

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

O.A 154 of 2021(SZ)

In The Matter Of:

A. Balakrishnan

.... Applicant

Versus

Union of India & Ors

.... Respondents

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Through
Dr Shanmuganathan,
Standing Counsel,
Government of Tamil Nadu.

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

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Report Filed by 8th Respondent**CHRONOLOGY**

S.No	TITLE	Date
1.	Letter from Executive Engineer PWD to District Collector, Thanjavur	14.06.2018
2.	Joint Inspection Report for Sand Quarry Permit	23.06.2018
3.	Letter From District Collector to Executive Engineer PWD	04.07.2018
4.	Mining Plan for Sand Quarry	10.07.2018
5.	Grant of Environmental Clearance	06.08.2018
6.	Publication on Paper	23.08.2018
7.	TNPCB consent to Operate	15.11.2018



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8.	Proceedings of the District Collector, Thanjavur	10.02.2020
9.	Representation by Applicant sent to District Collector, Thanjavur	11.01.2021
10.	The Applicant filed an Original Application before the NGT(SZ)	14.07.2021
11.	Status Report Filed by 8 th Respondent	26.10.2021
12.	Joint Committee Report	26.11.2021
13.	Counter Affidavit filed by the First Respondent	01.04.2021
14.	Report by 6 th Respondent	21.12.2022

I, T. Anbarasan, presently discharging my duties as Executive Engineer WRD, Mining and Monitoring Division, Thanjavur, having office at Old Judge Bungalow, near Circuit House, Thanjavur submit the report as follows:

1. On 14.07.2021 the Applicant herein filed an Original Application before the Honourable National Green Tribunal numbered O.A 154 of 2021. The Applicant in the OA called himself as a public spirited person but has suppressed the fact that his Brother one Mr. Mahendran has a piece of land in S.No 10-2 The Applicant and his mother has land in S.No 11 of Chinna Avudaiyar Kovil Village has previous filed a Writ Petition before the Madurai Bench of Madras High Court on 29.09.2015 numbered Writ Petition (MD) No.15827 of 2014 asking not to carry out sand quarrying in Survey No.1 of Thokkalikadu Village, Pattukottai Taluk, Thanjavur district where the Honourable Court Closed the Petition acknowledging permissions and clearances produced by the Respondents in this matter.
2. The Applicant filed another Writ Petition W.P(MD) No.4984 of 2018 before the Madurai


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bench of Madras High Court seeking to stop the sand quarrying operation: in S.No 112 of Maliyakadu, S.No 9 and S.No 9 and 12 of Chinna Avudayar Kovil Village , S.No 1 of Thokkalikadu Village, S.No1,4 and 5-1 Rajamadam village in which the Madurai Bench Accepted the Report by the District Collector regarding the Seizure details, Status Illegal Sand Quarrying and the details of Criminal cases against the Accused in this regard the Case was Closed by the Madurai Bench of the High Court on 30.01.2018

3. In the year 2020 Venkateshwaran, S/o Sivasubramanian of Maliyakadu village filed a W.P (MD) before the Madurai Bench of the Madras High Court for issuance of an Order to stop the District Collector from Issuing permission to carry out the Sand Quarrying Operations. The Honourable National Green Tribunal (SZ) dealt with a similar matter in O.A 161 of 2020 a SUO MOTU Cognisance regarding the Illegal Sand Quarrying in which a Joint Committee was constituted where it gave a detailed report as to the details of the offenders and the Sections pertaining to which a case was instituted against them along with the penalty imposed and recovered the Honourable National Green Tribunal Issued certain guidelines, conditions which areas follows:

“15.So, the application is disposed of as follows:-

- (i) *The concerned departments namely, Mining Department, District Administration and Police Department are directed to comply strictly with the directions give the committee in Para No.14 of their ports as to monitor the illegal sand mining and take action against those persons who are responsible for the same.*
- (ii) *If the CCTV Cameras have not been installed in the places where the mining is going on or possibility of illegal mining is likely to occur namely along the riverbed, then the District Administration as well as the concerned 12 departments are directed to take steps to install considerable number of CCTV cameras in those areas so as to make the monitoring more effective and also to take action against them in accordance with law.*


