

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

**SOUTHER ZONE AT CHENNAI**

**ORIGINAL APPLICATION NO.155 OF 2020**

**IN THE MATTER OF:**

**Vijeesh Kumar**

**...Applicant**

**Versus**

**Union of India and others**

**...Respondents**

**REPLY TO THE OBJECTIONS RAISED ON THE REPORT OF THE JOINT  
COMMITTEE ON ENVIRONMENTAL COMPENSATION IN THE ORIGINAL  
APPLICATION NO.155 OF 2020**

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Dated at Chennai on this the 30<sup>th</sup> day of August, 2022

*Vidyalakshmi*

**COUNSEL FOR THE 2<sup>ND</sup> RESPONDENT**

**REPLY TO THE OBJECTIONS RAISED ON THE REPORT OF THE JOINT  
COMMITTEE ON ENVIRONMENTAL COMPENSATION IN THE ORIGINAL  
APPLICATION NO 155 OF 2020 FILED BEFORE THE HON'BLE NATIONAL  
GREEN TRIBUNAL, SOUTHERN ZONE, CHENNAI**

**AUGUST  
2022**

**State Environmental Impact Assessment Authority, Kerala  
Ministry of Environment, Forest and Climate Change  
Department of Mining and Geology, Kerala  
National Centre for Earth Science Studies  
Kerala State Pollution Control Board**



**REPLY TO THE OBJECTIONS RAISED ON THE REPORT OF THE JOINT  
COMMITTEE ON ENVIRONMENTAL COMPENSATION IN THE ORIGINAL  
APPLICATION NO 155 OF 2020 FILED BEFORE THE HON'BLE NATIONAL  
GREEN TRIBUNAL, SOUTHERN ZONE, CHENNAI**

**Objections 1 to 5**

1. *The 3d Respondent is a Private Limited Company that is engaged in quarrying and allied businesses and was incorporated on 11.03.2011.*
2. *The 3rd Respondent was granted a quarry lease by the Director of Geology and Mining for an extent of 8.937 Hectares of land comprised in Re Sy.No.29/2, 29/3 and 30/4 of Thekkada Village, Nedumangad Taluk and comprised in Re Sy.No. 470, 472/5, 472/6, 474/1, 474/1-2, 472/4-1 and 474/1-2 of Manikkal Village Nedumangad Taluk, Trivandrum District, Kerala. It is submitted that the quarrying lease dated 23.05.2011 is valid for a period of 12 years i.e. upto 22.05.2023.*
3. *The State Environment Impact Authority, Kerala issued an Environmental Clearance with respect to the lease area vide proceedings No.237/SEIAA/ KL/885/2014 dated 27.11.2014 valid for a period of 5 years.*
4. *The 3<sup>rd</sup> Respondent submits the following objections to the Report of the Joint Committee filed in November 2020.*
5. *The findings of the Committee in Paras 3.2.101, 3.2.102, 3.2.104, 3.2201, 3.2204, 3.2205, 3.2208, 3.2210, 3.2212, 3.2215, 3.2120, 3.2226, 3.2227, 3.2228, 3.2229, 3.2230, 3.2231, 3.2235 need not be answered as the Committee has reported that this Respondent has complied with the above-mentioned conditions*

**Reply**

Introduction and uncontested findings of the Joint Committee

**Objection 6**

*As regards to the findings of the Committee in para 3.2.103, it is humbly submitted that the finding has been based solely on the study that was conducted by the Department of Mining and Geology and not from the independent survey that was conducted by the Joint Committee on the directions of this Hon'ble Tribunal. The Department of Mining and Geology had based on its finding, issued a demand notice dated 05.08.2020 to the 3rd Respondent, directing it to remit an amount of Rs.6,86,39,420/ (Rupees Six Crores Eighty Six Lakhs Thirty Nine Thousand Four Hundred and Twenty only) towards royalty, price and fine for allegedly excessively mining a quantity of 952973 MT of rock, over and above the permitted quantity from the lease area. A revised demand notice dated 15.09.2020 was served on the 3rd Respondent wherein the amount was corrected to Rs.6,71,08,430/- (Rupees Six Crores Seventy One Lakhs Eight Thousand Four Hundred and Thirty only) as royalty, price and fine for a revised quantity of 931714 MT of rock alleged to have been removed in excess from the lease area. Pursuant to receiving these notices, this Respondent filed W.P.No.28482 of 2020 before the Hon'ble Kerala High Court challenging the demand notice sent by the Department of Mining and Geology. The Hon'ble High Court of Kerala, vide its order dated 07.01.2021, found the order of the Department of Mining and Geology dated 15.09.2020 to be prima facie*



*illegal and directed the same to be treated as a provisional demand notice, pending the Writ Petition proceedings. However, in complete disregard to the same, the Department of Mining and Geology passed an order dated 08.02.2021, without considering any of the objections raised by this Respondent. Aggrieved by the same, this Respondent filed an appeal before the Deputy Secretary to Government, Industries (A) Department under Rule 98(1) of the Kerala Minor Mineral Concession Rules 2015. Since revenue recovery proceedings had been initiated against this Respondent within the statutory period of appeal and pending consideration of the appeal, this Respondent preferred W.P.(C).NO.4138 of 2021 before the Hon'ble Kerala High Court. The Hon'ble High Court vide its order dated 17.02.2021 disposed of the Writ Petition, directing the authorities to dispose of the appeal within a period of 3 weeks from receipt of order copy and not to take any coercive actions against the Petitioner/ the 3rd Respondent herein for recovery of the amounts until orders are passed in the appeal. It is humbly submitted that till date no orders have been passed in the appeal filed by this Respondent and therefore, no coercive action should be taken against this Respondent for recovery of the amounts mentioned in the demand notice. Therefore, since the findings of the Joint Committee is based on the findings of Department of Mining and Geology which have been challenged and are pending for disposal, the same cannot be held against the 3rd Respondent.*

### **Reply**

The non-compliance of the EC condition due to excessive mining carried out by the company was determined using the following three methods

1. Interpretation of the satellite imageries using Geographical Information System (GIS) and by superimposing the boundary pillar on the satellite imagery by the Joint Committee.
2. Direct verification of the position of boundary pillars and the actual mined area through Field verification by the Joint Committee
3. Interpretation of the data gathered from the detailed survey carried out by the Department of Mining and Geology, Kerala.

Therefore, the objection that the findings of the Joint Committee is solely based on the study conducted by the Department of Mining & Geology is wrong and baseless.

It is true that the 3<sup>rd</sup> Respondent approached the Hon. High Court of Kerala questioning the demand notice dated 15.09.2020 of the Mining & Geology Department, Kerala to remit an amount of Rs.6,71,08,430/- (Rupees Six Crores Seventy-One Lakhs Eight Thousand Four Hundred and Thirty only) as royalty, price and fine for the excess quantity of 931714 MT of rock that have been removed in excess from the lease area. It is also true that the 3<sup>rd</sup> Respondent filed appeal before the concerned Appellate Authority in the Industries Department of Government of Kerala following the directions of the Hon. High Court of Kerala. Complying with the orders in the Common Judgement of the Hon. High Court of Kerala dated 24.9.2021 in WP(C) 19213/2021 and WP(C) 19404/2021, the Appellate Authority in Industries Department, Govt. of Kerala vide order GO(Rt) No. 710/2022/ID dated 16.7.2022 directed the Director, Mining & Geology Department to take necessary steps



to reassess the alleged quarry with the help of revenue officials and to issue fresh demand notice. The Appellate Authority also made it clear that the appellant company is not exempted from further steps against them for realizing royalty in respect of the excess quantity of granite building stones quarried, if any.

