

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

ORIGINAL APPLICATION NO.155 OF 2021

IN THE MATTER OF:

KONDRU MARDIYYA

S.C. Colony,
Gunupudi Village, NathavaramMandal,
Vishakapatnam District – 53115
Email: litigation.life@gmail.com Ph: +91 9312407881

...APPLICANT

VERSUS

1 State of Andhra Pradesh

Through the Chief Secretary
Building No. 1, 1st Floor, Interim Government Complex,
A.P Secretariat, Velagapudi Guntur
Email: cs@ap.gov.in Phone : 0863-2441024

2. Union of India,

Through its Secretary,
Ministry of Environment, Forest and Climate Change
Indira Paryavaran Bhawan,
Jorbagh Road, New Delhi – 110003
Mail: secy-moef@nic.in Ph: 011-24695136

3. Mines and Geology Department, Government of Andhra Pradesh

Through Principal Secretary,
Sri Anjaney Towers,
D. No. 7-04, B-Block, 5th and 6th Floors,
Ibrahimpattanam, Vijayawada
Email: secy_mines@ap.gov.in Ph: 0866-2882170

4. Forest Department , State Government of Andhra Pradesh

Through Principal Chief Conservator of Forests & Head of Forest Force
Aranya Bhavan, K.M. Munshi Road,
Nagarapalem, Guntur – 522004
Email: prlccf_hf_apfd@ap.gov.in Ph: 0863-23775500

5. Sri J. Lakshmana Rao

S/o Ganeshwararao
Kakarapadu Village,
Koyyuru Mandal, Vishakapatnam

6. District Collector, Vishakapatnam District

Main Road, Krishnanagar,
Maharani Peta, Vishakapatnam – 530002
Email: Collector_vspm@ap.gov.in Ph: 08912563121

7. Andhra Pradesh Pollution Control Board

Through the Member Secretary
D.No.33-26-14/D2, Pushpa Hotel Center, Chalamalavari Street,
Kasturibaipet, Vijayawada – 520 010.
Email: membersecy@appcb.gov.in, Ph: 0866-2463200


Director of Mines and Geology
Govt. of Andhra Pradesh
Ibrahimpattanam, Vijayawada.
Krishna District.

8. Assistant Director of Mine & Geology, Vishakapatnam

Behind Babaa Bazaar, LawsansBy Colony

PeddaWaltair, Vishakapatnam – 53001

Email: admin@apmines.gov.in....RESPONDENTS

COUNTER AFFIDAVIT FILED BY THE 3rd RESPONDENT

I, V.G. Venkata Reddy, S/o. Subba Reddy, Aged about 56 Years, Occ:
Working as Director of Mines and Geology, Ibrahimpatnam do hereby
sincerely affirm and state on oath as follows:-

1. It is respectfully submitted that I am the 3rd Respondent herein and as such I am well acquainted with the facts of the case.
2. It is respectfully submitted that I am authorized to file this counter on behalf of the 8th Respondent also.
3. It is respectfully submitted that I have gone through the petitioner's affidavit and I deny all the allegations made therein except those that are specifically admitted hereunder.
4. It is respectfully submitted that no remarks are being offered on the averments made in Para No.1 as they are formal in nature.
5. In reply to Para 2 & 3, it is respectfully submitted that the action taken by this Respondents are well within the frame work of Andhra Pradesh Minor Mineral Concession Rules, 1966 and the amendments / instructions made by the higher authorities from time to time.
6. In reply to the Para 4, it is respectfully submitted that the averments made in this Para -4 is not relating to this respondent.
7. In reply to the Para No.5, it is respectfully submit that the 5th respondent filed an application for grant of Mining Lease for Laterite over an extent of 121.00 Hectares in Un-surveyed Hill Portion (USHP) of Bhamidika Village, Hamlet of Sarugudu Panchayat, Nathavaram


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Mandal, Visakhapatnam District for a period of 20 years on 14.07.2009 before the Asst. Director of Mines and Geology, Anakapalli.

