

BEFORE THE NATIONAL GREEN TRIBUNAL, SOUTHERN ZONE,  
CHENNAI

APPEAL NO. 27 of 2023

Pasupulteti Suresh Babu

... Petitioner

-Vs-

MOEF and others

...Respondents

**COUNTER AFFIDAVIT OF THE 8<sup>TH</sup> RESPONDENT**

1. The answering Respondent has perused the appeal preferred by the Appellant and is denying all the averments made therein except those that are specifically admitted herein. Before adverting to para-wise remarks, the answering Respondent wishes to place the following relevant facts in brief.

**Facts necessary for the present Lis.**

2. The Appellant herein i.e., Mr. Pasupuleti Suresh Babu was 8<sup>th</sup> Respondent's ex-employee (Civil Engineer) and after serving for about 10 months, he resigned citing personal grounds. Thereafter the said Appellant created a lot of nuisances and refused to vacate the residential quarters and only after protracted battle of about 22 months, the 8<sup>th</sup> Respondent was able to vacate him from the residential quarters. It is stated that therefore the Appellant had and has a personal grudge as against this Respondent and therefore out of pure personal vendetta and not out of any public interest or environment interest, is filing frivolous cases and complaints as against the answering Respondent.
3. That prior to the present Appeal, the Appellant herein vide Appeal No. 44 of 2022 wherein he had challenged the Cement Plant Environment clearance dated 06.07.2022 for "Expansion of Cement Plant with Clinker Production Capacity from 1.7 to 3.2 MTPA and

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cement (OPC/PPC) production TO 1.8 to 4.0 MTPA (by installing a new unit (Unit III) & power from 18 to 33 MW (by installation of WHRB Power Plant)” issued by the Scientist E cum Additional Director, Ministry of Environment Forest and Climate Change, Government of India, New Delhi. After arguing for some time, the Appellant withdrew the Appeal with liberty to challenge the Stage 2 approval. Subsequently the said Appeal was withdrawn by the Appellant. The order of this Hon’ble Tribunal permitting the Appellant to withdraw is dated 19<sup>th</sup> January 2023.

4. That the 8<sup>th</sup> Respondent is a public limited company incorporated in the year 1979 and is into the business of manufacturing cement. The 8<sup>th</sup> Respondent uses the highest available technology and expertise to manufacture cement and is a very popular cement manufacturing company in the State of Telangana. The 8<sup>th</sup> Respondent is also aware of its responsibilities towards environmental protection and as a part of its Corporate Environmental Policy is committed to preserve the environment and improves its quality and is duly certified for meeting its highest standard visa viz ISO9001, 14001 and 45001 standards.
5. With respect to the present lis, it is stated that the 8<sup>th</sup> Respondent has its cement factory in the District of Suryapet (undivided Nalgonda District). It is stated that to produce cement, limestone is the primary raw material and limestone along with other materials are heated to prepare lumpy solid substance called clinker and therefore clinker in combination with gypsum is used to produce cement.
6. The main raw material i.e., limestone has to be mined. Accordingly, the 8<sup>th</sup> Respondent has entered into 3 (three) Mining Lease Agreements with Mines and Geology and the Forest Departments and the following tabulated column would show details of Forest Land to an extent of 279.54 ha situated within Saidulnama Reserve Forest, more specifically in compartment No. 26 & 27, leased to the 8<sup>th</sup>

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Respondent for mining purpose:

| S. No. | Mining Lease | Extent of forest Land | Stage-I    | Stage-II   | State Govt. G.O         | Remarks   |
|--------|--------------|-----------------------|------------|------------|-------------------------|---|
| 1.     | ML-I         | 22.5 ha               | 23.05.1991 | 25.09.1991 | 02.11.1991              | Forest land was handed over back to the forest Department during the year 2000 after completion of mining and reclamation |
| 2.     | ML-2         | 73.93 ha              | 07.01.1997 | 23.02.1998 | 05.05.1998 & 15.09.2021 | Mining under progress. About 9 ha is converted into waterbody during 2014 as per the progressive mine closure plan        |
| 3.     | ML-3         | 183.11 ha             | 21.02.2012 | 13.09.2013 | 09.10.2013              | Mining under progress. Mining Activity commenced w.e.f.23.03.2015   |