Complying with the directions of Appellate Authority, the Director, Mining & Geology Department as on 16.8.2022 entrusted the District Geologist, Thiruvananthapuram, two Geologists of the Directorate of Mining & Geology Dept., a Surveyor from the Revenue Department (On deputation) and Taluk Surveyor, Nedumangad to conduct fresh assessment in the lease areas of granite building stone to identify the excess mining conducted by the company. The team commenced the field level survey on 20.8.2022 and submitted a report to the Director of Mining & Geology on 23.8.2022 on the granite building stone extracted in excess for which penalty has to be realized. Accordingly, it is estimated that the excess quantity extracted is 8,39,786 metric tonnes and the penalty for which is Rs.6,04,89,592/- (Rupees Six Crore Four Lakh Eighty-nine Thousand Five Hundred and Ninety-two only) and a fresh Demand Notice will be issued to the PA demanding the penalty for excess quantity of granite building stone extracted from that lease illegally. The Director, Mining and Geology Department also issued a Demand Notice No. 3445/DOT/ML/2019 dated 7.9.2021 to the company with respect to the granite dimension stone lease in which the excess quantity of granite dimension stone is identified as 262.5MT and granite building stone as 3570 MT for which the company is liable to remit Rs. 21,72,040/- as penalty. Based on the revised report dated 23.8.2022 on the excess quantity of granite building stone mined from the first lease and excess quantity of granite dimension stone and granite building stone mined from the second lease of the PA, the environmental compensation for excess mining of granite building stone as well as granite dimension stone is being worked out by the Joint Committee afresh as the Mining & Geology Department has revised the report in response to the orders of its Appellate Authority in compliance to the directions from the Hon. High Court of Kerala. While doing so, the Joint Committee may also be permitted to relook the Environmental Compensation estimated for violation of Environmental Clearance conditions as per "Polluter pays" principle detailed in CPCB guidelines submitted to the Hon. Tribunal earlier, if it is required to be done consequent to the revised report of the Mining & Geology Department.

It is submitted that the objection of the Respondent 3 is temporary as the excess quantity extracted is now re-assessed as per the directions and the Joint Committee can re-assess the environmental compensation within a maximum of one month time, if permitted by the Hon. Tribunal.

#### **Objection 7**

*It is submitted that as per the study conducted by the Department of Mining and Geology, the allegation made against this Respondent is that it had quarried in excess of the permitted quantity from the lease area. It is pertinent to note that the allegation made did not state that the Respondent had excavated from beyond the lease area. Hence, the entire issue of illegal/*



*excessive mining is sub-judice before a statutory authority and it would not be appropriate for this Hon'ble Tribunal to dwell upon the same for the present, as any finding on that issue will be substantially affect the right of this Respondent before the Appellate authority. And if the Appellate authority comes to a contrary conclusion, it would affect the order of this Hon'ble Tribunal.*

### **Reply**

It is very clear and evident from the data and photos given in the report that the 3<sup>rd</sup> Respondent had quarried in excess of the permitted quantity from the lease area. Based on extensive field level survey carried out twice by the Department of Mining and Geology (DMG), the DMG confirmed the encroachment of mining to areas outside the lease area and excessive mining by the PA. In compliance to the direction of the Hon. High Court of Kerala and direction of the Appellate Authority who acted based on the direction of the Hon. High Court, the Director of the Mining & Geology Department revised and forwarded a Report dated 23.8.2022 ascertaining the extend and volume of granite building stone extracted in excess by the 3<sup>rd</sup> Respondent in their lease area. Thus, it is a proven fact that the 3<sup>rd</sup> Respondent had quarried in excess of the permitted quantity from the lease areas and therefore, the objection raised by the 3<sup>rd</sup> Respondent is not true to the facts and hence not tenable.

### **Objection No 8**

*As regards to the finding in Para 3.2.105, it is humbly submitted that most of the boundary pillars are made of concrete. The few metallic pillars which are made of flex sheet and lettering were put up in accordance with the instructions of the Department of Mining and Geology, as the Geologist wanted to ease the viewing of boundary pillars in inaccessible areas. This is an instruction followed by almost all the quarries in Trivandrum for the past 3 years. The allegation that in couple of places the boundary pillars is missing or dilapidated is vague and incorrect. The Committee ought to have specified the details and particulars in which places the boundary pillars were missing and which boundary pillars were dilapidated. In the absence of the same, the said allegation cannot be sustained. As mentioned in the report itself, the boundary pillars were inaccessible due to overgrowth of shrubs as the quarry was not functioning for more than a year, not missing. It is also pertinent to note that the mining activities were not being carried on from 07.03.2020 and except for the security guard, all other workers do not turn up for the upkeep of the boundary pillars. It is further pertinent to note that the State of Kerala has seen heavy rains and floods during the past few years leading to the washing away of certain structures and the same could not be reconstructed due to the inaccessibility to the exact location. Further, it is not the case of the Committee that this Respondent has mined beyond the area of the alleged missing pillars.*

### **Reply**

The findings in Para 3.2105 are regarding the non-compliance of the Specific Condition No. 5 which stated that the Boundary pillars should not be tampered with. The bboundary pillars determine the boundary of the leased area for mining and hence it should be in accordance

with the geo-referenced details given in the approved Mine Plan. In the report of the Joint Committee, the status of each of the boundary pillars are clearly brought out by visiting the boundary pillars and using remote sensing and GIS tools. The Table 1 clearly provided the status of each boundary pillar and the photographs, marked as Figure 5, 7, 8 and 9 and indicated the ground realities of the violation committed by the 3<sup>rd</sup> Respondent. Thus, it is clear and evident that the objection raised by the 3<sup>rd</sup> Respondent, quoting non-existent instruction and generalization, is vague and incorrect. Further, the objection of the 3<sup>rd</sup> respondent that "it is not the case of the Committee that the 3<sup>rd</sup> Respondent has mined beyond the area of the alleged missing pillars" is clearly misleading as the Committee was ordered for ascertaining the real state of affairs and also the violation. Therefore, the 3<sup>rd</sup> Respondent, by raising this objection, tried to misrepresent facts and mislead the Hon. Tribunal.

Further, the Objection 8 of the 3<sup>rd</sup> Respondent may also be considered as their admittance that the Project area is facing high erosion and landslide based on the statement given in the objection as "*It is further pertinent to note that the State of Kerala has seen heavy rains and floods during the past few years leading to the washing away of certain structures and the same could not be reconstructed due to the inaccessibility to the exact location*".

