

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

Appeal No.15 of 2022

Arjun Gopalaratnam,
S/o R. Gopalaratnam,
No.02, Nerkundram Village,
Salavakkam post via Anambakkam,
Pincode : 603 107.

... Appellant

Vs.

1. The Tamilnadu State Environment Impact Assessment Authority,
Rep by its Member Secretary,
3rd Floor, PanangalMaligai,
No.1, JeenisMaligai, Saidapet,
Chennai - 15.
2. Mr.R.Giridharan,
S/o Rajendran,
No.12/113, 1st Main Road,
Moogambikai Nagar,
Sikkarayapuram Extension,
Gerugambakkam, Kancheepuram,
Chennai - 600 128.

...Respondents

REPLY STATEMENT FILED BY THE 2ND RESPONDENT

I, R.Giridharan, Son of Mr. Rajendran, aged about 28 years, residing at No. 12/113, 1st Main Road, Moogambikai Nagar, Sikkarayapuram Extension, Gerugambakkam, Kancheepuram, Chennai - 600 128, do hereby solemnly affirm and sincerely state as follows:

1. I state that I am the 2nd Respondent herein and as such I am well acquainted with the facts of the case.
2. I state that the above appeal has been filed by the appellant herein under Sections 16 (h) read with 18 (1) of the National Green Tribunal Act, 2010 for the following relief:-

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"a. Quash the Environmental Clearance in Letter No. SEIAA-TN/F.8101/1 (a)/ EC No: 4730/2021 dated 20/09/2021 granted by the 1st respondent to the 2nd respondent.

b. Issue such other orders as it deems fit in the interest of the case and render justice."

3. I humbly submit that I have read the contents of the above appeal and at the outset, I deny all the averments contained in this Appeal except those that are specifically admitted therein. I reserve my right to file additional Reply Statement by this Respondent if better facts are made available at a later stage.

4. I respectfully submit that the above appeal itself is not maintainable at all as it is barred by limitation and this apart it is devoid of merits on both the factual and legal aspects. I state that the appellant has no locus standi to file the above Appeal and as such the same has been filed with vested interest and no environmental interest is involved hence the same is an abuse of process of law.

5. I humbly submit that the Appellant has been aware of the entire proceedings in the subject issue since its commencement and the same is evident from the fact that he has given representation/objection to the authorities on **17.11.2021** which only goes to show that the Appellant was seized of the impugned environmental clearance and was capable of filing a detailed objection to the same. I submit that it is only thereafter that the Appellant, with an ulterior motive, had filed this present Appeal under Section 16 (h) read with 18 (1) of the NGT Act on **26.02.2022** before the Registry of this Hon'ble Tribunal with an inordinate delay of more than 4 months which is evidently beyond the prescribed period of limitation and thus, the present appeal is hopelessly time barred and on this ground alone the above appeal is liable to be dismissed.

6. I humbly submit that the relevant provision under Section 16 of the National Green Tribunal Act, 2010 reads as follows :

* P. C. J.

SECTION 16 – Tribunal to have appellate jurisdiction

...

(h) an order made, on or after the commencement of the National Green Tribunal Act, 2010, granting environmental clearance in the area in which any industries, operations or processes or class of industries, operations and processes shall not be carried out or shall be carried out subject to certain safeguards under the Environment (Protection) Act, 1986 (29 of 1986)

...

may, within a period of thirty days from the date on which the order or decision or direction or determination is communicated to him, prefer an appeal to the Tribunal:

Provided that the Tribunal may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed under this section within a further period not exceeding sixty days.

6. I humbly submit that apart from the above provision, it is just and necessary to read Section 5 of the Limitation Act, 1963:

*"Extension of prescribed period in certain cases: Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908, may be, admitted after the prescribed period, if the appellant or the applicant satisfies the court that he had **sufficient cause** for not preferring the appeal or making the application within such period".*

7. It is apparent from the above provisions of law that an appeal has to be filed within the period of limitation. I humbly submit that the present appeal ought to have been filed within 30 days before this Hon'ble Tribunal but the same was filed on 26.02.2022 and there is a delay of **160** days. According to the NGT Act, an appeal has to be filed before this Hon'ble Tribunal within 30 days from the date of impugned order. But the appellant with an ulterior motive wants to unsettle

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proceedings which have been issued in accordance with law. I submit that the very fact that despite being aware of the entire proceedings and after being able to file objections to the same, the appellant has approached this Hon'ble Tribunal after a period of more than 2 months even after giving representation/objection to the authorities on 17.11.2021 and the said communication would reflect that the appellant is abusing the process of law for his vested interests. I state that the above appeal has to be rejected at the threshold itself, in the interest of justice.

9. I humbly submit that the Appellant is required to show sufficient cause as to the reason for the inordinate delay in filing the appeal. However, the appellant, in order to circumvent the delay in filing the present appeal, has cited the order of the Hon'ble Supreme Court wherein the period of limitation stood excluded till 28.02.2022. I humbly submit that the objective of the order passed by the Hon'ble Supreme Court was to ensure the protection of interests of those persons who were prevented from approaching the Hon'ble Tribunal within time for filing appeal due to the pandemic. In the present case, the Appellant was neither prevented nor incapacitated due to the pandemic, in approaching the authorities nor the tribunal and the same is evident from the fact that the appellant had already approached the authorities to revoke the impugned Environmental Clearance on **17.11.2021** and there is no sufficient reason shown or provided by the appellant to show cause that he was prevented from filing the appeal because of the pandemic. I submit that the appellant was capable and had ample opportunity to approach the Hon'ble Tribunal well within the prescribed time and hence, the order of the Hon'ble Supreme Court will not be applicable to such persons with vested interests, who are willing to take advantage of the order passed by the Hon'ble Supreme Court.

