

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI

Original Application No.127 of 2021

P.Nanthagopal
S/o.Pazhani Muruvappan,
110, Kunnavakkam Village,
Nellihooppu Street,
Thirukazhukundram Taluk,
Chengalpattu District- 603 102

.....Applicant

VS

1. The Commissioner,
Geology and Mining Department,
Government of Tamilnadu,
Alandur Road, Guindy
Chennai - 600 032.
2. The District Collector,
Collectorate GST Road,
Chengalpattu District,
Chengalpattu - 603 001
3. The Deputy Director,
Geology and Mining Department,
Chengalpattu District,
Chengalpattu - 603 001.
4. The Tahsildar,
VOC Nagar, Thirukazhukundram Taluk,
Chengalpattu District,
Chengalpattu - 603 001
5. The Member Secretary,
Tamilnadu Pollution Control Board,
No.76, Mount Road,
Guindy, Chennai - 600 032
6. The District Environmental Engineer,
Tamilnadu Pollution Control Board,
Maraimalai Adigalar Street,
Kancheepuram District,
Chennai - 603 209
7. The Chairman,
State Level Environment Impact Assessment Authority,
Ground Floor, Panagal Building,
No.1, Jeenis Road, Saidapet,
Chennai - 600 015



8. Tvl.Salem Mines & Aggregates,
No.9, Nagarathinam Nagar Extension,
Thiruneermalai Road,
West Tambaram,
Chennai – 600 045

REPLY FILED BY THE 8TH RESPONDENT

I, G.Elango, Son of Gurusamy, Hindu, aged about 44 years, residing at No.6/154, Salem Main Road, Nallasamauthram Post, Thiruchengode Taluk, Namakkal District, one of the Partners of Tvl.Salem Mines and & Aggregates, i.e.,the 8th Respondent, do hereby solemnly affirm and sincerely state as follows;

1. I am the one of the Partners and authorized signatory of Tvl.Salem Mines and & Aggregates, the 8th Respondent herein and I am well acquainted with the facts and circumstances of the case.
2. It is submitted that, the preliminary objections filed by this Respondent on 04.10.2021 and the objections to the Joint Committee report filed by this Respondent on 13.12.2021 may be treated as part and parcel of this objections.
3. It is submitted that, the First Respondent, i.e, the Director of Geology and Mining had filed his report dated 22.03.2022, correlating the disputing and factual aspects of this Respondent.
4. It is submitted that, para 2 to 21 of the said report of the first Respondent are all factual aspects of the above said original application.
5. I submit that, with regard to 22 (i) and 22 (ii), as stated by this Respondent in preliminary objections to the Joint Committee report dated 13.12.2021, the above said quarry **was operational for two decades which is admittedly a non-virgin quarry with different lease-holders from 2006 to till date and this Respondent doesn't know how much minerals had been extracted for the said period by those lease-holders.** When this being the case, the quantum of minerals measured in the said inspection report is exfacie factually wrong and highly erroneous and thereby, the Report filed by the first Respondent supports the



contention of this Respondent that, the quarry area was subjected to quarry for two decades by two different lessees is one and same area in Kunnavakkam Village. The lease granted in said survey numbers is tabulated herein,

S.F.Nos.175/1, 175/2B, 175/3, 175/8B, 175/9B, 175/10B, 175/11B, 175/12, 176/2A and 176/2B

<u>S.No</u>	<u>Name of the lessee</u>	<u>S.F.No</u>	<u>Extent In hecs.</u>	<u>Dist.Collector proceedings</u>	<u>Lease period</u>
1.	P.Janardhan Reddy	175/1 175/2B 175/3 175/8B 175/9B 175/10B 175/11B 175/12	1.51.0	Rc.80/2010/Q1 dated 24.03.2010	24.03.2010 To 23.03.2015
2.	Tvl.Salem Mines and aggregates, No.9, Nagarathinam Extension, Thiruneermalai, West Tambaram, Chennai- 45.	175/1 175/2B 175/3 175/8B 175/9B 175/10B 175/11B 175/12 176/2A 176/2B	3.13.0	Rc.287/2015/Q2 dated 26.02.2016	26.02.2016 To 25.02.2021

