

**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/**

**2<sup>ND</sup> RESPONDENT**

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Dated at Chennai on this the 08<sup>th</sup> May, 2023.

for - *A. K. Kumaresan*  
31/5/23

**M/s. E.K.KUMARESAN**

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

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V/198570/L-23

REPORT SUBMITTED BY 2<sup>nd</sup> RESPONDENT, DISTRICT COLLECTOR, PALAKKAD BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL (SOUTH ZONE) IN OA 149/2022 FILED BY SRISANKARAN S/o AYYAPPAN, ATHANIKKAL HOUSE, CHALAVARA (PO), PALAKKAD DISTRICT

The petition is related with the siltation and deposition of overburden soil, quarry waste to the paddy fields, including that of the petitioner and making it unfit for cultivation.

The Quarrying lease was granted to the 8<sup>th</sup> respondent M/s blue chip mines & industries to extract 100000(One lakh) MT of granites building stone per year over an area of 1.6100 hectares of land comprised in survey no.168/11A of Chalavara village, Ottappalam taluk, Palakkad District, for 12 years from the date of execution of the Quarrying Lease deed under the Kerala Minor Mineral Concession Rules, 1967 by the Director of Mining & Geology, Thiruvananthapuram vide order No. 668/2008-09/7814/M3/08 dated 31-01-2009. The Quarrying Lease Deed was executed on 26<sup>th</sup> August 2011 for 12 years commencing from 26-08-2011 to 25-08-2023. On basis of the Quarrying lease and other statutory licenses, The Geologist Palakkad issued movement permits to M/s blue chip mines & industries (8<sup>th</sup> Respondent) for extracting and transporting Granite Building Stone.

The Quarry of the 8<sup>th</sup> Respondent Blue Chips Mines and Industries has consent to operate dated 25-05-2018 by Kerala State Pollution Control Board, which is valid up to 31-05-2023. On inspection done by Kerala State Pollution Control Board officials it is reported that M/s Blue chip Mines & Industries is currently doing only quarrying activity. The crusher of this industry has stopped functioning. The crusher has been dismantled and the machineries are replaced.

The applicant has alleged that the 8<sup>th</sup> respondent has not at all obtained Environmental Clearance. The Quarrying Lease of M/s blue chip mines and industries was obtained on 31-01-2009 that is prior to the judgement dated 27-02-2012 of the Hon'ble Supreme Court of India in Deepak kumar Vs State of Hariyana {(2012)4 SCC 629} the quarry can operate with out Environmental Clearance. The requirement of environmental Clearance would arise only while seeking renewal of mineral concession. The division bench of the Hon'ble High Court Of Kerala in WP(C) 31148/2014 (S) (All Kerala River Protection Council Vs State Of Kerala) has started in Paragraph 82(i) of the judgement that

*" in case where quarrying/ mining /lease which were existing on the date of issuance of notification dated 14-09-2012 or On the date of issue of the order dated 18-05-2012 by the Govt. Of India, Ministry of Environment & Forests with regard to area less than 5 hectares no environmental clearance with regard to extraction of minor mineral is required. Notification dated 14-09-2006 contemplated obtaining environmental clearance only with regard to new projects /new activities."*

The Hon'ble High Court Of Kerala has reiterated the aforesaid observation in several other writ petition thereby affirming that insistence of Environmental Clearance does not apply to the leases granted prior to the judgement dated 27-12-2012 in Deepak kumar Vs State Of Hariyana

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{(2012) 4 SCC 629}

The Quarrying Permit was granted to C K Kunhipoker ,Managing Partner ,Kalpaka metal crusher ,kailiyad PO ,Shornur ,Palakkad( 9<sup>th</sup> Respondent) to extract Granite building stone over an area of 97.07 Ares of land comprised in survey No. 1/7pt of vaniyamkulam 1 village , Ottappalam taluk, Palakkad District commencing from 06-12-2021 to 05-12-2022 as per the kerala Minor Mineral Concession Rules 2015 by Geologist, Mining & Geology Department, Palakkad vide Quarrying permit No. 18/2021-22/GBS/DOP/2361/2021/A1 dated 06-12-2021 . The validity of the quarrying permit was expired on 05-12-2022.

The Consent to Operate was granted to the 9<sup>th</sup> respondent by Kerala State Pollution Control Board dated 12-03-2018 and valid up to 28-02-2023. The Quarry was given Consent to Operate based on Environmental clearance (EC) obtained dated 05-03-2018 and valid up to 05-03-2023.

The petitioner and his family are in possession and enjoyment of the following Paddy fields in chalavara village of Ottappalam Taluk, in Palakkad District ,Kerala State.

Sl.No	Thandaper Number	Thandaper Name	Block No	Re Sy.No	Extent in Ares	Classification	Remarks
1	244	Ayyappan S/o Sankaran  Athanical House,  Vembalathupadam  kayliad(po)	46	432/5	30.60	Nilam	
2	8028	1.Sudha D/o Sankaran  2.Sindhu D/o Sankaran  Athanical House  Vembalathupadam  kayliad(po)	46	424/6	29.80	Nilam	
3	183	Ayyappan  Athanical House,  Vembalathupadam  kayliad(po)	46	424/7	08.37	Nilam	

The 8th & 9th Respondents M/s Blue Chips Mines & Industries & M/s Kalpaka Metal Crushers respectively are operating granite stone quarries and metal crusher units within a distance of 400 m from the petitioners paddy field.

Towards the northern side of petitioner's property there is an irrigation canal. M/s Blue chip

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mines and industries is lying north to the above mentioned canal. On physical verification done through village officers chalavara & vaniyakulam reported that chances of draining quarry waste and metal crusher wash out from 8<sup>th</sup> respondents & 9<sup>th</sup> respondents quarry to petitioners paddy land is very less. It is not predominantly seen that the field were covered or made unfit with deposits from quarry . During flood in 2018 and 2019 a little bit sledge had got deposited in small area through the near by 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 Survey nos. 432/6, 424/6 of land belonging to applicant and family.

The Geologist Palakkad inspected the sites in question on 07-02-2023. On inspection , it is found that the 8<sup>th</sup> Respondent's quarry is working by violating the conditions stipulated in the quarrying lease and mining plan . It is also found that top soil , overburden materials , quarry waste etc. has been dumped unsafely and unscientifically in an area 65 meters south of boundary pillar no.3 . The Geologist issued a notice to the 8<sup>th</sup> respondent asking to show cause whether there is any reason or not to take actions against this activity , as per Mines and Minerals Development And Regulation Act 1957, Kerala Minor Mineral Concession Rules 2015, and Kerala Minerals Prevention of Illegal Mining Storage and Transportation Rules 2015.

It is Submitted that the validity of Quarrying permit of the 9th respondent has expired on November 2022 . There is no mining activities in the 9<sup>th</sup> respondent's quarry . Since there is no production in the quarry, the crusher which runs using the boulders brought from the quarry has also stopped functioning from that date. Hence ,there was no production activities in crusher or Quarry during the time of Kerala State Pollution Control Board officials inspection. It is also noticed that 9<sup>th</sup> respondent conducted mining activities by violating conditions stipulated in mining plan and Rule 10 of KMMC Rules 2015.

Hence its humbly submitted that there is no merit in the petitions and it has to be dismissed with cost of the respondents. All the facts stated above are true the best of knowledge information and belief.

District Collector

Palakkad

Signed by

Dr Chithra S las

Date: 17-02-2023 18:40:11

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