#### **Objection 9**

*With respect to the findings in Para 3.2202, it is humbly submitted that the Committee has come to the conclusion that as no records were produced in that regard by the personal assistant. The Joint Committee erred in giving such a finding as a compliance report is submitted to the Environmental Clearance Committee every 6 months and the same is a part of the records with the statutory authorities.*

#### **Reply**

The findings in Para. 3.2202 is about the 2<sup>nd</sup> General Condition of the Environmental Clearance which states that "Environment Monitoring Cell (EMC) as agreed under the affidavit filed by the proponent should be formed and made functional". The compliance of this condition is assessed based on the minutes of the meeting of the EMC conducted and action taken reports approved by the EMC. The statement of the 3<sup>rd</sup> Respondent in the Half-Yearly Compliance Report (HYCR) that the EC condition was complied with can be verified only through the Minutes book and Action Taken Report Register. This was not produced by the 3<sup>rd</sup> Respondent during the visit of the Joint Committee to the site or even after that. Therefore, it is evident that the EMC was not functional and the statement in the HYCR was false. Therefore, the objection raised by the 3<sup>rd</sup> Respondent is to cover-up his falsehood and mislead the Hon. Tribunal.

#### **Objection 10.**

*With respect to the findings in Para 3.2203, it is submitted it is a vague finding as the Committee has neither stated as to how many trees were to be planted and how many trees have been planted, without such any such factual finding, it is not open to the Committee to give a finding that the General Condition 3 has been partly complied with.*



**Reply**

The statement in Para 3.2203 is about the 3<sup>rd</sup> General Condition "Suitable Avenue trees should be planted along either side of the tarred road and open parking areas, if any, including of approach road and internal roads". It is submitted that the Joint Committee took note of the information provided by the PA and stated the compliance is partial because there are many gaps along the approach road and internal roads where planting of trees is possible as exemplified in photos given as Figure 13 and 20. The EC was granted giving liberty to the PA for planting the most suitable species and appropriate number of trees. The Joint Committee only meant that the faith and scientific liberty given to the PA was not fulfilled. This being the fact, the objection of the 3<sup>rd</sup> Respondent is not at all with good intention and is an effort to divert from the serious violations that he has committed.

**Objection 11**

*With respect to the findings in Para 3.2206, it is wrong for the Joint Committee to have given a finding that General Condition 6 was not complied with. A progressive mining closure plan was submitted and the same was approved by Department of Mining And Geology on 29.04.2015, and same was submitted to the State Environment Impact Authority, Kerala. It is pertinent to note that the lease period still subsists and the Application for renewal of Environmental Clearance is still pending before the statutory authority.*

**Reply**

The statement in Para 3.2206 is about the 6<sup>th</sup> General Condition "Eco-restoration including the mine closure plan shall be done at the own cost of the project proponent". It is known to the PA that the mine closure activities are also part of mining activity. Often the mining activity stops with the lease period without fulfilling the eco restoration processes which is not permissible. Eco-restoration of the mine is considered as a concurrent activity and it need not wait till the completion of the lease period. The mine closure activity also should continuously follow the mining activity and hence wherever the mining activity gets completed, the mine closure activity is also implemented in that portion of the mine under development. Thereby, the eco-restoration almost gets completed as and when the mining gets completed and spatial and temporal extent of the adverse impacts minimizes progressively. It is obvious that the PA, though got a progressive mine closure plan approved by Department of Mining and Geology on 29.04.2015 itself, failed to consider its implementation at all stating that the lease period still subsists and the Application for renewal of Environmental Clearance is still pending before the statutory authority. This shows the lack of environmental responsibility of the PA and the reluctance to comply with the EC conditions. Therefore, the 3<sup>rd</sup> Respondent, by raising this objection, is trying to evade his responsibility and environmental commitment.

**Objection 12**

*As regards to the findings in Para 3.2207, it is submitted that sufficient plantation of indigenous plant species that are eco-friendly have been carried out in compliance of the condition. Further, the said finding is a vague statement without any details whatsoever.*

**Reply**

The statement in Para 3.2207 is about the 7<sup>th</sup> General Condition, "At least 10 percent of the total area, excavated pit should be retained as water storage areas and the remaining area should be reclaimed with stacked dumping and overburden and planted with indigenous plant species that are eco-friendly". As evident from the Fig. 18 photograph, the old mine pit is retained as rain harvesting pit and the overburden dump is covered with naturally grown bush vegetation. This being the fact, the objection of the 3<sup>rd</sup> Respondent is baseless.

**Objection 13**

*With respect to the findings in Para 3.2208, it is humbly submitted that the Committee has come to the conclusion as no records were produced in that regard by the personal assistant. The Joint Committee erred in giving such a finding as a compliance report is submitted to the Environmental Clearance Committee every 6 months and the same is a part of the records with the statutory authorities. Further, the said finding has been arrived at on the basis that no supporting documents were produced before the Committee. When no documents were produced before the Committee, it is not known as to how the Committee has given a finding that the activities carried out are not as per the activities listed in the proposal.*

**Reply**

The statement in Para 3.2208 is about the 8<sup>th</sup> General Condition, "Corporate Social Responsibility (CSR) agreed upon by the proponent should be implemented as per the commitments made". The finding of the Committee that the activities carried out are not as per activities listed in the proposal is based on the submission of the PA and the data available with the SEIAA including Half Yearly Compliance Report. Even though the Joint Committee carried out the site inspection after giving advance notice to the 3<sup>rd</sup> Respondent, he failed to produce any valid documental evidence regarding the implementation of CSR proposal. This being the fact, the 3<sup>rd</sup> Respondent is misleading the Hon. Tribunal by raising such an objection.

**Objection 14**

*With respect to the findings in Para 3.2209, the Committee has not specifically stated which area has not been fenced. The entire lease area has been fenced at all places. Hence, the finding of the Joint Committee without any specific details should be ignored by this Hon'ble Tribunal.*

**Reply**

The statement in Para 3.2209 is about the 9<sup>th</sup> General Condition, "The lease area shall be fenced off with barbed wires to a minimum height of 4ft around, before starting of mine". The photographs given as Fig. 19 and 20 provides adequate proof that the entire lease area is not fenced off. The fencing was not there connecting boundary pillars BP 7, BP8, BP10, BP11 and BP15 where quarrying extended beyond the stipulated boundary pillars as evident from the photograph given in Fig. 5. The boundary pillar BP15 itself was missing. Even after giving specification for the fence, the 3<sup>rd</sup> Respondent failed to implement the same in total. This being the ground truth, the 3<sup>rd</sup> Respondent is trying to evade from one of his basic

commitments while getting the Mine Plan approved and Environmental Clearance obtained by raising this objection.

#### **Objection 15**

*With regards to the findings in Para 3.2211, it is submitted that the following measures have been taken by the 3<sup>rd</sup> Respondent:*

#### **Reply**

The statement in Para 3.2211 is about the 11<sup>th</sup> General Condition, "Control measures on noise and vibration prescribed by KSPCB should be implemented". At the time of site visit, the mine was not working but the PA failed to produce any documental evidence or instruments to prove that they were using noise and vibration control measures when the mine was working. Further, statement of objections of the 3<sup>rd</sup> Respondent provides a tone of assurance about the various measures that the PA will be adopting. From these, it is very obvious that the stipulated condition is not complied with and the objection raised is baseless.

