

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL**

**SOUTHERN ZONE BENCH AT CHENNAI**

**ORIGINAL APPLICATION NO. 154 OF 2021 (S.Z)**

(Under Sec. 18(1) Read with 19(4)(k) of the National Green Tribunal Act, 2010)

**A. Balasubramanian**  
Thokkalikkadu Village,  
Pattukkottai Taluk,  
Thanjavur District 614 701.  
Contact details:- 9884422695  
taaurs@gmail.com

**... Applicant**

-Versus-

- 1. Union of India, Rep by its Secretary**  
Ministry of Environment and Forests (Forest Conservation Division) Government of India, 3<sup>rd</sup>  
Floor, Prithvi Wing,  
Indira Parvayaran Bhawan,  
Jor Bagh, New Delhi-110 003.  
**Contact: 24695132,**  
**E-mail: secy-moef@nic.in**
- 2. State of Tamil Nadu**  
The Secretary to the Government,  
Environment and Forest Department,  
Chennai-600 009.  
**Contact: 25671511,**  
**E-mail: forsec@tn.gov.in**
- 3. The Commissioner of Geology and Mining,**  
Alandur Road, Guindy Industrial Estate,  
Guindy, Chennai-600 032.  
**Contact: 044 22500225,**  
**E-mail: geomine@nic.in**
- 4. The Secretary to the Government,**  
Government of Tamil Nadu,  
Kamarajar Promenade, PWD Estate,  
Chepauk, Triplicane, Public Works Department,  
Chennai-600 005.



*Balasub*  
  
**S. Durairaj** 10.5.2021  
Advocate  
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Contact: 25671622,  
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5. **The District Collector,**  
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6. **The Chairman,**  
**Tamil Nadu Pollution Control Board,**  
Mount Salai, Guindy-600 032.  
Contact: 044 - 2235 3076,  
E-mail: [tnpcb-chn@gov.in](mailto:tnpcb-chn@gov.in)
7. **The Tahsildar,**  
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**PWD WRD**  
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..Respondents

### Reply to the Objections filed by the 8<sup>th</sup> Respondent

1. The Applicant had filed the Application in OA No. 154/2021 (SZ), praying for,

“..directions:

(i) To the Respondent Authorities, to take immediate measures to assess the damages that have caused, on account of the illegal quarrying operation being carried out by the 4th Respondent based on EC issued on 06.08.2018, and to pass necessary orders under Sec.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 officers responsible in the 4TH Respondent for violations of the



  
10.5.22  
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provisions of the environmental legislation;

(iii) To Direct the Respondent Authorities to remediate the impugned area;

(iv) Pass such further or other orders as this Hon'ble Tribunal may deem fit and necessary in the interest of justice. is a registered Company and is carrying on the business of building constructions and real estate developments. The Interlocutory Applicant is a law abiding unit with utmost respect and regard and carries on its business only with proper legal sanctions and approvals.”

2. It is submitted that vide order dated 30.07.2021, this Hon'ble Tribunal was pleased to constitute a Joint Committee comprising the members of (1) Senior Officer from Ministry of Environment, Forest and Climate Change (MoEF&CC), Integrated Regional Office, Chennai, (2) a senior Officer from State Environment Impact Assessment Authority-Tamil Nadu (TN-SEIAA), (3) a senior Officer from Geology and Mining Department, Govt. of Tamil Nadu, and (4) a senior Officer from Tamil Nadu Pollution Control Board (TNPCB), with the direction to inspect the area in question and submit factual as well as action taken report, if there is any violation. In the above said Order, Hon'ble NGT appointed Ministry of Environment, Forest and Climate Change, Integrated Regional Office, Chennai as nodal agency for co-ordination and for providing all necessary logistics for this purpose.

3. It is submitted that vide O.M. No. EP/12.7/NGT(SZ)/021/2021/TN dated 05.10.2021 the Joint Committee has been constituted comprising the following members based on the Officers deputed / nominated from the Authorities concerned: (i). Shri. P. Saravanan, Joint Director of Geology and Mining, Tiruchirappalli Region. (ii). Er. R. Gunaseelan, District Environmental Engineer, TNPCB, Nagapattinam. (iii). Er. C. Tholkappiyan, Assistant Environmental Engineer, State Level Environment Impact Assessment Authority – Tamil Nadu. (iv). Dr. M.T. Karuppiah, Scientist – E, Ministry of Environment, Forest and Climate Change, IRO, Chennai





  
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– (Nodal Officer for the Joint Committee). The Terms of Reference of the said committee are as follows:-

- i. To ascertain whether the project proponent (8th respondent) has committed any violation of the conditions imposed in the Environmental Clearance for the project.
- ii. Whether any excess mining has been done.
- iii. Whether in-stream mining has been done against the guidelines issued by the MoEF&CC on sustainable sand mining policy.
- iv. Any damage has been caused to the environment and river ecology.
- v. Whether trees have been damaged in the process of mining.
- vi. To assess the environmental compensation, if any, damage has been caused to the environment including expenses to be incurred for remediation and restoration, and
- vii. The Committee is also directed to compare the original revenue records and other registers available in respect of these things available and also satellite images.

The Committee was pleased to inspect the Impugned site on 11.10.2021, and report the following:

- i. That the extent of mining, as per the proposal of the proponent dated 14.07.2018, is 3 hectares of Agniyar River, in S.No. 8 and 9 of Chinna Avaudayar Kovil Village, Pattukottai Taluk, Tanjavur district.
- ii. Deiaa had granted Environmental Clearance vide order dated 06.08.2018, and the approved quantity was at 54 thousand m<sup>3</sup>, and depth shall not exceed one meter from the sill level.
- iii. Mining plan was approved on 12.07.2018.



