

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL (SZ) CHENNAI
APPLICATION NO.113 OF 2022

K. Mohan Kumar

...Applicants

-Vs-

The Member Secretary,
State Environment Impact Assessment Authority
& Others

...Respondents

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Certified that the contents of the above documents are true to the best of my knowledge and information

Dated at Chennai on this on the 24th day of April ,2023



COUNSEL FOR 5TH RESPONDENT

BEFORE THE NATIONAL GREEN TRIBUNAL (SZ) CHENNAI
Application No. 113 Of 2022

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-Vs-

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...Respondents

COMMON COUNTER AFFIDAVIT FILED BY THE 5th RESPONDENT

I, V.Ranjith Kumar, S/o. S.A.Vellusamy, Hindu, aged about 41 years, residing at No.6/1, Jawarayan Thottam, Sukunapuram, Kuniyamuthur, Coimbatore District-641 008, do hereby solemnly affirms and sincerely states as follows;

1. I am the 5th respondent herein and as such I am well acquainted with the facts and circumstances of the case from the records available. I am filing this common counter affidavit in O.A. 113 of 2022 and towards preliminary report filed by the 4th respondent.

2. I submit that the applicant has filed this application praying before this Hon'ble tribunal to :-

A. Pass orders forbearing the 5th Respondent herein from quarry operations in patta land in SF No. 179/A1B(Part) of Pottaiyandipurambu Village, Coimbatore District owned by the 5th Respondent and thereby cancelling the Environmental Clearance issued by the 1st Respondent vide Lr No SEIAA-TN/F No 8298/1(a)/EC No.4640/2021 dated 27.04.2021 and Quarry lease and license vide Na Ka. 184/ Kanimam/2020.

V. Ranjith Kumar

B. Direct the official Respondents to take immediate action against the 5th Respondent for illegal quarrying operations without following the prescribed limits of the Act

C. Direct the official Respondents herein to assess, levy, and collect a pollution fine from the 5th respondent herein for the illegal quarrying carried on

D. Issue further or other orders as this Hon'ble Tribunal may deem fit and proper in the interest of the case and thus render justice"

3. I submit that at the outset, this respondent specifically deny all the allegation and averment contained in the above application except for those that are specifically admitted herein. The contents of the application are wholly self-serving, baseless, arbitrary and ought to be dismissed as untenable.

4. I submit that before traversing the various allegations made by the applicant in his memorandum of application filed in support of this application, this Respondent state as follows:-

a. The Environmental Clearance for carrying out minor mineral activity from the competent authority i.e. State Level Environment Impact Assessment Authority- Tamil Nadu was received by this respondent as early as on 27.04.2021 vide Environmental Clearance Certificate bearing No. Lr. No. SEIAA-TN/F.No.8298/(a)/EC.No:4640/2021 by following all due procedures of Law. The clearance was issued for mining of rough

V. R. K. K.

stone and gravel for a period of 5 years having prescribed limits set forth therein.

b. The 4th respondent herein i.e. the Assistant Director, Geology and Mining Coimbatore has issued Order granting lease for the quarry operation to this respondent vide order dated 28.07.2021 bearing Na.Ka. 184/Kanimam/2020 in accordance with law having scrutinizing all aspects related to mining activity.

c. The 5th respondent herein has entered into a valid lease agreement in accordance with law and as per the mandate with that of the Assistant Director, Mines and having adhered to the conditions prescribed therein.

5. I submit that as soon as the 5th respondent received the environmental clearance and order for carrying out quarry operations the applicant herein along with few others immediately swung into action and having started a rebellion and resorted to activities such as writing numerous representation after representation to the concerned authorities opposing the clearance and order for quarrying operation granted in my favor for the reasons best known to them.

6. I submit that on 15.12.2021 the 5th respondent herein resorted to file a police complaint registered as C.S.R No. 266 of 2021 with no other remedy to prevent from being illegally restrained from carrying out quarry operation to which he is the quarry lease holder.

7. I submit that on 04.01.2022 the Circle Development Officer, Kinnathukadavu Taluk issued letter bearing Na. ka. No. 2 of 2022 to the

V. P. Araker

Assistant Director, Mines intimating the public grievances received by the grievance section under them.

