

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

Original Application No. 144 of 2020 (SZ)

**IN THE MATTER OF:**

Dr. SARVABHOUM BAGALI

.....APPLICANT

VS

STATE OF KARNATAKA & OTHERS

.....RESPONDENTS

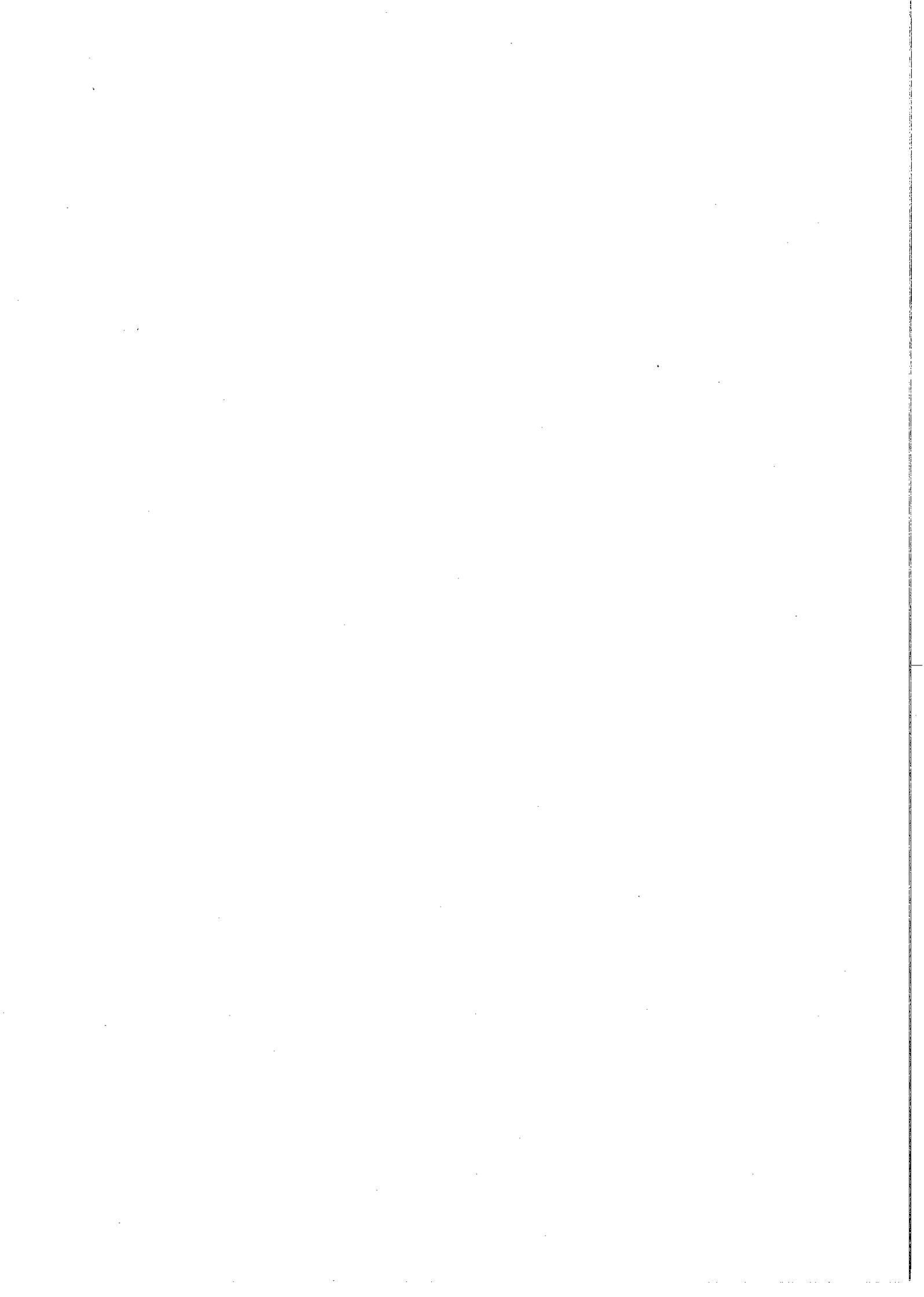
**I N D E X**

<b>Sl. No.</b>	<b>Particulars</b>	<b>Page Nos.</b>
1.	Counter Affidavit on behalf of the Karnataka State Environment Impact Assessment Authority (Respondent No. 4)	
2.	<b>Annexure 1</b> - Copy of the Gazette notification S.O. 141 (E) dated 15 <sup>th</sup> January, 2016	
3.	<b>Annexure 2</b> - Copy of the Enforcement & Monitoring Guidelines for Sand Mining, 2020	

Place:

