

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

Original Application No. 148 of 2022 (SZ)

Dr.Sushmitha,
No. C-302, Radiance Mandarin Apartment,
Thoraipakam,
Chennai – 600 096.

...Applicant

-vs-

The Member Secretary,
State Level Environment Impact Assessment Authority,
Panagal Maligai,
Saidapet, Chennai and 9 others

...Respondents

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Filed by
Tmt. Shanmugavalli Sekar,
Advocate, Chennai.

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Original Application No. 148 of 2022 (SZ)

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Chennai – 600 096.
Email – sushmitharajaguru1984@gmail.com.
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...Applicant

-vs-

The Member Secretary,
State Level Environment Impact Assessment Authority,
Panagal Maligai,
Saidapet,
Chennai and 9 others

...Respondents

**REPLY FILED BY THE 3RD AND 5TH RESPONDENT
TAMIL NADU POLLUTION CONTROL BOARD**

I, R. Rajamanickam, S/o. P.M.Ramasamy, Hindu, aged about 58 years, having my office at 76, Mount Salai, Guindy, Chennai-600032, do hereby solemnly affirm and sincerely state as follows:-

1. I am the Additional Chief Environmental Engineer, Tamil Nadu Pollution Control Board (TNPCB), Chennai -600 032, and filing this Report on behalf of the Respondents Tamil Nadu Pollution Control Board (TNPCB) and as such I am well acquainted with the facts of the case from the records.

2. This Respondent has read the affidavit filed by the applicant in support of this Original Application and denies each and every one of the averments and allegations contained therein, except those that are specifically admitted herein.

3. It is respectfully submitted that the applicant has filed this Original application against these respondents to close the operation and seal the premises of the following mining and stone crushing units for various violations and environmental damage: 1. Sri Rathnagiriswarar Blue Metals,


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(Respondent 8) owned by Mr.Palaniyandi (Respondent 10), at S No. 2/1, 2/2 and 9/2B at Sivamayam Village, Karur District, 2. M/s. Navamani Mines Private Limited (Respondent 9), at S No. 8/10 and 8/213, Sivamayam Village, Karur District, to direct the Respondents 1-7 to take immediate and stringent action against the said units and Mr. Palaniyandi, for the illegal mining done and damage caused to the environment, to assess and impose the Environmental Compensation liable to be paid by the Respondents 8 - 10 for the blatant violations and damage to the environment caused, to revamp and remediate the affected subject lands mined and damaged by the units and to direct its restoration, at the cost of the violating units, to initiate disciplinary proceedings against the erring officials of the Respondent Authorities, for failing to take action against the violating units, despite the complaints and representations made by the Applicant

4. It is submitted that the averments made by the applicant from Para 1 to 5 of the affidavit are matters of record from the Appellant's side and the appellant is put to strict proof of same. They are no way connected with this Respondent except Thiru. M. Palaniyandi is the proprietor of M/s Sri Rathinagiriswarar Blue Metals, located at S.F. No. 2/1, Sivayam North Village, Krishnarayapuram Taluk, Karur District. The unit has submitted application for CTE of the Board for establishing a stone crushing unit at S.F. No. 2/1, Sivayam North Village, Krishnarayapuram Taluk, Karur District. on 23.08.2012. Along with the application, the unit has submitted distance certificate dated 06.08.2012 obtained from Tasildhar, Krishnarayapuram Taluk and BDO (Block Development Officer) Krishnarayapuram Panchayat Union stating that no approved habitation and NH/SH is located within 500m distance from the stone crusher site and no stone crushing unit is located within one kilometer distance. The site was inspected by the officials of the answering Respondents on 24.08.2012 and it was reported that the proposed site complies with siting criteria prescribed in BP.No 4 dt 02/07/2004 and CTE was issued to the unit vide Proc. No. DEE/TNPCB/KAR/F.1125/OS/W/2012, Dated: 31.08.2012 under Water Act and vide Proc. No. DEE/TNPCB/KAR/F.1125/OS/A/2012, Dated:31.08.2012 under Air Act. After Establishment of the stone crusher, the unit applied for

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CTO of the answering Respondents on 23.07.2014 and CTO was issued to the unit vide Proc. No. F.KAR1125/RS/DEE/TNPCB/KAR/W/2014, Dated: 09.12.2014 under Water Act and vide Proc. No. F.KAR1125/RS/DEE/TNPCB/KAR/A/2014, Dated: 09.12.2014 under Air Act for manufacturing the following product:

- i. Blue metal jelly of various sizes – 3400 T/M

The above said consent orders were renewed to the unit for the period ending up to 31.03.2024. Presently the unit is under operation. No consent order has been issued by TNPCB in the name of Mr. Palaniyandi / SRBM for mining operations.