*Refer to No*  
  
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- iv. The commencement and completion date were observed to be 14.03.2020 and 02.02.2021 respectively.
- v. That large number of bullock cart owners had also gathered during the said inspection, along with the Proponent, Applicant, and other public.
- vi. The violation of conditions, to the granted EC, were observed as follows-
- a. NOC from the Standing Committee of the NBWL has not been obtained.
  - b. Not complied with the conditions laid down in the section V of Rule 36 of Tamil Nadu Minor Minerals Concessions Rules, 1959.
  - c. Earthen bunds and barbed wire fencing around the quarry lease area has not been made.
  - d. Not complied with the mining activity within the permitted area and also the quantity approved.
  - e. Depth of the quarrying has not been complied with as stipulated.
  - f. Mine closure activities have not been complied with.
  - g. Environmental monitoring for AAQ, Noise, ground water etc. have not been undertaken.
  - h. Details of trees present in the lease area and permission obtained for felling of trees in the lease area have not been made available.
  - i. Details are not made available regarding notice of opening of Mine submitted to the Director of Mines Safety, Chennai.
  - j. Change in the calendar plan including quantum of mineral has been observed.
  - k. Details are not made available regarding funds earmarked for the environmental protection and its utilization.
  - l. Greenbelt development has not been undertaken.

*A. Balu*

*Before me*

*10.5.21*

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- m. That a depth of 1.6 meters, against the maximum permitted depth of 1 meters was observed.
- n. That sand quantity extracted is more than the sanctioned quantum. Sand extracted from the additional area having an extent of 2724.79 sq.m with the estimated sand quantity of 6053.44 m<sup>3</sup> has been achieved beyond the approved mine lease area and quantity, which tantamount illegal mining.
- o. Project Authority has not made Earthen bunds and barbed wire fencing around the quarry lease area as stipulated, in order to ascertain the project activities confined within the lease area.
- p. During the visit it has been observed presence of uneven, discontinued surface texture with varying depths, which supports manual sand mining undertaken.
- q. Photographs and sketch showing the pit dimensions, depth etc. have not been recorded / maintained on weekly basis in the sand quarry.
- r. Even during the flood, parts of the river reach may experience deposition / replenishment on transport from the upstream.
- s. No data available on the rate of replenishment / sedimentation of sand on the river segment.
- t. That uprooted/ damaged trees were noticed lying within mining lease area and the EC letter did not mention about the presence of standing crops in the lease area and felling of trees.
- u. That standing crops available in the satellite image prior to 2020, is not available in the year 2021, and the change is noticed to be drastic and only after the commencement of the mining of operation on the impugned area.



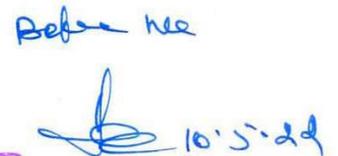
  
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- v. That the distance from the project area to the eco-sensitive Mangrove forest confirms that the same is located within 10 Kms.
- w. That the distance from the project area to the eco-sensitive Thamarankottai reserve forest confirms that the same is located within 10 Kms.
- x. That the proponent had failed to obtain NOC from the standing committee of NBWL under the Wildlife Protection Act, 1972.

4. It is submitted that the distance of the project site to the Thamarankottai reserve forest and Mangrove forest are two different issues and the proponent had tried to dilute the issue by defending the notification of Thamarankottai reserve forest alone. Further, the proponent had tried to defend the illegality, seeking a shelter stating that the committee had not pursued the revenue records. Though the proponent had mentioned in the objections that the quarry operation was monitored through a centralized controlled room by a Taluk level task force, the inspection made by the committee reveals the excess quantum mine and the illegalities made by them.

5. It is unfortunate for the Proponent to state that the inspection was done 8 months after the activity, as the same can only be in support of the proponent in filling of sand mined due to water flow. It is pertinent to state that the committee had failed to survey the southern portion of the quarry site, if the same was done it would have revealed much more illegalities that had been committed by the Proponent. The committee had also failed to list the exact number of tree and sapling that were removed and affected by the uncontrolled and unabatted mining operation by the 8<sup>th</sup> Respondent.



  
10.5.24  
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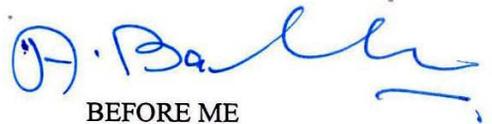
6. It is therefore stated that the committee constituted by this Hon'ble Tribunal had listed out the illegalities committed by the 8<sup>th</sup> Respondent and the objections raised by the 8<sup>th</sup> Respondent, to the committee report, deserves to be set aside.

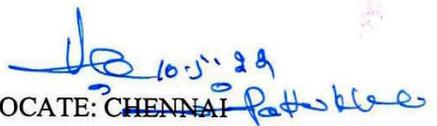
Therefore, it is respectfully prayed that this Hon'ble Tribunal maybe pleased to accept the present objections on the record and pass orders as prayed for in the Application and thus render Justice.

Solemnly affirmed on this the

10<sup>th</sup> day of May, 2022 and

Signed his name in my presence

  
BEFORE ME

  
ADVOCATE: CHENNAI

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the 8<sup>th</sup> Respondent**

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