

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CEHNNAI

Original Application No.119 of 2021 (SZ)

IN THE MATTER OF :

Tribunal on its own motion Suo Motu based on the News item published in Dinamalar Tamil Newspaper Chennai Edition Dated 14.04.2021, under the caption "All over the village is dust land. If deforms the villages along with lives"

... Applicant (s)

Versus

1. The Chief Secretary to Govt. of Tamil Nadu,
Govt. Secretariat, Fort St. George
Chennai, Tamil Nadu 600 009.
2. The Secretary to Govt. of Tamil Nadu,
Department of Environment & Forest,
Govt. Secretariat, Fort St. George,
Chennai, Tamil Nadu 600 009.
3. The Principal Secretary to Govt. of Tamil
Nadu,
Industries Department,
Govt. Secretariat, Fort St. George,
Chennai, Tamil Nadu 600 009.
4. The Chairman,
Tamil Nadu Pollution Control Board,
No.76, Anna Salai, Guindy,
Chennai, Tamil Nadu 600 032.
5. State Environment Impact Assessment
Authority,

Government of Tamil Nadu,
Rep. by its Member Secretary,
3rd Floor, Pamagal Maaligai,
No.1, Jeenis Road, Saidapet,
Chennai 600 015.

6. Department of Geology and Mining,
Rep. by its Commissioner,
Alandur Road, Guindy Industrial Estate,
Guindy, Chennai-600 032.
7. The District Collector,
Coimbatore District,
District Collectorate Office,
Collectorate Building,
Coimbatore 641 018.
8. Chinna Thadagam Village Panchayat,
Rep. by its Secretary,
Panchayat Village Office,
Mariyamman Kovil Street,
P.N.Palayam, Coimbatore,
Tamil Nadu 641 010.
9. 24, Veerapandi Village Panchayat,
Rep. by its Secretary,
Panchayat Village Office,
24, Veerapandi Post,
P.N.Palayam, Coimbatore,
Tamil Nadu 641 108.
10. Nanjundapuram Village Panchayat,
Rep. by its Secretary,
Village Panchayat Office,
Nanjundapuram Road,
Thadagam Post, P.N.Palayam,
Coimbatore, Tamil Nadu 641 108.

11. Somayampalayam Village Panchayat,
Rep. by its Secretary,
Village Panchayat Office,
Kalapanaickanpalayam Opp Bus Stand,
Soamayampalayam Post, P.N.Palayam,
Coimbatore, Tamil Nadu 641 108.

12. Pannimadai Village Panchayat,
Rep. by its Secretary,
Village Panchayat Office,
Pannimadai Post, P.N.Palayam,
Coimbatore, Tamil Nadu 641 017.

....Respondent (s)

Status Report filed by the Sixth Respondent
The Commissioner of Geology and Mining

I J. Jayakanthan I.A.S., S/o. D. Jagadeeswaran (late) Hindu aged about 55 years functioning as the Commissioner of Geology and Mining, Chennai-32 do hereby solemnly affirm and sincerely state as follows: -

I am the sixth respondent herein and as such I am well acquainted with the facts of the case from the available records. I filed this status report before this Hon'ble National Green Tribunal in compliance to the orders passed in O.A.No.119 of 2020 (SZ) & I.A.No.32 of 2023 (SZ) with O.A.No.135 of 2021 (SZ) dated 27.02.2023 based on the available records and report received from the District Collector, Coimbatore vide Rc.No.825/Mines/2021, dated 09.03.2023.

2) It is submitted that the Hon'ble National Green Tribunal have passed the orders in O.A.No.119 of 2020 (SZ) & I.A.No.32 of 2023 (SZ) with O.A.No.135 of 2021 (SZ) dated 27.02.2023 directed the Commissioner of Geology and Mining to file a report with regard to the following particulars are sought for from each of the brick kiln owners:-

- i. The extent to which the excavation was made for the purpose of manufacturing bricks,
- ii. The quantity and
- iii. The market value of the stock available.

In the said order, the Hon'ble National Green Tribunal has further directed the Commissioner of Geology and Mining to include in the said report as to how the penalty has been arrived at and the formula which was adopted by him.

3) It is further submitted that under Rule 19(2) of TNMMCR, 1959, **there is no provision for collecting seigniorage fee for quantum of brick earth removed** whereas the provisions were framed for collection of Annual Brick Mineral Fee based on the number of chambers of the Brick Kiln and number of firing vent of the Brick kiln.

