

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

ORIGINAL APPLICATION NO. 149 OF 2022

In the matter of:

Shankaran

----Applicant

-VS-

State of Kerala, Rep by its Principal Secretary,
Dept. of Environment & Climate change,
Thiruvananthapuram and ors

----Respondent(s)

REPORT FILED BY THE DISTRICT COLLECTOR, PALAKKAD/

2ND RESPONDENT

Index

S.No	Particulars	Page No.
1.	Proceedings of the District Collector, Palakkad	1-3
2.	Action taken report filed by Secretary to Government, Environment Department.	4-7

Dated at Chennai on this the 30th September, 2023.

For. 
20/9/23

M/s. E.K.KUMARESAN

Standing Counsel for State Government of Kerala - NGT(SZ) Chennai Bench



PROCEEDINGS OF THE DISTRICT COLLECTOR, PALAKKAD
(Present :- Dr.Chithra.S., IAS)

Sub:- WP(C) 11400/2020- implementation of judgement of Hon'ble High Court of Kerala – hearing of petitioner and respondents – orders issued- reg.

File No: DCPKD/4917/202/LRG5

Date:- 26-09-2023

Read:- 1) Judgement No. WP (C) 11400/2020, dtd. 31.03.23 of Hon'ble High Court of Kerala.

2) This Office letter number No. DCPKD/4917/2020/LRG5 , dtd. 24.05.23 .

3) Lr. No. DOPAL-DMG/920/2023 M, dtd. 26.05.23 of Geologist, Palakkad.

4) Lr. No. DI-2020/3912/9/400, dtd. 04.07.23 of Tahsildar , Ottappalam .

Order.

Paristhithi Samrakshana Samithi had filed a Writ Petition bearing number WP (C) 11400/2020 , before the Hon'ble High Court of Kerala in order to stop the mining activities of M/s. Blue Chips Mines and Kalpaka Metal Crushers , which is located in Ottappalam Taluk of Palakkad District. In the Judgement , it is directed the District Collector, Palakkad , to consider the case as in Raphy John V/s. Land Revenue Commissioner.

As per ordered in the judgement no. WP (C) 11249/2010 of Raphy John V/s. Land Revenue Commissioner , it has directed the District Collector, Palakka d to examine whether the subject lands (9 th and 10 th respondent , ie., M/s. Blue Chips Mines and Kalpaka Metal Crusher Unit) fall within the assigned / patta lands as per Kerala Government Land Assignment Act 1960 or Kerala Land Assignment Rules 1964 and if so , the land assignment order or Pattayam should be cancelled on account of violation in Act. It is also directed that further actions should be taken within three Months of this judgement.

In this context, letter was given to Palakkad Geologist and Ottappalam Tahsildar to submit a detailed report in this regard and also decided to hear the petitioner and respondents. Geologist , Palakkad and Ottappalam Tahsildar submitted report as per reference 3 and 4 cited above.

Blue Chips Mines and Industries extended in 1.6100 hectares of land comprised in Block number 46, Survey number 168/11 A of Chalavara Village of Ottappalam Taluk . As per the report of Chalavara Village Officer , through Tahsildar Ottappalam , it is stated that the land was registerd land . It was not assigned as per Land assignment act 1960 for any agricultural activities. It was not a part of Puramboke, Reserved Forest , Court/Bank attachment and not within 500m of Tribal settlements.

The quarry of Kalpaka Metal crusher situated in 97.07 Are land comprising of Survey number 1/7 of Vaniyamkulam I Village. As per the report of Tahsildar and Vaniyamkulam I Village Officer, Geologist reported that the land was not included in surplus land.

The quarry works in 0.9707 hectares of land comprising in survey number 1/7 of

I/247319/2023

Vaniyamkulam I Village , which was registered as per document number 4750/2006 of Sub Registrar Office, Ottappalam.

As per the available records of Vaniyamkulam I Village , it clear that the land in which mining activity is being done is not included in forest land , Assigned land , surplus land or patta land. Tahsildar also reported that , Mining activity is done as per laws , with enviornmental clearance , mining permission , explosive licence and licence from the local self department.