5. It is respectfully submitted that all the averments made by the Applicant in his affidavit from the paras 6 to 9 are matters of record from the Applicant's side and the Applicant is put to strict proof of same. They are no way connected with the answering Respondents and no consent order has been issued by the answering Respondents in the name of Mr. Palaniyandi / SRBM for mining operations.

6. It is respectfully submitted that all the averments made by the Applicant in his affidavit from para 10 to 11 are no way connected to the answering Respondents except that the unit of M/S SRI RATHINAGIRISWARAR BLUE METALS, 2/1 Sivayam North Village, Krishnarayapuram Taluk, Karur District has applied for CTE-Expansion vide application No. 32874582 dt 06/06/2020 and further it has been returned and the unit has been instructed vide letter dt 26/06/2020 not to carry out any expansion activities.

7. It is respectfully submitted that the averments made by the Applicant in paras 8 and 9 of the affidavit are nothing but twisted facts made by the Applicant. It is submitted that the 9th Respondent unit has obtained Consent to Establishment of the answering Respondents under Water and Air Act on 21/08/2019 valid upto 31/03/2024 to establish a stone crushing and M sand manufacturing unit at S.F No. 19/1C, 20/1B2 & 21/2, Sivayam North Village, Krishnarayapuram Taluk, Karur District for manufacturing the following product specification.

Blue Metal Jelly of Various Sizes - 70000 T/Month

Blue Metal M-Sand & P-Sand - 10000 T/Month

Previously a stone crushing unit namely M/s Techtrans Construction India Pvt Ltd was in the same location of S.F No. 19/1C,20/1B2 & 21/2, Sivayam North Village, Krishnarayapuram Taluk, Karur District and obtained consent of the Board vide Proc.No DEE/TNPCB/KRR/F.No.KAR0899/W&A/2009, Dated. 17/06/2009 for following product specifications,

"Blue Metal Solings and Chips of Sizes (1½)", (¾)", (½)" & (¼)"
35000T/Month

(For Four Lane Work from 139 KM to 192 KM on NH 67 including proposed Karur by pass)"

The above said consent order was renewed to the unit for the period up to 30.09.2012. Then the unit did not remit the renewal consent fees and did not obtain renewal of consent. Further it was ascertained that the unit has stopped the operation of the stone crusher unit. Later the said land was purchased by Mr P.Mani director of the 9th Respondent unit from Mr.H.Ramesh the former Chairman & Director of M/s Techtrans Construction India Pvt Ltd.

The new management in the name of M/s Navamani Mines Pvt Ltd (Formerly M/s Techtrans Construction India Pvt Ltd.) submitted application through OCMMS on 02/04/2019 along with all the supporting documents for obtaining Consent to Establishment for establishment of new stone crushing unit. Based on the application the site was inspected on 04/04/2019 and during inspection the following were observed:

- 1. The civil structure of the old stone crusher unit was found under damaged condition and the other area of the unit was kept vacant.*
- 2. The site is surrounded by vacant lands in West, East and Northern direction and in the south side there is a village road.*
- 3. There is no approved habitations, NH/SH within 500 m radius from the site. The Thasildar, Krishnarayapuram Taluk vide letter dated 01.04.2019 has also informed that there is no residential plots, approved layouts, schools, land acquired for SC/ST welfare schemes and National Highway/State Highway within 500 M radius from the site.*


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4. The following three existing stone crushing units are located within 1 KM Distance from the site of the unit of M/s Navamani Mines Pvt Ltd.

- i. M/s Vaigai Blue Metals, SF No.30/2,3,5,6, Sivayam North Village, Krishnarayapuram Taluk, Karur District is located at a distance of 610 m on the South eastern direction from the site.
- ii. M/s Reena Crusher Unit, SF No.26,Sivayam North Village, Krishnarayapuram Taluk, Karur District is located at a distance of 470 m on the South eastern direction from the site.
- iii. M/s Sri Rathinagiriswarar Blue Metals, SF No. 2/1, Sivayam North Village, Krishnarayapuram Taluk, Karur District is located at a distance of 840 m on the Northern direction from the site.