Rule 19(2) of TNMMCR, 1959 read as "(a) Every brick manufacturing unit shall for quarrying brick earth apply to the District Collector concerned for quarrying permit in Form I in Appendix IV-A along with copy of certificate of registration issued by the District Collector concerned, the consent letter from the pattadar from whose land it is proposed to quarry the earth for

the manufacture of bricks, a non-refundable application fee of Rs.1500/- and the brick mineral fee at the rate specified.

(i) The permit holder shall intimate to the District Collector about the details of patta lands from which the earth for manufacture of brick is proposed to be quarried, fifteen days before the commencement of quarrying of earth. Whenever there is a change of location (Survey field) of quarrying it shall be intimated in the manner indicated above."

4) It is further submitted that as per the Mines and Minerals (Development and Regulation) Amendment Act, 2021, on and from the date of commencement of Act, 2021, dated 28.03.2021, the expression "raising, transporting or causing to raise or transport any mineral without any lawful authority" occurring in this Section, shall mean raising, transporting or causing to raise or transport any mineral by a person without prospecting licence, mining lease or composite licence or in contravention of the Rules made under Section 23C. Therefore, whenever invoking Section 21(5) of the MMDR Act, 1957 and the MMDR Amendment Act, 2021, while compounding the offence by the competent authority in respect of person having valid lease, the question of levying cost of mineral for the mineral raised for quarrying in his own patta land cost of mineral cannot be imposed and it is applicable for Poramboke lands. Since the brick kilns/chambers in the villages of Thadagam, Veerapandi, Nanjundapuram, Somayapalayam and Pannimadai are registered brick kilns/chambers with license and as per the section 21(5) of the MMDR Amendment Act, 2021, recovery of cost of mineral does not arise. The Cost of mineral was erratically fixed by the joint committee in its report dated 13.05.2022 without

considering the amendment made on 28.03.2021 in the MMDR Amendment Act, 2021.

5) It is further submitted that the Rule 36-D of the Tamil Nadu Minor Mineral Concession Rules, 1959 read as "*Settlement of questions or disputes regarding an agreement - should any question or dispute arise regarding an agreement executed in pursuance of these rules, or any matter or thing connected therewith or the powers of the registered holders thereunder, the amount or payment of seigniorage fee or lease amount or area assessment made payable thereby, the matter in issue shall be decided by the Director of Geology and Mining. In case, the registered holder or the lessee is not satisfied with the decision of the Director of Geology and Mining, the matter shall be referred to the State Government for decision*"

6) It is further submitted that based on the enquiry during personal hearing with owners of the Brick Kilns and perusal of other connected documents, it was observed that from the year of 2013 majority of the Brick Kilns have not remitted Annual Brick Mineral Fee. Hence, penalty levied for recovery of Annual Brick Mineral Fee for about 8 years which ranged from Rs. 3,00,000/- to Rs.40,00,000/- based on the production capacity of the Brick Kilns and passed orders vide Rc.No.681/MM1/2021, dated 29.12.2022. The total penalty levied on owners of the Brick Kilns is Rs.12,92,00,000/- towards recovery of Annual Brick Mineral Fee as penalty for non-remittance period for 8 years since there is no provision under Rule 19(2) for collection of seigniorage fee for brick earth removed from patta lands. Remittance of the said penalty in instalment basis was permitted based on the request of the owners of the brick kilns/chambers and considering their economic

situation due to non-operation of brick kilns/chambers for more than two years.

7) It is further submitted that for levying penalty, the Brick Kilns were categorized into three Categories i.e., Category-I, Category-II and Category-III based on the production capacity and the penalty was levied respectively as tabulated below:-

Sl.No.	Category of Brick Kilns	Annual Brick Mineral fee to be recovered from 2013 to 2017 (for 5 years) as per Rule 19(2) of TNMMCR, 1959 at the rate of before 04.04.2017 (in Rs.)	Annual Brick Mineral fee to be recovered from 2018 to 2020 (for 3 years) as per Rule 19(2) of TNMMCR, 1959 at the rate of after 04.04.2017 (in Rs.)	Total Penalty amount (in Rs.)
1.	Category-I	28,000 x 5 = 1,40,000	60,000 x 3 = 1,80,000	3,20,000 (based on the production capacity of Brick kiln the penalty was fixed as Rs.3,00,000/-)
2.	Category-II	35,000 x 5 = 1,75,000	75,000 x 3 = 2,25,000	4,00,000 (based on the production capacity of Brick kiln the penalty was fixed as Rs.6,00,000/-)
3.	Category-III	40,000 x 5 = 2,00,000	90,000 x 3 = 2,70,000	4,70,000 (based on the production capacity of Brick kiln the penalty was fixed as Rs.10,00,000/-)

