



Abstract

CONSIDER AND ORDER NATIONAL HIGHWAYS AUTHORITY OF INDIA (NHAI) TO OBTAIN CONSENT OF THE BOARD UNDER THE WATER (PREVENTION AND CONTROL OF POLLUTION) ACT 1974 AND THE AIR (PREVENTION AND CONTROL OF POLLUTION) ACT, 1984 FOR THIER TOLL WAYS AMENITIES ESTABLISHED AND TO REMIT CONSENT FEE BASED ON GROSS FIXED ASSETS ON THE COST OF ESTABLISHMENT OF TOLL WAYS, CONSIDERING ORANGE CATEGORY

B.P. No.61

Date: 26.11.2019

- Ref:**
1. MoEF, EIA Notification dated 14.09.2006
 2. Hon'ble NGT order in OA.No.837/2018 dated 23.07.2019.
 3. MoEF&CC, Govt.of India, New Delhi. OM.L-11011/18/2018-IA-II (M) dated 23/08/2019
 4. Meeting held with the authorities of National Highway Authority of India on 08/11/2019 at Conference Hall, TNPCB, Guindy, Chennai

The Environment Impact Assessment Notification dated 14.09.2006 as amended has emphasized to obtain prior Environmental Clearance for the Highway (Projects) falling under Schedule 7(f) from Ministry of Environment, Forest and Climate Change/ State Environmental Impact Assessment Authority (SEIAA).

On obtaining Environmental Clearance, the Highway (Projects) have to obtain the Consent to Establish followed by Consent to Operate from the State Pollution Control Board as per the Section 25 of the Water (Prevention and Control of Pollution) Act, 1974 as amended and Section 21 of the Air (Prevention and Control of Pollution) Act, 1981 as amended. After obtaining consents from the Tamilnadu Pollution Control Board, the project proponent should comply with the conditions imposed in the consent order from time to time.

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The National Highways Authority of India was established under the National Highways Authority Act, 1988 and the Government of India entrusts the Authority for the Development, Operation, maintenance and Management of National Highways. These authorities intend to engage a private sector/operator for undertaking the Operation, maintenance and management of the Project Highways subject to and in accordance with the terms thereof. While handing over to contractors/Operators, the scope of the project includes **Tolling, Operation, Management, Maintenance and Transfer** of the Project Highway subject to and in accordance with the provision off the agreement made thereof between Authority and the Concessionaire.

The Hon'ble NGT (PB) in its order dated 23.07.2019 in O.A.No.837/2018 and the Ministry of Environment, Forest and Climate Change vide Office Memorandum dated 23/08/2019 directed that the Monitoring of Category "B" projects may be done through SEIAA and the State Pollution Control Boards.

According to data available with Tamilnadu Pollution Control Board, there are around 30 highways project files available in various Districts of Tamilnadu. Some of the said projects only have obtained the CTE from the Board and rest neither CTE nor CTO. There are lot of projects established and in operation without valid consent of the Board, thus the NHAI not complied the required statutory provision, which lead to complaints / court cases.

As per B.P. No. 6 dated 2.8.2016, New highway construction project falls under the Orange Category- 2052

Considering all the above aspects and the monitoring of the compliance of the conditions stipulated in the Environmental Clearance issued to NHAI, by the SEIAA, Tamilnadu, a meeting was conducted with the authorities of NHAI on 08.11.2019. During the meeting, one of the following key decisions taken include that the NHAI should obtain Consent to Operate/Renewal of Consent for each Toll Ways by keeping the distance from one Toll Ways to other Toll ways in stretches of NHAI Projects since already established in NHAI projects,.



TAMILNADU POLLUTION CONTROL BOARD



The Toll ways are established with felling of trees and with amenities such as restroom with toilet facility, eateries and drinking water facilities etc., apart from office for operation and maintenance of roads. For better environment, the NHAI has to plant trees of native species and better management of both liquid/ solid waste generated from the amenities such as Restroom with toilet facilities, eateries and drinking water facilities etc.,

Consent fee calculation is based on Toll Way construction cost and establishment of Restroom with toilet facilities, eateries and drinking water facilities etc., Further, Consent fee payable by toll ways as per B.P. No. 5 dated 2.8.2016, by placing under the Orange Category Industries is "one fee for Two Years" and it becomes NHAI's statutory obligations .

Hence, the proposal was placed before the Board on 18.11.2019 for approval to consider and direct National Highways Authority of India (NHAI) to obtain Consent of the Board under the Water (Prevention and Control of Pollution) Act 1974 and the Air (Prevention and Control of Pollution) Act, 1984 for their Toll Ways amenities established and to remit the consent fees based on the Gross Fixed Assets on the cost of establishments of toll ways and other amenities and considering it as orange category

The Board vide Resolution No.279-1-13 has gone through the proposal and noted that the NHAI applies for CTE and CTO under Sl.No.2052 (Orange) in B.P.No.6 dated 02.08.2016 to the TNPCB for the entire length of the projects which traverse various districts. Once the project is completed and opened to traffic, Toll Ways come into operation, The Toll Ways are having the facilities like rest room, drinking water, toilet, eateries, DG sets etc.,. They have specified length of high ways as their jurisdiction (Approx. 45 to 50 KM from Toll to Toll). These Toll Ways are also to be monitored by TNPCB for Environmental compliance in addition to the compliance of conditions issued to the NHAI including tree plantations.

Considering the above, the Board resolved that once the CTO is issued to NHAI and the road is opened to traffic, the CTO issued under Sl.No.2052 will no longer apply and consequently, the respective Toll Ways (NHAI/Toll Contractor) shall be required to apply for fresh CTO under the Water (P& CP) Act, 1974 and Air (P&CP) Act, 1981. The GFA for the above consents shall include the cost of facilities like rest rooms, drinking water, toilet, eateries, DG sets, tree plantations for the length of high way which comes under the control (Toll to Toll). The Toll ways shall get the consent to operate and there after get the renewal of consent periodically.

For Member Secretary
20/11/19

To

1. All Joint Chief Environmental Engineer (Monitoring),
Tamil Nadu Pollution Control Board
2. All District Environmental Engineers heading the District
Tamil Nadu Pollution Control Board
3. All HODs in Board

Copy to

1. Financial Advisor
2. Manager (P&A)
3. BMS
4. All District Environmental Engineers
5. File
6. Spare