#### **Objection 16**

*With regards to the findings in 3.2213, it is submitted that the Committee has come to the conclusion as no records were produced in that regard by the personal assistant. The Joint Committee erred in giving such a finding as a compliance report is submitted to the Environmental Clearance Committee every 6 months and the same is a part of the records with the statutory authorities. The blasting carried on in the mining area is nonal blasting as per the instructions of the Department of Mining and Geology and under the supervision of competent persons.*

#### **Reply**

The statement in Para 3.2213 is about the 13<sup>th</sup> General Condition, "Blasting should be done in a controlled manner as specified by the regulations of Explosives Department or any other concerned agency". The Joint Committee found that the condition is not complied by the PA as he failed to produce any supporting documents. Even in the Half Yearly Compliance Report, the PA made a statement that he complied with the condition but without providing any substantiative document. Therefore, the objection raised by the 3<sup>rd</sup> Respondent is without any factual base.

#### **Objection 17**

*With regards to the findings in 3.2214, it is submitted that the blasting operations carried out in the mine are done under the supervision of competent persons i.e. one first class manager, second class manager, foreman and two mates. A compliance report in this regard with all records including copies of licenses and employment details is submitted to the EC committee every 6 months. The said fact has also been accepted in this report and therefore the allegation made in the report cannot be sustained.*

#### **Reply**



The statement in Para 3.214 is about the 14<sup>th</sup> General Condition, "A licensed person should supervise/ control the blasting operations". Though the PA claimed that he engaged one first class manager, second class manger, foreman and two mates in the Half Yearly Compliance Report, no documents supportive of this act is produced at the time of site visit or afterwards. Therefore, the objection is not supported with facts and baseless and hence not tenable.

#### **Objection 18**

*With regards to the findings in 3.2216, it is humbly submitted that it is a vague statement to state that the condition has been partly complied, without delving into what aspects have been complied with and what have not been complied with. It is not the case of the Joint Committee that the overburden materials have been stored in a place other than the leased area.*

#### **Reply**

The statement in Para 3.2116 is about the 16<sup>th</sup> General condition, "Overburden materials should be managed within the site and the old quarries, if any, should be reclaimed and restored". The PA is committed to comply with the management of overburden, the quantity of which is stated in the approved Mine Plan. During the site visit, it was observed that the total overburden generated is neither properly managed with adequate protective measures for further use nor used for reclamation or restoration and the site photographs provide the evidence. Therefore, the objection raised by the Respondent is only to hide his act of inadequate compliance.

#### **Objection 19**

*With regards to the findings in Para 3.2217, it is humbly submitted the finding is contradictory as it mentions that the condition of the height of benches not exceeding 5m and width not being lesser than 5m of the benches have not been complied with in accordance with the conditions stipulated by the EC while at the same time mentioning that all the benches have been removed. This finding is therefore incorrect and not sustainable.*

#### **Reply**

The statement in Para 3.2217 is about the 17<sup>th</sup> General Condition, "Height of benches should not exceed 5m and width should not be less than 5m". The objection is not valid as the stipulated benches are not maintained while mining as evident from the photograph shown as Fig. 25 and also the photographs given as Fig 17, 19, 25, 26, 30 and 30a. By not maintaining the stipulated benches, the PA got into the illegal act of over extraction which is also evident from the steep scarp like slopes of more than 20m height observed during the site inspection. The act of the 3<sup>rd</sup> Respondent is not only the violation of the EC condition but also an act leading to potential accident situations in the site. Therefore, the objection is to mislead the Hon. Tribunal.

#### **Objection 20**

*As regards to the findings in Para 3.2218, it is submitted that the said condition no.18 has been strictly complied with during the operation of the mine.*

### Reply

The statement in Para 3.2218 is about 18<sup>th</sup> General Condition, "Mats to reduce fly rock blast to a maximum of 10 PPV should be provided". The Joint Committee did not report any non-compliance with respect to this condition as it could not be verified as the quarry was not in operation. Thus, there is no reason for any objection.

### Objection 21

*With respect to the findings in Para 3.2219, it is submitted that there is no mention of the measurements or study conducted by the committee to arrive at the conclusion. Hence, the Committee should not have determined the same. It is also pertinent to note that the quarry was not a virgin quarry and has been mined even prior by some other persons. It is also not the case of the Joint Committee or anyone that this was the exact topography that was handed over to this Respondent and based upon which to come to a conclusion that the Respondent has mined an excessive depth.*

### Reply

The statement in Para 3.2219 is about 19<sup>th</sup> General Condition, "Maximum depth of mining from general ground level at site shall not exceed 10m". The PA did not comply with this condition as evident from the photograph given as Fig. 26. The Committee adopted ground-based study as well as data from remotely sensed images and also examined the time series Google earth images from 2003 to 2020 (given as a series of 8 photographs marked Fig. 31 to Fig. 38) to determine the progress of mining and ground conditions from time to time. Therefore, *the argument of the 3<sup>rd</sup> Respondent that the Joint Committee or anyone could not have ascertained the exact topography the land that was handed over to the 3<sup>rd</sup> Respondent for mining is either ignorance or a deliberate act for misleading the Hon. Tribunal. The excessive depth of mining beyond the permissible level and also without providing benches is clearly evident from the photographs in Fig. 30, which shows the steep mined out scarp and lack of provision of benches. Thus, the objection of the 3<sup>rd</sup> Respondent is against facts and not justifiable.*

### Objection 22

*With respect to the findings in Para 3.2121, it is humbly submitted a compliance report in this regard with all records, inclusive of license copies and employment details are regularly submitted to the EC committee every 6 months.*

### Reply

The statement in Para 3.2121 is about the 21<sup>st</sup> General Condition, "Acoustic enclosures should have been provided to reduce sound amplifications in addition to the provisions of green belt and hollow brick envelop for crushers so that the noise level is kept within prescribed standards given CPCB/KSPCB". The PA failed to produce the noise level monitoring reports during the site visit or afterwards and hence reported the non-compliance. Therefore, the objection raised by the 3<sup>rd</sup> Respondent is not factual.

**Objection 23**

*With respect to the findings in Para 3.2222, it is humbly submitted that the condition has been strictly complied with during the operation of the mine.*

**Reply**

The statement in Para 3.2222 is about the 22<sup>nd</sup> General Condition, "The workers on the site should be provided with the required protective equipment such as ear muffs, helmet, etc". The Joint Committee has not reported non-compliance with regard to this and hence there is no ground for any objection.

