

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

Original Application No. 154 of 2021 (SZ)

IN THE MATTER OF

A. Balasubramanian, Thanjavur District.

...Applicant(s)

-Vs-

Union of India Rep by its Secretary, Ministry of Environment,

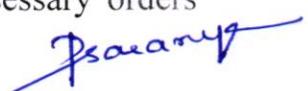
Forests and Climate Change and others

...Respondent(s)

COUNTER AFFIDAVIT ON BEHALF OF THE MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE (RESPONDENT No. 1)**MOST RESPECTFULLY SHOWETH:**

I, Dr.Saranya P, D/o P.K.Narasimman, aged about 33 years currently working as Scientist-D in the Ministry of Environment, Forest and Climate Change (MoEF&CC), Integrated Regional Office, Chennai, do hereby solemnly affirm and state as under:-

1. That I am authorized to swear the present affidavit on behalf of the MoEF&CC on the basis of the official records maintained therein.
2. It is submitted 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.
3. That the applicant is aggrieved by the illegal mining is being done against the conditions imposed in the environmental clearance. It is alleged in the application that the additional 8th respondent had obtained environmental clearance from the District Level Environment Impact Assessment Authority vide their Letter No. DEIAA-Tnj-1/F.No.75/1 (a)/EC No: 7/2017 dated 06.08.2018 for sand quarrying at Survey Nos. 8 and 9 of the Chinna Avudayar Koil Village, Pattukkottai Taluk, Thanjavur Distirct.
4. That the applicant in the present matter has inter-alia prayed for (i) To the Respondent Authorities, to take immediate measure to assess the damages that have caused, on account of the illegal quarrying operation carried out by the 4th respondent based on EC issued on 06.08.2018, and to pass necessary orders


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under Section 5 of the Environment (Protection) Act, 1986 to recover the same from the 4th respondent officials responsible, and prosecute them in accordance with the law. (ii) To direct the Respondent authorities to initiate criminal prosecution against the officer's responsible in the 4th respondent department, for violations of the provisions of the environmental legislation; (iii) To direct the authority to remediate the impugned area.

5. That the Respondent Ministry has issued the EIA Notification, 2006 having S.O. 1533(E) dated 14th September, 2006 under the provisions of the Environment (Protection) Act, 1986. The EIA Notification, 2006 requires certain projects to obtain prior Environmental Clearance (herein after referred as EC) before any construction work in case of new projects or expansion and modernization of existing projects or activities. The Schedule to the Notification details the categories, projects or activities, which require prior EC. Further, the projects and activities are broadly categorized into Category "A" and Category "B", based on the spatial extent of potential impacts on human health, 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, 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 require prior environmental clearance from the State/Union territory Environment Impact Assessment Authority (SEIAA).
6. 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 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

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the essential infrastructural requirements necessary for effective monitoring for Sustainable Sand Mining.

7. That the Respondent Ministry vide S.O. 637 (E) dated 28th February, 2014 delegates the powers vested in it under Section 5 of the Environment (Protection) Act, 1986 to all the State & Union Territory Environment Impact Assessment Authorities to issue show cause notice & to issue directions to the project proponents in case of violation of EC conditions & for keeping such EC(s) in abeyance or withdrawing them, if required.
8. 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, 1957 (MMDR Act) and is entrusted with the enforcement and regulation of mining operations in a State including illegal mining. Further, the State Government is empowered under Section 23 C of the Mines and Minerals (Development and Regulation) Act 1957, (MMDR Act) to make rules for prevention of illegal mining, transportation and storage of minerals and the State Government is entrusted with the enforcement and regulation of mining operations in a State.
9. That in view of the aforementioned facts and circumstances, this Hon'ble Tribunal may kindly be pleased to pass appropriate order(s).


DEPONENT

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VERIFICATION

Verified at Chennai on this 28th day of March 2022 that the contents of this affidavit based on official record(s) maintained and information available in the office are true and correct, no part of it is false and nothing has been concealed there from.


DEPONENT

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