7. That the present Appeal has been filed by the Appellant herein challenging the Limestone Mine Environmental Clearance granted vide E.C. Identification No. EC23A001TG110250 dated 19.06.2023 by the 1<sup>st</sup> Respondent primarily on the ground that the 8<sup>th</sup> Respondent failed to comply with one of the conditions, viz., Clause xxi of the Stage I Forest Clearance and Clause xx of the Stage II Forest Clearance, i.e., "initiation of reclamation of forest land" which was imposed while granting the Stage – I & Stage – II Approval for ML-3. For the sake of brevity, the said Clause (which are both pari materia) is extracted hereunder:

*"The State Government shall ensure reclamation of the forest land located in their existing Mine. Mining in the forest land proposed for diversion shall be allowed only after the work for reclamation of the*

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*mined out area of their existing mine is initiated and the State Forest Department shall monitor the progress of reclamation works”.*

8. In this regard the Answering Respondent would like to state that the following facts for the consideration of this Hon'ble Tribunal, with regard to Reclamation Work done for ML-1, ML-2 & ML-3:

9. With regard to **Mining Lease -I:** (ML1)

- a. The mining lease-1 comprises of 22.55 ha of forest land. MoEF&CC vide its letter dated 25.09.1991 accorded final for renewal of mining lease in favour of the 8<sup>th</sup> Respondent for a period of 10 years.
- b. It is stated that the forest land was handed over back to the forest Department during the year 2000 after completion of mining and reclamation. The 8<sup>th</sup> Respondent after carrying out mining and reclamation had handed over the forest land to the State Forest Department in the year 2000. As per Indian Bureau of Mines, Ministry of Mines, Govt. of India, approved mining plan, reclamation of the mined-out area had to be done for part of the area by way of backfilling and rest of the area left as it is to serve as a water reservoir for pisciculture.
- c. It is stated that this Respondent has done the reclamation work i.e 8.5 ha is maintained as water body, 6.5 ha has been backfilled and planted up and the remaining 7.55 ha is unbroken. Around the mine, planting of Pongania species was done.

10. With regard to **Mining Lease -II:** (ML 2)

- a. Mining Lease - 2 was granted over an area of 73.93 ha by the state Government. MoEF& CC vide its letter dated 07.01.1997 accorded in-principle approval and vide letter dated 23.02.1998 accorded final approval for diversion of 73.93 ha of forest land for limestone mining lease in favour of the 8<sup>th</sup> Respondent.

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- b. Mining activity is under progress in this lease currently.
- c. That as on today, out of 73.93 ha of land, in approximately 9 ha of land, mining activity has been completed and the same is retained as a water body and the water body area is demarcated by way of small earthen bund and with RCC Pillars.

Hence the reclamation activity is executed in accordance with the IBM approved mining plan.

11. With regard to **Mining Lease -III: (ML 3):**

- a. Mining Lease - 3 was granted over an extent of 183.11 ha by the State Government. MoEF&CC vide its Letter dated 21.02.2012 accorded in-principle approval and vide its Letter dated 13.09.2013 accorded Final Approval for diversion of 183.11 ha of forest land in favour of the 8<sup>th</sup> Respondent for limestone mining in compartment No. 26 & 27, Saidulanama RF.
- b. The mining activity is currently under progress.

12. It is stated that this Respondent has done reclamation of mine areas and there has been no breach whatsoever. All the conditions imposed for Stage – I Clearance, viz., Clause xxi, & Stage – II Clearance, viz., Clause xx, has been complied with and there is no breach in this regard as alleged by the Appellant.