**Objection 24**

*As regards the finding in Para 3.2223, it is submitted that the findings of the Committee are as vague as possible and confusing. The Committee has reported on one hand that a drain is being used as duct for cables and is not maintained properly while on the other hand given the finding that the drain is being used to drain mine drainage. It is submitted that a garland drain with clarifiers were maintained to channelize storm water. As the mining operations were stopped on 07.03.2020 and no workers turned up for work since then, the said garland drains were not maintained and hence, they were in a state as reported by the Joint Committee. Hence, the Hon'ble Tribunal may ignore the same.*

**Reply**

The statement in Para 3.2223 is about the 23<sup>rd</sup> General Condition, "Garland drains with clarifiers to be provided in the lower slopes around the core area to channelize storm water". The Committee reported non-compliance as the garland canal is not provided in most parts of the mine area. As shown in the photograph given in Fig. 27, there is one canal laid for a short distance without any silt traps near the boundary pillar, BP19. This drain is now being used as cable duct and is not maintained properly. The very purpose of the garland drain in a mine is to drain the overland flow in a mine and therefore, it should be located between the benches and also in the buffer zone. The rain water falling on the benches and buffer zone should get drained through these garland canals and the silt should get deposited in the silt traps provided in these canals before joining the common natural drain. This is to ensure appropriate drainage of the mine area as well as to avoid pollution of the common water body of the locality. Having failed in doing such a scientific drainage arrangement, the 3<sup>rd</sup> Respondent is raising vague objections to confuse and mislead the Hon. Tribunal.

**Objection 25**

*As regards to the finding in Para 3.2224, it is submitted that this Respondent has strictly complied with the conditions in accordance with law.*

**Reply**

The statement in Para 3.2224 is about the 24<sup>th</sup> General Condition, "The transportation of minerals should be done in covered trucks to contain dust emissions". The Joint Committee has not reported non-compliance with regard to this and hence the objection is not relevant.

### **Objections 26**

*As regards to the finding in Para 3.2225, it is humbly submitted that the mine that was leased to the Respondent was not a virgin mine and was pre-existing mine. Hence, there arises no question of any loss of plantation that had occurred for replacing it with 5 times of the loss. The said aspect has been clearly mentioned in the Environmental Clearance certificate dated 27.11.2014.*

### **Reply**

The statement in Para 3.2225 is about the 25<sup>th</sup> General Condition, "The proponent should plant trees at least 5 times of the loss that has been occurred while clearing the land for the project". The Committee ascertained non-compliance of this conditions based on the findings of the study conducted by the PA, prior to the commencement of mining activity in the area and also based on the time-series remotely sensed images from 2003 to 2020 (8 photographs given as Fig. 31 to Fig. 38) and inference obtained during the site visit. The bio diversity plan submitted by the PA based on a study conducted prior to the mining activity provided the data on the flora and fauna of the area leased for mining. The time-series Google earth images from 2003 to 2020 shows the greenery and vegetation existed in the mine lease area prior to the commencement of the mining and as to how it was lost as the mining activity progressed. This Committee adopted ground-based study for assessing the present scenario with respect to the destruction of vegetative cover. The non-compliance has been reported based on clear-cut data and the objection of the 3<sup>rd</sup> Respondent is a deliberate attempt to escape from the responsibility.

### **Objection 27**

With respect to the findings in Paras 3.2232, 3.2233 and 3.2234, no responses are required.

### **Reply**

The Joint Committee has not reported non-compliance with regard to this condition and hence the objection is not relevant.

### **Objection 28**

*With respect to the findings in Para 3.2236, it is humbly submitted that the same is a vague statement stating that the condition has been partly complied with, without specifying as to which authority the Respondent had failed to send the clearance letter to and what compliance is pending. The said finding therefore cannot be accepted.*

### **Reply**

The statement in Para 3.2236 is about the 36<sup>th</sup> General Condition, "A copy of the clearance letter shall be sent by the proponent to concerned Grama Panchayat/ District Panchayat/ Municipality/ Corporation/ Urban Local Body and also to the Local NGO, if any from whom suggestions/ representations, if any, were received while processing the proposal. The Environmental Clearance shall also be put on the website of the company by the proponent". The Joint Committee reported the partial compliance of the condition based on the limited

details available with the SEIAA. The PA failed to provide any relevant proof regarding communication of the environmental clearance letter to various agencies and also uploading of the EC in the website of the Company. This being the fact, the objection of the 3<sup>rd</sup> Respondent is only to mislead the Hon. Tribunal.

### **Objection 29**

*With respect to the findings in Paras 3.2237, 3.2238, 3.2239 and 3.2240, no responses are required.*

### **Reply**

The Joint Committee has not reported non-compliance with regard to these conditions and hence the objection is not relevant.

### **Objection 30**

*As regards to the finding in Para 3.3, it is submitted that in order to determine whether any excess quarrying has been carried out and to know the quantity of such excess quarrying, it is necessary that detailed ground surveys are conducted. However, it appears that the Committee has arrived at its findings by placing reliance on the study conducted by the Department of Mining and Geology instead of conducting an independent ground survey. The Department of Mining and Geology had based on its finding, issued a demand notice dated 05.08.2020 to the 3rd Respondent, directing it to remit an amount of Rs.6,86,39,420/- (Rupees Six Crores Eighty Six Lakhs Thirty Nine Thousand Four Hundred and Twenty only) towards royalty, price and fine for allegedly excessively mining a quantity of 952973 MT of rock, over and above the permitted quantity from the lease area. A revised demand notice dated 15.09.2020 was served on the 3rd Respondent wherein the amount was corrected to Rs.6,71,08,430/- (Rupees Six Crores Seventy One Lakhs Eight Thousand Four Hundred and Thirty only) as royalty, price and fine for a revised quantity of 931714 MT of rock alleged to have been removed in excess from the lease area. Pursuant to receiving these notices, this Respondent filed W.P.No.28482 of 2020 before the Hon'ble Kerala High Court challenging the demand notice sent by the Department of Mining and Geology. The Hon'ble High Court of Kerala, vide its order dated 07.01.2021, found the order of the Department of Mining and Geology dated 15.09.2020 to be prima facie illegal and directed the same to be treated as a provisional demand notice, pending the Writ Petition proceedings. However, in complete disregard to the same, the Department of Mining and Geology passed an order dated 08.02.2021, without considering any of the objections raised by this Respondent. Aggrieved by the same, this Respondent filed an appeal before the Deputy Secretary to Government, Industries (A) Department under Rule 98(1) of the Kerala Minor Mineral Concession Rules 2015. Since revenue recovery proceedings had been initiated against this Respondent within the statutory period of appeal and pending consideration of the appeal, this Respondent preferred W.P.(C).NO.4138 of 2021 before the Hon'ble Kerala High Court. The Hon'ble High Court vide its order dated 17.02.2021 disposed of the Writ Petition, directing the authorities to dispose of the appeal within a period of 3 weeks from receipt of order copy and not to take any coercive actions against the Petitioner/ the 3rd Respondent herein for recover of the amounts until orders are passed in the appeal. It is humbly submitted that till date no*