8. I submit that on 21.01.2022 the Sub-Collector Pollachi conducted a detailed investigation on the basis of the various representations against the quarry operation of the 5th respondent and concluded via a detailed report stating that there are no approved layout or residence except few unapproved tiled housing unit' within 300 meters and the subject matter Odai also stands abandoned as there is no flow of water for several decades. To my dismay and shock, a contrary report is being filed now while the earlier investigation led by the Sub-Collector level found no violations

9. I submit that on 27.04.2022, the respondent herein measuring the gravity of offences and threats given and committed lodged a police complaint registered as C.S.R No. 62 of 2022 against the applicant herein and few others also for the extortion of money being demanded from the respondent herein. To which I was directed to seek judicial remedy rather than taking actions and safeguarding my rights.

10. I submit that this respondent filed a Writ Petition before the Hon'ble High Court and the same was numbered as W.P. No. 246 of 2022 and sought for direction directing the police to take appropriate action and also to give necessary police protection to the 5th respondent herein in carrying out quarrying operation in patta land of this respondent. The Hon'ble High Court vide Order dated 21.06.2022 reiterated as follows;



3. Whereas, the learned Additional Public Prosecutor appearing for the respondents would submit that on a complaint of the petitioner, other side was called for enquiry and they have also given an undertaking that they would not interfere with the business of the petitioner. Accordingly, the said complaint was closed by them.

4. In such view of the matter, there is no need for this Court to issue any direction to the respondents. If any fresh cause of action arises, it is open for the petitioner to file a fresh complaint to the respondent police. Any such complaint is received by the police, the same shall be decided by them on due enquiry and act as per law.

5. With the above direction, the Writ Petition stands closed. Consequently, the connect miscellaneous petition is also closed. No costs."

11. I submit that accordingly the illegal actions of the applicant herein and his aides continued and therefore the Sub-Collector, Pollachi on the basis of the Order of the Hon'ble Court directed the Inspector of Police to take appropriate action from refraining the persons involved in illegally stopping the quarry operation. However no actions were forthcoming from the police department.

12. I submit that to this day I am suffering huge losses for the actions of the applicant and his close aides who are also involved in quarry operations at other sites and being a major competitor on other hand.

V. P. Anbar

13. I submit that on 17.08.2022 the respondent herein had to again lodge a police complaint expecting actions this time at least against the wrong doers who are stopping the respondent herein from carrying out quarry operations stating that the applicant herein and his aides who have openly admitted to have stopped the 5th respondent from quarrying causing huge loss to the state exchequer and the 5th respondent. However the police dropped the actions for the reasons best known to them.

14. I submit that on 06.09.2022 and earlier on different occasions, the Executive Magistrate cum Sub-Collector issued summons to the parties involved and conducted a detail investigation on the law and order issue. I further submit that the Applicant and few others filed Writ Petition before the Hon'ble High Court and the same is numbered as W.P. no. 25062 of 2022, wherein the applicant sought for quashing the summons issued to them. However the Hon'ble High Court directed the the Executive Magistrate cum Sub-Collector to issue fresh notice and to follow the procedures of as contemplated under section 107 of Cr.P.C. and to proceed in accordance with law.

15. I further submit that the Executive Magistrate cum Sub-Collector on 08.12.2022 accordingly conducted and passed proceedings bearing M.C.No. 23/2022/A1 wherein after hearing both sides it was directed to furnish bonds under Section 107 of the Cr.PC for a period of 1 year within a week.

16. I submit that the 2 violations as stated in the preliminary report filed by the 4th respondent herein suggest that the 5th respondent herein has not properly fences the quarry lease hold are is untrue. However the 5th respondent undertakes to carry on the minor repair works required to

N. J. K. K.

the fencing in the quarry lease hold area. Also there exist a EB line in the 5th respondent patta land passing through the southern boundary wherein the 5th respondent has made application for shifting the said EB pole as early as on 23.09.2022 and deposited a sum of Rs. 37,600/- towards the shifting charges. I submit that on the one hand the applicant is stating that there is no safer distance between the HT line and the Quarry but when the said application has been made for shifting, number of petitions raising objections were made to the Electricity Board for shifting the HT line.

