

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI**

Original Application No. 23 of 2021 (SZ)

IN THE MATTER OF:

SAMO SOMA NARSAIAH & ORSAPPLICANTS

VS

UNION OF INDIA & OTHERSRESPONDENTS

**COUNTER AFFIDAVIT ON BEHALF OF THE MINISTRY OF
ENVIRONMENT, FOREST AND CLIMATE CHANGE
(RESPONDENT No. 1)**

MOST RESPECTFULLY SHOWETH:

I, **Dr. E. AROCKIA LENIN**, currently working as **Scientist C** in the Ministry of Environment, Forest and Climate Change (MoEF&CC), Regional Office, Telangana , do hereby solemnly affirm and state as under:-

1. That I, in my official capacity of in the Ministry Environment, Forest and Climate Change, Telangana i.e. Respondent No. 1 in the above mentioned matter, am conversant with the facts and circumstances of the case on the basis of official records, and as such authorized and competent to swear this affidavit.
2. It is submitted at the very outset that the Respondent No. 1 denies each averment and/or submission made in the application which is contrary to and inconsistent with the averments made and facts stated in the present reply. It is submitted that the nothing stated in the application may be deemed to have been admitted by the Respondent No. 1 unless and until the same is expressly admitted in the present reply.
3. That a short affidavit is being filed by the answering respondent at this stage and craves leave and liberty to file a

detailed Counter Affidavit to the aforesaid application, as and when required.

4. That the applicant in the present matter has alleged that the respondent no. 9 had exceeded the mining lease area that has been granted to it and the Units were established against the siting criteria without providing necessary pollution control mechanism which resulted in great hardship and health hazards to the people in the locality.
5. That the applicant has inter-alia prayed that the Hon'ble Tribunal may please (i) Appoint an independent Experts Committee to ascertain the ground situation at Ippagudem Stone mining Quarry, stone crusher and Tar/RCC Mix Plant run by Respondent No.9 for taking appropriate action. (ii) Direct the Respondent No. 1 to 4 to take action according to law on the Respondent No. 9 for violating the Mining lease and mandatory precautions fixed by way of siting guidelines by CPCB/TSPCB. (iii) Direct the Respondents 5, 6 & 8 to assess the damage caused to health of population, houses, agriculture, bore wells and Ippagudem, Rangararayigudem, Komatiguem, Kotulabad, Narasingapuram Tanda Villages of Janagama District of Telangana State due to the polluting activities of Respondent No. 9. (iv) Direct the State of Telangana and Telangana PCB to implement the order dated 5.7.2016 in O.A. No. 3 of 2016 (SZ) Suo Motu and submit report.
6. That it is further submitted that respondent Ministry issued EIA Notification dated 14th September 2006 which requires certain projects to obtain prior Environmental Clearance ("EC") before any construction work in case of new projects or expansion and modernization of existing projects or activities. The Schedule to the Notification details the categories or projects or activities which require prior Environmental Clearance.
7. That it is further submitted that all projects and activities are broadly categorized into two categories - Category "A" and

Category “B”, based on the potential impacts on spatial extent and human health and natural and man-made resources. All projects or activities included as Category ‘A’ in the Schedule, including expansion and modernization of existing projects or activities and change in product mix, shall require prior environmental clearance from the Central Government in the Ministry of Environment, Forest and Climate Change (MoEF&CC) and all projects or activities included as Category ‘B’ in the Schedule will require prior environmental clearance from the State/Union territory Environment Impact Assessment Authority (SEIAA). In the absence of a duly constituted SEIAA or SEAC, a Category ‘B’ project shall be treated as a Category ‘A’ project.

8. That it is submitted that the answering respondent further came up with the notification having S.O. 141 (E) dated 15th January, 2016 which stipulates that ‘B2’ Category projects pertaining to mining of minor mineral of lease area less than or equal to five hectare shall require prior environmental clearance from DEIAA (District Environment Assessment Authority). The DEIAA shall base its decision on the recommendations of DEAC (District level Expert Appraisal Committee), as constituted for this notification. The copy of the notification S.O. 141 (E) dated 15th January, 2016 is annexed herein and marked as **ANNEXURE R1/1**.
9. It is most respectfully submitted that the notification having S.O. 141 (E) dated 15th January, 2016 has been challenged before Hon’ble Tribunal in the matter of *Original Application No. 186 of 2016* titled as *Satendra Pandey vs Ministry of Environment, Forest and Climate Change* and Execution Application No. 55 of 2018 in *Original Application No. 520 of 2016* entitled “*Vikrant Tongad Versus Union of India*” wherein, Hon’ble Tribunal has suspended the said notification till a fresh Notification is issued by the MoEF&CC. The copy of the said order dated 13.09.2018 is annexed herein and marked as **ANNEXURE R1/2**. A copy of the Order dated 11th December,

2018 passed by the Hon'ble National Green Tribunal is annexed herewith and marked as **ANNEXURE R1/3**. An Appeal against this order has been preferred in Hon'ble Supreme Court wherein, Hon'ble Court vide order dated 31.01.2020 request the National Green Tribunal to adjourn the proceedings in execution of the order dated 11th December,2018. The copy of the order dated 31.01.2020 is annexed herein and marked as **ANNEXURE R1/4**.

10. That it is submitted that the order dated 13.09.2018 and 11.12.2018 passed by the Hon'ble Tribunal, has been challenged by the answering respondent by way of a Civil Appeal before Hon'ble Apex Court in the matter titled "*Union of India Vs Rajiv Suri*" having Civil Appeal No. 3799-3800 of 2019 and the case is sub-judice as of now.
11. That it is submitted that in exercise of powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986), read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government made further amendments in the Environment Impact Assessment Notification, 2006 vide S.O.3977(E) dated 14th August,2018 wherein, Schematic Presentation of Requirements on Environmental Clearance of Minor Minerals including cluster situation in Appendix-XI and entries relating thereto. The copy of the Notification S.O.3977 (E) dated 14th August, 2018 is attached herein and marked as **ANNEXURE R/5**.
12. That it is respectfully submitted that State Department of Mines and Geology is the nodal authority in the State for dealing with the allotment of mining leases under the Mines and Minerals (Development and Regulation) Act (MMDR Act) and is entrusted with the enforcement and regulation of mining operations in a State including illegal mining and Respondent Ministry has no role to play with regard to the same. Further, the State Government is empowered under Section 23 C of the Mines and Minerals (Development and

Regulation) Act 1957(MMDR Act) to make rules for prevention of illegal mining, transportation and storage of minerals and the State Department of Mines & Geology is the nodal authority in the state for dealing with the allotment of mining leases under the MMDR Act and is entrusted with the enforcement and regulation of mining operations in a state.

13. That is humbly submitted that, the State Pollution Control Board is the nodal authority in the State for dealing with cases related to pollution or environment management coming under the purview of the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981 and the Environment Protection Act 1986 and is ,therefore, empowered to take all necessary action in this regard.
14. That in view of the aforementioned facts and circumstances, this Hon'ble Tribunal may kindly be pleased to pass appropriate order(s).



DEPONENT

VERIFICATION

I, **Dr. E. AROCKIA LENIN**, the above named deponent do hereby verify that the contents of the above affidavit are true and correct on the basis of official record maintained by the Respondent No. 1 in daily course of its business, no part of it is false and nothing material has been concealed there from.

Verified at IRO, MoEF&CC, Hyderabad on this the 21st day of October, 2021.



DEPONENT