

**BEFORE THE NATIONAL GREEN TRIBUNAL (SZ) SITTING AT
CHENNAI**

Original Application No.159 of 2023

BETWEEN

Edwin Nelson,
No.28, Parthasarathy Street,
Purasaiwalkam,
Chennai – 600 084
Tamil Nadu, India

...Applicant

AND

The District Collector,
Coimbatore,
Collectorate Building,
Coimbatore – 641 018
and 5 others

...Respondents

**COUNTER AFFIDAVIT FILED ON BEHALF OF THE 5TH
RESPONDENT**

I, T.Dharmaraja, son of Thangamuthu, Hindu, aged about 40 years, residing at 3/138, Vayakattuthottam, Karacheri Village, Arasampalayam Panchayat, Kinathukadavu Taluk, Coimbatore – 641 201, now temporarily come down to Chennai, do hereby solemnly affirm and sincerely state as follows:-

T. Dharmaraja

1. I am the Proprietor of PRM Sand, the 5th Respondent herein and I am well acquainted with the facts of the case.

2. I have gone through the averments and allegations contained in the Original Application and I deny the same, save those which are specifically admitted hereunder and puts the Applicant to the strict proof of the same. I state that the basis for filing the Original Application as averred in Para 2 thereof is far from convincing and the Applicant claims himself to be a public spirited person. There are other units in the vicinity which are engaged in manufacture of M Sand and operating stone crushers. It is not understandable as how the Applicant noticed the dust and emission emanating from my unit only. Under the guise of public interest, the Applicant has chosen to target my unit. Before traversing the averments and allegations contained in the Original Application few facts are stated hereunder for appreciation of the case on hand.

3. I respectfully state that on 15.11.2018, I submitted application for establishment of a Unit for manufacturing M Sand at the rate of 15000 tons per month in S.F.No.91/2D, 95/1A and 95/1B at Pachapalayam Village, Sulur Taluk, Coimbatore District both under

T. Srinivasan

Water and Air Act. By the proceedings dated 01.12.2018, the 3rd Respondent granted consent to establish, valid upto 27.03.2023. However owing to financial and personal constrains, the works in relation to establishment of the M Sand Unit could not be commenced. After much difficulty, the works in relation thereto was completed in the month of August 2023. It is pertinent to bring to the notice of this Hon'ble Tribunal that I was not vary of the procedure to be followed after the expiry of the period for establishment of the Unit and I proceeded with works in relation thereto. I also commenced the operations without obtaining consent to operate from the 3rd Respondent. At the time when the 3rd Respondent issued the show cause notice dated 14.11.2023, I became aware that obtaining of consent to operate from the 3rd Respondent is mandatory. The show cause notice was issued on the ground that I had installed the jaw crusher without obtaining consent of the Board thereby violating B.P.Ms.No.26 dated 30.07.2018. On receipt of the same, I submitted a reply to the 3rd Respondent stating that the jaw crusher was operated on trial basis without knowing that consent has to be obtained. It was also stated therein that the jaw crusher has since been removed and in evidence thereof, the photograph was also enclosed along with the

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reply. It was further stated therein that I have complied with the terms and conditions stipulated in the proceedings dated 01.12.2018 and undertook that I will not run the M Sand unit without obtaining extension of Consent for establishment and consent to operate the same.

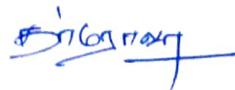
4. I state that the Original Application was filed during October 2023 which culminated in issuance of the show cause notice. It is also pertinent to bring to the notice of this Hon'ble Authority that upon receipt of the reply sent by me, by the communication dated 07.12.2023, I was called upon to attend the personal hearing scheduled on 14.12.2023. On 14.12.2023, I attended the personal hearing conducted in the office of the 3rd Respondent. During the hearing, I was directed not to carry on any activities in the site without obtaining a valid consent.