***The District Collector, Coimbatore has closed 177 brick kilns which were operated in Thadagam, Veerapandi, Nanjundapuram, Somayapalayam & Pannimadai villages and brick kiln owners were banned from carrying out any activities from 19.03.2021.**

8) It is further submitted that even though the joint committee has reported that about one crore cbm of earth was removed in different patta lands in the five villages, the details related to the individual brick chamber or pattadar wise breakup for removal of earth has not been quantified and this removal of brick earth was

in force time - memorial and hence the common order passed on the appeals vide in Rc.No.681/MM1/2021, dated 29.12.2022 and levied penalty for a sum of Rs.12,92,00,000/- which ranged from Rs.3,00,000 to 40,00,000/- on the owners of the brick kilns for extraction of brick earth without remittance of prescribed Annual Brick Mineral Fee. On remittance of penalty, the owners of brick chambers were allowed to remove baked and un-baked bricks from their respective brick kilns and to operate in order to remove already manufactured bricks which were pending for disposal for more than 2 years thus affecting the economy of labour force and brick chamber owners and the owners of the brick kilns were directed to apply to District Collector as per provisions stipulated under Rule 44 and 19(2) of the Tamil Nadu Minor Mineral Concession Rules, 1959 with all statutory clearances including clearance from HACA. The said order was issued subject to the outcome of directions to be passed by the Hon'ble High Court and Hon'ble National Green Tribunal in future.

9) It is further submitted that the District Collector, Coimbatore vide Rc.No.825/Mines/2021, dated 09.03.2023 has stated as follows:-

i. The details of quantum of brick earth mined by the owner of brick kilns / chambers individually in Survey number and extent (in hectares) wise:-

The brick manufacturing industries of Thadagam region have been in operation for more than four decades. At this stage, there are no records on the exact quantum of brick earth mined out by individual brick kiln / chamber owners and from where and when

the brick earth was mined by each of them (whom). Therefore, it is practically impossible to quantify the amount of brick earth excavated by any individual brick kiln / chamber owners.

ii. The total number of baked and unbaked bricks stocked in the brick kilns / chambers individually:-

The individual brick chamber units were inspected and the approximate number of baked and unbaked bricks stocked within the premises is tabulated as below;

Sl.No.	Village	No. of Brick Kilns	No. of baked bricks	No. of unbaked bricks
1.	Pannimadai	8	1,45,000	10,25,000
2.	Nanjundapuram	20	11,37,000	19,05,000
3.	Somayapalayam	10	61,000	25,75,000
4.	Veerapandi	55	36,17,000	68,97,000
5.	Chinnathadagam	82	69,41,000	1,77,05,000
Total		175	1,19,01,000	3,01,07,000

***Brick Kiln/Chamber wise list is enclosed in the Typed set of Papers.**

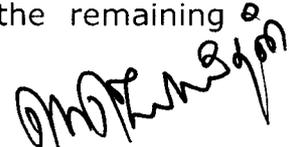
iii. The current market value of the baked and unbaked bricks stocked in the brick kilns / chambers individually:-

The market value of baked and unbaked bricks before the closure of the brick chamber (before 2021) units were Rs.6/- and Rs.2.50/- per unit respectively. At present stage, the market value of baked and unbaked bricks are Rs.8/- and Rs.3.50/- per unit respectively. The above market values are excluding the cost of transportation.

Sl. No	Village	No. of Brick Kilns	Market value of baked bricks	Market value of unbaked bricks
1.	Pannimadai	8	11,60,000	35,87,000
2.	Nanjundapuram	20	90,96,000	66,67,500
3.	Somayapalayam	10	4,88,000	90,12,500
4.	Veerapandi	55	2,89,36,000	2,41,39,500
5.	Chinnathadagam	82	5,55,28,000	6,19,67,500
Total		175	9,52,08,000	10,53,74,500

***Brick Kiln/Chamber wise list is enclosed in the Typed set of Papers.**

- iv. Further, a total of 141 brick kiln owners have remitted the first instalment of the penalty levied by the Commissioner of Geology and Mining amounting for a sum of Rs.2,81,00,000/- . In addition to this, in compliance to the orders passed by the Hon'ble National Green Tribunal dated 27.02.2023, a total of 67 brick kiln owners have remitted the remaining



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instalments of the penalty in lump sum amounting for a sum of Rs.3,20,00,000/-. Hence, total penalty received in Rs.6,01,00,000/- so far and the balance 50% payment will be realized within a week.

