

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE AT CHENNAI**

ORIGINAL APPLICATION No.124 OF 2021 [SZ]

IN THE MATTER OF:

Sibi Joseph,

... Applicant

VERSUS

Union of India, Ministry of Environment, Forests and Climate Change,
Represented by its Deputy Director General of Forests (C),
Regional Office (SZ), Kendriya Sadan, 4th Floor, E&F
Wings, 17th Main Road, Koramangala II Block, Bangalore – 560034 & Others.

... Respondents

REPLY FILED ON BEHALF OF THE 2ND RESPONDENT

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**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI**

Original Application No. 124 of 2021 (SZ)

IN THE MATTER OF:

Sibi Joseph,
aged 38 years, Son of K.S. Joseph,
Kallammakkal house,
Dhoni P.O. Palakkad-678 009

...APPLICANT

v.

Union of India, Ministry of Environment, Forests and Climate Change,
Represented by its Deputy Director General of Forests (C),
Regional Office (SZ), Kendriya Sadan, 4th Floor, E&F
Wings, 17th Main Road, Koramangala II Block, Bangalore - 560034
& Others

...RESPONDENTS

REPLY FILED ON BEHALF OF THE 2ND RESPONDENT

I, **RANI R.S**, Wife of Mr.R.Prabodh Chandran, aged 45 years, working as Legal Officer, SEIAA at Thiruvananthapuram, do hereby solemnly affirm and sincerely state as follows:-

1. I am well acquainted with the facts of the case from the available records and I am authorized to file this Reply on behalf of the 2nd Respondent. I crave leave of the Hon'ble Tribunal to file report as and when additional facts are available to the Respondent.
2. It is submitted that the above application has been preferred by the Applicant herein for the following relief:-

INTERIM PRAYER

"this Hon'ble Tribunal may be pleased to pass an Interim Order appointing a Committee consisting of environmental experts, for the assessment of damages that has caused on environmental and natural resources based on the illegal quarrying activities carried out by the 8th and 9th respondents in Akathethara Grama Panchayat and ask them to file a report within a reasonable time which this Hon'ble Tribunal deems think fit and necessary in the circumstances of the case".



Rani R.S.

LEGAL OFFICER - SEIAA

PRAYERS

- i. To the 1st respondent to take immediate measures to assess the damages that have caused on account of the illegal quarrying operation being carried out by the respondents 8 and 9 in the *Akathethara* Grama Panchayat in *Palakkad* Taluk, *Palakkad* District, Kerala State taking into consideration the polluter pays principle as laid down in the case of *Vellore Citizens Welfare Forum vs. Union of India*, AIR 1996 SC 2715 and to pass necessary orders under Sec.5 of the Environment (Protection) Act, 1986 to recover the same from the 8th and 9th respondent in accordance with the law.
 - ii. To the 1st respondent to pass necessary orders invoking its powers under Sec.5 of the Environment (Protection) Act, 1986 restraining the granting of Environmental Clearance for mining in a particular panchayat area by the 2nd respondent if the total quarrying area exceeds 5 ha. (Five hectares) exceeds as a measure for the effective implementation of the judgment of the *Deepak Kumar vs Union of India* 2012 (4) SCC 629;
 - iii. To issue appropriate directions to the appropriate respondents to implement the recommendations of the Committee as referred to above;
3. It is submitted that this respondent denies all the allegations and averments raised by the Applicant except that are specifically admitted. It is submitted that the Respondent submit certain facts, which are necessary for the present Application, are placed hereunder in seriatim.
 4. It is submitted that the above Application has been filed by the Applicant before this Hon'ble Tribunal on stating the Environmental Conditions have been disregarded by the project proponent.
 5. **Facts of the case of M/s. Royal Sand & Gravels Pvt. Ltd (File No.160/SEIAA/KL/3490/2013)**
 - a. It is submitted that the 8th Respondent is a company engaged in quarrying operations. They obtained Environmental Clearance from the 2nd Respondent on 24.05.2014, vide No.160/SEIAA/KL/3490/2013 for a period of 15 years from 24.05.2014 subject to renewal in every five years. The 8th respondent was allowed