As per the report of Chalavara Village Officer , Kalpaka metal Crushers comprising in 4.22 Ares, 61.40 are, 3.1280 hectares , and 53.07 are in block number 46, Resurvey number 445/3-1, 446/2-1, 308, 309/3-1, 446/1-1 respectively, owned by Sri.C.K. Kunjippokker , TP No. 5901 , which is registered as per document numbers 950/2006, 4735/2005, 139/2008 and 3834/2007 of Sub- Registrar Office, Ottappalam. Village Officer also reported that the land was not included in land assignment.

Total extent of 5.13 Hectare of land, comprising in 21.33 are Land in Block 46, Re-survey number 426/1-1 , 15.20 are land in re Sy. Number 391/8 , 04.00 hectares of land in 390/2 , 04.05 are land in 391/13-1 , 08.09 are land in 391/7-1 , 29.13 are land in 390/1-1 , 35.20 are in 391/9 respectively are owned by the Managing Partner , Blue Chips Mines and Industries as per TP Number 9218 , which is registered as per document numbers 696/2003, 1074/2003, 1075/2003 , 1078/2003, 1303/2003, 2991/2003, 2992/2003 and 2993/2003 of Sub Registrar Office , Cherpulassery.

It is said that the land is included in the old survey number 168/11a of Kailiad Desam in Chalavara village and the examination of the documents of the land, it is seen that , Government has acquired and distributed it as surplus land under KLR Act 1963 according to the proceedings No. LR6 25177/1974, LR6 31047/1973 of the District Collector, Palakkad. It is mentioned in the Tahsildar's report that the land in question is not the assigned land the land is not included in the outlying land, reserve forest and court or bank attachment. There are no tribal settlements within 500 meters of the land and the village officer has reported that it does not belong to the tribal groups.

In connection with the implementation of the judgment , a hearing was conducted on 1.08.2023 for hearing the complainant and 9th and 10th respondents appeared before the Deputy Collector.

Mr.Thomas Babu, Managing Partner of Blue Chips Mines & Industries stated that the land where their quarry is working is not assigned for any special purpose under the law or the rules under it as stated in Rafi John V/s Land Revenue Commissioner judgment and they have all the licenses to operate the quarry in accordance with the law, therefore steps should be taken to operate the quarry.

Mr. Benny PC , managing partner of Kalpaka Metal Crusher stated that the land where their quarry is working is not assigned for any special purpose and also states that the quarry is not functioning now.

Petitioner and the State president of Environment Protection Committee, Mr. K. N. Pradeep, has informed that stop memo was issued after a landslide occurred in the area where the quarries were working. Since the quarry continue to working , he has approached

I/247319/2023

the High court . The complainant has stated that there is a forest near to the quarry, and it is doubtful whether the land is being purchased from the persons who had acquired the land by assignment. The complainant has stated that due to quarrying, landslides and crop damage have occurred, therefore, quarrying should not be allowed without conducting a detailed study.

On the basis of the reports of the Geologist and Tahsildar, and after hearing the petitioner and respondent in person, the order is issued as mentioned below.

Order.

As referred in the judgment of the Rafi John V/s. Land Revenue Commissioner, and also from the report of Ottappalam Tahsildar, Vaniyankulam I Village Officer and Chalavara Village Officer , it is clear that the quarries of Bluechips Mines & Industries and Kalpaka Metal Crushers are not working in the assigned lands as per Kerala Government Land Assignment Act 1960, Kerala Land Assignment Act 1964, Special Rules for Assignment of Government Land for Rubber Cultivation Act 1960, Arable Forest Land Assignment Act 1970 for agriculture or house construction . And hence there is no need to take action according to Land Assignment act 1960 or Land Assignment Rule 1964. It is also ordered that this order does not prevent the Mining and Geology Department from taking appropriate action as per law regarding the operation of the quarries. Thus the order of the Hon'ble High Court has been implemented.

