

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
SOUTHERN ZONE AT CHENNAI
ORIGINAL APPLICATION NO.135 OF 2021**

K.Palaniyappan

S/o. Kandasamy Gounder

Bye Pass Road, Tuthampatti Post

Omalur Taluk, Salem

Dasavailakku Tamil Nadu – 636606

...Applicant

Versus

1. The District Collector

Salem District Collectorate

Fort Main Road, Salem

Tamil Nadu - 636001

2. Revenue Divisional Officer

Office of Revenue Divisional Officer

Omalur Taluk, Salem

3. Member Secretary

Tamil Nadu State Environment Impact Assessment Authority

Panagal Maligai, Jeenis Road

Saidapet, Chennai-600 015

4. The Member Secretary

Tamil Nadu Pollution Control Board

No.76 Mount Salai,

Chennai – 600032

5. The District Environmental Engineer

Tamil Nadu Pollution Control Board

Siva Tower, Post Box No.457 No.1/276

Meyyanur Main Road, Salem – 636004

6. K.Rajendiran

S/o.Kandasamy

Byepass Road, Opp SMT Marriage Hall

Tuthampatti Post

Omalur Taluk

Salem District, Tamil Nadu – 636606

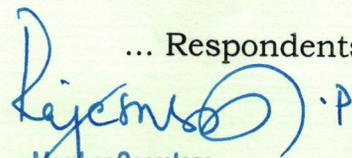
7. Gopal

Byepass Road, Opp SMT Marriage Hall

Tuthampatti Post, Omalur Taluk

Salem District, Tamil Nadu – 636606

... Respondents



Member Secretary

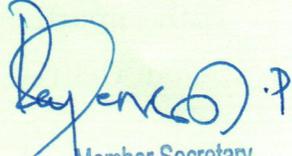
STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY - TN

Panagal Maligai, No.1, Jeenis Road,
Saidapet, Chennai - 15

COUNTER AFFIDAVIT FILED BY THIRD RESPONDENT

I, Tmt.P.Rajeswari, I.F.S., Member Secretary, having office at State Level Environment Impact Assessment Authority, Tamil Nadu (SEIAA-TN), Chennai - 600 015 do hereby solemnly affirm and sincerely state as follows:-

1. I respectfully submit that I am filing counter affidavit on behalf of 3rd Respondent herein and as such I am well acquainted with the facts and the circumstances of the case from the records available in this office.
2. I respectfully submit that at the outset, I deny the averments stated in the application as false except those that are specifically admitted hereunder and put the applicant to strict proof of the same.
3. I respectfully submit that the EIA Notification, 2006 mandates prior Environmental Clearance (hereinafter referred to as EC) for new projects or activities including expansion, or modernization of existing projects listed in its Schedule. The Category 'A' projects shall obtain EC from the Ministry of Environment, Forest and Climate Change, New Delhi and Category 'B' projects from the concerned State Level Environment Impact Assessment Authority (SEIAA)/Union Territory Environment Impact Assessment Authority (UTEIAA). This respondent is concerned only with category "B" projects. For the proposed mining projects, the Proponent shall submit an application seeking Environmental Clearance for the proposed quarry along with Form-1, precise area communication from the District Collector stating that , Mining plan approved by the Department of Geology and Mining, prefeasibility report and other essential documents. The proposal will be placed before the State Expert Appraisal Committee (SEAC) for screening, scoping and appraisal. Based on the recommendations of SEAC, the proposal is placed before the State Environment Impact Assessment Authority (SEIAA) for the consideration of issue of Environmental Clearance. After detailed discussion and based on the documents furnished, Environmental Clearance is issued by the Authority.
4. I respectfully submit that the as per under EIA notification 2006, as amended activity of mining of Minerals (≤ 100 ha of mining lease area in respect to non-coal mine lease & ≤ 150 ha of mining lease area in respect to coal mine lease area) falls under category 'B' Projects.