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- (iii) *The Police Department as well as the District Administration and Mining Department are directed to make periodical inspections of those areas and provide all strict measures to monitor even the permitted mining activities to be carried out in a proper way and to avoid any possibility of committing any violation and doing illegal mining by those persons who have been permitted by the authorities to do mining in accordance with law as well.*
- (iv) *They must also provide certain mechanism to monitor the loading of sand in the vehicles or bullock carts which were permitted by providing necessary passes so as to check as to whether proper quantity of sand permitted alone is being quarried and being transported by those persons.*
- (v) *The authorities are also directed to register the mechanized vehicles which are likely to be used for transportation of such mined articles and provide necessary GPS system in them so as to track the movement of the mechanized vehicles so as to ascertain as to whether this is being used for any illegal purpose other than permitted purpose.*
- (vi) *The Registry is directed to communicate this order to concerned departments so as to enable them to comply with the direction.*¹
4. In this present Application filed vide para 3-5 the applicant alleged that the District collector who is the DEIAA passed an order in RC No.280/Mines/2018, dated 10.02.2020 granting lease to the same project area which he alleged as violation of principle of Natural Justice.
5. On 30.07.2021 when the O.A. 154 of 2021 came up for hearing the Hon'ble National Green Tribunal constituted a Joint Committee to investigate upon as to whether any violation to the EC was made in said Sand quarrying area.²


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6. The Joint Committee Constituted by the Hon'ble National Green Tribunal visited the site on 11.10.2021 mean while the 8th Respondent (EE,PWD-WRD) filed a Status Report on 26.10.2021 where a detailed description of Survey Numbers where the Quarrying activities are taking place, Survey Numbers, Relevant Maps and Objections to allegations filed by the Applicant such as the allegation of Lack of Fencing in para 10, Lack of presence of CCTV cameras in para 11, Allegation of Diversion of the Natural Course of River in para 12, presence of Mangrove in para 13-18 was addressed.³
7. The JC appointed by the Tribunal Filed its report on 30.11.2021 where it said that there was fresh quarrying in some sites, cited arial pictures that there was presence of standing crops in ester years, and alleged that there was violation of the EC and recommended an *Environmental Compensation (EC) = (financial penalty remain within the brief of Section 15 of the E(P) Act,1986 i.e. Rs. 100000/-) + 5000 x No. of days for which violation took place from date of commencement of the project. EC = 100000 + 5000 x 318 days (operation period of quarry) =Rs.16,90,000/-(rupees sixteen lakhs and ninety thousand only).*
8. Mean while on 30.11.2021 The 6th Respondent TNPCB filed a report which is the Regulatory Authority which granted Consent to Operate filed are port saying that the permitted capacity of 54000 cu meters of Sand is not being mined and so no renewal of Consent is necessary from the TNPCB.
9. On 19.02.2022 the 8th Respondent (i.e.), EE PWD filed a E-filed an Objection to the Joint Committee report in O.154 of 2021.⁴ On the last Hearing held in this matter the Tribunal ordered us to Furnish with the calculation of Permitted quantity to be quarried with respect to the Mean Sea Level Calculated.
10. The Mining Plan for Chinna Avudaiyar Kovil Sand quarry in Agniyar river SF.No: 8 & 9 (Part) of Chinna Avudaiyar Kovil Village, Pattukkottai Taluk, in Thanjavur District, has been prepared and mining quantity of sand calculated as per the level basis. The dumpy level


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survey has been conducted from Bench Mark (+) 6.860 M (i.e.,) Mean Sea level which was established on the top of the parapet of culvert namely as Kamarajar bridge across the Eripurakarai tank supply channel of Thokkalikkadu Anicut in Maharaja Samuthiram River. In the approved mining plan, the quantity of the sand is calculated only for the shoal formed which is above the theoretical bed level of Agniyar River is (+) 4 M at the quarry site (i.e.,) is 54,000m³.

11. It is respectfully submitted that the mean sea level was assessed in conclusion of which the 54,000 m³ was derived. It is also to be noted that the PWD has not quarried to such extent.
12. It is respectfully submitted that the sand quarried from the above site is to the level of 53,614 m³ as against the permitted level of 54,000 m³ as permitted in the EC (Lr.No. DEIAA-Tnj-I/F.No.75/1 (a)/EC.No.:7/2017dated: 06.08.2018)
13. Successively the consent to operate was issued by TNPCB dated 15.11.2018 (CONSENT ORDER NO. 1805117286272)
14. The Joint Committee appointed by the Tribunal made a site inspection, while the Committee was constituted the District Environmental Engineer, TNPCB Nagapattinam was nominated as a member in place of District Environmental Engineer TNPCB, Thanjavur vide OM No. EP/12.7/NGT (SZ)/021/2021 dated 05.10.2021. Usually the District Environmental Engineer of the area in which the site has been located is made as a member. Due to the reason that the District Environmental Engineer has previous knowledge about the said site as he is the one to give consent to operate. In cases similar to this, in this situation the District Environmental Engineer, Nagapattinam visited, who did not have prior knowledge or *Status quo ante* of the said site as he is not the one who gave consent to operate to Executive Engineer PWD, WRD based on the documents furnished for the said consent.
15. The Joint Committee visited the site in question which was flooded with water, due to which the sand may have drifted from the position prior to the flooding. The measurement was not