10) With respect to details sought for by the Hon'ble National Green tribunal in its order dated 27.02.2023 related to the extent to which the excavation was made for the purpose of manufacturing bricks in para 9, it is further submitted that there was no details furnished by the Joint committee in its report dated 13.05.2022 in relation with the extent to which the excavation was made and also no details were furnished in the report of the District Collector, Coimbatore vide Rc.No.825/Mines/2021, dated 09.03.2023. Whereas, the District Collector, Coimbatore has stated that since the brick manufacturing industries of Thadagam region have been in operation for more than four decades, there are no records on the exact quantum of brick earth mined out by individual brick kiln/chamber owners and from where and when the brick earth was mined by whom.

11) It is further submitted that the Joint Committee has taken Risk Factor as "1" (instead of 0.25) and arrived the Environmental Compensation for a sum of Rs. 373,74,20,826/-. Whereas, the said formula used for arriving the said Environmental Compensation is only for sand mining and not applicable for the brick earth. If the Risk Factor is taken as "0.25", the Environmental Compensation could be arrived for a sum of Rs. 15,63,33,298/-. The difference of Environmental Compensation between Risk Factor 0.25 and 1.0 is tabulated below:-



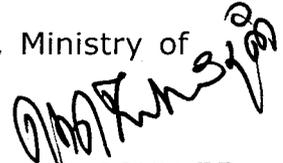
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Name of the Villages	Environmental compensation (in Rs) (If the Risk Factor Taken as 1.0)	Environmental Compensation (in Rs) (If the Risk Factor Taken as 0.25)
Thadagam	1,46,86,04,923	10,04,01,578
Veerapandi	1,47,18,33,681	3,64,12,243
Nanjundapuram	11,17,75,104	25,67,882
Somayapalayam	67,38,02,049	1,66,69,441
Pannimadai	1,14,05,069	2,82,154
Total	373,74,20,826	15,63,33,298

* The above Environmental Compensation was arrived by using the formula for sand mining in rivers and not for brick earth excavated in lands.

12) It is further submitted that the Hon'ble High Court of Madras has passed orders dated 21.12.2022 in W.P.Nos.34307, 34312, 34316 & 34320 of 2022 has granted an order of interim stay on the penalty proceedings passed by the Tamil Nadu Pollution Control Board towards environmental compensation.

13) It is further submitted that the Hon'ble Supreme Court of India, dated 03.06.2022 in Writ Petition (Civil) No.202/1995 filed by T N Godavarman Thirumalpad Vs. Union of India and Others, directing among others that "each protected forest, that is national park of wildlife sanctuary must have an ESZ of minimum one kilometre measured from the demarcated boundary of such protected forest in which the activities prescribed and prescribed in the Guidelines of 09.02.2011 shall be strictly adhered to and that mining within the national parks and wildlife sanctuaries shall not be permitted". It may be noted that "protected forests" in the context means Sanctuaries and National Parks and not Reserve Forests. The Guidelines of the Government of India, Ministry of


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Environment and Forests (Wildlife Division) dated 09.02.2011 relate only to the Eco-sensitive Zones around National Parks and Wildlife Sanctuaries and not to Reserve Forests. Out of five villages, Pannimadai is not an HACA village and all the brick chambers in five villages are located one kilometre away from the reserve forest.

14) It is further submitted that the five villages of Thadagam regions i.e., Chinna Thadagam, Veerapandi, Nanjudapuram, Somayampalayam and Pannimadai villages of Coimbatore District is located one kilometre away from reserve forest and not in the eco-sensitive zone as prescribed by the Hon'ble Supreme Court.

15) It is further submitted that there are no officially notified elephant corridor in 5 Villages i.e., Chinna Thadagam, Veerapandi, Nanjudapuram, Somayampalayam and Pannimadai villages of Coimbatore District as stated by District Forest Officer, Coimbatore division vide letter reference no. E2/3371/2021, dated 03.07.2021.

16) It is further submitted that the year wise ground water level data provided by the Water Resources Department in nearby villages of Anaikatti, Daliyur, Mangarai, Veerapandi and Kovilmedu of Coimbatore North taluk, reveals that during the past years there is no drastic change in ground water table and there is no indication of depletion of ground water table due to this mining activity and the water level remains unchanged/unaltered or is improved in respect of all the villages.