orders have been passed in the appeal filed by this Respondent and therefore, no coercive action should be taken against this Respondent for recovery of the amounts mentioned in the demand notice. Therefore, since the findings of the Joint Committee is based on the findings of Department of Mining and Geology which have been challenged and are pending for disposal, the same cannot be held against the 3rd Respondent. Moreover, it is humbly submitted that the allegation in the study by the Department of Mining and Geology is that the Respondent-3 had quarried in excess of the permitted quantity from the lease area. However, it is pertinent to note that there is no allegation to the effect that the 3rd Respondent had excavated from beyond the lease area. It is submitted that the 3rd Respondent having a quarry lease is also a holder of a Registered Metal Crusher Unit wherein it is liable to pay royalties in accordance with the Consolidated Royalty Payment System, at the rates specified under Schedule IV instead of Schedule I of the 1967 Rules. Accordingly, this Respondent had been paying the royalties in accordance with the Consolidated Royalty Payment System since 2013. The distinguishing feature of Consolidated Royalty Payment System is that in the said system, royalty is calculated not on the basis of actual quantity of excavation but on the basis of the size of the jaw crusher unit. Therefore, the idea of computation of royalty on the basis of actual quantity mined is totally alien to the scheme of Consolidated Royalty Payment System as provided for under Rule 48P r/w Schedule IV of the Rules 1967 and its corresponding provisions under Rules 2015. In the scenario where there is no question of measuring the excavation done on the basis of actual quantity excavated under Consolidated Royalty Payment System, the allegations of excess quarrying or quarrying beyond permitted quantity is paradoxical/ ant ethical to the very scheme of Consolidated Royalty Payment System. Under such circumstances, the very allegation of excavation of excess quantity is irrational, baseless and unsustainable as the said scheme in itself does not contemplate the same. Moreover, it is submitted that the entire issue of illegal/ excessive mining is sub-judice before a statutory authority and it would not be appropriate for this Hon'ble Tribunal to dwell upon the same for the present, as any finding on that issue will be substantially affect the right of this Respondent before the Appellate authority. And if the Appellate authority comes to a contrary conclusion, it would affect the order of this Hon'ble Tribunal.

### Reply

The Para 3.3 is about the question "Whether any excess quarrying was carried out?". Prima facie, the examination of time series Google images from 2003 to 2020 and the site inspection indicates that mining has taken place beyond the Boundary pillars and hence beyond the boundary of the mine lease area. When geo referenced boundary pillar locations super imposed with the Google images it is evident that mining has taken place till recently (as indicated by bright areas without vegetation) beyond the area bounded by these pillars as evident from the 8 photographs given as Fig. 31 to Fig. 38. The exact quantity of minerals mined was obtained from the data provided by the Directorate of Mining and Geology, Kerala which is now challenged by the 3<sup>rd</sup> Respondent.

It is true that the 3<sup>rd</sup> Respondent approached the Hon. High Court of Kerala questioning the demand notice dated 15.09.2020 of the Mining & Geology Department, Govt. of Kerala to

remit an amount of Rs.6,71,08,430/- (Rupees Six Crores Seventy-One Lakhs Eight Thousand Four Hundred and Thirty only) as royalty, price and fine for the excess quantity of 931714 MT of rock that have been removed in excess from the lease area. It is also true that the 3<sup>rd</sup> Respondent filed appeal before the concerned Appellate Authority in the Industries Department of Government of Kerala following the directions of the Hon. High Court. Complying with the orders in the Common Judgement dated 24.9.2021 in WP(C) 19213/2021 and WP(C) 19404/2021, the Appellate Authority in Industries Department, Govt. of Kerala vide order GO(Rt) No. 710/2022/ID dated 16.7.2022 directed the Director, Mining & Geology Department to take necessary steps to reassess the alleged quarry with the help of revenue officials and to issue fresh demand notice. The Appellate Authority also made it clear that the appellant company is not exempted from further steps against them for realizing royalty in respect of the excess quantity of granite building stones quarried, if any.

Complying with the directions of Appellate Authority, the Director, Mining & Geology Department as on 16.8.2022 entrusted the District Geologist, Thiruvananthapuram, two Geologists of the Directorate of Mining & Geology Dept., a Surveyor from the Revenue Department (On deputation) and Taluk Surveyor Nedumangad to conduct fresh assessment in the lease areas of granite building stone to identify the excess mining conducted by the company. The team commenced the field level survey on 20.8.2022 and submitted a report to the Director of Mining & Geology on 23.8.2022 on the granite building stone extracted in excess for which penalty has to be realized. Accordingly, it is estimated that the excess quantity extracted is 8,39,786 metric tonnes and the penalty for which is Rs.6,04,89,592/- (Rupees Six Crore Four Lakh Eighty-nine Thousand Five Hundred and Ninety-two only) and a fresh Demand Notice will be issued to the PA demanding the penalty for excess quantity of granite building stone extracted from that lease illegally. The Director, Mining and Geology Department also issued a Demand Notice No. 3445/DOT/ML/2019 dated 7.9.2021 to the company with respect to the granite dimension stone lease in which the excess quantity of granite dimension stone is identified as 262.5MT and granite building stone as 3570 MT for which the company is liable to remit Rs. 21,72,040/- as penalty. Therefore, the objection of the Respondent 3 is not tenable as the excess quantity extracted and penalty for illegal extraction are now re-assessed as per the directions of the Appellate Authority dated 16.7.2022.

### **Objection 31**

*With respect to the findings in Para 3.31, no response is required as the Report of the Committee itself states that environmental compensation could not be worked out due to various factors.*

### **Reply**

The Para 3.31 is about the Environmental Compensation. The objection of the 3<sup>rd</sup> Respondent is wrong and with ill-intention to mislead the Hon. Tribunal. The Joint Committees estimated the Environmental Compensation for the violation of the environmental clearance conditions as well as for excess extraction of building construction stones except the dimension stones and submitted the Supplementary Report to the Hon. NGT. The Committee adopted the

method described in O.A No 508/2019 that followed CPCB guidelines for estimating the environmental compensation for violation of environmental clearance conditions. This worked out to be Rs.2,72,02,000/- (Rupees two crore seventy-two lakh and two thousand only). The Environmental Compensation for excess extraction of building stone is estimated based on the method approved for the calculation of environmental compensation for illegal sand mining in the Judgement dated 26.2.2021 in OA 360 of 2015 of the Hon. NGT (PB). This was worked out to be Rs. 38, 74,48,509/- (Rupees thirty-eight crore seventy-four lakh forty-eight thousand and five hundred and nine only) based on the earlier demand notice issued to the PA by the Mining & Geology Department. However, in compliance to the direction of the Appellate Authority in response to the orders of the Hon. High Court of Kerala, the Director of Mining & Geology Department has reassessed the excess quantity of granite building stone illegally extracted by the 3<sup>rd</sup> Respondent and the penalty due thereupon. The Director, Mining and Geology Department also issued a Demand Notice No. 3445/DOT/ML/2019 dated 7.9.2021 to the company with respect to the granite dimension stone lease. Based on the revised report dated 23.8.2022 on the excess quantity of granite building stone mined from the first lease and excess quantity of granite dimension stone and granite building stone mined from the second lease of the PA, the environmental compensation for excess mining of granite building stone as well as granite dimension stone is being worked out by the Joint Committee afresh as the Mining & Geology Department has revised the report in response to the orders of its Appellate Authority in compliance to the directions from the Hon. High Court of Kerala. This being the fact, the objection raised by the 3<sup>rd</sup> Respondent that compensation could not be worked out by the Joint Committee is not factual.

### **Objection 32**

*As regards to the finding in Para 3.4, it is submitted that a progressive mining closure plan was submitted and the same was approved by Department of Mining and Geology on 29.04.2015, and same was submitted to the State Environment Impact Authority, Kerala. It is pertinent to note that the lease period still subsists and the Application for renewal of Environmental Clearance is still pending before the statutory authority.*

### **Reply**

The Para 3.4 is about the question "Whether closure plan has been complied with". The Joint Committee reported non-compliance of the condition as there is no progress achieved as far as implementation of the closure plan is concerned. This was stated in the reply to Objection 11.

