance of a State or in the matter of execution of a decision taken by a previous Government, on the basis of a consensus arrived at, which does not involve any political philosophy, the succeeding Government must be held duty-bound to continue and carry on the unfinished job rather than putting a stop to the same."

9.3. In *Hari Bansh Lal v. Sahodar Prasad Mahto*, (2010) 9 SCC 655, this Court has also held that 'it is impermissible for the State to take a different view in the absence of any change of circumstance.' The State, in its affidavit, has not pointed to any change of circumstances.



9.4. In *Abdul Karim v. State of Karnataka*, (2000) 8 SCC 710, this Court has held:

*“...The Governments have to consider and balance the choice between maintenance of law and order and anarchy. It does not appear that anyone considered this aspect. It yielded to the pressure tactics of those who according to the Government are out to terrorise the police force and to overawe the elected Governments. It does not appear that anyone considered that with their action people may lose faith in the democratic process, when they see public authority flouted and the helplessness of the Government. The aspect of paralysing and discrediting the democratic authority had to be taken into consideration. It is the executive function to decide in the public interest to withdraw from prosecution as claimed, but it is also for the Government to maintain its existence. The self-preservation is the most pervasive aspect of sovereignty. To preserve its independence and territories is the highest duty of every nation and to attain these ends nearly all other considerations are to be subordinated. Of course, it is for the State to consider these aspects and take a conscious decision.”*

10. The stand now taken by the State of Tamil Nadu, subsequently, in the new affidavit, would retard the progress of the country, as this project, when completed, would place India in the forefront of scientific progress of nations, being one amongst only 4-5 projects of the world.
11. Based on these facts and judgments, it is submitted that the present affidavit is not maintainable and hence is liable to be dismissed in limine without going into the merits of the same, as a mere change of Government cannot nullify the allotment of 26.82 hectares of land for the project, and the fencing put around the project along with the 12-lakh litre water tank.
12. In this background, the deponent is, at this stage, not dealing with the various objections raised in the second affidavit filed on behalf of the State of Tamil Nadu and prays for the indulgence of this Hon'ble Court to deal with those





objections in case the Court decides that it will permit the new affidavit to be dealt with on merits.

*Gobinda Majumder*

DEPONENT

**Prof. Gobinda Majumder, FASc, FNASc**  
**Project Director, India-based Neutrino Observatory**  
**Professor, Tata Institute of Fundamental Research**  
**Homi Bhabha Road, Mumbai - 400005.**

### VERIFICATION

Verified at Mumbai on this 23rd day of March 2022, that the contents of the above affidavit from paragraphs 1 to 12 are true and correct to the best of my knowledge and on the basis of legal advice received. Nothing material has been concealed therefrom.

*Gobinda Majumder*

DEPONENT

**Prof. Gobinda Majumder, FASc, FNASc**  
**Project Director, India-based Neutrino Observatory**  
**Professor, Tata Institute of Fundamental Research**  
**Homi Bhabha Road, Mumbai - 400005.**



23 MAR 2022