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LEGAL OFFICER - SEIAA

to quarry 3,50,000 MTA of building stone from an area of 9.3928 Ha in Sy Nos. 2,14;15 and 16/1 of Akathethara Village and Panchayat, Palakkad.

b. It is submitted that the proposal was placed in the 30th SEIAA meeting held on 09.05.2014. The Authority approved for issuance of Environmental Clearance on usual general conditions stipulated for mining projects, with a validity period of 15 years subject to renewal in every five years, and along with the following specific conditions:-

- a. Limit quarry to the stream on the eastern side to permit unhindered flow of the stream.
- b. Leave statutory distance from the forest land on the north.
- c. The stream may be provided with low level check dams to trap silt.
- d. Rain water harvesting facility is required in the absence of dependable source of water.

c. It is submitted that the complaint received on 21.03.2019 from Mr. Joby K Joseph, Kallammakkal House, Dhoni P.O., Palakkad District against the grant of Environmental Clearance to the quarry project of M/s. Royal Sand & Gravels Pvt. Ltd.

d. It is submitted that vide Judgment of Hon'ble High Court in W.P. (C) 14175 of 2020, filed by Mr. Joby K Joseph directed SEIAA to take up the matters raised in the petition and conduct an inspection, if necessary with due prior notice to the proponent and the petitioner .

e. It is submitted that the proposal was placed in the 105th SEIAA meeting held on 22nd & 23rd October, 2020 and the decision was as follow:

"As per the judgment of Honourable High Court in W.P. (C) 14175 of 2020, Authority decided to request SEAC for a field inspection. Copy of the Judgment as well as Ext P2 referred in the judgment, shall be made available to SEAC to facilitate the field inspections. SEAC shall give prior notice to both the Project Proponent and the Petitioner about the date of inspection and copy of inspection note shall be made available to both the petitioner and project proponent. After this an opportunity of being heard shall be given to both petitioner and project proponent as directed in the judgment".



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- f. It is submitted that as per the decision of 105th SEIAA meeting, SEAC members, Dr.P.S.Easa and Dr. A.V.Raghu, inspected the site on 30.11.2020.
- g. It is submitted that the proposal was placed in the 116th SEAC meeting held on 2nd, 3rd and 7th December, 2020. The Petitioner had informed that the hearing needs to be conducted only after providing field inspection report. So the Committee decided to approve the FIR by circulation and forward the same to the proponent and petitioner before inviting them for hearing.
- h. It is submitted that as per the judgment of Honourable High Court in W.P. (C) 14175 of 2020, dated 22.07.2021 the field inspection report has been forwarded to the petitioner and the proponent vide letter dated 15.12.2020.
- i. It is submitted that the Chairman, SEAC vide e-mail dated 15.12.2020 informed that the hearing may be done in the next SEAC meeting scheduled on 28th December, 2020. The hearing intimation were sent to the proponent and the petitioner vide e-mail on 16.12.2020.
- j. It is submitted that the proposal was placed in the 117th SEAC held on 28th, 29th and 30th December, 2020. The Committee heard the petitioner, proponent and his consultant. The Committee directed the petitioner and proponent to submit their hearing note including the comments on the Field Inspection Report . and that the same the 8th Respondent had submitted the hearing notes vide e-mail dated 29.12.2020 and the petitioner vide e-mail dated 01.01.2021.
- k. It is submitted that a complaint also received from Sri. Sibi Joseph dated 05.01.2021 and requested to cancel the EC already issued. This complaint was forwarded to District Clector, Palakad for necessary action and report vide letter dated 13.01.2021. A reminder letter No.160/SEIAA/KL/3490/2013 dated 12.02.2021 to District Collector, Palakkad was also sent.
- l. It is submitted that the proposal was placed in the 118th SEAC held on 01st, 2nd & 3rd February, 2021. The Committee decided to forward the Field Inspection Report along with the additional comments on the hearing note to SEIAA for further action.