It is known to the PA that the mine closure activities are also part of mining activity. Often the mining activity stops with the lease period without fulfilling the eco restoration processes. Therefore, eco-restoration need not wait till the completion of lease period and the closure activity should continuously follow the mining activity wherever the mining activity gets completed in portions of the mine under development. Thereby, the eco-restoration almost gets completed as and when the mining gets completed and spatial and temporal extent of the adverse impacts minimizes progressively. It is obvious that the PA, though got a progressive mine closure plan approved by Department of Mining and Geology on 29.04.2015 itself,

failed to consider its implementation, at all, stating that the lease period still subsists and the Application for renewal of Environmental Clearance is still pending before the statutory authority. It shows the lack of environmental responsibility of the PA. Therefore, the 3<sup>rd</sup> Respondent, by raising this objection, is trying to evade his responsibility.

### **Objection 33**

*With respect to the findings in Para 3.5, it is submitted that the Respondent has applied for an extension of lease period and also renewal of Environmental Clearance which is pending before the statutory authorities. The issue of rehabilitation and reclamation can be resorted to only after the closure of the mines and hence the findings that the same have not been complied with are without any basis. The findings are therefore untenable.*

The Para 3.5 is about the statement "Rehabilitation and reclamation has been carried out". The PA failed to comply with rehabilitation, which is to restore the mined area that has been damaged due to mining to its former condition. The PA also failed in reclamation, which is the combined process by which adverse environmental effects of surface mining are minimized and mined lands are returned to a beneficial end use. End uses may be open space, wildlife habitat, agriculture, or residential and commercial development etc. Mine rehabilitation and reclamation is also a part of mining activity, it should be carried out before the termination of the lease period. As replied to the objection 32, the PA failed to execute the environmental responsibility and therefore, the 3<sup>rd</sup> Respondent, by raising this objection, is trying to evade his responsibility.

### **Objection 34**

*As regards to the findings in Para 3.6, it is humbly submitted that even according to the Report, there was quarrying as early as from the year 2003, much before the lease was granted in favour of this Respondent. Further, the findings need not be responded to as the Joint Committee has specifically found that there is an insignificant impact on the flora and fauna and has suggested a systematic and scientific environmental management plan, post mine-closure.*

### **Reply**

The Para 3.6 is about the statement "Environmental degradation caused on account of unscientific method of quarrying". The Joint Committee report elaborated the irreversible changes of the landscape and terrain consequent to the mining. The significant changes to the the nature of landuse, landcover and terrain characteristics is evident from the time-series satellite data demonstrated through 8 photographs shown in Fig. 31 to 38. The unscientific mining without providing benches of appropriate width and height resulted in steep-cutting measuring more than 16m and steep slopes, increasing the possibility of landslides and rockfalls. Though the chances of adverse impacts due to landslides, soil erosion and rockfall are minimized by removing overburden and top soil and due to the massiveness rock, the water holding capacity of the terrain is reduced and the overland flow increased. It may also be noted that the 3<sup>rd</sup> Respondent has commented in Objection No 8 that massive soil erosion occurred during floods which has led to dislocation of boundary pillars. The quarrying

activity is considered as red category there is apprehension and psychological impacts among the population, who fear that vibrations of quarrying may trigger landslips, enhance soil erosion or destabilize rock boulders on the slopes of the hillocks and damage the built structures including dwellings. The unscientific mining carried out by the PA by encroaching into the buffer zone enhances the adverse impacts due to increased noise level and air pollutants causing apprehension about the increased disease burden. Had the buffer zone been retained and green belt developed, it would have resulted in significant reduction in the adverse impacts due to the red category intervention. The mining resulted in the removal of greenery existed in the area and the hesitation of the PA regarding the rehabilitation and reclamation further enhanced the adverse impacts. As a result, the land is now converted into a barren area. Though the biodiversity report predicted that the impact on the flora & fauna will be insignificant, the unscientific activity enhanced the adverse impact on the flora and fauna due to the unscientific interventions of the 3<sup>rd</sup> Respondent. The 3<sup>rd</sup> Respondent also attempted to mislead the Hon. Tribunal by misquoting the predictive statement in the biodiversity report as that of the Joint Committee.

### **Objection 35**

*As regards to the findings in Para 3.7, it is submitted that the Committee had arrived at the conclusion that the impact of the quarrying operations on the environment and ecology was insignificant and within the permissible limits. A field survey of the nearby houses was conducted by the Committee and the details of the same have been enumerated in Table 5. The Report concludes that the results of the parameters analysed showed that the parameters as prescribed by the Bureau of Indian Standards (2007) were well within the permissible limits except for PH Minor cracks found in very few of the neighbouring houses, although the same could be due to numerous external factors such as the quality and age of the houses constructed. The same cannot be solely attributed to the mining activities of the 3<sup>rd</sup> Respondent. With respect to the concerns of dust pollution and vibrations due to the movement of large trucks, it is submitted that there are several other quarries operating in the vicinity, the liability of the same cannot be fastened only on the 3<sup>rd</sup> Respondent. Moreover, the Committee has mentioned compliance with respect to the roads near the quarry having been properly blacktopped and maintained regularly to reduce the dust pollution. In the report, the Committee has acknowledged the socio-economic benefit of the mine being operated and has been rightly observed that approximately 180 persons in the locality were dependent on the operations of the quarry in order to sustain their livelihood and that such the need of the hour was not to close the quarry but to ensure that strategies adopted in carrying on quarrying activities integrated the environmental concerns that had been raised. It is pertinent to note that what was leased to this Respondent was not a virgin quarry but a pre-existing quarry. As stated supra, this Respondent cannot be held solely liable.*

### **Reply**

The Para 3.7 is about the question, "Any damages to neighbouring houses and to the ecology due to quarrying" to which the Joint Committee has conducted elaborate assessment and reported the various issues caused due to hard rock quarrying in different environmental

components (Table 4) and the apprehensions of the 15 households living in the neighbourhood (Table 5). Nowhere in the report, the Joint committee mentioned that the quarrying operations on the environment and ecology of the area are insignificant and within the permissible limits and hence that statement is groundless. The chemical data of groundwater has been generated by the collection and analysis of the groundwater samples from the adjoining available houses and during that time the quarry was not functional. Though the basic four parameters were under desirable levels, one of the significant water quality parameters, the hydrogen ion potential (pH) does not fall within the standard range as per the BIS specifications and were shown acidic behaviour. Had the quarry been functional, the samples would have got tested for various other water quality parameters for assessing the exact quality indices on pollution/contamination due to heavy and trace metals in water besides the cations and anions. The report also highlighted the impacts due to vibration consequent to the blasting for quarrying, enhanced dust emission, increased noise level etc. The objection of the 3<sup>rd</sup> Respondent by misquoting the findings in the report is to mislead the Hon. Tribunal.

