

BEFORE THE NATIONAL GREEN TRIBUNAL

SOUTHERN ZONE AT CHENNAI

(Under Section 18(1) read with Sections 14 of National Green Tribunal Act, 2010)

Original Application No. 1 2 4 of 2021 (SZ)

BETWEEN

Sibi Joseph, aged 38 years, Son of K.S.Joseph,
Kallamackal House, Dhoni.P.O., Palakkad Email: @gmail.com.
Mob: 98464 64580.....

APPLICANT

- AND -

1. Union of India, Ministry of Environment, Forests and Climate Change,
Represented by its Principal Private Secretary, Regional Office,
Southern Zone, *Kendriya Sadan*, 17th Main Road, IIInd Block,
Koramangala, Bangalore - 560 034.

Tel.No.080-25635901/908 E-Mail: rosz.bng-mef@nic.in **RESPONDENTS**

**OBJECTION TO THE STATUS REPORT FILED BY JOINT COMMITTEE SUBMITTED
BY THE 3RD RESPONDENT**

1. It is respectfully submitted that the Status Report filed by the Joint Committee submitted by the 3rd respondent is incomplete and it has following defects.
2. The report has not referred to the judgment in *Shefy Joseph vs MoEF* O.A.No.244 of 2017, dated 27-05-2021 of this Hon'ble Tribunal if the mining operations were carried out after 15.01.2016 without obtaining EC, then the period of operation from 15.01.2016 till they stopped the operation will be treated as an unauthorized operation of the quarry, for which, they



will be liable for payment of environmental compensation. This judgment was affirmed by the Hon'ble Supreme Court in Civil Appeal No.4643 of 2021, dated 16-08-2021. Thus, the judgment of the Tribunal has become law of land and will override the decision of the Hon'ble High Court.

3. It is stated by this applicant that the quarrying site is 7.5 kms from the Tamil Nadu State Boundary. At the time of inspection, a team member asked the quarry owner about it. He answered it stating that it is at least 25 kms away from the site. The Team has not taken any steps to measure the distance from the quarry sites to the State boundary.
4. Several houses located between the two quarries with cracks in the wall and foundation were shown to the joint committee by the complainant and his neighbours. The distance between the cracked houses and quarries was measured with geo co-ordinates by joint committee in the presence of the complainant. But this is not included in the report. The main reason for including cluster quarrying in the complaint is the large number of impacts on houses located between these two quarries.
5. An important factor in the specific conditions of the EC was 'limit the quarrying at the eastern side to ensure the unhindered flow of the stream'. Due to the quarrying not complying with this, the stream ended up falling into the pit where the rock was removed. This is not seriously mentioned in the report. A stream is also a natural flow of water which cannot be disturbed. The disturbance of natural flow of water will have severe adverse on the environment.



6. The report did not mention that the boundary pillars were removed from the north side nearest to forest although it was specifically mentioned that a 50 m buffer area should be maintained with the forest on the north side of the quarry under the specific conditions of the EC.
7. It is important under the general conditions of the SEIAA that, mining should be carried out at a distance of 50 m from the forest. (In 2014 it was 200 meters. At that time, the quarry was only 50 meters from the forest and had been given an environmental clearance by the SEIAA). Survey no.14, where the crusher unit is located on the southwest side, shows forest land and its cairn stones just 8 meters from the lease area. It is not reported that mining was done here without leaving even a 7.5 meter buffer zone from the boundary pillar.
8. The District Disaster Management Authority and NCESS have warned that the area is prone to landslides. Every year since 2018, there have been minor landslides and mudslides in the vicinity of the quarry and landslides on the other side of the Dhoni Hill, where mining is taking place, are falling into the Malampuzha Dam. All this was brought to the notice of the Joint Committee but it was not examined or reflected in the report.
9. The Committee has not verified the application submitted by the 8th respondent for getting EC so as to ascertain whether the conditions imposed are violated or not.



