

BEFORE THE NATIONAL GREEN TRIBUNAL (SZ) AT CHENNAI

Application No 85/2021

Between

M/s Parisara Hitharakshana Samithi ... Applicant

And

The Union of India

And others

... Respondents

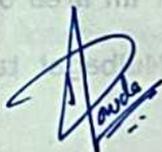
Statement of Objections filed by the Respondents 14, 15, 16, 17, 18 and 24 to the application filed by the applicants under section 18(1) read with sections 14, 15 of the National Greens Tribunal Act of 2010.

The respondents 14, 15, 16, 17, 18, and 24 most respectfully submits under:

1. The address for service of the respondents, for issuance of notice, summons, etc is above stated in as in the cause title, the respondents may also be served through their counsels Bhanuprakash V G, Avinash and Dheemanthika, No M 3, First Floor, Shalimar Galaxy, Seshadripuram Main Road, Seshadripuram, Bangalore – 560 020.
2. The address for service of the applicant, for issuance of notice, summons, etc is above stated in as in the cause title.

I PRELIMINARY SUBMISSIONS

3. The respondent Nos. 14, 15, 16, 17, 18, and 24, are the lease and license holders of lease for extraction of building stone and stone crusher units.



4. The respondent No. 14 - M/s G.V.V. Constructions has been granted lease in No 873 for extraction of building stone over an area of 5 acres in survey No 199/P2 in Devarayasamudra village, Mulbagal taluk, Kolar district for a period of ten years from 17/09/2008 and subsequently granted deemed extension for a period of 20 years from the date of original grant till 16/09/2028. The copy of the said lease deed is produced hereto and marked as **Annexure R 1.** This respondent has also been granted FORM -C. The copy of the said FORM - C is produced hereto and marked as **Annexure R 2.**
5. The respondent No. 15 - M/s Balaji Granites, has been granted lease in No 863 for extraction of building stone over an area of 4 acres in survey No 64 in Yalagondahanalli village, Mulbagal taluk, Kolar district for a period of ten years from 23/08/2008 and subsequently granted deemed extension for a period of 20 years from the date of original grant till 22/08/2028. The copy of the said lease deed is produced hereto and marked as **Annexure R 3.** This respondent has also been granted FORM -C. The copy of the said FORM - C is produced hereto and marked as **Annexure R 4.**
6. The respondent No. 16 - M/s SVS Associates, has been granted lease in No 864 for extraction of building stone over an area of 6 acres in survey No 64 in Yalagondahanalli village, Mulbagal taluk, Kolar district for a period of ten years from 23/08/2008 and subsequently granted deemed extension for a period of 20 years from the date of original grant till 22/08/2028. The copy of the said lease deed is produced hereto and marked as **Annexure R 5.** This respondent has also been granted FORM -C. The copy of the said FORM - C is produced hereto and marked as **Annexure R 6.**
7. The respondent No. 17: T. V. Srinivas, has been granted lease in No 928 for extraction of building stone over an area of 2.20 acres in survey No 199/P2 in Devarayasamudra village, Mulbagal taluk, Kolar district for a

period of ten years from 12/04/2010 and subsequently granted deemed extension for a period of 20 years from the date of original grant till 11/04/2030. The copy of the said lease deed is produced hereto and marked as **Annexure R 7.**

8. The respondent No. 18 – S. Kumar, has been granted lease in No 922 for extraction of building stone over an area of 4 acres in survey No 199/P2 in Devarayasamudra village, Mulbagal taluk, Kolar district for a period of ten years from 01/02/2010 and subsequently granted deemed extension for a period of 20 years from the date of original grant till 31/01/2030. The copy of the said lease deed is produced hereto and marked as **Annexure R 8.**

9. The respondent No. 24 – M/s Millennium Crushers is the holder of lease bearing No 03/2019-20/580, for stone crushing unit established at Survey No 790 of Devaryasamudra village, Mulbagal Taluk, Kolar District (falling within the safer zone declared vide notification dated 27/02/2019 bearing No GA BHU EE:HI BHU VE:JE.KRA.: Notification: 2018-19). The said crushing license granted to respondent No 24 is valid upto 31/03/204 for a period of five years from the date of issuance of Form C on 10/05/2019. The copy of the Form C, license for stone crusher is produced hereto and marked as **Annexure R 9.**

10. It is submitted that the application filed hereinabove by the applicant is not maintainable either in law or on facts. The application filed by the applicant herein, seeking various reliefs against the respondents 17, 18 and 24 is also not maintainable. These respondents are unnecessarily arraigned as parties to the application filed by the applicant whilst their grievance lie only against the respondents 1 to 13. It is relevant to note that these respondents are lease and license holders, who have been granted the same



after the respondents 2 to 12 have issued with the leases and licenses same after due process of law.