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done to the whole extent, due to the presence of water. So, as to allege, the quarry has been mined to the level of 1.6 meter as against, the approved limit of 1 meter. The said Joint Committee could not have possessed any idea regarding the *Status quo ante* of the site or the rain fall pattern of the said area thoroughly.

16. The Joint Committee Report alleged that there was presence of standing crops within the main site area in January 2005, January 2017, June 2019 and February 2021 by annexing Google map image which is not an authenticated image. The said mine area is a Government land categorized as Arasu Porampoku in the "A Register". The copy of the "A Register" is annexed in the annexure. The RSR categorizes Survey 8 & 9 which is the mining site as Agni Aaru and so, the claim of sighting of the standing crops in the site is incomprehensible. In light of it, the environmental compensation arrived by the Joint Committee may be rejected.

It is therefore prayed that this Hon'ble Tribunal may be pleased to accept this Status Report and Action Taken Report on file and pass such further other orders which it deems fit to the case and thus render justice.

Signature: 
Executive Engineer, PWD - WRD.,
Mining and Monitoring Division, Thanjavur

Date: 31.3.23

VERIFICATION

I, T. Anbarasan, Executive Engineer WRD, Mining and Monitoring Division, Thanjavur, having office at Old Judge Bungalow, near Circuit House, Thanjavur do hereby solemnly and sincerely states in this report as I am well acquainted with the facts and circumstances of this matter on going through the documents available within the 8th Respondent's office.

Signature 
Office Seal Executive Engineer, PWD - WRD.,
Mining and Monitoring Division, Thanjavur

AREG EXTRACT:- From Survey No :8 To Survey No :12

District:Thanjavur Taluk:Pattukottai Village:Chinna Avudaiyar Koil

புல எண்	உட்பிரிவு எண்	பழைய புல எண் - உட்பிரிவு எண்	பகுதி	அரசு - ரயத்துவாரி	நிலத்தின் வகை	பாசன ஆதாரம்	இரு போகமா	மண் வயனமும் ரகமும்	மண் தரம்	தீர்வை		பரப்பு		மொத்த தீர்வை		பட்டா எண்
										ரூ	பை	ஹெக்	எர்	ரூ	பை	
8	-	8		அரசு	புறம்போக்கு			0 - 0	0	0	00	1	45.50	0	00	
9	-	9		அரசு	புறம்போக்கு			0 - 0	0	0	00	5	38.00	0	00	
10	1	10-1		அரசு	புஞ்சை			8 - 5	12	0	00	0	36.00	0	22	
10	2	10-2		ரயத்துவாரி	புஞ்சை			8 - 5	12	0	62	0	40.00	0	25	784-மகேந்திர
10	3	10-3		அரசு	புஞ்சை			8 - 5	12	0	62	0	34.00	0	21	
10	4	10-4		அரசு	புஞ்சை			8 - 5	12	0	62	0	37.00	0	23	
10	5	10-5		ரயத்துவாரி	புஞ்சை			8 - 5	12	0	62	0	37.00	0	23	505-வீரன்
10	6	10-6P	P	ரயத்துவாரி	புஞ்சை			8 - 5	12	0	62	0	10.00	0	06	643-கல்யாண்
10	7	10-6P	P	ரயத்துவாரி	புஞ்சை			8 - 5	12	0	62	0	10.00	0	06	642-முல்லை
10	8	10-6P		அரசு	புஞ்சை			8 - 5	12	0	62	0	18.50	0	12	
TOTAL FOR SURVEY NUMBER- 10												2	22.50	1	38	
11	1	11-1		ரயத்துவாரி	புஞ்சை			8 - 5	12	0	62	0	44.00	0	27	999-துரைராஜ்
11	2	11-2		ரயத்துவாரி	புஞ்சை			8 - 5	12	0	62	0	38.00	0	24	772-பாலசுப்பிரமணியன்
11	3	11-3		ரயத்துவாரி	புஞ்சை			8 - 5	12	0	62	0	42.00	0	26	305-நாடிமுத்து
11	4	11-4		அரசு	புஞ்சை			8 - 5	12	0	62	0	13.00	0	08	
11	5	11-5		ரயத்துவாரி	புஞ்சை			8 - 5	12	0	62	0	35.00	0	22	774-மகேந்திர
11	6	11-6		ரயத்துவாரி	புஞ்சை			8 - 5	12	0	62	0	37.50	0	23	772-பாலசுப்பிரமணியன்
11	7	11-7		ரயத்துவாரி	புஞ்சை			8 - 5	12	0	62	0	37.50	0	23	879-வேதராசு
11	8	11-4		ரயத்துவாரி	புஞ்சை			8 - 5	12	0	62	0	15.00	0	09	874-ஞானாம்பலம்
11	9	11-4		ரயத்துவாரி	புஞ்சை			8 - 5	12	0	62	0	15.00	0	09	875-மலர்
TOTAL FOR SURVEY NUMBER- 11												2	77.00	1	71	
12	-	12		அரசு	புறம்போக்கு			0 - 0	0	0	00	3	40.50	0	00	
TOTAL												15	23.50	3	8	

