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**BEFORE THE NATIONAL GREEN TRIBUNAL SITTING AT CHENNAI**

**Application No. 142 of 2020**

Renny Jacob George : Applicant  
Vs.

Kerala State Pollution Control Board & others : Respondents

**RESPONSE TO THE JOINT COMMITTEE REPORT DATED  
15/06/2021 FILED BY THE APPLICANT IN THE ABOVE CASE**



**K.K. ASHKAR (K/371/04),  
ASHIRA MOHAMED ASHROF (K/1224/03) &  
SUVITHA A.S.  
COUNSELS FOR THE APPLICANT**

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I, Renny Jacob George, aged 41 years, S/o. George Mathai, Ovumannil House, Noorommavu P.O., Anicadu, Pathanamthitta District, Pin-689 589, Kerala, do hereby solemnly affirm and state as follows:

1. I am the applicant in the above case and am conversant with facts of the case.

2. The above case has been filed seeking direction for restitution of environment got damaged by the operation of granite quarry owned by the 8<sup>th</sup> Respondent and also to recover environmental compensation from the 8<sup>th</sup> Respondent.

3. This honorable Tribunal was pleased to appoint a joint committee for ascertaining the present status and also damage caused to the environment by inspecting the area in question and to submit state as well as action taken report, by order dated 07.08.2020. The joint committee has submitted its final report on 15/06/2021 quantifying interim environmental damage of about Rs.159 Crores.

4. After conducting inspection, the joint committee found that 8<sup>th</sup> Respondent has conducted quarrying beyond the lease area and beyond the quantity permitted within the lease area. The committee quantified penalty for illegal quarrying, only for those mining conducted by the 8<sup>th</sup> Respondent without obtaining permit from the 6<sup>th</sup> Respondent geologist.

5. The committee failed to take note of that entire mining activity carried by the 8<sup>th</sup> Respondent in the area covered under Annexure-A2 lease is illegal. The 8<sup>th</sup> Respondent (through his



predecessor) obtained Annexure-A2 lease for mining of granite stone from land admeasuring 5.1962 ha comprised in survey numbers 328/6, 329/9, 329/10, 327/1, 325/1, 325/2, 305/10 and 305/11 of Annexure village on 22/02/2018. It is pertinent to note that EIA notification 2006 permits no mining operations in lease area exceeding 5 ha without obtaining prior environment clearance from the regulatory authority prescribed under the notification. The 8<sup>th</sup> Respondent conducted mining in the lease area covered under Annexure-A2 lease without obtaining prior environment clearance.

6. The honorable apex Court in *Common cause vs Union of India and others (2017(9) SCC 499)* considered the same question what is illegal mining. The lessees in that case argued before the court that mining operation only outside the mining lease area would constitute 'illegal mining' making illegal mining lease centric. The Court held that it cannot accept that narrow interpretation and defined illegal mining thus:

*"The holder of a mining lease is required to adhere to the terms of the mining scheme, the mining plan and the mining lease as well as the statutes such as the EPA, the FCA, the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981. If any mining operation is conducted in violation of any of these requirements, then that mining operation is illegal or unlawful. Any extraction of a mineral through an illegal or unlawful mining operation would become illegally or unlawfully extracted mineral."*

7. The 8<sup>th</sup> Respondent conducted mining in the area covered under Annx-A2 lease, in violation of EIA notification 2006 issued under the provisions of Environment Protection Act and Rules, without obtaining prior or even ex post facto environmental clearance. Therefore, the entire mining activity carried over by the 8<sup>th</sup> Respondent under Annexure-A2 lease area, irrespective of the fact whether it was with or without permit from geologist, is per se illegal. The Supreme Court also held that if there has been illegal mining, the defaulting lessee must bear the consequences of the illegality by paying compensation of 100% of the notional value of the minerals illegally mined. Therefore, the joint



committee may be directed to quantify the penalty for illegal mining carried under Annexur-A2 lease area, as per the law settled by the Honorable Supreme Court of India the Common Cause case quoted supra.

8. In Page No. 48 of the joint committee report, it is found that “the turbidity in the well water samples collected in and around the quarry area is beyond the limits prescribed by drinking water standards. Turbidity is high in the water stored in the quarry pit No.1. Presence of turbidity is not probable to be resulted operation of crusher unit than quarrying operations.” The committee report about the metal crusher of the 8<sup>th</sup> Respondent working adjacent to the quarry No.1.

9. Moreover, in the guise of transporting M sand from the crusher unit of the 8<sup>th</sup> Respondent, namely, M/s. Philip Grano Products, illegal mining of ordinary earth is practiced by the 8<sup>th</sup> respondent. The Tahsildar, Mallappally, upon inspection on 11.11.2019, pursuant to public complaints, found that 8<sup>th</sup> Respondent has been unlawfully quarrying ordinary earth from the area and transporting it outside. The 8<sup>th</sup> Respondent was charged with a penalty of Rs. 4,10,150/-against the 8<sup>th</sup> Respondent for conducting illegal quarrying of ordinary earth.

10. Since the 8<sup>th</sup> Respondent is indulging in illegal mining of ordinary earth upon the shades of metal crusher unit, which is also found by the joint committee as polluting the groundwater in the vicinity, making it unfit for drinking purpose. This honorable Tribunal may be pleased to injunct the 8<sup>th</sup> Respondent from operating the metal crushing unit, until disposal of the above original application and realization of the environmental damage caused by him to illegal mining, in the interest of environment and Justice.

All the facts stated above are true and correct.

Dated this the 16<sup>th</sup> day of September 2021

Deponent: Renny Jacob George.

Solemnly affirmed and signed before me by the literate deponent who is personally known to me on this the 16<sup>th</sup> day of September 2021 at my office at Ernakulam.

K.K. Ashkar  
Advocate