In view of the above, the site of M/s. Navamani Mines Pvt Ltd (Formerly of M/s Techtrans Construction India Pvt Ltd) was considered as new site and the site did not comply with the 1 Km siting criteria prescribed in B.P.Ms.No.4 dated.02.07.2004. Further the unit of M/s Techtrans Construction India Pvt Ltd did not renew the consent after 30.09.2012 and also did not remit the consent fee.

The District Level Consent Clearance Committee in its meeting held on 10/04/2019 (DLCCC-ITEM NO 90-11) decided to reject the CTE application in view of the following reasons:

- i. The Unit of M/s TECHTRANS CONSTRUCTION INDIA PVT LTD has not renewed the consent after 30/09/2012 and also not remitted the consent fee thereafter. The unit has also removed the machinery and the site is kept vacant except old civil structures.
- ii. The CTE application filed by the unit of M/s NAVAMANI MINES PVT LTD (FORMERLY TECHTRANS CONSTRUCTION INDIA PVT LTD) could be considered as a new site application.
- iii. Three stone crushing units namely M/s Vaigai Blue Metals, M/s Reena Crusher Unit, and M/s Rathinagiriswarar Blue Metals are located at a distance of 610m, 470m and 840m respectively from the site and the site is not complying with the distance criteria of 1KM

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norms between two stone crushing units as per B.P.NO 4 DT 02/07/2004.

The refusal order was issued to the unit vide Proc.NO.F.0995KAR/OS/DEE/TNPCB/14/ W&A/ 2019 DATED: 10/04/2019.

The unit authority made an appeal before the Hon'ble Appellate Authority, Tamil Nadu Pollution Control Board, Chennai vide application No.23 & 24 of 2019.

In the meantime, Tamil Nadu Pollution control Board vide BP MS No.21 Dated.31.07.2019 has relaxed the 1 KM distance criteria between stone crushers. Then M/s Navamani Mines Pvt Ltd. submitted a new application on 10/08/2019 based on BP MS No.21 Dated.31.07.2019. Based on the above CTE was issued to the unit vide CTE Pro No.F.0995KAR/OS/DEE/TNPCB/KAR/A/2019 Dt: 21.08.2019.

Then based on the request of the unit, the Hon'ble Appellate Authority vide its order dt 27/08/2019 dismissed the Appeal 23& 24 filed by the Units.

Further, in WP No.26789 of 2019 the Hon'ble High court of Madras has granted interim stay on 06.09.2019 for operation of the impugned order in BP Ms No.21 Dated.31.07.2019.

The unit of M/s Navamani Mines P Ltd. has completed the installation of all machineries with APC measures for stone crusher and M sand and applied vide OCMMS application no.31860164 Dated:06.03.2020 and resubmitted on 05/01/2021 for CTO after CTE. The DLCCC in its meeting held on 07/01/2021 vide item No 120-01 has decided to refuse the Units application for CTO after CTE and the refusal order was issued to the unit vide Proc No F.0995/KAR/OS/DEE/TNPCB/14/W&A/2021 dt 07/01/2021 for the following reasons:

- 1. The three stone crushing units namely M/s Vaigai Blue Metals, M/s. Reena Crusher Unit, and M/s. Rathinagiriswarar Blue Metals are located at a distance of 610m, 470m and 840 m respectively from the unit and the unit location is not complying the distance criteria of 1KM norms between two stone crushing units as per B.P.No 4 dt 02/07/2004.*


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2. CTE was issued to the unit based on 1KM distance criteria relaxation given in B.P. Ms. No.21 Dated: 31.07.2019. The Hon'ble High court of Madras has granted interim stay for operation of the impugned order in BP MS No.21 Dated.31.07.2019 in its order Dated: 06.09.2019 in W.P.No.26786 of 2019 and in W.MP.No.26172 and 26175 of 2019.
3. The Hon'ble High court of Madras in its order dt 18/08/2020 in W.M.P.Nos.26175 &29648 of 2019 and in W.P.No.26786 of 2019 has made the following clarification in Para 5 for the interim stay granted to BP MS No.21 Dated.31.07.2019 as follows.

"We are inclined to pass a clarificatory order making it clear that such of those units which were in operation with valid consent both for establishing and for crushing operation in currency and already in operation, the interim order passed will have no application. This is also for the reason that they being in operation already by indulging in crushing cannot be prevented by the interim order without even making them as parties."