Survey No. S.F.No.176/1

<u>S.No</u>	<u>Name of the lessee</u>	<u>S.F.No</u>	<u>Extent In hecs.</u>	<u>Dist.Collector Proceedings</u>	<u>Lease period</u>
1.	M.Ramachandiran	176/1(P)	3.00.0	Rc.1917/2005/Q1 dated 07.02.2006	07.02.2006 To 06.02.2011
2.	P.Janardhan Reddy	176/1(P)	3.00.0	Rc.597/2010/Q1 dated 15.07.2011	15.07.2011 To 14.07.2016
3.	Tvl.Salem Mines and aggregates.	176/1A	3.04.00	Rc.003/Q2/2018 dated 19.11.2018	19.11.2018 To 18.11.2023



6. It is submitted that, Para 22(ii) of the 1st Respondent Report state as follows,

ii. it is not known whether transport permits issued to the former lessee Thiru.M.Ramachandran in respect of the area granted under quarry lease in S.F.No.176/1 for the period from 07.02.2006 to 06.02.2011 were taken into account before arriving the actual quantum of rough stone mined and transported by the respondent in respect of the area granted under quarry lease in S.F.No.176/1A.

Thus the report of the First respondent clearly states that, the Joint Committee never took in to the consideration, whether transport permit issued to the former lessee Mr.Ramachandran in respect of S.F.No.176/1 for the period of 07.02.2006 to 06.02.2011 were taken into consideration by the Joint Committee, before arriving the quantum of mined minerals transported and thereby it proves the fact that the quantity derived by the Joint Committee is incorrect and fallacious.

7. It is submitted that, Para 22(iii) of the report of the first respondent states that,

iii. similarly it is not known whether the quantity for which transport permits obtained by Thiru.P.Janarthan Reddy for the period from 15.07.2011 to 14.07.2016 in respect of the area granted for quarry lease in S.F.No.176/1 (P) of Kunnavakkam Village were taken into account by the Joint Committee before arriving the quantum of rough stone unlawfully mined and transported by the 8th Respondent in respect of the area granted under quarry lease in S.F.no.176/1A of Kunnavakkam Village.

Hence, as pleaded by this respondent, the Report of the First respondent clearly states that, the Joint Committee never took in to the consideration, whether transport permit issued to the former lessee Mr.P.Janarthan Reddy in respect of S.F.No.176/1(P) for the period of 15.07.2011 to 14.07.2016 were taken into consideration by the Joint Committee before arriving



quantum and thereby the quantity derived by the Joint Committee is proved as incorrect and flawed.

8. As stated by the first respondent in Para 22(iv) of the Report, the quarry leased out to this Respondent was quarried by the lessee one Mr. Janardhan Reddy from 24.03.2010 to 23.03.2015 and the extent of 3.00.0 to 3.13.0 was extended by the proceedings of the District Collector Kancheepuram in Na.Ka.No.479/QU2/2018 dated 26.11.2018 and had granted quarry lease **permission from 26.02.2016 to 25.02.2021** for quarrying 4,33,483 cbm of roughstone and gravel and moreover, it is further submitted that, the said quarry was not operating **since 25.02.2021 in the said survey numbers** and even the Joint Committee had stated that deficit quantum of -2,80,977 cum of Rough Stone is yet to be quarried by this Respondent. But being the law-abiding citizen, this respondent had stopped the quarry operations on the last day of lease period. Thereby, without considering the exact quantity quarried by the previous lessees and without considering the quantity quarried by this respondent, the Joint Committee had erroneously derived the calculations.

9. I submit that, the para 22 (v) of the first respondent report states that, **v. it is not known whether the quantity for which transport permits obtained by Thiru.P.Janarthan Reddy for the period from 24.03.2010 to 23.03.2015 in respect of the area granted for quarry lease in S.F.No.175/1,175/2B,175/3, 175/8B,175/9B, 175/10B,175/11B, 175/12 of Kunavakkam Village were taken into account by the Joint Committee before arriving the quantum of rough stone unlawfully mined and transported by the 8th Respondent in respect of the area granted under quarry lease in S.F.No.175/1,175/2B,175/3, 175/8B,175/9B, 175/10B,175/11B, 175/12, 176/2A and 176/2B of Kunnavakkam Village.**

Hence, as pleaded by this respondent and as stated in the report of the First respondent in para 22(v), the joint committee had not taken into the

account of the previous lessees' transport permits and quantum quarried by the said lessees and moreover it is unquestionable fact that, even the authorities unaware the quantum quarried by those previous lessees and thereby as pleaded by this respondent, without proper calculation and evidence, the joint committee had concluded that this respondent had quarried excess quantum, without basic fundamental principal of no man is punishable except for a breach of law and the same has been exposed in the report of the first respondent.