District Collector

Copy to:-

1. Advocate General , Kerala, Ernakulam.
 2. Geologist, Palakkad.
 3. Tahsildar, Ottappalam.
 4. Mr. K. N. Pradeep,
- State President, Environment Protection Committee.

Registration no. TVM/TC/651/2017, ANGLIVELIL BUILDING, OPPOSITE TO
LAKE SHORE HOSPITAL, Room no. 1 (17/601), Nettoor (P.O.), Ernakulam -
682040

5. Managing Director, Bluechips Mines & Industries,
Vembalath Padam, Kailiad (P.O.), Ottapalam - 679122
6. Managing Director, Kalpaka Metal Crushers, Kailiad (P.O.), Ottapalam - 679122

Signed by

Dr Chithra S las

Date: 26-09-2023 07:52:11



**Action Taken Report filed by Secretary to Government,
Environment Department, Government of Kerala before the
Hon'ble National Green Tribunal in OA No.149/2022.**

The Kerala State Pollution Control Board stated that as per the order dated 11.08.2023, the action taken subsequent to the issue of direction to the 9th (Kalpaka Metal Crushers) respondent are submitted. Board has issued direction to the 9th respondent to remove the top soil and overburden deposited near the crusher and to use it for the reclamation of the quarry pit as per the Environmental Clearance conditions. In the reply letter dated 21/07/2023, the 9th respondent submitted that the topsoil and overburden generated during the quarrying operations are stacked in their premises earmarked for the same only as per the conditions in Environmental Clearance and in compliance of the mine closure plan approved by the Department of Mining and Geology. The validity of their Environmental Clearance expired on 04.03.2023.

However removal of stacked topsoil and overburden is not done, since as per the advice from their mining consultant, removal during monsoon and heavy rain may result in inundation in the area and spreading of over burden to adjacent land. It was assured that the stacked soil and quarry overburden will be removed from the present site using it for phased restoration of mining pits as per the conceptual mine closure plan with proper terracing and stabilization with plantation in time bound manner after the recess of monsoon and heavy rain. It was also reported that the removal of soil dump will commence from September 2023. Further it was ensured that measures will be provided to prevent runoff and erosion from the slopes with geo textiles and constructing embankment walls.

Dr. Rathan U Kelkar IAS
Secretary
Environment Department
Govt. Secretariat
Thiruvananthapuram.

(5)

The site was inspected on 19/09/2023 and it was noticed that the work is initiated and foundation works of the embankment wall in the sloped area were going on. It was reported that the removal of stacked top soil and overburden for restoring the quarry will start once the rain subsides.

The District Collector, Palakkad had reported that quarrying lease was granted to M/S Blue Chips Industries, Kayiliyad to extract and transport granite building stone from an area of 1.6100 H in Sy. No.168/11 A Block 46 of Chalavara Village, Ottappalam Taluk, Palakkad District as per Proceedings number 268/2011-12/781/M3/2008, dtd. 29/07/2011 of Directorate of Mining and Geology.

In the light of the Judgement of WP(C)11400/2020 filed before the Hon'ble High Court of Kerala, the above Quarry was inspected and it was found that M/s Blue Chips Mines and Industries is situated at a distance of 500 m northeast from the land in Re Sy. 424/7, 432/5.

Blue Chips Mines and Industries is located in land with thandaper (Village register showing the ownership of land) no.9278 in Chalavara Village, Block 46, Re.Sy.426/1-1 having an extend of 21.33 Are, Re. Sy 391/8, having an extend of 5.13 Hectare.

The above land come under the possession of M/s. Blue chips Mines and Industries vide the documents number 696/2003 ...etc. of Sub Registrar Office, Cherpulassery. The old Sy.No. of the above land is 168/11A of Chalavara Village. As per the the Kerala Land Conservancy Act 1963, the above said land was taken over by the Government of Kerala as excess land vide Proceedings No. LR6-25177/ 74 and LR6-31047/73. The land was not an assigned land under Kerala Land Assignment Act.

As per the OA 149/2022 filed by Sri.Sankaran enquiry was conducted by

Dr. Rathan U Kelkar IAS
Secretary
Environment Department
Govt. Secretariat
Thiruvananthapuram.



