

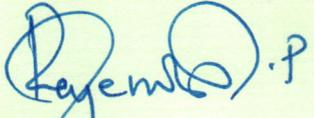
**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
SOUTHERN ZONE AT CHENNAI
ORIGINAL APPLICATION NO.104 OF 2021**

Thiru.K.Ramsingh
S/o.Mr.Kandasamy
No.3/93, South Street
Theertharappapuram Post
Alangulam Taluk, Tenkasi District

...Applicant

Versus

1. State Environment Impact Assessment Authority
Government of Tamil Nadu
3rd Floor, Panagal Maligai
No.1 Jeenis Road, Saidapet, Chennai-600 015
2. The Chairman
Tamil Nadu Pollution Control Board
No.76 Mount Road,
Guindy, Chennai – 600032
3. The Deputy Director
Department of Geology and Mining, Govt of Tamil Nadu
Colletorate, Kokkirakulam
Tirunelveli – 627009
4. The District Collector
Collectorate
No.82, Railway Feeder Road
Tenkasi – 627811 Tenkasi District
5. The Superintending Engineer
O/o. Superintending Engineer
TANGEDCO, Anna Building
Thiyagaraya Nagar, Tirunelveli – 627011
6. The Assistant Engineer
Distribution – TANGEDCO
Servaikkaranpatti, Kadayam
Tenkasi District- 627415
7. Mr.N.Mohamed Mahaboob
Proprietor – AP Nadanoor Rough Stone,
Jelly and Gravel Quarry
No.8/142, Main Road
Pottal Pudur, Ambasamudram Taluk
Tenkasi District – 627423.


DIRECTOR
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8. Mr.K.Sasikumar

S/o.V.Kalangiam

Proprietor – AP Nadanoor Rough Stone,

Jelly and Gravel Quarry

No.9/303, Nainar koil Street

Velappanaiyeripatti, Thippanampatti Village,

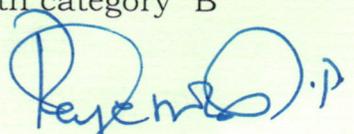
Tenkasi District – 627423

... Respondents

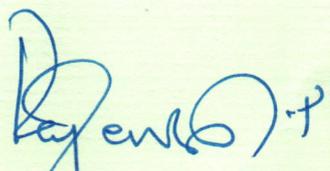
COUNTER AFFIDAVIT FILED ON BEHALF OF FIRST RESPONDENT

I, Tmt.Rajeswari.P, I.F.S., Director, Department of Environment, Government of Tamil Nadu having office at, Ground Floor, Panagal Maaligai, No1,Jeenis Road, Saidapet, Chennai-600015, do here by solemnly affirm and state as follows;

1. I respectfully submit that as per the G.O.(Ms)No:260 Environment and Forests (EC.3) dated: 15.12.2012 the Directorate of Environment is nominated to the function as the secretariat for the State Level Environment Impact Assessment Authority and State Level Expert Appraisal Committee from the date of issue of the order.
2. I respectfully submit that as per the Ministry of Environment, Forests and Climate Change, New Delhi Notification S.O.No.5651 (E), dated: 05.11.2018, the tenure of State Level Expert Appraisal Committee and State Level Environment Impact Assessment Authority – Tamil Nadu expired on 04.11.2021 on completion of three years. Also, MoEF&CC is yet to reconstitute SEAC/SEIAA in Tamil Nadu.
3. I respectfully submit that I am filing counter affidavit on behalf of first Respondent herein and as such I am well acquainted with the facts and the circumstances of the case from the records available in this office.
4. I respectfully submit that the EIA Notification, 2006 mandates prior Environmental Clearance (hereinafter referred to as EC) for new projects or activities including expansion, or modernization of existing projects listed in its Schedule. The Category 'A' projects shall obtain EC from the Ministry of Environment, Forest and Climate Change, New Delhi and Category 'B' projects from the concerned State Level Environment Impact Assessment Authority (SEIAA)/Union Territory Environment Impact Assessment Authority (UTEIAA).This respondent is concerned only with category "B"