10. The Joint Committee did not report that the natural structure of the land had been altered by planting trees on top of the overburden, which had to be re-deposited after the mining period in the rock excavation pits. This overburden had been collected near the stream at a height of about 20 m outside the lease area without any compound wall.
11. The report also refers to streams that originate from the Dhoni forest and flows for at least 8 months of the year as 'seasonal streams' instead of 'natural streams' which goes dry in summer.
12. The Panchayat road to the site of the 8th respondent is less than 5 meters wide, making it difficult for the locals to travel on this road due to the large number of heavy vehicles. When the matter was brought to the notice of the Joint Committee, the width of the road was measured and convinced. The committee members observed that the restrictions should be imposed on vehicles above 10 tones. But it is not seen reflected in the report.
13. Although the 9th respondent is operating the quarry for the last 11 years without environmental clearance or any other environmental impact studies no steps have been taken by the 2nd respondent. No query has been put to the 9th respondent in this regard.
14. The report stated that 8th respondent is permitted to quarry 100,000 metric tonnes and 9th respondent was permitted to quarry 40,000 metric tonnes. But the EC issued to the 8th respondent states about the permission only for quarrying 3,00,000 metric tons. No EC was issued to the 9th respondent.



- 15.No explanation was sought from the 2nd respondent in this regard. No measures were taken to verify the actual quantity of the illegal quarrying operations done by the 8th respondent. The quantity of the sand carried in lorries will show that it is in much excess.
16. In 2012, the 2ND respondent rejected the application made by the 8th respondent for EC for the reason that it is within the Ecologically Sensitive Zone. Thereafter under what circumstances the EC was later on obtained in the same in 2014 was not even enquired or explained.
- 17.The Committee ought to have assessed the ecological damages being caused in the area on account of the illegal mining activities that is being carried out in that area based on the precautionary principle as explained by this Hon'ble Tribunal in similar cases.

Dated this the 6th day of November, 2021

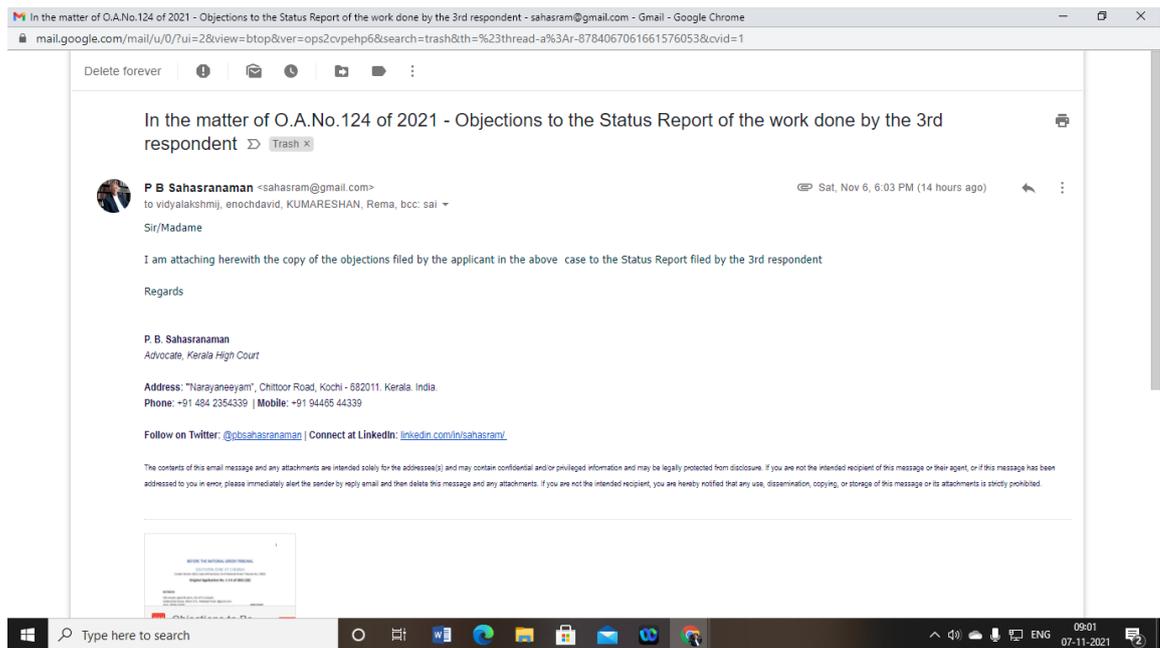


Counsel for the Applicant



Sibi Joseph

Proof of sending of copy to the respondents



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P B Sahasranaman <sahasram@gmail.com>
to vidyalakshimij, enochdavid, KUMARESHAN, Rema, bcc: sai

Sat, Nov 6, 6:03 PM (14 hours ago)

Sir/Madame

I am attaching herewith the copy of the objections filed by the applicant in the above case to the Status Report filed by the 3rd respondent

Regards

P. B. Sahasranaman
Advocate, Kerala High Court

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