### **Objection36**

*As regards to the findings in Para 3.8, it is submitted as follows:*

- 1. For clause 1 regarding buffer zones, the same is contrary to the findings in Para 3.2104, 3.2228 and 3.2229 wherein there are specific findings that sufficient buffer zones have been complied with.*
- 2. As regards to clause 2 pertaining to garland canals, the objections in para 24 may be treated as objection to this finding.*
- 3. As regards to clauses 3 and 4, the findings are in favour of the Respondent.*
- 4. As regards to clause 5 relating to the finding in Para 3.2215 and the same has been complied with.*
- 5. As regards to clause 6 relating to noise pollution, the objections in para 22 may be treated as objection to this finding.*

### **Reply**

The Para 3.8 is about the question, "Whether pollution control measures provided by the operator was adequate or not". The Clause 1 regarding the buffer zone is about the stipulated condition of maintaining a buffer zone of 7.5m all around the mine which should be vegetated to function as a green belt that could minimise various adverse impacts of mining, especially dust dispersion control, noise attenuation, ecologic habitat development etc. The 3<sup>rd</sup> Respondent misunderstood this buffer zone as the (i) stipulated buffer distance to be maintained with Taluk boundary as dealt in Para 3.2104, (ii) stipulated buffer distance of 100m to be maintained with the nearest dwelling unit or other structures from the boundary of the quarry as dealt in Para 3.2228 and (iii) stipulated 200m buffer distance to be maintained with forest boundaries as dealt in Para 3.2229. With regard to the objections on other clauses, they are all replied appropriately at the respective paragraphs and explained as to how the 3<sup>rd</sup> Respondent attempted to violate the environmental clearance conditions. Therefore, it is evident that the 3<sup>rd</sup> Respondent is attempting to mislead the Hon. Tribunal by misquoting the portions of the report, some of them probably out of ignorance.

### **Objection 37**

*As regards to the findings in Para 4, it is humbly submitted that the concluding remarks and suggestions that have been provided are completely untenable. The Joint Committee had visited the quarry site at a time when it had not been in operation for a long period and as such several aspects could not be verified, leading to the various findings that were arrived at by them to be based on assumptions and presumptions. Moreover, the findings stated in the report have not been based on the independent survey that was conducted by the Joint Committee as per the directions of this Hon'ble Tribunal, but have been made by placing reliance on hearsay and studies conducted by external agencies which are already under challenge before the Hon'ble High Court of Kerala/statutory authorities. The report of the Joint Committee, not being an independent report as directed by this Hon'ble Tribunal, is therefore liable to be rejected. Several adverse findings have been put forth solely on the allegation that the Personal Assistant has not produced any records in this regard, despite of the fact that compliance reports with all records are submitted to the EC committee every 6 months. Yet, the same has neither been considered nor has an opportunity of hearing been given to the 3rd Respondent to submit their explanation along with the necessary documents. It is observed that many of the findings are also vague and non-speaking allegations, bereft of details, reasons or specifications and as such, these allegations cannot be accepted. No measurements or study has been conducted by the Committee to arrive at the conclusion. The Joint Committee has not conducted any scientific study but rather has arrived at its conclusions by placing reliance on several assumptions, presumptions, hearsay etc. The entire conclusion arrived at by the Joint Committee is wholly contrary to the findings in Para 3.6 and 3.7, wherein the Joint Committee has conclusively found that the quarrying operations had no significant impact of any of the parameters that have been discussed in the same. In fact with respect to the hydrologic environment, the Committee had held that the drainage from the working quarry that was flowing into the rainwater harvesting tank served as a pollutant absorbant and that the rain harvesting pond was recharging nearby wells through the secondary fracture systems in the bedrock. With regards to the biological environment, it has been observed in the Report that the impact of the quarrying operations on the flora and fauna is assessed to be insignificant. As for the ground water quality, it has been observed that the parameters were found to be well within permissible limits prescribed by the Bureau of Indian Standards. The positive impact of the socio-economic development of the people living in the vicinity of the quarry was also acknowledged. The Report expressly mentions that there is the need to develop strategies to better manage the quarrying operations and protect the environment. It does not in any manner suggest that there is a need to close operations of the mine.*

### **Reply**

In order to protect the environment, the quarrying operations have to be regulated to achieve sustainability. The Committee conducted the study prepared the report based on standard procedures adopted for such type of scientific appraisal. The pertinent data and field evidences are gathered and interpreted following scientific norms and through pooling the

expertise of the Joint Committee consisting of multi-disciplinary experts. The impacts due to the quarrying activity could be short-term or long-term and reversible or irreversible. Some of the short-term and reversible impacts may have got mitigated as time passed by. But the most serious and significant impact remain for long and some of them may be irreversible even on a long-term basis. The study captured all such impacts and arrived at the violations and illegal extraction carried out by the 3<sup>rd</sup> Respondent. The deranged land and topography is one of the evidence of the ruthless and unscientific quarrying operations that destroyed the terrain and various environmental attributes of the location. This being the fact, the objection of the 3<sup>rd</sup> Respondent is vogue, misleading, unsubstantiated and with ill-intention to evade from the environmental responsibilities and obligations.

### **Objection 38**

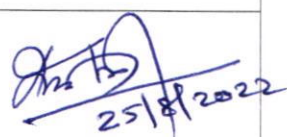

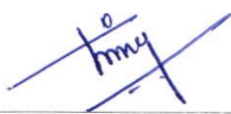
*For the foregoing reasons, these findings are able to be rejected as being self-contradictory, without proper inspection and supported by materials.*

### **Reply**

The Joint Committee prepared the report with utmost objectivity making use of quantitative and qualitative data gathered during the site visit, time-series satellite imageries of the location, records provided by the PA, though limited, details available with the Mining & Geology Department, Kerala State Pollution Control board and State Environmental Appraisal Committee (SEIAA), Kerala. All the findings are validated and substantiated with facts. The illegal extraction of the granite building stone beyond the permitted quantity has also been re-assessed and found that the 3<sup>rd</sup> Respondent has extracted in excess. As stated in the orders of the Appellate Authority of the Mining & Geology Department, a police case has been filed against M/s. Covenant Stones alleging that the Company had submitted a forged mining plan/scheme of mining before the SEIAA for obtaining EC extension which may be construed as evidence of ill-intention of the 3<sup>rd</sup> Respondent. In this background, the objections of the 3<sup>rd</sup> Respondent are against facts and is an in vain attempt to mislead the Hon. Tribunal. Hence, all the objections raised by the 3<sup>rd</sup> Respondent may be rejected.



**Joint Committee Members:**

Sl. No.	Name & Designation	Signature
1.	Dr. R. Ajayakumar Varma, Chairman Scientist G(Rtd), National Centre for Earth Science Studies & Chairman, SEAC Kerala	 25/8/2022
2.	Dr. S.Prabhu, Member Scientist C, Integrated Regional Office, MoEF& CC, Bangalore	
3.	Dr. A. Krishnakumar, Member Scientist E, National Centre for Earth Science Studies, Thiruvananthapuram.	
4.	Smt. Bincy B.S, Environmental Engineer, Kerala State Pollution Control Board District Office, Thiruvananthapuram.	
5.	Sri. Rajkumar. M.S, Member Senior Geologist, District Office, Mining and Geology Department, Thiruvananthapuram.	