

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL(SZ)  
CHENNAI.

O.A. No. 144 of 2020 (SZ)

IN THE MATTER OF :-

Dr.Sarvabhoun Bagali

....PETITIONER.

VERSUS.

The State of Karnataka & ors.

....RESPONDENTS.

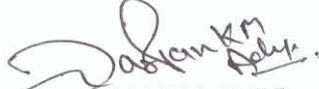
Next Date. 28/01/2021

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3.		

THROUGH

Date:- 17/12/2020.  
Place New Delhi

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

**Original Application No. 144/2020(SZ)**

**IN THE MATTER OF :-**

**Dr. Sarvabhoom Bagali**

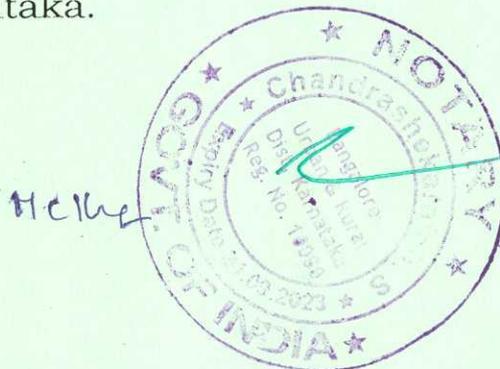
**Vs.**

**State of Karnataka and Others.**

**Affidavit**

I Kumar M.C S/o Chunchu Gowda M.B, aged about 44 Years, Deputy Director, Department of Mines and Geology, Bengaluru do hereby state on oath as under:-

1. I have been serving in the Government of Karnataka in the Department of Mines and Geology, Bengaluru as the Deputy Director since four years. I know the facts of the case from the records. I am competent to swear to this affidavit.
2. I submit that this Hon'ble Tribunal in the above matter passed orders dated 07.08.2020, in the O.A. No. 144/2020 regarding State of Karnataka.



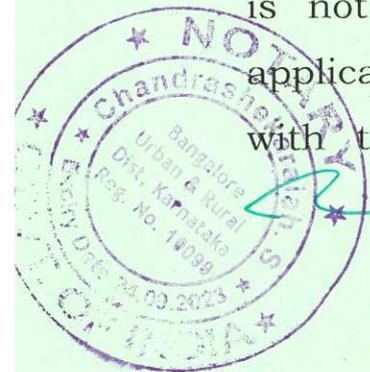
**Reply of Respondents 1, 5 & 6 to the Application filed by the Applicant.**

3. It is submitted that the applicant has prayed this Hon'ble Tribunal to:

- i) Declare that sand mining, regular as opposed to de-silting of ponds, lakes, tanks and nalhas in violation of the Environmental Impact Assessment Notification 2006, sustainable sand mining management guidelines, 2016 and the Enforcement and Monitoring guidelines for sand mining 2020.
- ii) Declare that sand mining, activity in a pond / tank type inland wet land is prohibited activity under the wet lands (Conservation & Management) Rules 2017.
- iii) Direct to submit reports from concerned authorities.
- iv) Direct the DCS of Vijayapura and Raichur Districts of the details of sand quarrying leases given for ponds / lakes / nalhas in the post 5 years etc.

4. It is submitted that this application is not maintainable against these respondents. This application is not maintainable either in law or on facts. The applicant, as a social worker could have made enquiries with the respondents and know that there was no

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violations of law, Rules, Notifications etc by the respondents. Though the interest of the applicant to maintain and protect natural resource, his approach through this Hon'ble Tribunal cannot be appreciated. It is waste of valuable time of this Hon'ble Tribunal.

