

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL**

**SOUTHERN ZONE, CHENNAI**

**Original Application No. 124 of 2021 (SZ)**

**In the matter of:**

Sibi Joseph,

Kerala

Applicant

Versus

Union of India & Ors

Respondent

**COUNTER AFFIDAVIT ON BEHALF OF THE MINISTRY OF  
ENVIRONMENT, FOREST, AND CLIMATE CHANGE (RESPONDENT No.1)  
MOST RESPECTFULLY SHOWETH:**

I, Dr. Murali Krishna, currently working as Scientist-E in the Ministry of Environment, Forest and Climate Change (MoEF&CC), Integrated Regional Office, Bangalore, do hereby solemnly affirm and state as under:

1. That I, in my official capacity of in the Ministry Environment, Forest and Climate Change, Bangalore i.e., Respondent No.1 in the above-mentioned matter, am conversant with the facts and circumstances of the case on the basis of official records, and as such authorized and competent to swear this affidavit.
2. It is submitted at the very outset that the Respondent No.1 denies each averment and/or submission made in the application that is contrary to and is

inconsistent with the averments made and facts stated in the present reply. It is submitted that the nothing stated in the application may be deemed to have been admitted by the Respondent No.1 unless and until the same is expressly admitted in the present reply.

3. That a short affidavit is being filed by the answering respondent at this stage and craves leave and liberty to file a detailed Counter Affidavit to the aforesaid application, as and when required.
4. That the appellant is aggrieved by the illegal operation of quarries in Palakkad District owned by respondents 8/M/s. Royal Sands and Gravels Pvt Ltd., and 9/M/s. Mary Matha Granites against the provisions of the EIA notification and the guideline given by the Central Pollution Control Board (CPCB) in establishing cluster of quarries, due to which the ecologically fragile forest area in Palakkad District is being affected. The applicant further stated that, in order to avoid public hearing and complying with the stringent provisions for providing Environmental Impact Assessment report etc., they are “clandestinely dividing the area into less than 5 hectares, so as to bring the area under category B2 to avoid stringent provisions of the EIA Notification, 2006 as amended in 2016.
5. The applicant further, alleged that, on account of the unscientific manner in which quarrying is being done by the above quarry owners, the part of the

streams has been blocked by making additional load on the riverbeds and also causing damage to the nearby houses and the eco-system as such.

6. That it is further submitted that respondent Ministry issued EIA Notification dated 14<sup>th</sup> September 2006 which requires certain projects to obtain prior Environmental Clearance (“EC”) before any construction work is taken up in case of new projects or expansion and modernization of existing projects or activities. The Schedule to the Notification details the categories or projects or activities which require prior EC.
7. That it is further submitted that all projects and activities are broadly categorized into two categories - Category “A” and Category “B”, based on the potential impacts on spatial extent and human health and natural and man-made resources.
8. That it is further submitted that all projects or activities included as Category ‘A’ in the Schedule, including expansion and modernization of existing projects or activities and change in product mix, shall require prior environmental clearance from the Central Government in the Ministry of Environment, Forest and Climate Change (MoEF&CC) on the recommendations of an Expert Appraisal Committee (EAC) to be constituted by the Central Government for the purposes of this notification.

9. That it is further submitted that all projects or activities included as Category 'B' in the Schedule, but excluding those which attract the General Conditions (GC) stipulated in the Schedule, will require prior EC from the State/Union territory Environment Impact Assessment Authority (SEIAA). In the absence of a duly constituted SEIAA or State Expert Appraisal Committee (SEAC), a Category 'B' project shall also be considered at Central Level by EAC/ Ministry.
10. As per Environmental Impact Assessment (EIA), 2006 Notification No. SO 1533, dated 14.09.2006, Environmental Clearance (EC) was required prior to start of mining of minerals on mine leases area of greater than 5 hectares. Further, through amendment in notification vide SO 2731 (E), dated 9.09.2013, EC has been made mandatory for all minor mineral mining activities irrespective of mine lease area. A copies of the said notifications are annexed and marked as **Annexure-R-5/1 and Annexure-R-5/2** respectively.
11. That it is submitted that in exercise of powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986), read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government made further amendments in the Environment Impact Assessment Notification, 2006 vide S.O.3977(E) dated 14th August, 2018 wherein, Schematic Presentation of Requirements on Environmental Clearance of Minor Minerals including cluster situation is given in Appendix-XI.

Further, it is also submitted that in the above said amendment, it is categorically mentioned that the General Conditions shall apply except: (i) for project or activity of mining of minor minerals of Category 'B2' (up to 25 ha of mining lease area); (ii) for project or activity of mining of minor minerals of Category 'B1' in case of cluster of mining lease area; and (iii) River bed mining projects on account of inter-state boundary. The copy of the Notification S.O.3977 (E) dated 14<sup>th</sup> August 2018 is attached herein and marked as **ANNEXURE R5/3**.

12. It is also to be mentioned that as per the Office Memorandum No. L-11011/175/2018-IA-II (M) dated 12.12.2018 issued by the Ministry of Environment, Forest and Climate Change, it was directed that projects with areas 0-5 hectares shall be evaluated by State Environment Impact Assessment Authority instead of District Environment Impact Assessment Authority for grant of Environmental Clearance. The copy of the Office Memorandum No. L-11011/175/2018-IA-II (M) dated 12.12.2018 is attached herein and marked as **ANNEXURE R5/4**.

13. It is most respectfully stated that as per the EIA Notification dated 14.08.2018, the proposal for grant of EC will be determined as per the area of mining lease. The projects with mining lease area above 100 hectares are dealt at the Central level and the projects with mining lease area less than 100 hectares are dealt at the State level.

14. It is submitted that in the instant matter, State Level Environment Impact Assessment Authority (SEIAA), Kerala has issued an Environment Clearance to the 8th Respondent on 24.05.2014. It is also submitted that at that point of time Environmental Impact Assessment (EIA), 2006 Notification No. SO 1533, dated 14.09.2006 and its amendments through notification vide SO 2731 (E), dated 9.09.2013 was in force.

*ch. Murali Krishna*  
**DEPONENT**

**Dr. Murali Krishna Chimat**  
Scientist "E"  
Ministry of Environment, Forest & Climate Change  
Integrated Regional Office  
Kendriya Sadan, Koramangala  
Bengaluru - 560034

**VERIFICATION**

Verified at Bengaluru on this 1<sup>st</sup> day of October, 2021 that the contents of this affidavit based on official record (s) maintained and information available in the office are true and correct, no part of it is false and nothing has been concealed there from.

*ch. Murali Krishna*  
**DEPONENT**

**Dr. Murali Krishna Chimat**  
Scientist "E"  
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