 Member Secretary
 STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY - TN
 Panagal Maligai, No.1, Jeenis Road,
 Saidapel, Chennai - 15

5. I respectfully submit that the Hon'ble Supreme Court, vide its order dated 27.02.2012 in I.A.No.12-13 of 2011 in SLP (C) No.19628-19629 of 2009 titled Deepak Kumar etc. Vs. State of Haryana & Ors has inter alia ordered that leases of minor mineral including their renewal for an area less than 5ha be granted by the State / Union Territory only after getting environment clearance (EC) from the competent authority.

6. I respectfully submit that the Hon'ble National Green Tribunal Principal Bench, New Delhi in Original Application No.34 of 2016 its order dated: 04.05.2016, has given certain directions inter alia that

"all the mines owners which of them have not submitted the application as on 31st March, 2016 to SEIAA, DEIAA and DEAC, shall be shut down forthwith and will not be permitted to carry on any mining activity in any manner whatsoever".

" The applications which are deficient and where the applicants have not submitted all requisite documents, such applicants are hereby granted last opportunity of 1 week (One week) to submit the documents. In the event they fail to submit such document and make applications complete and errorless in all respects then after the stated period of 1 week they shall also be liable to be shutdown without any further notice. If they comply with this direction, they would be also to the advantage up to 31st May, 2016.

7. I respectfully submit that the Ministry of Environment, Forest and Climate Change (MoEF&CC) Notification S.O. 804 (E) dated 14.03.2017 has stated that the cases of violations will be dealt strictly as per the procedure specified in the following manner

"In case the project or activities requiring prior Environmental Clearance under EIA Notification 2006 from the concerned Regulatory Authority are brought for Environmental Clearance after starting the construction work, or have undertaken expansion, modernization and change in product-mix without prior EC, these projects shall be treated as cases of violations and in such cases, even Category B projects which are granted Environmental Clearance by the SEIAA constituted under sub-section(3) section 3 of the Environment (Protection) Act 1986 shall be appraised for grant of Environmental Clearance only by the Expert Appraisal Committee and Environmental Clearance will be granted at the Central Level".

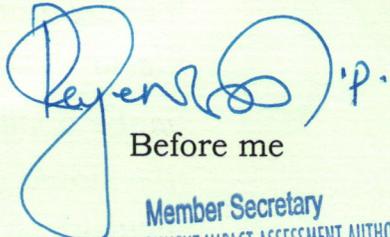
8. I respectfully submit that the Hon'ble National Green Tribunal Principal Bench, New Delhi in its order dated 18.04.2017 in M.A. No. 260 of 2017 in O.A.No. 123 of 2017, has directed

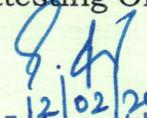
"...the State Government again to expedite the compliance to the law as expeditiously as possible and to ensure that no mining activity is permitted to be carried on without obtaining prior EC."

9. I respectfully submit that the 6th respondent (K.Rajendiran) and 7th respondent (Gopal) has not applied seeking Environmental Clearance for quarrying of Brick Kilns at S.F.Nos.74/19A3, 75/1B and 75/2 Tuthampatti Post, Omalur Taluk, Salem District.

10. In view of the above mentioned facts, it is therefore humbly prayed that this Hon'ble Tribunal may be pleased to record and pass such order (or) any other orders as this Hon'ble Tribunal may deem to fit and proper in light of the facts and circumstances of this case and thus render justice.

Solemnly affirmed at Chennai
On this 12th day of February - 2022
& signed his name in my presence


Before me
Member Secretary
STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY - TN
Panagal Maligai, No.1, Jeenis Road,
Saidapet, Chennai - 15

Attesting Officer

12/02/2022
Assistant Environmental Engineer
State Level Environment Impact Assessment Authority-Tamilnadu
Third Floor, Panagal Maligai
Saidapet, Chennai - 600 015