

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

Original Application No. 142 of 2022

IN THE MATTER OF:

Dr. Sarvabhouma Bagali

. . . Applicant

VERSUS

State of Karnataka & Others

. . . Respondents

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Place: Chennai

Date: 14/02/2023

Filed By:

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IN THE MATTER OF:

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. . . Applicant

Vs

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Reply Statement of Respondent No. 3

I, Kiran Kumar B.S., currently working as Scientific Officer in the office of SEIAA, Karnataka, do hereby state as follows:


1. It is submitted that in the present application, no allegations have been made against this Respondent. It is further submitted that nothing stated in the application may be deemed to have been admitted by this Respondent unless and until the same is expressly admitted in the present reply.
2. It is submitted that a short reply statement is being filed by this Respondent at this stage and craves leave and liberty of this

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Tribunal to file a detailed reply to the aforesaid application, as and when required.

3. It is submitted that the applicant has prayed for the following reliefs/directions:

- a) Hold and declare that the activity of dredging and de-silting of dams and other water bodies is qualified for the exemption from obtaining Prior Environment Clearance only when sand mining for commercial purposes is not involved.
- b) Hold and declare that the Work Order No. MGD/u.ni/sand/Ka.Aa.2/20-21 dated 27/11/2020 issued by District Sand mining Committee, Dakshina Kannada District, Karnataka for excavation of about 14,51,680 MT of sand from silt from backwater of Aadyapadi dam in Mangalore Taluk and Shamburu dam in Bantwal Taluk is in violation of the EIA Notification, 2006 and the said activity requires Prior Environment Clearance.
- c) Direct the Karnataka State Mineral Corporation Limited to apply for Environment Clearance for the remaining part of the work order No. MGD/u.ni/sand/ Ka.Aa.2/20-21 dated 27/11/2020


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- d) Appoint a committee of experts to inspect the work carried out till date in pursuance to the work order dated 27/11/2020 and ascertain the following;
- i) Whether the de-silting (including extraction of sand from silt) has been carried out in accordance with the regulatory provisions in a scientific manner,
 - ii) Whether there has been any damage to the environment caused giving details of its nature/extent and suggesting environmental compensation/liability and remediation measures and
 - iii) The total quantity of silt and sand extracted till date and the method of its disposal including details like royalty paid, total number of mineral dispatch permits issued etc.
 - iv) Whether in the guise of dredging and de-silting sand mining is being done
- e) Direct the Ministry of Environment, Forest & Climate Change to come out with guidelines and procedure for providing by an order, through concerned SEIAA, the exemption for dredging and de-silting as provided at Sl. No.


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6 of Appendix - IX of the EIA Notification, 2006 including its publication


f) Pass any such order as this Hon'ble Tribunal may find fit and proper, in the facts and circumstances of the case.

4. It is submitted that the present application raises the following substantial questions relating to environment;


a) Whether the exemption granted under the EIA Notification, 2006 to dredging and de-silting of Dams is applicable when it involves sand mining i.e. sand is sold for commercial purpose?

b) Whether prior Environment Clearance is a mandatory requirement for de-siltation of dams wherein extraction of sand for commercial use is envisaged as per the Karnataka Minor Mineral Concession Rules, 1994 (Rule 31-R (3)(vi))?


5. It is submitted that vide Notification bearing No. S.O. 141 (E) dated 15/01/2016, dredging and de-silting of dams, reservoirs, weirs, barrages, river and canals for the purpose of their maintenance, upkeep and disaster management has been exempted from getting prior environment clearance.


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6. It is submitted that Rule 31-R (3) (iv) of Karnataka Minor Mineral Concession Rules, 1994, as amended vide Notification dated 01/12/2021, provides for specific sand blocks or sand bearing areas for grant of quarrying lease or working permission for sand quarrying or removal or de-siltation and reserving to Gram Panchayath or the State Government or body Corporation owned or controlled by the State Government or the Central Government.
7. It is submitted that Rule 31-R (3) (v) of Karnataka Minor Mineral Concession Rules, 1994, as amended vide Notification dated 01/12/2021, provides for reserving any sand block or dam or reservoir or barrage for the purpose of the Central Government or the State Government Development works and grant, lease to the contractor in the manner specified in these rules or to the authorized assignee of the Central Government or the State Government Department.
8. It is submitted that Rule 31-R (3)(vi) of Karnataka Minor Mineral Concession Rules, 1994, as amended vide Notification dated 01/12/2021, requires the lease holder or permission holder to obtain quarry plan and Environmental Clearance Certificate, as the case may be.


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9. It is submitted that Rule 31-V (1) of Karnataka Minor Mineral Concession Rules, 1994, as amended vide Notification dated 01/12/2021, provides for de-siltation of dams, reservoirs and barrages only through the Government Department or Government owned Corporation or Board.
10. It is submitted that the de-silting/dredging in dams and reservoirs, barrages, river, canals cannot be construed as sand mining since the primary purpose of both are different. The primary purpose of de-silting/dredging in dams and reservoirs, barrages, river, canals is maintenance, upkeep and disaster management. The primary purpose of sand mining is winning the mineral for commercial purpose which requires prior environment clearance as per EIA Notification, 2006.
11. It is submitted that the Hon'ble High Court of Karnataka vide order dated 09/02/2022 passed in W.P. No. 5031/2021 (Poovappa Poojary and others Vs Karnataka State Mineral Corporation Limited & others), wherein the petitioners had challenged the E-tender invitations dated 07/11/2020 in No. 863/KSMCL/Desilting/Sand/Shamburu/2020-21/1827 and dated 07/12/2020 in No. 864/KSMCL/Desilting/Sand/Adhyapadi/2020-21/1840, has held


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that "We are therefore of the opinion that a tender for dredging/desilting of submergence area of a dam would not amount to sand quarrying necessitating the imposition of the restriction under Rule 31R or Rule 31ZB of the Karnataka Minor Mineral Concession Rules, 1994. Subsequently, the Deputy Commissioner, Dakshina Kannada District who is also the Chairman of District Sand Monitoring Committee has issued the Work Order bearing No. MGD/u.ni./ sand/Ka.Aa.2/2020-21 dated 27/11/2020 in favour of the 5th Respondent herein.

12. That in view of the submissions made herein above it is most respectfully prayed that this Hon'ble Tribunal may be pleased to pass any order/s as deemed fit and proper in the facts and circumstances of the matter.

Place: Chennai

Date: 14/02/2023



(KIRAN KUMAR B.S.)

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