**Para-wise remarks:**

- 13. Contents of Para 1 to 3 are not averred upon as the same is a matter of record.
- 14. Contents of Para 1 under the sub-heading Facts in Brief is not denied to the extent that the Appellant herein was an ex-employee of

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the 8<sup>th</sup> Respondent. That apart the entire contents of the para under reply is strongly denied as false and the Appellant is put to a strict proof of the same. It is stated that after serving for about 10 months, the Appellant resigned citing personal grounds. Thereafter the said Appellant created a lot of nuisances and refused to vacate the residential quarters and only after protracted battle of about 22 months, the 8<sup>th</sup> Respondent was able to vacate him from the residential quarters. It is stated that therefore the Appellant had and has a personal grudge as against this Respondent and therefore out of pure personal vendetta and not out of any public interest or environment interest, have filing frivolous cases and complaints, including the present Appeal and thus the averment that the Appellant is an active member in protecting Environment and Forests from Deforestation is strongly repudiated as false and the Appellant is put to a strict proof regarding the same. Further the prayer sought in the present Appeal to quash the Environmental Clearance dated 19.06.2023 is with ulterior motive, merely to harass the Appellant.

15. Contents of Para 2 under the sub-heading Facts in Brief is not denied except the fact that Stage – I Approval for ML-3 was granted on 21.02.2012 and not 2011 as averred by the Appellant.
16. With regard to Para 3 under the sub-heading Facts in Brief, the Minutes of the Forest Advisory Committee dated 26.11.2011 and the duty cast upon State Government with regard to Reclamation is not denied. However, the allegation that the 8<sup>th</sup> Respondent has violated the condition with regard to Reclamation of the mined-out areas is strongly denied as false and in this regard the details provided supra may be read as part and parcel to the averments made in the para under reply. Further the Appellant has merely made allegations without any substance whatsoever.
17. Contents of Para 4 under the sub-heading Facts in Brief is strongly repudiated as false and the Appellant is put to a strict proof

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regarding the same. It is reiterated that the 8<sup>th</sup> Respondent has complied with all the conditions imposed along with Stage – I & Stage – II Forest Clearance, including Clause xxi & xx of Stage – I & Stage – II respectively and has started mining activity in ML-3 after initiation of Reclamation in ML-2. As per the approved mining plan by Indian Bureau of Mines, Ministry of Mines, Government of India, part of the mined out is converted into water body and part of the area is backfilled in the ML 1 (22.55 ha) and handed over to State Forest Department in the year 2000. The condition of initiation of reclamation mentioned in the Stage I and Stage II of FC conditions of ML 3 are with respect to the existing mine i.e., ML 2 and not the abandoned and handed over mine i.e. ML 1. To mislead the Hon'ble Tribunal, monitoring report of ML 1 is produced by the appellant. The question of initiation of reclamation in ML 1 doesn't arise in the conditions stipulated in the FC granted for ML 3 in the year 2013, as ML 1 was already handed over to Forest Department way back in the year 2000. Hence the averment that the 8<sup>th</sup> Respondent has violated condition regarding Reclamation is misleading.

18. Contents of para 5 under the sub-heading Facts in Brief are bald averments and the Appellant is put to a strict proof regarding the same. At the cost of repetition it is submitted that the Answering Respondent is aware of its responsibilities towards environmental protection and as a part of its Corporate Environmental Policy is committed to preserve the environment and improves its quality and is duly certified for meeting its highest standard visa viz ISO9001, 14001 and 45001 standards and that none of the Mining Conditions were ever violated.

