

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE BENCH AT CHENNAI**

ORIGINAL APPLICATION NO. 124 OF 2021

SIBI JOSEPH

APPLICANT

V.

UNION OF INDIA AND OTHERS RESPONDENTS

OBJECTIONS FILED BY RESPONDENT NO: 8 –
M/S ROYAL SAND AND GRAVELS PVT. LTD. TO
THE REPORT AND STATUS REPORT OF THE
WORK DONE BY THE JOINT COMMITTEE
SUBMITTED BY THE 3RD RESPONDENT

COUNSEL FOR 8TH RESPONDENT

M/s. T. H. ABDUL AZEEZ & ASSOCIATES

T. H. ABDUL AZEEZ

(K/149/1970)

K. P. MAJEED

(K/167/1986)

SHANKAR V.

(K/151/2002)

MOHAMMED SADIQUE T. A.

(K/171/2002)

KEERTHIVAS GIRI

(K/687/2015)

MUTHUCHHARAN SUNDRESH

(MS 2892/2018)

“ASHIRWAD”, M. M. ROAD,

NEAR HIGH COURT OF KERALA,

ERNAKULAM NORTH P. O., KOCHI-682 018

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RESPONDENT**

The above objection is preferred by the Respondent No: 8 to the Report and Status Report of the work done by the Joint Committee submitted by the 3rd Respondent.

1. The 3rd Respondent, in his Report at paragraph No: 3 has ignored the fact that the third respondent had on 12.02.2020 executed an additional quarrying lease enhancing the quantity of annual extraction of granite from 1,00,000 tonnes to 3,00,000 tonnes from the same lease area. This is produced as Annexure R8 (7) in the reply affidavit of this respondent.
2. The 3rd respondent has ignored the very same fact at paragraph 2.1 of the status report as well.
3. In paragraph 3 of the status report, the 3rd respondent categorically states that the team physically verified the geo co-ordinates of all the boundary pillars and compared with the

approved mining plan. This being the fact, the remarks of the joint committee given at point no. 6 in the table appended to paragraph 5 of the status report that upon plotting the boundary pillars in the latest Google map to check deviations made in the mining it was found that the quarry area of this respondent is slightly greater than the area in the original mining plan is unfounded and is liable to be rejected at the very outset.

4. Regarding the observations made in the status report concerning this respondent, the following objections may be taken on record:

- A. The allegation that no proper working benches are seen in the quarry is baseless and unfounded. This respondent has produced photographs of the benches formed in their quarry as Annexure R8 (40) – page 389 - in the reply affidavit of this respondent. Moreover, this respondent has clearly explained the undermined status of the quarry which had restricted this respondent to extract only around 50% of the permissible mining quantity till date. Pleadings to this effect was already made at paragraph 46 (page 30 and 31) of the reply affidavit of this respondent. The quarry site, in order to be readied for commencing quarrying operations had to be cleared of all over burden/topsoil from the proposed quarrying area. Removal of this over burden/topsoil has to be done carefully and in a scientific manner. Additionally, this respondent is cast with a legal responsibility under the terms of the quarrying lease as well as the environmental clearance to remove the



over burden /topsoil and stack/store them safely outside the lease area in a land owned by this respondent for the purpose of utilising the same at the time of mine closure. Removal of over burden/topsoil from such designated area is strictly prohibited by law. The same is carried out by this respondent responsibly and is noticed by the joint committee. The joint committee makes a reference to this fact at paragraph 4.1 (vi) of the status report. More detailed inference in this regard is also available in the field inspection report dated 14.12.2020 by the expert committee appointed by the second respondent herein. A copy of the report dated 14.12.2020 is made available as Annexure R8 (18) at page 201 of the reply affidavit filed by this respondent.

B. Regarding the limiting of quarry to the stream on the eastern side and providing low level check dams to streams for settling of silt as stipulated in the environmental clearance, the same is done by this respondent without any deviation. This fact has been noted by the officials of 1st respondent, MoEF & CC, Regional office at Bangalore, during their inspection on 23.01.2019 to monitor compliance to the various conditions of environmental clearance granted to this respondent. The same is noted as point (i) in the detailed compliance report issued by the 1st respondent herein on 30.01.2019. The certified compliance report issued by the 1st respondent herein is already on record as Annexure R8 (12) – at page 162 onwards - of the reply affidavit filed by this respondent



(the detailed compliance report begins at page 165 of the reply affidavit).

C. As to the provision of garland drains with clarifiers to be provided in the lower slopes around the core area to channelize storm water; this aspect was also physically verified and found to be complied with by the officials of the 1st respondent during their site visit mentioned in the preceding paragraph. Observations in this regard may be found at point (xxiii) in the detailed compliance report issued by the 1st respondent herein on 30.01.2019 which can be found at page 168 of the reply affidavit filed by this respondent.

D. It is observed by the joint committee on the day of inspection, three seasonal streams entering the quarry area from the surrounding hills were ending up in the mining pit. It is further observed that the quarry operations have thus disturbed the natural course of the seasonal streams. It is most respectfully submitted by this respondent that these are strictly seasonal streams occurring only during monsoon/rainy season and as rightly observed by the joint committee these seasonal streams flow downwards from the surrounding hills and are thus guided by the natural gravitational force. Obviously, these seasonal streams will end up only in the quarrying pit which lies at the bottom. The joint committee very rightly have noted the efforts of this respondent by pumping out such water coming from the hill to the quarry pit to the settling tank and thereafter ensuring its natural flow through the check dam and the



subsequent settling tanks 3 and 4 before it joins the natural course out of the quarry area. Rendering such an observation in paragraph 4.1 (iii) of the status report that the water ultimately joins its natural course, with all due respect, this respondent denies the observations made in paragraph 4.1 (ii) of the status report that the natural course of the seasonal streams are disturbed.

E. The observation at paragraph 4.1 (iv) of the status report that the seasonal stream in the eastern side falling into the settling pond 1 has been concealed intentionally by this respondent and it is observed that it is a malafide attempt to conceal/stroke facts before the regulatory authorities. It is most respectfully submitted that there has been no malafides on the part of this respondent and the seasonal stream on the eastern side has never been attempted to be concealed or suppressed by this respondent. If that was the case, the regulatory authorities would not have, in the first hand, insisted this respondent to limit the quarrying operations to the stream on the eastern side. Moreover the very same seasonal stream on the eastern side, allegedly concealed/suppressed by this respondent, is disclosed in the reply affidavit as Annexure R8 (33) at page 369.

F. The observation that the quarry was completely stopped and operations were suspended on the day of inspection is to be viewed as a responsible step taken by this respondent in compliance with statutory regulations and in view of the safety of the committee members and various other people present at the time of inspection. Quarrying operations



essentially involve regulated blasting operations which have to be carried out with utmost care and diligence under the supervision of highly trained personnel. This respondent is under an obligation of statutory nature to not conduct any quarrying operations while strangers are present in the mining area.

5. This honourable Tribunal, by Order dated 14.09.2021, had directed the Committee to submit the Report on or before 06.10.2021 to this honourable Tribunal. But the Report as filed by the 3rd Respondent is seen signed by the Director of Mining and Geology, who also is not a member of the Joint Committee, and therefore cannot be taken as a Report by the Joint Committee.
6. In view of the aforementioned objections, the observations against this respondent in the Report and Status Report filed by the 3rd respondent are liable to be rejected. This respondent further seeks leave of this honourable Tribunal to raise any additional objections at the time of hearing or at such appropriate time during pendency of this Original Application.

Dated this the 28th day of October, 2021.



Adv. Mohammed Sadique T. A.

Counsel for 8th Respondent