Year	Anaikatti	Dailyur	Veerapandi	Mangarai	Kovilmedu
2006		49.5			
2007	4.2	49.5			
2008	9.89	49.5			
2009	10.01	49.3			
2010	8.95	46.7			
2011	8.92	42		42	
2012	9.54	42		42	
2013	10.3	42		42	
2014	10.07	42		42	
2015	8.61	41.6		41.6	
2016	8.8	40.9			
2017	10.01	39.8	49.44		32.16
2018	10.12	39.3	49.18		37.8
2019	9.25	39.3	49.82		35.93
2020		39.3	50		37.32
2021		39.3	52		37.27

*** Annexure-2 of the Joint Committee Report dated 13.05.2022**

17) It is further submitted that the District Administration will improve the ecology of already quarried pits by creating gentle slope/gradient in the pits by utilizing the funds apportioned to respective panchayats, green funds and funds available under DMFT (District Mineral Fund Trust). Prime thrust will be to harvest water to improve the water table of the area apart from assisting in agricultural activities and afforestation activities around quarried pits. Quarried pits will also be utilized as compost pits by the village panchayats.

18) It is further submitted that all the brick kiln units are functioning as per the notification issued by MoEF & CC, dated, 22.02.2022 and as stated in the Environment (Protection) Rules, 1986, in the SCHEDULE-I, for entry at Sl.No.74, the following entry shall be substituted, namely: -



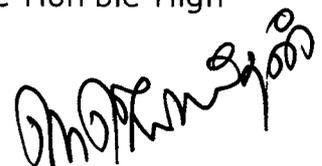
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74	Brick Kilns	Particulate matter in Stack emission	250 mg/Nm ³
		Minimum stack height (Vertical Shaft Brick Kilns) - Kiln capacity less than 30,000 bricks per day - Kiln capacity equal or more than 30,000 bricks per day	14m (at least 7.5, from loading platform) 16m (atleast 8.5 m from loading platform)
		Minimum stack height (Vertical Shaft Brick Kilns) - Kiln capacity less than 30,000 bricks per day - Kiln capacity equal or more than 30,000 bricks per day	24m 27m

All these Brick chambers in Thadagam region are with adequate chamber height as prescribed by the Government of India & Guidelines as per above.

19) It is further submitted that all these brick kilns used only wood as fuel for baking the bricks and not electricity. The electricity connections are utilized only for domestic residential purposes for the labourers who reside in the brick kilns areas itself.

20) From the year of 2003, the owners of the registered Brick Kiln/Chambers have to obtain clearance from HACA for quarrying brick earth. Though they have applied for seeking HACA clearance, the District Collector, Coimbatore is yet to forward those applications to the State Authorities and the District Collector, Coimbatore vide letter No.650/Mines/2019, dated 23.02.2023 has stated that the subject matter was taken up by the Hon'ble High



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Court of Madras and the Hon'ble National Green Tribunal and hence no further action was taken in this regard.

21) It is further submitted that Thadagam Brick chamber owners have requested for permission for sale of bricks which were ready for sale and pending for sale for 2 years now, may be considered by the Hon'ble National Green Tribunal, in order to protect the livelihood of labours and owners of brick chambers in Thadagam area and also supply of bricks for construction and other developmental works at reasonable/affordable price.

22) It is further submitted that due to closure of brick kilns in Thadagam, Veerapandi, Nanjundapuram, Somayapalayam and Pannimadai villages of Coimbatore District, the cost of bricks has increased from Rs.6 to Rs.13 to 14 (with transport charges) in Coimbatore and almost in all the districts. It is further submitted that Bricks from chambers of other three districts Madurai, Dindigul & Erode were being transported and supplied at higher rates in Coimbatore and other districts.

Under the circumstances stated above, it is therefore most respectfully and humbly prayed the Hon'ble National Green Tribunal that in the interest of supply of bricks to the construction and other developmental works at a reasonable/affordable price and to protect the livelihood of lakhs of laborers of brick chambers, the bricks (baked and unbaked) which are ready for sale may be permitted for sale after remittance of penalty levied by the Commissioner of Geology and Mining vide Rc.No.681/MM1/2021, dated 29.12.2022 and also Brick Kilns/Chambers which are located in the five villages of Thadagam, Nanjundapuram, Veerapandi, Somayampalayam and Pannimadai may be permitted to operate

after obtaining all the statutory clearances including from Tamil Nadu Pollution Control Board and clearance from HACA as required under Tamil Nadu Minor Mineral Concession Rules, 1959 and thus render justice.

Solemnly affirmed at
Chennai this the ~~10th~~ ^{9th} day of
March, 2023 and signed his
name in my presence.


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