19. Contents of Para 6, 7, 8 & 9 under the sub-heading Facts in Brief are strongly repudiated as false and the averments made therein are bald in nature. It is submitted that the Application dated 21.10.2022 for E.C. for increasing production capacity in Mine-3 lease area was applied by the 8<sup>th</sup> Respondent with all the relevant documents and that the proposal for expansion of Limestone

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Production in ML-3 was first considered during the 6<sup>th</sup> EAC Meeting held during 9<sup>th</sup> – 11<sup>th</sup> November, 2022, wherein the Expert Appraisal Committee (EAC for short) after detailed deliberation deferred the proposal. That thereafter, the 8<sup>th</sup> Respondent submitted the requisite information in Parivesh Portal on 15.02.2023 and accordingly the proposal was reconsidered in the 11<sup>th</sup> EAC Meeting held during 1-2 March, 2023, in accordance with the Environmental Impact Assessment Notification, 2006 and further amendments thereto and that the Ministry of Environment Forest & Climate Change, i.e., the 1<sup>st</sup> Respondent, after accepting the recommendation of EAC in its 11<sup>th</sup> EAC Meeting, accorded the Environmental Clearance dated 19.06.2023 (Impugned Order herein), by imposing several terms & conditions and Environmental Safeguards measures. Thus, the averment that the 1<sup>st</sup> Respondent without proper scrutiny and in violation of various Environmental Statutes, granted the Environmental Clearance dated 19.06.2023, is false and without any basis and the Appellant is put to a strict proof regarding the same. It is reiterated that the 8<sup>th</sup> Respondent has abided by all the Statutory requirements and various conditions imposed by the Government while carrying out its Mining Activity and has also taken all steps required towards compensatory Afforestation in favor of the Forest Department, as and when directed by the Government Officials. It would also be pertinent to note that prior to the grant of EC, a public hearing was conducted by the authorities and it is pertinent to note that the Appellant did not participate and raise any grievances.

20. Contents of Para 10 under the sub-heading Facts in Brief are bald averments and the same are strongly denied as false and the Appellant is put to a strict proof regarding the same. The mining activity is still in progress in ML 2 and hence the Guidelines of Hon'ble Supreme Court are not applicable at this stage. With respect to greenery, the 8<sup>th</sup> respondent has planted 20,000 plants in ML 2 and fulfilled all the requirement of peripheral green belt. Apart from this, about 55,000 plants are planted in the periphery of cement plant and ML 3.

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21. Contents of Para 11 under the sub-heading Facts in Brief are denied as false. It is reiterated that the 8<sup>th</sup> Respondent has not violated any of the conditions of the Stage – I & Stage – II Forest Clearance nor any other statutory mandates, more specifically the allegation regarding initiation of Reclamation. With regard to the Representations dated 05.11.2022 & 01.02.2023, the contents are denied as false and motivated.
22. Contents of Para 12 under the sub-heading Facts in Brief are denied as false and the Appellant is put to a strict proof regarding the same. At the cost of repetition, it is submitted that the 8<sup>th</sup> Respondent has not committed any violation and has by far abided by all the terms & conditions and provisions of the Forest Act and Environment Acts. Further the allegations against the 6<sup>th</sup> & 1<sup>th</sup> Respondents are without any basis. It is submitted that the Impugned E.C. was granted after following the due process of law and based on the recommendation of the EAC, Site Inspection and Reports of the Officials concerned.
23. Contents of Ground a is denied as false since the said averment is without any basis.
24. Contents of Ground b are strongly repudiated and the Appellant is put to a strict proof regarding the same. It is reiterated that the 8<sup>th</sup> Respondent has duly complied with all the Stage – I conditions. After due examination and verification of the compliance of Stage I conditions, the State Government has recommended to MoEF & CC, Government of India to grant the Stage II Clearance. MoEF & CC after due consideration by Forest Advisory Committee (FAC) has accorded Stage II Clearance. The conditions stipulated in Stage II is complied with.
25. Contents of Ground c, d, e, f, g & h are denied as false. In this

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regard it is submitted that the State Government Official, specifically the DFO, Suryapet & Conservator of Forest, Nalgonda, has been constantly monitoring and inspecting the Mining Lease Area on different occasions and has ensured that initiation of reclamation works such as creation of water body, plantation along the periphery of the mining area are carried out by the 8<sup>th</sup> Respondent as per clause xxi & xx of the Stage – I & Stage – II Forest Clearance conditions, respectively. That the 1<sup>st</sup> Respondent has granted the Impugned E.C. only after considering the EAC Report, Certificate issued by the concerned State Government Officials and various documents furnished by the 8<sup>th</sup> Respondent along with the Application seeking expansion.