8. It is respectfully submit that as per procedure laid down under the Rules, the mineral concession application received for grant of lease shall be processed after receipt of the No Objection Certificate from the concerned Tahsildar. Hence, the said application has been forwarded to the Tahsildar, Nathavaram for issue of Classification, availability and NOC for grant of quarry lease in favour of the 5th respondent. In the present case, the Tahsildar, Nathavaram, vide Rc.No.189/09A, dated 22.09.2009 informed that, he had inspected the land along with Mandal Surveyor, Nathavaram and Additional Revenue Inspector on 18.09.2009. The area for which mining lease applied for is an un-surveyed hill portion (gap area Govt.Land). There is no residential area located nearby the proposed quarry. The area demarcated measuring extent Hectares 121.00 and shown in the sketch prepared by the Mandal Surveyor. The proposed area is with sum Bumps, rocky terrain and is not fit for cultivation and it appears reddish in colour.
9. It is respectfully submit that the Gram Panchayat, Sarugudu Village has passed Panchayathi Resolution on 20.07.2009 for issue permission to grant Mining Lease for Laterite Mineral over an extent of 121.00 Hectares in Un-surveyed Hill Portion (USHP) of Bhamidika Village, Hamlet of SaruguduPanchayat, NathavaramMandal, Visakhapatnam in favour of 5th respondent with a view to provide Employment to the Youth residing in their villages.
10. It is respectfully submit that after receipt of the Panchayat Resolution dated 20.07.2009 of Sarugudu Gram Panchayat, the Tahsildar, Natavaram has issued NOC in favour of the 5th respondent for grant of Mining Lease for Laterite Mineral.


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11. After conducted survey and inspection, the Asst. Director of Mines and Geology, Anakapalli submitted proposals for grant under single file system through the Zonal Joint Director of Mines and Geology, Visakhapatnam vide File No.3182/M/09 on 30.09.2009 for grant of Mining Lease for Laterite over an extent of 121.00 Hect. in Un-surveyed Hill Portion (USHP) of Bhamidika Village, Hamlet of SaruguduPanchayat, NathavaramMandal in favour of 5th respondent. Subsequently, the 3rd respondent vide memo No. 10474/M.III(2)/2010-2, dt.12.10.2010 has called for Approved Mining Plan from the 5th respondent.
12. The Director of Mines and Geology, Hyderabad vide Lr.No.28708/R1-2/09, dated 11.01.2011 while issuing Letter of Intent (LoI) directed the 5th respondent to submit consent for Establishment (CFE) from A.P. Pollution Control Board and Environmental Clearance from the MoEF, GoI as per Notification No.1533, dated 14.09.2006 for taking further action for grant of Mining Lease.
13. In reply to Para 8 to 19, it is respectfully submit that after following the due procedure in vogue stipulated under Forest (Conservation) Act 1980, the Department of Ministry of Environment, Forest and Climate Change has issued Environmental Clearance(EC) vide order No. J-11015/379/2010-IA-II, dated 17.11.2014 and the AP Pollution Board vide videOrder No. 844-VSP/APPCB/ZO-VSP/CFE/2014-1192, dated 04.12.2014 issued Consent for Establishment (CFE) in favour of the 5th Respondent.
14. In reply to the Para 20 to 38, it is respectfully submit that the 6th respondent vide Rc. No.1961/2014/A1, dt.18.12.2015 cancelled the resolution dt.23.07.2009 passed by Sarugudu Gram panchayath as per the Govt. memo No.3141/Pts.III/A1/2015, dt.16.11.2015 of PR&RD (Pts.III) Department as he was directed to cancel all the


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consequential orders with regard to permissions of Laterite leases issued by Sarugudu Gram Panchayath of NathavaramMandal which was based on manipulated proceedings from the fictitious resolutions passed by the Sarugudu Gram Panchayath of NathavaramMandal on 23.07.2009 and also directed to cancel the Laterite mining leases granted by the Mining Department based on the fictitious resolutions dt.23.07.2009 of the Sarugudu Gram Panchayath of NathavaramMandal. Accordingly, the Tahsildar, Nathavaram, vide Rc.No.285/2016A, dt.29.07.2016 cancelled the NOC issued earlier vide Rc.No.181/2009A, dt.22.09.2009 along with other NOC's issued basing on the resolution dt.23.07.2009.