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- projects. For the proposed mining projects, the Proponent shall submit an application seeking Environmental Clearance for the proposed quarry along with Form-1, precise area communication from the District Collector stating that , Mining plan approved by the Department of Geology and Mining, Mining lease deed, prefeasibility report and other essential documents. The proposal will be placed before the State Expert Appraisal Committee (SEAC) for screening, scoping and appraisal. Based on the recommendations of SEAC, the proposal is placed before the State Environment Impact Assessment Authority (SEIAA) for the consideration of issue of Environmental Clearance. After detailed discussion and based on the documents furnished, Environmental Clearance is issued by the Authority.
5. I respectfully submit that the project proponent Thiru.N.Mohamed Mahaboob, Tirunelveli District submitted application to SEIAA TN on 16.10.2015 seeking Environmental Clearance for the quarrying of Rough Stone and Gravel over an extent of 3.92.0 Ha at S.F.No 434/4C, 434/4E, 434/4J, 445/IA, 445/1C, 470/1, 471/2, 471/3, 472/1B & 472/1C, Anantha Perumal Nadanoor Village, Alangulam Taluk, Tirunelveli District.
 6. I respectfully submit that the project proponent has not furnished the additional details called for vide SEIAA letter dated 24.11.2015 & 30.03.2016.
 7. I respectfully submit that the Hon'ble Supreme Court, vide its order dated 27.02.2012 in I.A.No.12-13 of 2011 in SLP (C) No.19628-19629 of 2009 titled Deepak Kumar etc. Vs. State of Haryana & Ors has inter alia ordered that leases of minor mineral including their renewal for an area less than 5ha be granted by the State / Union Territory only after getting environment clearance (EC) from the competent authority.
 8. I respectfully submit that the proposal was placed in the 76th SEAC meeting held on 01.07.2016 and the committee has recommended on receipt of additional details.
 9. I respectfully submit that the Hon'ble National Green Tribunal Principal Bench, New Delhi in Original Application No.34 of 2016 its order dated: 04.05.2016, has given certain directions inter alia that


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“all the mines owners which of them have not submitted the application as on 31st March, 2016 to SEIAA, DEIAA and DEAC, shall be shut down forthwith and will not be permitted to carry on any mining activity in any manner whatsoever”.

“ The applications which are deficient and where the applicants have not submitted all requisite documents, such applicants are hereby granted last opportunity of 1 week (One week) to submit the documents. In the event they fail to submit such document and make applications complete and errorless in all respects then after the stated period of 1 week they shall also be liable to be shutdown without any further notice. If they comply with this direction, they would be also to the advantage up to 31st May, 2016.

10. I respectfully submit that the above Hon'ble NGT order was communicated to the respective Deputy Director / Assistant Director, Department of Geology and mining and was addressed vide this office letter No.SEIAA-TN/01940/2016 dated 26.09.2016 to re-examine the proposals seeking Environmental Clearance for the existing quarries considering the above Hon'ble NGT Order with an intimation to the proponent.

11. I respectfully submit that the Ministry of Environment, Forest and Climate Change (MoEF&CC) Notification S.O. 804 (E) dated 14.03.2017 has stated that the cases of violations will be dealt strictly as per the procedure specified in the following manner

“In case the project or activities requiring prior Environmental Clearance under EIA Notification 2006 from the concerned Regulatory Authority are brought for Environmental Clearance after starting the construction work, or have undertaken expansion, modernization and change in product-mix without prior EC, these projects shall be treated as cases of violations and in such cases, even Category B projects which are granted Environmental Clearance by the SEIAA constituted under sub-section(3) section 3 of the Environment (Protection) Act 1986 shall be appraised for grant of Environmental Clearance only by the Expert Appraisal Committee and Environmental Clearance will be granted at the Central Level”.