26. Contents of Ground i is bald allegation and vague in nature and the Appellant is put to a strict proof regarding the same.

27. Contents of Ground j are denied as false as there are no infirmities in the grant of the Impugned E.C.

28. **General :**

- a. It is stated that one VakkantiKotteswarar Rao (*a very close friend and an associate of the Appellant herein*) filed O.A.No.33 of 2016 before the NGT South Zone seeking for certain reliefs. In the said original petition, the main allegation was that there was a dargah near the mining premises and since the dargah had an ancient value, no mining activities can take place. Accordingly, the Tribunal directed the Archeological Survey of India to file its report. Apart from this no other allegations were raised in that original petition. It would be pertinent to state that though there are other cement companies within the 10 Km radius of the above said Darga, the complaint was raised only against this Respondent and this is nothing but a reflection of personal grudges as the said VakkantiKoteswara Rao was an ex-contractor who was removed for his malpractices.

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Thereafter, in subsequent hearings, further allegations were made with respect to pollution, excess mining, lack of greenery, re-grassing and encroachment in the forest land. Though there were no specific pleadings, the Hon'ble NGT appointed various committees to go into the allegations raised and directed the concerned authorities to file appropriate reports. It was the specific case of the Petitioner therein that this Respondent had encroached upon the forest lands to an extent of 31.63 hectares.

b. It is stated that a Joint Committee was appointed by the Hon'ble Tribunal made inspections and filed various reports. All the allegations were proved wrong. However with respect to the allegation of encroachment into the forest land, the boundaries of Saidulnama RF have been fixed as per Gazette Notification and allied records. The joint survey was conducted by the Forest and Revenue departments, and the boundary of Saidulnama Reserve Forest is fixed by using DGPS. After joint survey, it is concluded that the extended railway line is also a part of RF block which is spread over an extent of 8.02 ha.

There are errors in village maps (Ravipahad, Mahankaligudem and Janpahad) which was reported by Assistant Director (Survey and Land Records). Due to the technical error of the village maps, the encroachment is neither spotted by the user agency nor by the Forest Department. As the encroachment was not wontedly committed by the User Agency, the joint committee recommended to regularize it by following due procedure.

c. Though the 8<sup>th</sup> Respondent was not aware of such encroachment, by way of abundant caution, immediately applied for regularization on 19.03.2021, pending the OA No. 33 of 2016. The Hon'ble NGT recorded all of the above and vide its Order dated 18.11.2021 and disposed of the said OA No. 33 of 2016 application with directions. In this regard

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reference may be had to Para 44, 56, 57(c), 57(g), 59(iii), 59(vii) of the Order.

This Respondent states that this particular area of which the allegation of encroachment to an extent of 8.02 Hectares is alleged to have been made was used by the Company for construction of their Railway siding. It is stated that while granting **environmental clearance dated 11.05.2017 by MOEF**, a specific condition was stipulated that the company has to ensure reduction of the impact of transport of raw material and end products through roads by use of lorries on the surrounding environment and use of rail as the only mode of transport was suggested. In order to comply with the above condition of the environmental clearance, this Respondent herein proposed the railway siding taking off from Janpahad Station to transport raw materials. In fact, this Respondent had also obtained necessary approvals from the Railways vide letter dated 03.04.2007.