5. I respectfully state that without being aware that jaw crusher cannot be installed in an M Sand unit, due to inadvertence, I installed the same by availing loan from the private financiers. The allegation contained in Para 3 of the Original Application that mountains of smoke and dust being generated from the machinery in and around



the area and almost covering the whole village is a figment of imagination and the Applicant is put to strict proof of the same. It is pertinent to bring to the notice of this Hon'ble Authority that there are similar industries located in the vicinity of 50 to 60 meters from my Unit who are engaged in manufacturing of M Sand and operating crushers. The allegation in Para 3 of the Original Application is an incorrect and misleading statement and the Applicant is put to strict proof of the same. As already stated, I was operating the jaw crusher on trial basis only for a period of 40 days. Upon receipt of the show cause notice, I stopped the activities and also removed the jaw crusher which fact was also brought to the notice of the 3rd Respondent in reply to the show cause notice.

6. The allegation contained in Para 6 of the Original Application is hereby emphatically denied and the Applicant is put to strict proof the same. In this regard, I state that Pachapalayam Village is located more than 1 ½ kilometers away from my unit and there are no houses and residences surrounding the Unit as alleged or at all and the allegation to the contra is hereby denied. So also the allegation that there a lot of common public including women and children who are residing and

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living there and pollution caused by the unit is a major health hazard to them is wholly incorrect. As already stated, there are no houses and residences surrounding the unit and the Pachapalayam Village is located more than 1 ½ kilometers from the Unit. As already stated there are other units carrying the manufacturing M Sand and operating stone crushers in the vicinity. Only such of those people who are working in those units move around. At the risk of repetition, I have already removed the jaw crusher and activities of the Unit was stopped during the 2nd week of November and no activity is being carried on as date and the mountain of smoke and dust cannot be attributed to me.

7. The allegation contained in Para 7 of the Original Application is incorrect and the Applicant is put to strict proof of the same. The pollution and dust referred to therein can be attributed to the existing units which are engaged in the manufacture of M Sand and those who are operating the stone crushing units.

8. It is also pertinent to bring to the notice of this Hon'ble Tribunal that I have developed green belt around the Unit. I have also installed sprinkler for controlling the dust emission. That apart, I have also laid

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pipes for watering the plants and trees. Since acoustic measures are in place, the manufacture of M Sand will not result in dust pollution. I state that I have complied with all the norms laid down in the proceedings dated 01.12.2018 for the purpose of establishment of M Sand Unit.

9. I respectfully state that I removed the jaw crusher upon receipt of the show cause notice and I reported compliance of the same to the 3rd Respondent while submitting my reply on 24.11.2023 to the show cause notice. I respectfully state that I would commence the operations relating to M Sand only upon obtaining necessary permission/consent from the 3rd Respondent and other competent authorities. I further state that I do not intend to carry on stone crushing activity as I have removed the jaw crusher from the site.

10. I respectfully state that I would endeavor to follow the procedure for obtaining necessary permission/consent from the 3rd Respondent for the purpose of manufacture M Sand. As already stated, I was not vary of the procedure to be followed after the expiry of the validity period and I proceeded with works in relation thereto. I also commenced the operations without obtaining consent to operate from

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the 3rd Respondent. Subsequently I came to know that no activities can be carried on without obtaining valid consent from the 3rd Respondent. I respectfully state the running of the Unit on trial basis had not caused pollution as alleged. As already stated, I had also removed the jaw crusher and stopped other activities and maintaining the green belt which was developed by me and watering the plant. Other than the same, no other activities are being carried in the subject premises. I state that I will commence the operations only after obtaining prior consent from the competent authorities.

For the reasons stated above, it is prayed that this Hon'ble Tribunal may be pleased to dismiss the Original Application and thus render justice.

Solemnly affirmed on this the 18th day of December 2023 before me, the contents of this affidavit having been first truly and audibly read over to the deponent in Tamil, he being unacquainted with English who appeared perfectly to understand the same, and signed the same in my presence

T. S. Gnanapavan

BEFORE ME,

Rajesh
3387123

No. 29 Law Chamber
Madras High Court, Chennai - 104

Advocate, Madras


COUNSEL FOR 5th RESPONDENT

**BEFORE THE HON'BLE
NATIONAL GREEN
TRIBUNAL
(SOUTHERN ZONE)**

**Original Application
No.159 of 2023**

COUNTER AFFIDAVIT

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