Q. No. 249. பின் கீழ்க்கண்ட தரவைப் பற்றியும்.

1	2	3	4	5	6	7	8	9	10	11	12
							0.25	0.26	0.07	270 ப. குடியேற்ற அம்பலம்.	↑
							0.25	3.34	0.84	.....	தரிசு.
6	1	6	4		8-5	12				.....	2-2
	2	6	4		8-5	12		3.60	0.91	.....	2-3
								4.59		.....	2-4
7		7	4D					3.60		.....	2-5
8		8	4D					13.30		.....	2-6
9		9	4D							.....
10		10	4		8-5	12	0.25	5.50	1.38	.....
11	1	11-1	4		8-5	12	0.25	3.17	0.79	.....
	2	11-2	4		8-5	12	0.25	3.67	0.92	.....
								6.84	1.71	.....
								8.41		.....
12		12	4D		8-5	12	0.25	4.36	1.09	.....
13		13	4		8-4	11	0.50	5.23	2.62	.....
14		14	4		8-4	11	0.50	5.18	2.59	.....
15		15 50	4		8-4	11	0.50	3.60	1.80	.....
16		16	4		8-4	11	0.50	5.81	2.91	.....
17		17	4		8-4	11	0.50	4.12	2.06	.....
18		18	4		8-4	11	0.50	3.19	1.60	.....
19	1	19-1	4		8-4	11	0.50	2.97	1.49	.....
	2	19-2	4					6.16	3.09	.....
20		20	4D					4.13		.....
21		21	4		8-5	12	0.25	5.37	1.34	.....
22		22	4		8-4	11	0.50	5.08	2.54	.....
23		23	4		8-4	11	0.50	4.66	2.33	.....
24	1	24-1	4		8-4	11	0.50	2.37	1.19	.....
	2	24-2	4		8-4	11	0.50	3.44	1.72	.....
								5.81	2.91	.....
25		25	4		8-5	12	0.25	3.39	0.85	.....
26		26	4		8-5	12	0.25	5.52	1.38	.....
27	1	27	4		8-4	11	0.50	3.01	1.51	.....
	2	27	4		8-4	11	0.50	1.50	0.75	.....
								4.51	2.26	.....
28	1	28	4		8-4	11	0.50	2.38	1.19	.....
	2	28	4		8-4	11	0.50	1.50	0.75	.....
								3.88	1.94	.....
29		29	4		8-4	11	0.50	4.12	2.06	.....
30		30	4		8-5	12	0.25	2.90	0.73	.....

Handwritten calculations and notes in Tamil:

15-9-518
 15-1-280
 2-0-12
 3-0-34
 4-0-11
 5-0-56
 6-0-56

8 த. செ. செ. சேக்கிழார் மரக்காயும் இம் ஊம் படுகுறையுமே

9 N.K.M. முகமது இப்ரஹிம் மரக்காயர்.

10 கா. சங்கரன் மரக்காயர்.

339 - ச. கமலா தேவர்.

Handwritten calculations:

29-1-052
 2-2.45
 3-0.12
 4-1-03

* தபசியில் விவரம் காண்க.

† பதிவு செய்து.

Vertical notes on the right margin:

2-2
 2-3
 2-4
 2-5
 2-6
 29-1
 29-2
 29-3
 29-4