11. That, the applicant has approached this Hon'ble Tribunal with unclean hands having misrepresented the facts, concealed the truth and glorified imaginative fiction, to say the least, with ulterior intentions of dispossessing these respondents from their lawful lease and license areas.

II PRELIMINARY OBJECTIONS:

12. That these respondents at the outset seek to submit the following preliminary objections to the very maintainability of the application, which are without prejudice to one another.

13. The applicant has preferred the above application seeking for the reliefs as under:

a. Directing the respondents 1 to 4 to declare the Devarayasamudra vrushbhadrhi hill region, Devarayasamudra village, Mulbagal Taluk, Kolar District, Karnataka as eco-sensitive region and thus render justice.

b. Forbearing the respondents 15 to 24 from carrying on the crushing and mining activities in the Devarayasamudra virushabhadrhi hill region, Devarayasamudra village, Mulbagal Taluk, Kolar District, Karnataka.

c. And pass any other relief, which this Hon'ble Tribunal may think for and proper under the circumstances of the case and thus render justice.

14. It is submitted that the applicant had filed a writ petition in No 15798/2020 (GM MMS) before the Hon'ble High Court of Karnataka. The copy of the writ petition is produced hereto and marked as **Annexure R 10**. The said writ petition was represented by the president of the applicant samithi and the above application is represented by its secretary. The parties to the said writ petition are all arraigned as parties in this application also. The applicant had sought for the following reliefs in the said writ petition.

a. Call for the entire records in respect of land bearing Sy.No.199 measuring an extent of 1296.21acres of Forest in Devarayasamudra Village/Panchayath, Mulbagal Taluk, Kolar District;

b. Issue a writ of certiorari and quash the notification bearing No.MAS/CR/2451/12-13 dated 16/2/2013 at ANNEXURE-J consequently declaring that the entire area is safer zone and to declare that the area of Devarayasamudra is protected area, not to permit any activities which would cause damage to the terrain and natural environment.

c. Issue a writ of Mandamus directing the Respondent No.3 to 12 to consider the representation dated 18.03.2010, dated 13.03.2017 at ANNEXURE-F1 and F2 and representations dated 05.07.2020 and 29.09.2020 at Annexure-H1 and H2 respectively, taking into consideration the serious objections by the people and residents in 20 villages and to pass appropriate order.



d. Issue writ of Mandamus against Respondent No.1 to 14 to take immediate effective steps and protect the entire region from the on-slot of intruder, illegal quarry operators and to fence the entire area by cancelling the licence issued to Respondent Nos.15 to 25 declare that the licence are illegal in light of ' T.N.Godavarman Thirumalpad -Vs- Union of India' declared law.

e. Issue Writ of Mandamus directing the Respondent No.8 Superintendent of Police to extend protection the life and limb of the petitioner members as well as villagers of Devarayasamudra, Mulabagal Taluk, Kolar District

f. Issue appropriate and necessary directions/order as the Hon'ble Court deems fit under the circumstances of the case in the interest of justice.

15. It is submitted that the said writ petition No 15798/2020 (GM MMS) was filed by the applicant before the Hon'ble High Court of Karnataka on 23/12/2020, whereas the above application has been filed before this Hon'ble Tribunal on 26/01/2021. The applicant has not disclosed the fact of filing a writ petition before the Hon'ble High Court of Karnataka seeking the very same prayer. This amounts to suppression and not approaching this Hon'ble Tribunal with clean hands. On this ground alone the above application deserves to be dismissed. The Hon'ble High Court of Karnataka vide order dated 10th August 2021 was pleased to dispose the writ petition as not pressed. The copy of the order passed by the Hon'ble High Court is produced hereto and marked as **Annexure R 11.**

16. That the applicant has concealed and suppressed material and relevant facts of the Case. The applicant is guilty of *suppressio veri* and *suggestio falsi*. The applicant has with malafide and dishonest intentions not only concealed material facts from this Hon'ble Tribunal but has also twisted and distorted the same to suit their conveniences and to mislead this Hon'ble Tribunal.

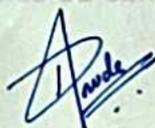
17. That the above application is devoid of any material particulars and has been filed merely to harass these respondents. Hence the application deserves to be dismissed in limine.