d. The Railway siding of the 8<sup>th</sup> Respondent was very close to Janpahad railway station located next to the newly constructed railway line between Vishnupuram and Jaggiahpet. After subsequent approvals for the purpose of laying railway siding, everything was duly documented vide letters dated 22.09.2011 and 17.11.2016 and the railway line was constructed. It is stated that this Respondent coming to know of the committee's finding that there was an encroachment of 8.02 Hectares of forest land, they immediately applied for regularization vide their regularization application dated 19.03.2021. As per the Survey and Land Records Department, technical error was detected in Mahankaligudem village North boundary overlaps Sy. No.11 in Janpahad Village and Sy. No. 113 of Ravipahad. Also the Hon'ble NGT quoting the joint committee report directed for regularization of the said 8.02 Ha of Forest Land.

e. The State Government of Telangana, after following due

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procedures, recommended for approval to MOEF on 22.04.2021. The said proposal was considered by the Regional Empowered Committee on 07.5.2021 and the proposal was sent for approval to the Ministry Head Quarters at Delhi. Thereafter, stage.1 clearance was granted on 30.07.2021 with several conditions and stipulations.

- f. This apart, the MOEF, the Forest Division of Telangana had directed the 8<sup>th</sup> respondent to pay an amount of Rs.5,75,89,921/- towards compensatory afforestation and the said amount was duly paid by this Respondent. In addition, this Respondent also paid a sum of Rs.1,20,00,000/- towards cost and erection of boundary pillars though out the entire boundary line of Saidulnama Reserve Forest vide cheque dated 12.08.2021. This apart, the Forest Department also insisted that this Respondent company identifies non-forest land as a compensatory afforestation in favor of the Forest Department and accordingly this Respondent identified land in nearby area called Charakonda to an extent of 8.98 Ha and handed over the same to the Forest Department. This apart, the Wildlife Mitigation plan was also initiated and Rs.80,00,000/- was also deposited towards Wildlife Mitigation measures. It is stated that all of the above is as per law in force.
- g. Conditions raised in the Stage I clearance are complied by this respondent and requested the authority to grant Stage II with the compliance report through Parivesh portal. The compliance report was examined, verified and after getting satisfied on 17.10.2022, the Special Chief Secretary, Government of Telangana recommended for the issuance of Stage II clearance to the Regional Office, Hyderabad, MoEF&CC, Government of India. After the verification by the authorities of Regional Office, the Government of India issued Stage II clearance on 15.03.2023.

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- h. It is at this juncture, Mr. VakkantiKoteshwar Rao's friend and close associate Mr. Pasupuleti Suresh Babu has taken over from his friend and has initiated the second and third round of litigations only for the sole purpose of harassing this Respondent. It is obvious from the above history of the litigation that the Appellant and his friend are acting in collusion with ulterior motives in mind.

For the reasons stated above the Hon'ble Tribunal may be pleased to dismiss the Appeal No.27 of 2023 preferred by the Appellant with costs and thus render justice.

Dated at Chennai on this the 19<sup>th</sup> day of January, 2024

For DECCAN CEMENTS LIMITED  
  
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Company Secretary

8<sup>th</sup> Respondent

**VERIFICATION**

I, Bikram Keshari Prusty, S/o. Chakradhar Prusty, Hindu, aged about 50 years, Company Secretary of 8<sup>th</sup> Respondent, having Office at Deccan Chambers, 6-3-666/B, Somajiguda, Hyderabad, Telangana - 500082, now having come down to Chennai, do hereby verify that the contents of Para 1 to 28 are true to my knowledge personal knowledge and belief and no part of it is false and nothing material has been concealed to the best of my knowledge and belief.

Verified at Chennai on this the 19<sup>th</sup> day of January, 2024

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Bikram Keshari Prusty  
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8<sup>th</sup> Respondent

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... Respondents

**COUNTER AFFIDAVIT OF THE 8<sup>TH</sup> RESPONDENT**

P.J. Rishikesh  
P.J. Sri Ganesh  
Ami v Kataria

**Counsel for 8<sup>th</sup> Respondent**