5. It is submitted at the outset that no permission to extract sand from pond / lake has been issued by the Department of Mines and Geology in either of the Districts. Only two leases to quarry sand in Nalha (otherwise Called Stream) in Raichur District were issued and no lease or permit for sand mining in Stream (Nalha) is issued in Vijayapur District. In Raichur District, one lease to mine sand in Pootanal nalha in Gonavara Village and Second in Albanuru Village in Sindhanuru nalha were issued on 06.06.2017 over an extent of 12.20 acres each, to extract 20,000 MTs per annum. Since last 3½ years they have extracted hardly 17,260 MT in Gonavara Village and 32,700 MTs in Albanuru Village. They were issued as per Karnataka Minor Mineral (amendment) Rule-2016. No illegal quarrying is done in Vijayapur and Raichur Districts from ponds/lakes / nalhas. Sand mining in above two villages was legal. The State Government has not authorized de-silting in ponds/lakes nalhas. Environmental Clearance have been granted for these two sand mining on 08.06.2017, respectively. There is no breach of directions issued by



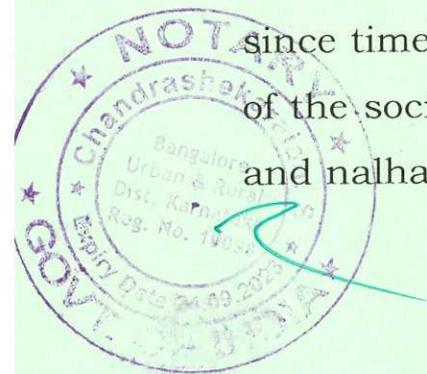
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the Hon'ble Supreme Court as laid down in the matter of "Deepak Kumar Case".

6. It is submitted that the directions and guidelines issued by the Hon'ble Supreme Court in the matter of "Deepak Kumar" have been made Rules in the Karnataka Minor Mineral Concession Rules 1994. It has been appreciated by this Hon'ble Tribunal in another matter as stated by the applicant in this application in para 8. Finding accumulation of more Sand, obstructing easy flow of water, causing floods and that nalhas (streams) were no less than a river, thought of removing such trouble some Sand Blocks. They were identified jointly by Revenue, Forest, Department of Mines and Geology etc., and auctioned by Calling Tenders. The applicant has falsely alleged that New Sand Policy 2020 issued by the Karnataka State permits regular Sand Mining in Ponds/ Lakes/ Nalhas violating EIA Notification 2006. There is no specific bar in the Notification of 2006 prohibiting Permitting removal of Sand as silt and for local use by the public and local bodies.

7. If it is not permitted, it results in over floods, reduces the water storage in them etc., Use of small quantity of sand from ponds/ lakes/ nalha is customary, since time immemorial. They are necessary for well being of the society and natural resources. There are few lakes and nalhas in these Districts. There are good numbers of

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incidents of or history of adverse effects of occasional Sand Mining in controlled manner and at occasions, not regular, since, no regular Sand Mining is permitted in ponds/ lakes / nalhas of these two Districts.

9. It is submitted that Karnataka New Sand Policy 2020 is not contradictory to any of the Notification issued in this regard. It is just and proper. This application and apprehension of the applicant are devoid of merits.

10. It is submitted that very little impact is there on the environment due to Sand Mining (not regular) in ponds / lakes / nalhas. Hence there is no loss on the environment.

11. Since there is no environmental loss due to occasional Sand mining in ponds/ lakes/ nalhas as per Sand policy 2020, there is no question of environmental loss or compensation. Quantity of Sand available in ponds/lakes is negligible. They do not afford regular Sand mining in ponds/lakes. But in Nalhas Sand mining should be done like in River, Since Sand blocks in nalhas are formed here and there. Nalhas are similar to rivers but quantity, differs. As already submitted above only two lease were granted in Raichur District and no lease is granted in Vijayapur District. True copies of such leases in Raichur District are produced here with this reply as **Annexure-R1 & R2** respectively. The sand blocks with

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10-15 ft depth are identified and mining of sand is permitted to a depth of about 3 ft or a meter.