Revised
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12. I respectfully submit that the Hon'ble National Green Tribunal Principal Bench, New Delhi in its order dated 18.04.2017 in M.A. No. 260 of 2017 in O.A.No. 123 of 2017, has directed

"...the State Government again to expedite the compliance to the law as expeditiously as possible and to ensure that no mining activity is permitted to be carried on without obtaining prior EC."

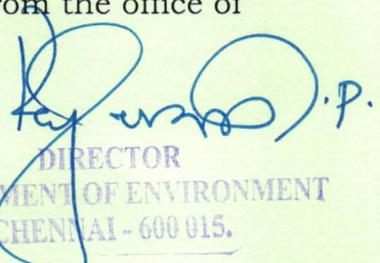
13. I respectfully submit that, project proponent was addressed vide Letter No. SEIAA-TN/F.No.4373/2016/NGT, dated:11.05.2017 informing that

"your application for seeking Environmental Clearance could not be processed at SEIAA-TN and you are requested to submit the proposal to MoEF&CC for Environmental Clearance it is informed that the application filed in this office is closed and recorded." (As stated in Para 11& 12)

14. I respectfully submit that the proposal was placed in the 256th Meeting of SEIAA-TN held on 05.12.2017. The Authority discussed in detail and noted that the project proponent has not furnished the additional details called vide this office letter dated 30.03.2016. The proposal was placed in the 76th SEAC meeting held on 01.07.2016 and the mine lease is also expired (18.11.2016). The Authority decided to close and record the application submitted by Thiru. N. Mohamed Mahaboob seeking Environmental Clearance for the proposed Rough Stone and Gravel quarry located at S.F.No 434/4C, 434/4E, 434/4J, 445/IA, 445/1C, 470/1, 471/2, 471/3, 472/1B & 472/1C, Anantha Perumal Nadnoor Village, Alangulam Taluk, Tirunelveli District. The same was communicated to proponent vide Letter No. SEIAA-TN/F.No.4373/ 2015 dated: 05.12.2017.

15. I respectfully submit that the 8th respondent (Thiru.K.Sasikumar) has not applied to SEIAA-TN for seeking Environmental Clearance for quarrying of Rough Stone, jelly and Gravel in S.F.Nos.433/1 and 433/2 of A.P.Nadanur Village, Alangulam Taluk, Tirunelveli District.

16. I respectfully submit that the Hon'ble National Green Tribunal, Southern Zone, Chennai in O.A.No.104 of 2021 dated: 15.06.2021 has appoint a Joint committee comprising of (1) District Collector, Tenkasi District or a Senior Office not below the rank of Assistant Collector/Sub Divisional Magistrate as deputed by the District Collector (2) a Senior Geologist from the office of

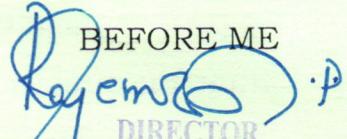

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the Deputy Director of Geology and Mining Department, Tirunelveli District (3) a Senior Officer from the Tamil Nadu State Environment Impact Assessment Authority (TNSEIAA) and (4) a Senior Officer from the Tamil Nadu Pollution Control Board (TNPCB) as deputed by its Chairman to inspect the area in question and submit a factual as well as action report, if there is any violation found”

17. I respectfully submit that the joint committee members inspected the project site and submitted the joint committee inspection report to the Hon'ble National Green Tribunal, Southern Zone, Chennai on 24.09.2021.

In view of the above mentioned facts, it is therefore humbly prayed that this Hon'ble Tribunal may be pleased to record and pass such order (or) any other orders as this Hon'ble Tribunal may deem to fit and proper in light of the facts and circumstances of this case and thus render justice.

Solemnly affirmed at Chennai
On this 04th day of January 2022
& signed his name in my presence

BEFORE ME

DIRECTOR
DEPARTMENT OF ENVIRONMENT
CHENNAI - 600 015.

ATTESTING OFFICER


Assistant Environmental Engineer
State Level Environment Impact Assessment Authority-Tamilnadu
Third Floor, Panagal Maligai
Saidapet, Chennai - 600 015