10. This respondent denies the very same allegation that depth of 98 meters were quarried in the leased-out area. With regard to para 5(2) (iv) of the joint committee report and perusing the report of the first respondent, it can be clearly concluded that the quantum and depth of minerals measured by the committee is ex-facie factually wrong and highly erroneous. It is submitted that, the quarry operation was carried out to the permitted level (i.e, to the depth of 65 metres) and the depth measurement as quoted by the official Respondents and the committee shows that, an apparent error has been committed by the authorities as the area was inspected without considering the total geological resources including earth and sand. It is further submitted that, in one hand, the report admits that the deficit quantum of -2,80,977 Cu.m of roughstone, this respondent had quarried in the mining area and on the other hand, the report erroneously stated that, the quarry operation was carried to the depth of 92 mtr. To support this contention, this respondent submits that, in Para 4(2)(v) of the Joint Committee report, it has stated that, rough stone quantity of 5,07,348 cu.m were removed from the leased-out area for an average depth of 25.5 metre from 1.99.0 hectares out of 3.04.00 hectares, proving the fact that nothing is quarried from outside the leased out area and thus the flawed and inadequate report is submitted before this Hon'ble Tribunal without proper demarcation and without measuring the pit by trained experts. It is submitted that, the quantum derived by the Joint Committee without



considering the previous lessees is itself subjected to question and thereby, as stated above, the measurement of depth by admitting deficit quantum is apparently wrong and same has to be set aside.

11. It is submitted that, the extract of Para 22 (viii) and 22 (ix) of the first respondent report is as follows,

viii. whereas it was reported by the Joint Committee that 8,10,990 Cbm of rough stone had been quarried and transported by the 8th Respondent in respect of S.F.No.176/1A of Kunnavakkam Village and the details for arriving such quantum of 8,10,990 Cbm of rough stone quarried and removed from lease – I were not provided in the report submitted by the Joint Committee. After re-estimating the actual quantum of minerals mined and transported by the 8th respondent in S.F.No.176/1A of Kunnavakkam Village (Quarry Lease-I), the quantity of 1,52,160 Cbm of rough stone for which transport permits obtained by the 8th could be deducted and thereafter only the actual quantum of rough stone mined and transported by the 8th respondent in S.F.No.176/1A of Kunnavakkam Village could be arrived.

ix. apart from that, the deduction of 2,80,977 Cbm of rough stone from the estimated quantum of 6,58,830 cbm of rough stone unlawfully quarried and transported in respect of the lease area – I is incorrect. Therefore the quantum of 3,77,853 Cbm of rough stone unlawfully quarried and transported by the 8th respondent in respect of both quarry lease No.I & II as arrived by the Joint Committee is incorrect and the same has to be reassessed.

Therefore, as stated in Para 22 (viii) and 22 (ix) and the plea of this respondent is that, the **joint committee had categorically admitted that this respondent has not done any illegal or excess mining and the quantum of mineral extracted is mentioned as minus 2,80,977 (-2,80,977) quarried and tallying the same, the committee has erroneously and inaccurately derived the calculation and came to**



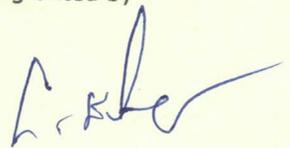
the conclusion that, quantum of 1,37,509 Cu.m of gravel and 3,77,853 Cu.m of rough stone has been quarried and the same is factually wrong and the report of the first respondent supports the contention of this Respondent.