18. It is submitted that the above application has been filed with ulterior motives and malafide intentions to disentitle the respondents of their legal rights accrued due to the execution of lease and licenses. The present application has been filed without any just cause or ground. That the application being frivolous and vexation is liable to be dismissed.

19. It is submitted that preliminary objections submitted herein above with regard to the maintainability of the application, goes to the very root of the matter and that these objections need to be considered at the outset and these respondents most humbly pray that this Hon'ble Court may be pleased to dismiss the above applicaiton in limine.

FACTS OF THE CASE

20. It is submitted that the applicant with the apprehension that these respondents have been carrying on mining activity in the forest area of Devarayasamudra, thereby affecting the flora and fauna of the said region and also affecting water bodies, forest land, agricultural lands, religious monuments protected by the archaeological department and endangering the environment and ecology of the said region and in turn seriously contaminate



air, water and create environment problems. Since there were serious allegations made by the applicant this Hon'ble Tribunal vide order dated 23/03/2021 was pleased to appoint a joint committee comprising of

1. *The District Collector, Kolar District, State of Karnataka*
2. *The Deputy Conservator of Forest (DCF), Kolar District, State of Karnataka*
3. *The Director, Department of Mines and Geology or a senior officer from deputed from that office*
4. *A senior officer from Ministry of Environment, Forests and Climate Change (MoEF & CC) Regional office, Bangalore*
5. *A senior officer from Karnataka State Environment Impact Assessment Authority (KSEIAA)*
6. *A senior officer from Karnataka State Pollution Control Board (KSPCB) as deputed by the chairman*

Were directed to inspect the area in question and submit a factual as well as action taken report if there is any violation found.

21. It is submitted that in pursuance of the direction of this Hon'ble Tribunal, the joint committee has conducted a spot inspection and have filed their report, the conclusion of the said joint inspection is as under :

a. *The quarry leases were granted in the government gomala lands.*

The stone quarry leases and stone crushers were not falling in deemed forest areas.

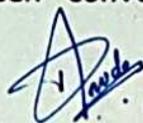
b. *There are no reserve forest/protected forest around the quarry leases and stone crusher licenses. However, deemed forest is adjacent to the quarries situated in Devarayasamuda village.*

c. *There are no public structures/monuments/river/lake/tank found within a distance of 200 meters. Hence, rule 6(2) of the Karnataka Minor Mineral Concession Rules has been complied.*

j. As per environmental clearances issued to these quarries, all the lease holders are invariably required to submit their half yearly compliance report (HYCR) to the regional office of the ministry of environment, forest and climate change (MoEF & CC), Bangalore. However, based on perusal of records available in the office, it was noted that, no quarry lease holder has submitted HYCR's to the MoEF & CC Regional office, which is non - compliance.

Hence, the joint committee is of the opinion that the competent authorities shall direct the user agencies to submit the HYCR's as stipulated in the conditions of the environmental clearances to the concerned authorities.

22. It is submitted that the categorical finding of the joint committee is that the stone quarry and stone crushers are not falling within deemed forest areas. There are no reserve forest/protected forest around the quarry leases and crusher licenses, but only adjacent to deemed forest. The Hon'ble High Court of Karnataka in the matter of Dhanajaya V/s State of Karnataka in WP No 54476/2016, whereunder the Hon'ble court has held that there is no concept of deemed forest. The copy of the said judgement is produced hereto and marked as **Annexure R 12.** Further the report of the committee also states that there are no public structures/monuments/river/lake/tank with a distance of 200 meters and that rule 6(2) of the Karnataka Minor Mineral Concession Rules have been complied with. That the rock formation is hard and massive and suitable for building stone quarrying. There are no protected areas or monuments of archaeological importance in both Devarayasamudra and Yelagondanahalli villages. There are no notified tanks within a distance of 500 meters from the stone quarry and stone crusher licenses. That the respondents 14 to 18, and 24 are all having valid leases and license in FORM -C and consent for operations issued from the authorities. The lands have been converted from agricultural to non-



d. The rock formation is hard massive rocks suitable for building stone quarrying.

e. Eight and two quarry leases were granted in sy no 199 of Devrayansamudra and Yalagondanahalli village respectively as per KMMCR, 1994 by the department of mines and geology.

i. Quarry leases which were granted in Sy No 199 of Devrayasamudra five quarry leases were granted through tender-cum-auction method and remaining three leases were granted through non auction method as per rules.

ii. Out of above five quarry leases, three quarry lease holders have obtained environment clearance (E.C) from the competent and two quarry lease holders have not yet submitted E.C. to the department of mines and geology. The joint inspection reveals that all the above five quarry leases were not yet started quarry activities.