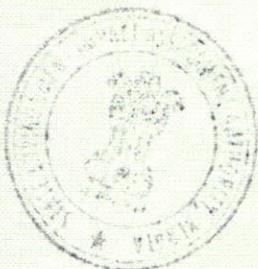
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- m. It is submitted that the proposal was place in 107th SEIAA meeting held on 18th & 19th February, 2021. The Authority decided to dispose of the representation on priority narrating the follow up action taken by SEIAA and SEAC.
- n. It is submitted that the Authority decided to inform DC Palakkad once again that if the quarry is standing dangerous to the life and property of residents, he may give a definite recommendation for cancellation of EC with supporting reasons, after calling for a detailed report from the District Geologist.
- o. It is submitted that the Judicial Section, Hon'ble National Green Tribunal, Chennai vide e-mail dated 22.06.2021 forwarded O.A.No.124/2021 filed by Sri.Sibi Joseph against the illegal operation of quarries in Palakkad District owned by M/s. Royal Sand & Gravels Pvt. Ltd. and M/s. Mary Matha Granites. The Hon'ble Tribunal, Chennai directed to constitute a committee for which Mining and Geology Department will be the Nodal Agency for coordination and for providing necessary logistics for this purpose. The Committee was directed to submit the report to this Tribunal on or before 02.08.2021, vide e-mail dated 28.06.2021, Chairman, SEAC nominated Dr. S.Sreekumar, Member SEAC to the Joint Committee. This was intimated to the Director Mining & Geology, vide Authority's Letter dated 29.06.2021.
- p. It is submitted that the District Collector, Palakkad furnished report vide letter dated 08.07.2021 regarding the quarrying operations of M/s. Royal Sand & Gravels Pvt. Ltd.
- q. It is submitted that the proposal was placed in 111th SEIAA meeting held on 17th & 18th August 2021. The Authority decided to inform the Director, Dept. of Mining and Geology to speed up submission of report to NGT. It is submitted that the above decision of 111th SEIAA meeting was intimated to the Director, Dept. of Mining and Geology vide Authority's Letter dated 10.09.2021.

6 . Fact of the Case of of M/s. Mary Matha Granites (File No.1385/EC2/2019/SEIAA)

- a. It is submitted that Mr.K.J.Thomaskutty, Managing Partner, M/s. Mary Matha Granites, Dhoni P.O., Palakkad - 675009, vide the application applied online and the hardcopy of application received on 02.07.2019, for Environmental Clearance for the granite building stone quarry project in Survey Nos.110/2, 112/1, 112/3, 110/1,



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109/1 in Akathethara Village, Palakkad Taluk, Palakkad District, Kerala for an area of 2.3964 Ha. The project comes under Category B2, Activity 1 (a), (i) as per the Schedule of EIA Notification 2006.