12. It is submitted that, this Respondent further reiterates the fact that, **this respondent denies the allegations of the Joint Committee report and the measurement derived by the Joint Committee is fallacious and incorrect, without conducting proper measurement of pit area. The method adopted for measuring the quarry pit is not mentioned and methodology adopted by the joint committee is not enclosed and with that unfinished report, the Joint Committee report has been filed by the joint committee.**
13. This respondent submits that, the authorities failed to note that the officials of the Mining Department as well as the Revenue Department are periodically inspected the subject quarry and after taking measurements of the quarried minerals, transport permits were issued on payment of necessary seigniorage fee and if so any violation either detected or been noticed, the said officials would have not granted necessary permits and the pit measurements were taken without considering the fact that after removing the said first layer, the stone deposit also should be removed and the actual marketable blue metal rough stone will be found only after removing the first layer of the stone formation and the depth measurement as quoted by the Respondent and joint committee report shows that, an apparent error has been committed by the authorities and the area was inspected without considering the total geological resources including earth and sand.
14. It is submitted that, as stated earlier, the report went below-par and had stated that *quantum of 1,37,509 cbm of Gravel and 5,89,443 cbm of Rough stone Gravel had been removed within the lease hold area granted under lease in S.F.Nos.175/1, 175/2B, 175/3, 175/8B, 175/9B, 175/10B,*



175/11B, 175/12, 176/2A, 176/2B and such quantum has been fallaciously derived without proper application of mind. The Joint Committee in Para 5 (2)(vi) also submitted that, quantum of 96,970 Cbm of roughstone had been removed from an averaged depth of 14.8 metre and this calculation is inaccurate and **the method adopted for measuring the quarry pit is not mentioned and methodology adopted by the joint committee is not enclosed and with that unfinished report and hence the derived calculation by the Joint Committee is incorrect.**

15. With the mist of repetition, this respondent submits that the quantum of minerals derived by the committee is factually wrong and had balanced the quantum in hasty manner, for the reason best known to them. In first place, the authorities agreeing the fact that, this respondent is deficit and still have permitted quantity of 2,80,977 quantity of roughstone left quarried during the lessee period in Lease-II. In contra, the authorities had balanced the quantum of 8,70,421 with the transport permit obtained and had concluded that, this respondent had not quarried illegal mining of roughstone and had conclude that, this respondent had quarried and transported unlawful quantity of gravel. Thus, the method used for segregating the quantum of gravel and roughstone arise and methodology used to calculate such quantum had not mentioned in the joint committee report and it seemed to be an visual inspection without proper measurement of pits and hence the allegation of excess mining ought to be rejected.
16. It is further submitted that, this respondent has not encroached any adjacent lands and have not indulged in any illegal quarrying operation as stated in the impugned order and no illegal transported mining case has been registered on this respondent till today. When such being the case, the allegations on this respondent is false and incorrect. This respondent further submits that, the quarry alleged was operating in accordance law, with all precautionary measures, with the terms of the licenses granted by



the District Collector, the Tamilnadu Pollution Control Board and by the Mining plan approved by the Department of Geology and Mining and such, the transport permit was issued to this respondent since the inception of the lease period and there is no violation detected regarding the same, **if there is any violation or illegal quarry operation, the authorities ought to have not permitted the same and ought to have stopped the quarry operations.**

17. This Respondent reiterate the fact that the alleged S.F.No.174/2D does not belong to this respondent or part of the leased-out area and hence there is no possibility of quarrying such huge quantity, when the authorities issue transport passes after due personal verification of quarry sites and assuming, by this allegations, the authorities is indirectly imposing the credibility of his very own officials and the officials of the Department of Geology and Mining, who issued transport passes and required permit to this respondent, which attracts disciplinary proceedings of the said officials for causing loss to the government and this respondent denies the allegations that minerals has been illegally quarried outside the lease hold area in S.F.No.176/1B and the Joint committee had derived such calculations without any iota of evidence.
18. This respondent denies the allegation of dumping of gravel in non-leased out area. It is further submitted that, if at all the authorities had noticed the dumping of gravel in Poramboke lands, the permission and renewal for transport passes would have not granted to this lessee.
19. First and foremost, this respondent submits that the inspection of joint committee report is non reliable and self-contradictory and statistically invalid in the eyes of law. In such case, the environmental compensation derived by the Joint Committee by its deferred report is abuse process of law and the Report dated 22.03.2022, filed by the first respondent substantiate and sustain that the quantum derived by the authorities were wrong and incorrect.