Date:

Through Counsel



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**IN THE MATTER OF:**

Dr. SARVABHOUM BAGALI .....APPLICANT  
VS  
STATE OF KARNATAKA & OTHERS .....RESPONDENTS

**COUNTER AFFIDAVIT ON BEHALF OF THE STATE LEVEL  
ENVIRONMENT IMPACT ASSESSMENT AUTHORITY,  
KARNATAKA (RESPONDENT No. 4)**

**MOST RESPECTFULLY SHOWETH:**

I, Kiran Kumar B.S, aged about 40 years, son of B S Shivaiah, currently working as Scientific Officer Grade-I, Forest Ecology and Environment Department, Karnataka Government Secretariat and assisting the State Level Environment Impact Assessment Authority, Karnataka, Bengaluru, do hereby solemnly affirm and state as under:-

1. That I, in my official capacity of in the SEIAA, Karnataka Bengaluru i.e. Respondent No. 4 in the above mentioned matter, am conversant with the facts and circumstances of the



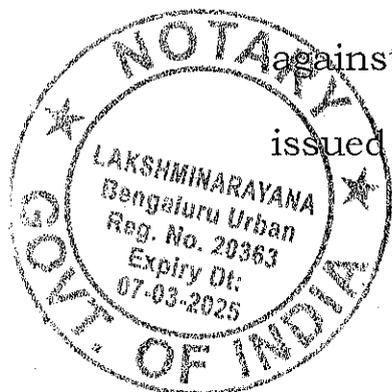
*Kiran Kumar B.S*

case on the basis of official records, and as such authorized and competent to swear this affidavit.

2. It is submitted at the very outset that the Respondent No. 4 denies each averment and/or submission made in the application which is contrary to and inconsistent with the averments made and facts stated in the present reply. It is submitted that the nothing stated in the application may be deemed to have been admitted by the Respondent No. 4 unless and until the same is expressly admitted in the present reply.

3. That a short affidavit is being filed by the answering respondent at this stage and craves leave and liberty to file a detailed Counter Affidavit to the aforesaid application, as and when required.

4. That the applicant in the present matter has alleged that the illegal sand mining being done in Vijayapura and Raichur District of Karnataka State from water bodies in the guise of dredging and maintenance of the lakes, the said activities are against the rules, and the Sustainable Sand Mining Policy issued by the Ministry of Environment, Forests and Climate



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Change (MoEF& CC). Further, it is also alleged by the applicant that dredging activities has taken place in Vijayapura and Raichur district of Karnataka without taking permission from Wetland authorities and the same are against the provision of Wetlands (Conservation and management) Rules, 2017.

5. That the applicant has inter-alia prayed for that the Hon'ble Tribunal please to a) Declare that sand mining, regular as opposed to desilting, of ponds, lakes, tanks and nallahs (whether man made or natural) is in violation of the Environment Impact assessment Notification, 2006, Sustainable Sand Mining Management Guidelines, 2016 and the Enforcement & Monitoring Guidelines for Sand Mining (Jan.2020) both issued by Ministry of Environment, Forests & Climate Change (MoEF& CC). b) Declare that sand mining activity in a pond/tank type inland Wetland (manmade) and in a Lake/pond type Inland wetland (natural) is a prohibited activity under the Wetlands (conservation & Management) Rules, 2017. C) Direct the Karnataka State



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Wetland Authority (Respondent No.3 through its Member Secretary) to submit a detailed report on Wetlands (District-wise) as per Rule 5(4)(a), (b) & (c) of the Wetlands (Conservation & Management ) Rules, 2017. d) Direct the Ministry of Environment, Forests & Climate Change (MoEF& CC) (Respondent No.2 through its Secretary) to file a detailed report of permissions granted for customary extraction of sand in the State of Karnataka as per appendix – IX of the EIA Notification, 2006 since 15.01.2016 till date. e) Direct the Deputy Commissioners of Vijayapura and Raichur Districts (who are the incumbent Chairman of the District Sand Monitoring committee as per Rule 31R (1) of the KMMC Rules, 1994) to submit a report of the details of Sand quarrying leases given for ponds/lakes/nallahs in the last 5 years till date.

6. That it is further submitted that MoEF& CC, New Delhi has issued EIA Notification dated 14<sup>th</sup> September 2006 which requires certain projects to obtain prior Environmental Clearance (“EC”) before any construction work in case of new



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projects or expansion and modernization of existing projects or activities. The Schedule to the Notification details the categories or projects or activities which require prior Environmental Clearance.