The addresses of two Lease Holders who have obtained lease in Raichur District are as under:-

1. M.Eranna S/o Mallappa  
PWD Contractor,  
Near FST Raichur Road,  
Manvi, Raichur District.
2. M. Sharanabasappa  
# 2-3-155, V.V. Nagara  
Mallikarjuna Nilaya, 7<sup>th</sup> Ward,  
Sindhanuru, Raichur District.

Under these Circumstances it is prayed to dismiss the application in the interest of Justice.

*H. Chy*  
**DEPONENT**

### VERIFICATION

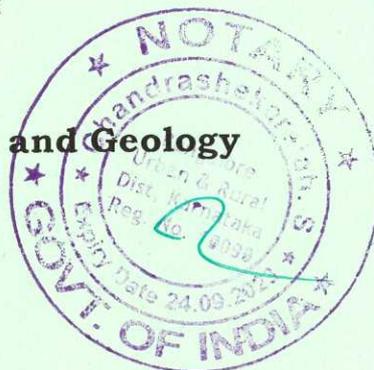
I, the above Deponent do hereby verify that the statements in Paras 1 to 11 are true to my knowledge and that no part thereof is false and nothing material is concealed therefrom.

Verified at Bengaluru on the day 15 of December 2020.

*H. Chy*  
**DEPONENT**

### IDENTIFIED BY

*H. Chy*  
**ASSISTANT**  
**Dept. Of Mines and Geology**  
**BENGALURU.**



### SWORN TO BEFORE ME

*H. Chy*  
**CHANDRASHEKARIAH. S.**  
Advocate & Notary  
No. 9/7, Kempegowda Nilaya  
3rd Cross, Muthurayaswamy Extension  
Surikadakkatte, Bangalore - 560091

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Reg. No. 1105 Date 15/12/2020

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

**Original Application No. 144/2020(SZ)**

**IN THE MATTER OF :-**

**Dr. Sarvabhoun Bagali  
Vs.  
State of Karnataka and Others.**

**Affidavit**

In this I, Kumar M.C S/o Chunchu Gowda M.B aged about 44 years, R/o Bangalore working as Deputy Director, Department of Mines and Geology, Bengaluru do hereby solemnly affirm and state as follows:

1. I have been working as the Deputy Director in the Department of Mines and Geology, Bengaluru in the Government of Karnataka. I know the facts of the matter from the records. The Deputy Director, Department of Mines and Geology is the **regulating authority over the sand mining**. Hence I am competent to swear to this affidavit.
2. Our counsel has drafted the report at my instructions Contents of reply para 1 to 11 are true to the best of my knowledge and belief. Nothing is suppressed.
3. This is my name and address above stated and contents of above paras are true and correct.



*H.C. Thez*  
**DEPONENT**

**VERIFICATION**

I, the above Deponent do hereby verify that the statements in Paras 1 to 11 are true to my knowledge and that no part thereof is false and nothing material is concealed therefrom.

Verified at Bengaluru on the day 15<sup>th</sup> of December 2020.

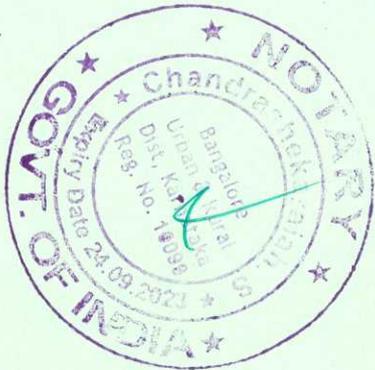
*H. Ch...*  
**DEPONENT**

**IDENTIFIED BY**

**ASSISTANT**  
**Dept. Of Mines and Geology**  
**BENGALURU.**

Bengaluru  
Dated : 15.12.2020.

**SWORN TO BEFORE ME**  
*15/12/2020*  
**CHANDRASHEKARAIH. S**  
Advocate & Notary  
No. 9/7, Kempegowda Nilaya  
3rd Cross, Muthurayaswamy Extent  
Sunkadakatte, Bangalore - 560091



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