4. TNPCB vide Memo No TNPCB/LAW/LAII/TNPCB/21614/2020 DT 05/12/2020 has communicated to DEE/TNPCB/Karur, legal opinion of Boards Standing Counsel on the orders of Hon'ble Appellate Authority dt 27/08/2019 in the Appeals No 23 & 24 of 2019 and order dt 17/06/2020 in Appeals No 24 & 25 of 2020 and order dt 06/11/2020 of Hon'ble High Court of Madras in WP No 15551 of 2020 and it was opined that it is better to defer the proposal to give CTO to the unit based on the CTE dt 21/08/2019 till the interim orders dt 06/09/2020 and 18/08/2020 made in WPNo 26786 of 2019 are vacated or modified suitably.

The unit has made appeal before the Hon'ble Appellate Authority vide Appeal No. 1 and 2 challenging the refusal order of the Board issued vide Proc No F.0995/KAR/OS/DEE/TNPCB/14/W&A/2021 dt 07/01/2021.

The Hon'ble Appellate Authority in order dated 18/08/2021 in the above appeals Para 20 has made the following.

R. Lynd
01/11/2023

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“ In the result, the appeals are allowed by setting the impugned rejection order dated 07/01/2021 in Proc F.0995/KAR/OS/DEE/TNPCB/14/W&A/2021 issued by the 2nd respondent representing 1st respondent –Board with further direction issued to the respondents 1 & 2 to consider granting CTO to the appellant unit”.

Based on this a legal opinion was obtained from the Board and CTO after CTE was issued vide Proc. Dated 19/09/2022. Presently the unit is in operation

8. It is submitted that all the allegations and averments made by Applicant from para 18 to 42 are all between the Applicant and Respondent Nos. 8, 9 & 10. All these allegations are no way connected to the answering Respondents and no consent order has been found to be issued by the answering Respondents in the name of Mr. Palaniyandi / SRBM for mining operations.

9. It is also respectfully submitted that the averments made by Applicant in paragraphs 43 to 46 are all utter suppression of facts, except a complaint received by this office from Tmt. Sushmita on 06/07/2022 regarding the illegal mining was forwarded to Geology and Mining department on 18/08/2022 for taking necessary actions. Replies to the RTI petitions seeking information were issued on 18/08/2022 & 02/09/2022 respectively as requested by the petitioner.

10. It is respectfully submitted that the averments made by the Applicant from para 47 and 48 are all false and the complaint received from Tmt. Sushmita on 06/07/2022 regarding the illegal mining has been forwarded to 6th Respondent vide letter dated 18/08/2022 for necessary investigation and action.

11. It is respectfully submitted in addition to the above submission of the answering Respondents that with regard to mining operations, the procedure required to be followed is as under:

R. Srinivasan
02/10/23

- a) The District Collector has to give precise area communication letter to the proponent of the rough stone and gravel quarry, the quarry to submit the approved mining plan and copy of valid Environmental Clearance obtained from the State Environmental Impact Assessment Authority- Tamil Nadu as per the provisions of Environment Impact Notification, 2006 as amended.
- b) The Director/Assistant Director, Department of Geology and Mining has to give mining plan approval for the rough stone and gravel quarry.
- c) After obtaining the required Environmental Clearance under EIA Notification, 2006 and mining plan approval, the quarry has to apply before the answering Respondents for Consent to Establish/ operate for carrying out mining activity.

Hence, it is humbly submitted that illegal mining comes under the provisions of the 4th Respondent. It is submitted that the role of the answering respondents begin after the receipt of the application from the quarry for Consent to Establish.

12. It is further respectfully submitted that the Hon'ble NGT(SZ) vide order dated 12/01/2023 has directed the answering Respondents in this Application to make a spot inspection and then file a report.

a. In this connection both the units along with Quarry sites were inspected by this office of the answering Respondents on 01/02/2023 with a team of officials and during inspection the referred quarries were found to be not in operation (photos attached). In this regard, it is understood that the report of Joint committee consisting of Revenue, Geology & mining and others is under preparation and survey on assessment of quarrying operations has been carried out.

b. During the time of inspection the stone crushing units were found to be in operation within the Consented Capacity.