20. It is submitted that, the quarrying operations were carried in systematic manner following all safety measures of labourers and workers and to certify and validate the conduct of this respondent, the transport passes were issued by the authorities without any complaints till the date of filing the original application 127 of 2021 before the Hon'ble Green Tribunal.
21. It is submitted that, since the issues and allegations put before this respondent is awaiting for finality, the recommendation of the committee on account of environmental compensation does not arise and the authorities failed to note that no complaints or illegality had been took place in this respondent quarry in any point of time and the transport passes were issued by the department of Geology and Mining, only after due process of verification by the authorities and there is no violation detected whatsoever regarding the allegations and the officials haven't found fault with this respondent until filing of the above said Original application before the Hon'ble Tribunal and assuming, if there is any violation or illegal quarry operation or transportation of minerals, the authorities ought to have not permitted the same and transport permit ought have not obtained and ought to have stopped the quarry operations by then and the recommendation of the joint committee is self-contradictory, unsystematic and irrational.
22. It is submitted that, as per the orders of this Hon'ble Tribunal, the Joint Committee had inspected the quarry sites and the reports of the joint committee and the report of the First respondent and other respondents has been filed, and also the appeal filed by this respondent questioning the order passed by the District Collector Chengalpattu, in proceedings in Rc.No.03/Q2/2018 dated 29.10.2021 is under challenge and pending before the Director of Geology and Mining, Chennai i.e., the first respondent. We had raised all these grounds which was clearly understood by the appellate authority and the report filed by him clearly shows the correctness of our pleadings in the appeal filed before him.

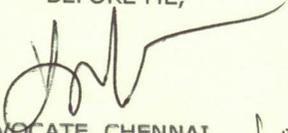


23. I submit that, after considering the plea of this respondent, the first respondent had asked for the revised report from the Joint Committee incorporating the actual quantum of minerals mined and transported by this Respondent and hence, the balance of convenience is also in my favour and no prejudice whatsoever would be caused to the respondents by setting aside the findings arrived by the Joint Committee in its report dated 26.10.2021.

In the above circumstances, it is most humbly prayed before this Hon'ble Tribunal, to consider the above said submissions made by this respondent and may be pleased to direct the 1st Respondent and the Joint Committee to submit a revised report considering the objections and pleadings of this respondent and pass appropriate order by setting aside the findings arrived by the Joint Committee in its report dated 26.10.2021, pending disposal of the original application and may be pleased to pass such orders deemed fit and render justice.

Solemnly affirmed at Chennai
On this 01th day of April 2022
In my presence.

BEFORE ME,


ADVOCATE, CHENNAI

VERIFICATION

I, G.Elango, Son of Gurusamy, One of the Partners of Tvl.Salem Mines and Aggregates, do hereby verified and declare that what is stated in para No.1 to 26 are true to the best of my knowledge and belief and I have not suppressed any material facts before this Hon'ble Tribunal.

Dated at Chennai on this the 01th Day of April 2022


8TH RESPONDENT

**BEFORE THE HON'BLE NATIONAL
GREEN TRIBUNAL (SZ)**

CHENNAI

NANTHAGOPAL

...APPLICANT

VS

THE COMMISSIONER
GEOLOGY AND MINING
AND 7 OTHERS.

....RESPONDENTS

REPLY FILED BY 8TH RESPONDENT

**M/s. S.V. VIJAY PRASHANTH (1366/2003)
S.V.BANUPRIYA (1943/2009)
N.NAJUMUNISHA (2055/2017)
A.S.SHANMUGA RAJAN (3373/2018)**

COUNSELS FOR 8TH RESPONDENT

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Shanmuga Rajan <advshan3373@gmail.com>

OA 127 of 2021 Reply filed by the 8th Respondent

1 message

Shanmuga Rajan <advshan3373@gmail.com>

Tue, Apr 5, 2022 at 6:17 PM

To: gsumathi.advocate@gmail.com, meganathan688733@gmail.com, dshanmuganathan@outlook.com, saisathyajith@gmail.com, collr-cpt@nic.in, minekanchi@gmail.com, tahcpt.tnkpm@nic.in, tnpcb-chn@gov.in, tnpcbmmnagar@gmail.com, mstnseiaa@yahoo.com, cgmchennai32@gmail.com

Sir/Madam,

The above referred Original Application coming up for hearing on 07.04.2022- before the Hon'ble National Green Tribunal Southern Zone Chennai.

Kindly acknowledge the copy of the reply filed by 8th Respondent.

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A.S.SHANMUGA RAJAN

Legum Baccalaureate,

CHENNAI.

 **Reply filed by 8th Respondent.pdf**
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