15. It is respectfully submit that the Director of Mines and Geology, Hyderabad issued show cause notice No. 28707/R1-3/2016, dt.15.10.2016 to the 5th respondent stating that the application filed by the 5th respondent was proposed for rejection as NOC given by the Tahsildar, Nathavaram was cancelled vide Rc.No.285/2016A, dt.29.07.2016 due to fictitious resolution dt.23.07.2009 passed by SaruguduGrampanchayath.

16. It is respectfully submit that aggrieved the show cause Notice dated 15.10.2016, the 5th respondent filed W.P.No.36605/2016 before the Hon'ble High Court of Andhra Pradesh with a request to stay all further proceedings in pursuance of the proceedings No.28707/R1-3/2016, dt.15.10.2016 pending disposal of WP.No.36605/2016 on the file of the Hon'ble High Court.

17. It is respectfully submit that the 5th respondent also filed another W.P.No.30956/2016 before the Hon'ble High Court of Andhra Pradesh with a request to suspend the Government memo No. 3141/Pts.III/A1/2015, dt.16.11.2015 of PR&RD (Pts.III) Department and consequential orders of the District Collector (PW), Visakhapatnam


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vide Rc.No.1961/2014/A1, dt.18.12.2015 and the orders of the Tahsildar, Nathavaram vide Rc.No.285/2016A, dt.29.07.2016, pending disposal of W.P. No.30956/2016 on the file of the Hon'ble High Court.

18. It is respectfully submit that after hearing the arguments from both sides, the Hon'ble High Court vide order dt.26.02.2018 in W.P.M.P. No.45078 of 2016 in W.P.No.36605/2016 common order dt.17.08.2018 in I.A.No.1 of 2017 (WVMP.No.1002 of 2017 and I.A.No.2 of 2017 (WVMP.No.3756 of 2017) in WP.No.30956 of 2016 & WP.No.30956 of 2016 stated that "The fact that from 2009 till passing the impugned order dated.15.10.2016, the petitioner's applications were considered and processed, raises a question as to the integrity or otherwise of the gram panchayat. In those circumstances, it is directed that status-Quo in all respects obtaining as on today be maintained. It is also made clear that the respondents shall not allocate the area, which has been identified to be allocated to the petitioner, to any third party, pending disposal of the Writ Petition".

19. It is respectfully submit that the Hon'ble High Court, in its order stated that *"In this view of the matter, the Memo No.3141/Pts.III/A1/2015 dt.16.11.2015 passed by the State of Andhra Pradesh (1st respondent herein) and the consequential order in Rc.No.1961/2014 A1, dt.18.12.2015, passed by the District Collector, Visakhapatnam (3rd respondent herein), and the order in Rc.No.285/2016/A dt.29.07.2016 of the Tahsildar, NathavaramMandal, Visakhapatnam (4th respondent herein) cannot be sustained, and they are accordingly set aside. Accordingly, the Writ Petition was allowed with costs of Rs.10,000/- to be paid by the 1st respondent within four (04) weeks. It was declared that the 'No Objection Certificate' granted by the Tahsildar, NathavaramMandal, Visakhapatnam District, on 16.01.2012 to the petitioner regarding grant of mining lease to the*


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petitioner for the extent of 121.00 Hectares in Bhamidika Village, NathavaramMandal, Visakhapatnam District holds, and the respondents are directed to take all steps necessary for executing mining lease in favour of the petitioner in respect of the said land and execute the same within a period of six (06) weeks from the date of receipt of copy of the order. Consequently, I.A.No.1 of 2017 (WVMP.No.1002 of 2017) was filed by the State of Andhra Pradesh and the Commissioner of Panchayat Raj, and I.A.No.2 of 2017 (WVMP.No.3756 of 2017) filed by the Director of Mines and Geology, Government of Andhra Pradesh to vacate the orders dt.25.01.2017 and dt.08.08.2017 passed in WPMP.No.38314 of 2016 in WP.No.30956 of 2016, are dismissed. As a sequel, miscellaneous petitions pending if any in this Writ Petition, shall stand closed".

20. It is respectfully submit that basing on the orders of the Hon'ble High Court, the 5th respondent while submitting the Approved Mining Plan, Environmental Clearance issued by SEIAA, GoI, MoEF vide order No. J-11015/379/2010-IA-II, dated 17.11.2014 and Consent for Establishment (CFE) issued by AP Pollution Control Board vide Order No. 844-VSP/APPCB/ZO-VSP/CFE/2014-1192, dated 04.12.2014, requested the Director of Mines and Geology, Ibrahimpatnam to grant quarry lease in his favour.