Under the above circumstances, it is humbly prayed that this Hon'ble National Green Tribunal (SZ) may be pleased to pass such further or other orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstance of this case and thus render justice.


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BEFORE ME

VERIFICATION

I, R. Rajamanickam, S/o. P.M. Ramasamy, working as Additional Chief Environmental Engineer, having office at No. 76, Anna Salai, Guindy, Chennai – 32, do hereby submit that the above contents are true to the best of my knowledge and belief through records.


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Photo showing the status of the Unit During the joint Inspection Dated 01.02.2023





Photo showing the status of the Unit During the joint Inspection Dated 01.02.2023



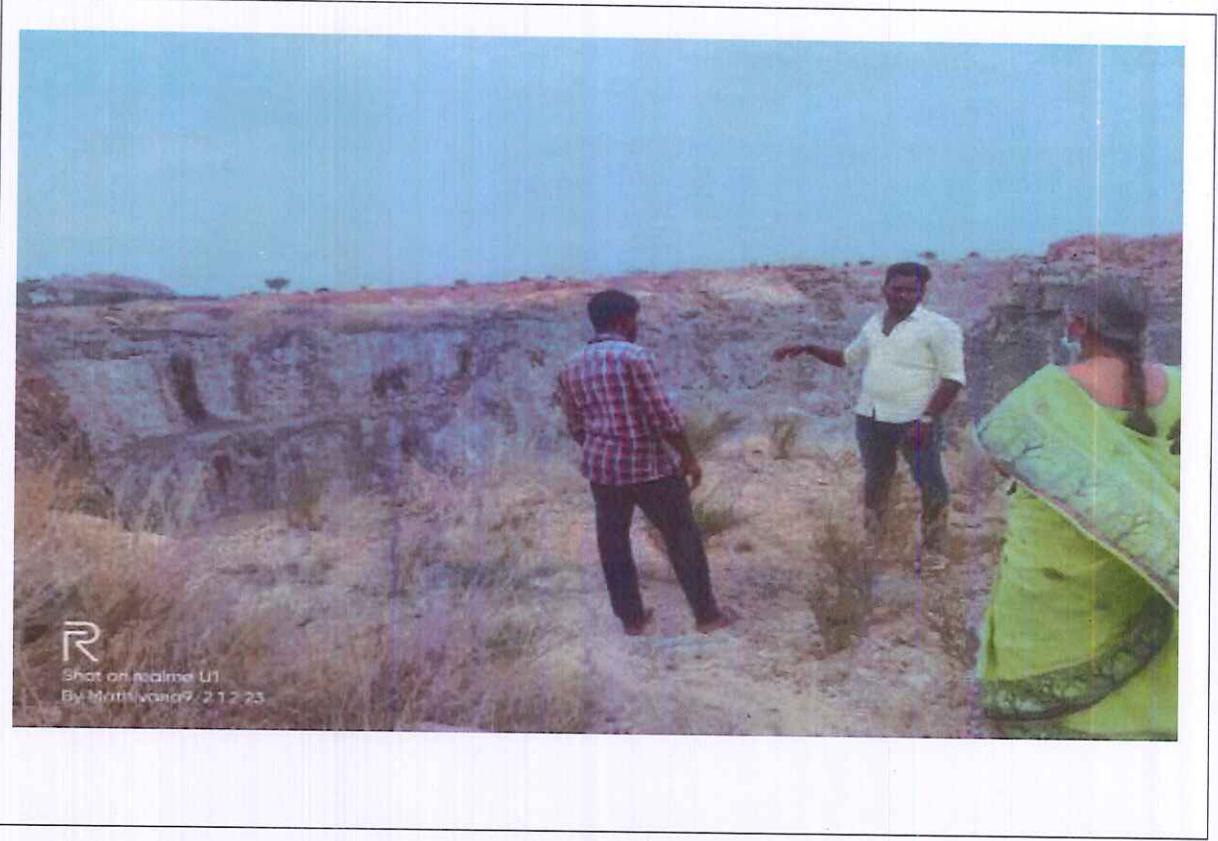


Photo showing the status of the Unit During the joint Inspection Dated 01.02.2023



Photo showing the status of the Unit During the joint Inspection Dated 01.02.2023



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POLLUTION CONTROL BOARD

Advocate for Respondent: TNPCB
Tmt. Shanmugavalli Sekar,
Advocate, Chennai.

Date:08.02.2023.

Date of hearing on:09.02.2023.