- b. It is submitted that the proposal was placed in the 101st SEAC meeting held on 1st & 2nd August, 2019. The Committee decided to invite the proponent for presentation along with Hazard zonation map.
- c. It is submitted that the proponent was also informed the above decision vide Letter dated 19.08.2019.
- d. It is submitted that the proposal was placed in the 102nd SEAC meeting held on 26th & 27th August, 2019. The RQP made a presentation. The Committee decided to obtain the following documents from the proponent:-
 - a. Certificate of dam Safety
 - b. In the light of floods in 2018 & 2019, a certificate hazard occurrence from the Soil Conservation Department has to be produced by the proponent.
 - c. Clarification regarding the distance of the project site from the nearest forest area.
 - d. Proponent should produce a Certificate from Mining & Geology Department stating that cluster situation will arise only in the case of existing quarry/ abandoned quarry.
- e. It is submitted that, the proponent submitted the documents as the 102nd SEAC meeting. Of these documents, the Executive Engineer, Irrigation Division, issued NOC for one year, vide Order No.A5-3280/NOC/2019 dated 28.01.2020. The proponent also submitted letter from District Soil Conservation Department dated 04.09.2019, stated that they cannot produce the required certificate as they required clarifications regarding the issuance of this certificate. The Cluster certificate dated 19.09.2019, stated that there is one quarry situated within 500 m radius of the quarrying lease area of Sri. K.J.Thomaskutty, Managing Partner, M/s. Mary Matha Granites.
- f. It is submitted that the proposal was placed in 111th SEAC meeting held on 2-4 June, 2020. The Committee entrusted Dr. S.Sreekumar & Dr. A.V.Raghu for field



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LEGAL OFFICER - SEIAA

Inspection. The Subcommittee conducted the field inspection on 11th February, 2021.

- g. It is submitted that the proposal was placed in the 120th SEAC meeting held on 24-26, March, 2021. The Committee found that on field inspection the total area of existing operational quarry and the proposed quarry is more than 5 Ha. Therefore, the proponent is directed to apply for Terms of Reference (ToR) for conducting the EIA study.
- h. It is submitted that the decision of 120th SEAC meeting was forwarded to the proponent vide Letter dated 07.04.2021.

7. Submissions:

- I. The Present OA is filed by the Applicant against the 8th and 9th Respondent .
- II. It is humbly submitted that Environmental Clearance is issued by this Respondent only to the 8th Respondent for extraction of minor minerals and said EC dated 24.05.2014 for 15 years subject to the renewal in every 5 years. An Application was received from the project proponent in the year 2019 and based on the same the SEIAA in its 88th meeting modified the renewal to review. The subject project was reviewed by MoEF. The Applicants grievance is not on the issuance of EC and the Applicant has no locus standi to challenge the EC after 7 years of the issuance of the same. Further it is submitted that the Applicant has not placed any record to show that EC issued is bad in accordance with law.
- III. It is humbly submitted that EC has not been issued to 9th Respondent . This Respondent in fact has directed the 9th Respondent to provide ToR due to the fact that EC sought was for more than 5 ha.
- IV. It is humbly submitted that this Respondent has issued only in accordance with law and this Respondent is diligent in issuing EC to any project.
- V. It is humbly submitted that the 2nd prayer of the Applicant is without any application of mind. This Respondent is well aware of the provisions of law and that this Respondent is well within the ambit of law. The Applicant has no locus to seek a direction as prayed for. The Respondent is bound by all legal provisions while issuing Environmental Clearance. It is submitted that the Respondent is well aware of the environmental norms and the legal proposition and all other requirements as mandated under the environmental law while issuing EC.
- VI. It is submitted that very fact that the ToR was sought for from 9th Respondent satisfies that this respondent has been diligently issuing EC.



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LEGAL OFFICER - SEMA

Under the above circumstances, it is humbly prayed that this Hon'ble Tribunal may be pleased to dismiss the plea against the 2nd Respondent, if any, pass such order or orders as this Hon'ble tribunal may deem fit and proper in circumstances of the case and thus render justice.

Dated at Chennai on this the 01 day of October, 2021

Rani R.S.

LEGAL OFFICER - SEIAA
2ND RESPONDENT

VERIFICATION

I, I, Rani R.S, Wife of Mr.R.Prabodh Chandran, aged 45 years, working as Legal Officer, SEIAA at Thiruvananthapuram, do hereby verify that the contents of paras 1 to 7 are true to the best of my personal knowledge and paras 1 to 7 believed to be true on legal advice and that I have not suppressed any material fact.

Verified at Chennai on this the 01 day of October, 2021



Rani R.S.

LEGAL OFFICER - SEIAA
2ND RESPONDENTS