10. I humbly submit that the present appeal, apart from being barred by the limitation, is completely devoid of merits and is liable to be dismissed in limine. I submit that the allegations raised in the

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present appeal is only with respect to suppression of facts in Form - I for Environmental Clearance, except which there are no other allegations raised by the Appellant. With respect to the allegations raised in the present appeal, I humbly submit that there is no suppression of any fact in Form - I by this Respondent.

11. I humbly submit that this Respondent had proposed to establish a rough stone and gravel quarry in Patta lands of an extent of 2.77.00 Hectares, comprised in S.F. Nos. 367/1, 367/2, 368/1G, 368/1H, 368/11, 376/1-5 of Edamachi Village, Uthiramerur Taluk, Kancheepuram District, pursuant to which, this Respondent had taken the subject land on lease from its owner on 19.02.2020 by a registered lease deed.

12. I humbly submit that in compliance with the Tamil Nadu Minor Mineral Concession Rules 1959, this Respondent applied for mining lease on 24.02.2020. Based on the application for mining lease, the Sub-Collector of Kancheepuram and the Assistant Director, Geology and Mining Department, Kancheepuram conducted a field inspection and recommended to grant mining lease. Based on the recommendations, the Assistant Director, Geology and Mining Department, Kancheepuram in his proceedings dated 20.10.2020 with various conditions, has directed this Respondent to obtain Environmental Clearance from the State Level Environment Impact Assessment Authority of Tamil Nadu, the 1st Respondent herein. In condition No. 4 of the above proceedings, it was stated that ***Edamachi Social forest in S.F. Nos. 258 to 274 is located on the eastern side of the subject land.***

13. I humbly submit that in compliance of the above conditions, this Respondent applied for Environmental Clearance under Category B2 of Item 1 (a) "Mining of Minerals Projects" of the Schedule to the Environment Impact Assessment Notification 2006, to the 1st Respondent on 28.11.2020 and 07.12.2020, with all necessary particulars and documents.

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14. I humbly submit that the State Level Expert Appraisal Committee (SEAC) in its 223rd meeting held on 30.07.2021 recommended the project to the SEIAA for grant of EC subject to various conditions. One of the specific conditions imposed by the SEAC is that :

"The Project proponent shall submit hydraulic particulars of the tank located nearby to a distance of 150m before obtaining EC.

The project proponent shall submit hydro geological study report to SEIAA before placing the subject in SEIAA Table agenda meeting"

15. I humbly submit that in compliance of the above conditions, this Respondent engaged NABET/QCI accredited consultant to conduct a hydrogeological study and the same was conducted and the report was also submitted to the authority. The SEIAA in its 459th meeting held on 09.09.2021 accepted the recommendations of the SEAC and granted the subject EC with various conditions to be complied with, on 20.09.2021.

16. It is submitted that the allegation that the subject land is in proximity to a reserved forest is unfounded and without any basis and I submit that the said Edamachi forest is a social forest and the same is evident as stated above, from the proceedings of the Assistant Director, Geology and Mining Department, Kancheepuram dated 20.10.2020.

17. I humbly submit that the allegation that the groundwater table is at a depth of only 2-8mgbl is completely baseless and without any merit. It is submitted that it is evident from the **"Hydrogeological Study Report"** submitted to the authorities prepared by an NABED/QCI accredited consultant for the subject land, that the groundwater table is expected to be found at a depth of **43.5 - 45 m gbl** and hence there was no suppression of any material fact by this Respondent as alleged by the Appellant.

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18. I humbly submit that the allegation that the Respondent had suppressed the presence of the Karikili bird sanctuary in the Form – I submitted, is all false and baseless. It is submitted that as per the existing provisions of law, this Respondent is expected to declare those protected areas which are present at a distance of 10km from the subject site and since the present Karikilli bird sanctuary even going by the appellant's averment, is at a distance of more than 10 Km from the subject site, this respondent was not obligated to divulge the same since there would be no impact on its environment.

19. I humbly submit that this respondent is under a direct obligation to comply with all the stringent conditions imposed in the impugned Environmental Clearance, which broadly covers the aspects raised by the Appellant and this Respondent is ready and willing to fully comply with the same and install additional preventive measures, to ensure that there is no environmental degradation or pollution of any kind caused due to the quarrying, strictly in compliance with the conditions imposed.

20. I state that the present appeal is time barred and devoid of merits and the same is filed with vested interest of the appeal and there is no any environmental interest. In any case, the public interest is more important than the private vested interest of certain individuals and hence the above appeal is liable to be dismissed.

Under the above circumstances, I respectfully pray that this Hon'ble Tribunal may be pleased to dismiss the above appeal on the point of limitation as it is scrupulously barred by limitation with heavy cost and also as devoid of merits and pass such further or other orders as this Hon'ble Tribunal may deem fit and proper in circumstances of the case and thus render justice.

Dated at Chennai on this the 24th day of May, 2022


2ND RESPONDENT

VERIFICATION

I, R.Giridharan, Son of Mr. Rajendran, aged about 28 years, residing at No. 12/113, 1st Main Road, Moogambikai Nagar, Sikkarayapuram Extension, Gerugambakkam, Kancheepuram, Chennai - 600 128, do hereby verify that the contents of above paragraphs are true to the best of my knowledge and are believed to be true on legal advice and that I have not suppressed any material fact.

Verified at Chennai on this the 24th day of May, 2022


2NDRESPONDENT