7. That it is further submitted that all projects and activities are broadly categorized into two categories - Category "A" and Category "B", based on the potential impacts on spatial extent and human health and natural and man-made resources. All projects or activities included as Category 'A' in the Schedule, including expansion and modernization of existing projects or activities and change in product mix, shall require prior environmental clearance from the Central Government in the Ministry of Environment, Forest and Climate Change (MoEF&CC) and all projects or activities included as Category 'B' in the Schedule will require prior environmental clearance from the State/Union territory Environment Impact Assessment Authority (SEIAA). In the absence of a duly constituted SEIAA or SEAC, a Category 'B' project shall be treated as a Category 'A' project.



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8. That it is submitted that the answering respondent further came up with the notification having S.O. 141 (E) dated 15<sup>th</sup> January, 2016 which stipulates that 'B2' Category projects pertaining to mining of minor mineral of lease area less than or equal to five hectares shall require prior environmental clearance from DEIAA (District Environment Assessment Authority). The DEIAA shall base its decision on the recommendations of DEAC (District level Expert Appraisal Committee), as constituted for this notification. The copy of the notification S.O. 141 (E) dated 15<sup>th</sup> January, 2016 is annexed herein and marked as **ANNEXURE 1**.

10. It is most respectfully stated that in compliance of direction passed by Hon'ble National Green Tribunal in its order dated 04.09.2018 in O.A. 173/2018 in the matter of Sudarsan Das vs. State of West Bengal & Ors, answering respondent has formulated the new guidelines i.e. "Enforcement & Monitoring Guidelines for Sand Mining" (EMGSM-2020) supplemental to the existing guidelines i.e. Sustainable Sand Management Guidelines 2016 (SSMG-2016), which focus on the effective



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monitoring of the sand mining since from the identification of sand mineral sources to its dispatch and end-use by consumers and the general public. Further, this document will serve as a guideline for collection of critical information for enforcement of the regulatory provision(s) and also highlights the essential infrastructural requirements necessary for effective monitoring for Sustainable Sand Mining. A copy of the Enforcement & Monitoring Guidelines for Sand Mining, 2020 prepared by the the Ministry of Environment, Forests and Climate Change (MoEF& CC) is annexed herewith and marked as **ANNEXURE 2**.

11. It is submitted that the EMGSM-2020 & SSMG-2016 shall be read and implemented in sync with each other. In case, any ambiguity or variation between the provisions of both these document arises, the provision made in "Enforcement & Monitoring Guidelines for Sand Mining-2020" shall prevail. Further, it is submitted that the Hon'ble National Green Tribunal, New Delhi in O.A No. 8 of 2018 (CZ) titled as Suraj Ragare & Anr. Vs State of M.P vide order dated 11.06.2020

directed the Principle Secretary, Mines; Director, Mines and



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State of Madhya Pradesh to follow the guidelines issued by MoEF in January, 2020 i.e EMGSM- 2020.

12. It is most respectfully submitted that the Hon'ble Tribunal vide order dated 26.02.2021 passed in the matter of Original Application No. 360/2015 titled as National Green Tribunal Bar Association versus Virender Singh (State of Gujarat) directed all the States/UTs to strictly follow the SSMG-2016 read with EMGSM-2020 reinforced by mechanism for preparation of DSRs, Environment Management Plans, replenishment studies, mine closure plans, grant of EC supra), assessment and recovery of compensation, seizure and release of vehicles involved in illegal mining, other safeguards against violations, grievance redressal, accountability of the designated officers and periodical review at higher levels ( in terms of the order refereed by the Hon'ble tribunal in the order).

13. That it is respectfully submitted that State Department of Mines and Geology is the nodal authority in the State for dealing with the allotment of mining leases under the Mines and Minerals (Development and Regulation) Act (MMDR Act)



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and is entrusted with the enforcement and regulation of mining operations in a State including illegal mining.

14. That in view of the submissions made here in above, it is most respectfully prayed, this Hon'ble Tribunal may kindly be pleased to pass appropriate order(s).

*Keen K. S.*

Deponent  
Scientific Officer, Grade-I  
Forest, Ecology & Environment  
K.G.S. M.S. Building  
Bengaluru 560 001

### VERIFICATION

Verified on this day 13<sup>th</sup> of October, 2021 at Bengaluru, that the contents of the above affidavit are true and correct and as verifiable from official records and nothing material has been concealed there from.

Identified by me

*Advocate*



Place: Bengaluru.

Date: 13.10.2021.

No. of Corrections: *Four*

*Keen K. S.*

Deponent  
Scientific Officer, Grade-I  
Forest, Ecology & Environment  
K.G.S. M.S. Building  
Bengaluru 560 001

SWORN TO BEFORE ME

*Lakshminarayana* 13/10/2021  
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Sl. No: 8990 Page No: 38<sup>10</sup>