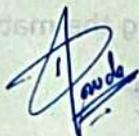
f. There are no protected areas or monuments of archaeological importance in Devarayasamudra and Yelagondanahali villages.

g. There are no notified major tanks within a distance of 500 meters from the quarry leases and stone crusher licenses.

h. The stone crushers in the area are having valid license (FORM-C) along with consent for operations issued from KSPCB for operation and stone crushers were granted in patta lands. The lands were converted from agriculture to non-agriculture purpose. At the time of joint inspection, certain violations were observed for which Karnataka state pollution control board (KSPCB) issued show cause notice for non compliance of consent conditions and compliance is awaited.

agricultural purpose. There are certain violations were observed for which the Karnataka Pollution Control board has issued show cause notice with regard to non compliance of consent conditions and these respondents have complied with the said violations indicated in the show cause notice. The compliance reports of the respondent No 24 are produced hereto and marked as **Annexures R 13 and 14.** The photographs of the compliance by the respondent No 24 are produced hereto and marked as **Annexure R 15.** The compliance report of the respondent No 15 is produced hereto and marked as **Annexure R 16.** The photographs of the compliance by the respondent No 15 are produced hereto and marked as **Annexure R 17.** The compliance report of the respondent No 14 is produced hereto and marked as **Annexure R 18.** The compliance report of respondent No 16 is produced hereto and marked as **Annexure R 19.** These respondents have been remitting the royalty, DMF (District Mineral Foundation), TDS (Tax Deducted at Source) and the GST (Goods and Services Tax) to the respondents and have been conducting their quarrying and crushing activities.

23. It is submitted that the petitioner also has not stated anything about this respondent either in the facts of the case nor in the grounds urged in support of their case, but would state in general about the issuance of the notification of safer zone. The first prayer is for restraining the seventh respondent from granting new stone crusher, M Sand quarries and granite crushers in Devarayasamudra virushabhadri hill region, Devarayasamudra village, Mulbagal Taluk, Kolar District, Karnataka as eco-sensitive region. However the lands of survey No 199 and survey No 758 of devarayasamudra village, mulbagal taluk, kolar district (even though this land in survey No 199 and survey No 758 of devarayasamudra village, mulbagal taluk, kolar district has not been called in question) is in the notification, where under it is declared as a safer zone. On this ground also the application deserves to be dismissed. The quarry leases have been granted to these respondents way

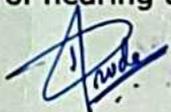


back in the year 2008 onwards and that they have even been renewals of the said leases and licenses and there are no complaints as against these respondent for polluting the atmosphere are any other environmental related issues. Hence on this ground also the application deserves to be dismissed.

24. It is submitted that Hon'ble High Court of Karnataka in the matter of Obayya Poojary V/s State of Karnataka had directed the, State Government to formulate 'The Karnataka Regulation of Stone Crushers Act' and rules for systematic and scientific operation of stone crushers. The act and rules mandates for declaration of Safer Zones for setting up and operation of stone crushers and there are certain distance criteria for declaration of safer zone. Thus, in exercise of powers conferred under the act and rules, Respondent No.7 declared a total extent of 36.13acres in various survey numbers of Devarayasamudra as the 'Safer Zone' for stone crushers as Annexure-J. It is submitted that Sy.No.199 of Devarayasamudra is was declared as safer zone during 2013 and there are no allegations of environment degradation till this petition being filed. Hence, the allegation of the petitioners that declaration of safer zone in Sy.No.199 is incorrect.

25. It is submitted that the crusher license granted to these respondents are after observing all the norms, rules and obtaining the requisites as contemplated under the Karnataka Regulation of Stone Crushers Act, 2011. Hence there is no illegality in the process of granting the license and lease under the Karnataka Minor Mineral Concession Rules, 1994 and amended rules thereafter. The reason for filling the above petition is only to harass these respondents.

26. All other averments which are traversed in the writ petition are denied as false and respondents crave leave of the Hon'ble Tribunal to adduce further material at the time of hearing the matter.



WHEREFORE, it is most humbly prayed that this Hon'ble Court may be pleased to dismiss the above Writ Petition, in the interests of justice and equity.

Place : Bengaluru



Date :

**Advocate For Respondent No 14, 15,
16, 17, 18, and 24**