Geologist, Palakkad over M/s.Blue Chips and M/s.Kalpaka Metal Quarries and found that the quarrying activities were carried out by violating the conditions mentioned in quarrying, lease and Mining plan. Due to this, show cause was issued to M/s. Blue Chips Mines and Minerals asking whether there is any reason for not to take action against this violation. Having not satisfied with the reply given by quarry owners, transition permission given to the quarry was banned with effect from 01.04.2023 in the online portal KOMPAS of Mining and Geological Department. Now the Quarry was under operation.

As per the order dtd. 09/06/2023 of Hon'ble NGT, joint verification was conducted by Mining and Geological, Environmental Engineer and Ottappalam Tahsildar. In the judgement of Hon'ble NGT, it was reported that M/s.Blue Chips Mines and Industries was operating without obtaining necessary Environmental clearance.

On the basis of judgement dated 27.02.2012 of Hon'ble Supreme Court in Deepak V/s Haryana State case, Court of Kerala insisted that for quarry not exceeding an extent of 5 Hectares Environment clearance is not needed for quarrying and Mining activities. Environment clearance is needed only at the time of renewal of quarrying lease or quarrying permit.

So in this circumstances quarrying lease /quarrying permit was granted to M/s.Blue Chips Mines and Minerals by Department of Mining and Geology w.e.f. 26.08.2011 for 12 years till 25.08.2023.

In the joint verification done on 08.06.2023, it was found that the soil which was removed during mining was dumped and heaped in the quarry premises. Since the soil may get washed off due to rain or other activities, direction was given to quarry owner to take necessary arrangements for leveling the soil so that it may not get washed off to nearby fields. In consequent site inspection, it

Dr. Rathen U Kelkar IAS
Secretary
Environment Department
Govt. Secretariat
Thiruvananthapuram.



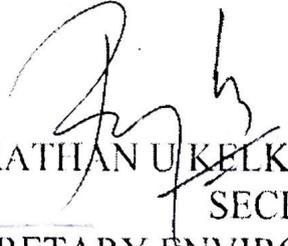
7

was noted that necessary arrangements are taken to prevent this washing off of top soil.

M/s. Kalpaka Metal crusher operating stone Quarry and metal crusher unit is within a distance of 400 meter from the petitioner's paddy field. Towards the northern side of the petitioner's property there is irrigation canal. On physical verification done through by Chalavara and Vaniyamkulam I Village Officers, it is not predominantly seen that the field were covered or made unfit with deposits from quarry. During flood in 2018 - 2019 a little bit sledge had got deposited in small area through the nearby water channel. This channel is not connected with the quarrying area. On site verification it is evident that paddy was cultivated and harvested recently in Re Sy. 432/6, 424/6 of land belonging to applicant and family. Therefore the averment in the OA, regarding quarry waste is false and is hereby denied. Large heaps of slurry from sand making was found specific measures taken to prevent the mixing of these soil and slurry or dust in rain water were not seen in the quarry.

It is requested that the above action taken report in compliance to the orders dated 11.08.2023 of this Hon'ble Tribunal may be accepted.

Dated this the 26th day of September 2023.


DR RATHAN U KELKAR I A S
SECRETARY
O/O SECRETARY ENVIRONMENT

Dr. Rathan U Kelkar IAS
Secretary
Environment Department
Govt. Secretariat
Thiruvananthapuram.

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

**ORIGINAL APPLICATION NO. 149
OF 2022**

In the matter of:

Shankaran

----Applicant

-VS-

State of Kerala, Rep by its Principal
Secretary,

Dept. of Environment & Climate
change,

Thiruvananthapuram and ors

----Respondent(s)

**REPORT FILED BY THE
DISTRICT COLLECTOR,
PALAKKAD/**

2ND RESPONDENT

E.K. KUMARESAN,

**Standing Counsel for Government
of kerala**

No.6, Indian Chambers (SICCI)

Annex Building, Ground Floor,

Esplanade, Chennai - 600 108.

Cell No: 94443 98701