17. I submit that the 5th respondent herein once again had to lodge police complaint due to the illegal action and assault on the 5th respondent workers. The police advised to seek judicial remedy in this regards rather than taking action and rendering justice.

OTHER BRIEF FACTS:-

18. I submit that till date the 5th respondent is able to carry out the quarry operations only up to 5 meters depth against the sanctioned 17 meters depth. The same is also accorded in the preliminary report filed by the 4th respondent. Other allegations that the 5th respondent is mining up to 23 hours a day, an underground Low voltage Line in S.F. No.179, causing damages to the 3rd parties houses, quarrying within prohibited distances from the neighboring land, roads etc are categorically denied as un-true and misleading.

19. I submit that the in actions of the police department is causing severe stress as there involves threat to life and property by the applicant.



20. I submit that the 5th respondent is suffering huge losses for the actions of the applicant and his close aides who are also involved in quarry operations at other sites and being a major competitor on other hand.

21. I submit that the allegations leveled against the 5th respondent in the application are nothing but untrue facts being made in order to support competitors of the 5th respondent and to extort money. I reserve my right to file an additional counter before the final hearing, if necessary.

Under these circumstances, it is therefore prayed that this Hon'ble Tribunal may be pleased to dismiss the above application as devoid of any merits and thereby render justice also impose heavy cost.

Solemnly affirmed at Chennai]
On this the 17th day of February 2022]
and signed his name in my presence]

V. Rajan

BEFORE ME

M. Ashok

ADVOCATE, CHENNAI

M. Ashok
no: 170 Addl law chuee
High Court, Co-104

Subhan Prasad
Ms 4712/2022

counsel for ^{5th} Respondent

To:
Cc:
R
I
M
W
M
A

COUNTER AFFIDAVIT

M/S M.N. Balakrishnan (ENo-12)
R. Kannan (ENo-2014/14)
MOHD YAQOOB KAFEEL (ENo-
5th

Counsel for Respondent

10



Mohd Yaqoob Kafeel <yaqoobkafeel@gmail.com>

Fwd: Hearing this morning at the NGT

Mohd Yaqoob Kafeel <yaqoobkafeel@gmail.com>
To: Swathish Kumar <swathishkumar15@gmail.com>


Cc: "asriram911@gmail.com" <asriram911@gmail.com>, DShanmuganathan@outlook.com, "pvmadvocate@gmail.com" <pvmadvocate@gmail.com> Fri, Apr 14, 2023 at 5:50 PM

Respected Sir,

I am herewith attaching counter affidavits filed by clients in O.A. 113 and 117 of 2022 (Southern Zone) NGT respectively for your kind perusal.

with regards
Mohd Yaqoob Kafeel
Advocate

2 attachments

 **O.A 113 of 2022.pdf**
3111K

 **O.A.117 of 2022 (1).pdf**
2718K

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NGT



National Green Tribunal

Case Title	Mohan Kumar Vs. SIEAA
Miscellaneous No.	3305118005272022/6
Transaction id	3300510045282023
Bank Transaction id	0304230035474
Payment Date	2023-04-03 00:00:00.0
Amount	100 Rs.
Status	SUCCESS

S. No.	File Name	Party Name	Location	Document Type
1	O.A.113 of 2022.pdf	V Ranjith Kumar	CHENNAI (SOUTHERN ZONE BENCH)	Reply

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APPLICATION NO.113 OF 2022**

K. Mohan Kumar

...Applicants

-Vs-

The Member Secretary,
State Environment
Impact Assessment
Authority & Others

...Respondents

Counter Affidavit filed by 5th
Respondent & Annexures

Date: 24.04.2023

Date of Hearing :25.04.2023

M/s. M.N. Balakrishnan

E.No.12/1992

R.Kannan

E.No. 2014/2014

Mohd Yaqoob Kafeel

E.No. 4512/2018

Advocate, Chennai