21. It is respectfully submit that the Director of Mines and Geology, Ibrahimpatnamvide Proceedings No.28708/D3-2/2009, dated.05.02.2021granted a quarry lease for Laterite over an extent of 121.00 Hectares in Un-Surveyed Hill Portion (USHP) of Bhamidika Village, H/o.SaruguduGramapanchayat, NathavaramMandal, Visakhapatnam District granted in favour of the 5th respondent for a period of 20 years subject to submission of Consent for Operation (CFO) from competent authority.


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22. It is respectfully submit that the Assistant Director of Mines & Geology, Anakapallil requested the grantee to pay the certain amounts and to submit certain documents for execution of the quarry lease deed through this office Lr.No.3182/M/2009, dt.19.02.2021 with response to that, the grantee has paid differential amounts as per G.O.Ms.No.11,Ind&Comm (M.II) Dept., dt.11.02.2020.
23. It is respectfully submit that the Assistant Director of Mines and Geology, Anakapalli issued work order in favour of the 5th respondent permitting to commence quarry operations for Laterite over an extent of 121.00 Hectares in USHP of Bhamidika Village, H/o. Sarugudu Grama Panchayat, Nathavaram Mandal, Visakhapatnam District for a period of 20 years from 26.03.2021 to 25.03.2041 subject to submission of Consent for Operation (CFO) from competent authority. Subsequently, the lease holder has submitted Consent Order (CFO) vide Order No.7844/APPCB/ZO-VSP/VSP/CFO/2020-21, dt:06.05.2021.
24. It is respectfully submit that Sri Konduru Maridayya has filed OA No. 155 of 2021 before Hon'ble National Green Tribunal praying to direct the Respondents 1,2, & 4 to ensure that no mining activity is undertaken in violation of Forest (Conservation) Act, 1980 and Forest (Conservation) Rules, 2003 over an extent of 121.00 Hectares in forest lands situated in Un-Surveyed Hill Poramboke (USHP), adjoining Reserve Forest (RF) areas of East Godavari District, Bhamidikaloddi village, Hamlet of Sarugudu Gram Panchayat, Nathavaram Mandal, Vishakhapatnam District, Andhra Pradesh.
25. It is respectfully submit that the Hon'ble National Green Tribunal vide orders dated 26.07.2021 in I.A. No. 101/2021 in O.A. No. 155/2021 constituting a committee comprising of (1) a Senior Officer from MoEFCC, Integrated Regional office, Chennai or a designated


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from any Independent office if any in Andhra Pradesh (2) The District Collector, Visakhapatnam District (3) The District Forest Officer (DFO), Visakhapatnam (4) a Senior Officer from Mines and Geology Department, State of Andhra Pradesh, (5) a Senior Officer from Andhra Pradesh State Pollution Control Board (APPCB) as designated by its Chairman to inspect the area in question and submit a factual as well as Action Taken Report if there is any violation found and in order to ascertain the genuineness of the allegations made in the application regarding the alleged violations and damage caused to the Environment.

26. It is respectfully submit that in pursuance of the order dated 27-07-2021 of the Hon'ble National Green Tribunal in Original Application No.155 of 2021 (South Zone) and IA No.101/2021 (SZ), the Director of Mines and Geology, Ibrahimpatnam issued a proceeding No.28708/D3-2/2009 dated 30.07.2021 constituted joint committee to ascertain the genuineness of the allegations with regard to alleged violations and damage caused to the Environment by operating the Mining Lease for Laterite over an extent of 121 Hects in Un-surveyed Hill Portion in BamidikaLoddi Village h/o SaruguduGramapanchayat,NathavaramMandal, Visakhapatnam District in the jurisdiction of the office of the Asst. Director of Mines and Geology, Anakapalli.

27. It is respectfully submit that the Director of Mines and Geology, Ibrahimpatnam nominated the Deputy Director of Mines and Geology (FAC), Visakhapatnam as a member to the proposed Joint Committee (Mines & Geology Department) to inspect the area and submit factual report with specific recommendations to take further action in accordance with the MMDR Act 1957 and rules made there on with any violation found and submit report, also directed the Deputy Director of Mines and Geology (FAC), Visakhapatnam to arrange the 1st meeting


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of the Joint Committee on 09-08-2021 to prepare Road Map and further inspection. Further, the Director of Mines and Geology, Ibrahimpatnamnominated Assistant Director of Mines and Geology, Visakhapatnam as a Nodal officer to provide only necessary Logistic to the committee for this purpose.

28. It is respectfully submit that the following Joint Committee members have attended for quarry inspection:

Sl. No.	Name of the Officer	Name of the Designation
1	Sri A.Mallikarjuna, IAS	The District Collector, Visakhapatnam
2	Sri S.Elamnurugan, IFS	Asst. Inspector General of Forest (Central), Integrated Regional office, Ministry of Environment, Forest & Climate Change, Vijayawada-520010.
3	Sri AnathSankar, IFS	The District Forest Officer, Visakhapatnam
4	Sri M.Suresh Babu	MoEFCC, Scientist -C, Integrated Regional Office(IRO), Vijayawada.
5	Sri Ch.Surya Chandra Rao	The Dy. Director of Mines & Geology, Visakhapatnam
6	Sri Pramod Reddy	The Environmental Engineer, APPCB, Regional Office, Visakhapatnam

29. It is respectfully submit that the Joint Committee has inspected the quarry lease area held by 5th respondent for Laterite at Bamidika Village, NathavaramMandal, Visakhapatnam District on 18-08-2021. At the time of joint inspection by the committee members, the applicant Sri K.Maridayya was also present at the site. During the course of inspection, the committee observed that road has been formed in East Godavari District limits and hence opined that the report shall also be obtained from the East Godavari District Forest Officials through District Forest Officer, Visakhapatnam for necessary action.

30. It is respectfully submitted that the Committee has also inspected the lands and approach road which connects the mining area with KothaSiripuram village H/o Sarugudu. The GramaPanchayat, Sarugudu has given their consent through their resolution dt. 04-05-2021 in favour of the lessee of Laterite mine. This road is located at a


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distance of 300 meters away from inter district at KothaSiripuram village H/o Sarugudu. The road was surveyed by the Mandal Surveyor, Nathavaram with reference to the records available and found that the road was formed from the East Godavari district border to the proposed mine area towards west side of KothaSiripuram and Bhamidikaloddi villages of Sarugudu.

31. It is respectfully submitted that the 5th respondent has submitted the (1) Approved Mining Plan, (2) Environmental Clearance issued by SEIAA, GoI, MoEF vide order No. J-11015/379/2010-IA-II, dated 17.11.2014, (3) Consent for Establishment (CFE) vide Order No. 844-VSP/APPCB/ZO-VSP/CFE/2014-1192, dated 04.12.2014, and (4) Consent Order (CFO) vide Order No. 7844/APPCB/ZO-VSP/VSP/CFO/2020-21, dt:06.05.2021 issued by AP Pollution Control Board.
32. It is respectfully submitted that the action taken by this Respondents are well within the frame work of Andhra Pradesh Minor Mineral Concession Rules, 1966 and the amendments / instructions made by the higher authorities from time to time.
33. It is submitted that this respondent craves leave of this Hon'ble Tribunal to raise additional counter in the course of proceedings, if required.


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In the above circumstances, it is humbly prayed that this Hon'ble Tribunal may be pleased to dismiss the above Original Application No.155 of 2021 and pass such further or other orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case and thus render justice.

Solemnly affirmed at Krishna district
Andhra Pradesh on this the 7th
day of November , 2021 and signed
his name in presence


BEFORE ME Director of Mines and Geology
Govt. of Andhra Pradesh
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ADVOCATE, Krishna district

VERIFICATION

I, V.G. Venkata Reddy, S/o. Subba Reddy, Aged about 56 Years,
Occ: Working as Director of Mines and Geology, Ibrahimpatnam do hereby
verify that the contents of Paras of Counter Affidavit are based on record
and information are true to the best of my knowledge and belief.

Hence, verified on the 7th day of November 2021 at Krishna District


DEPONENT
Director of Mines and Geology
Govt. of Andhra Pradesh
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