

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

Original Application No. 85 of 2021 (SZ)

**IN THE MATTER OF:**

M/s Parisara Hitharakshana Samithi .....APPLICANT

VS

UNION OF INDIA & OTHERS .....RESPONDENTS

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

**MOST RESPECTFULLY SHOWETH:**

I, **Dr. Murali Krishna**, currently working as **Scientist-D** in the Ministry of Environment, Forest and Climate Change (MoEF&CC), Integrated Regional Office, Bangalore, do hereby solemnly affirm and state as under:-

1. That I, in my official capacity of in the Ministry Environment, Forest and Climate Change, Chennai i.e., Respondent No. 1 in the above-mentioned matter, I am authorized 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. 14 to 24 are engaged in illegal quarrying as well as crusher units without obtaining any necessary Environment Clearance or permissions required under the environmental laws. Further, it is also alleged by the applicant that the land was not declared as a protected forest under the Indian forest Act, 1927 or as an Eco-Sensitive Zone whereas it has all the characteristics of the same.
5. That the applicant has inter-alia prayed for that the Hon'ble Tribunal please to (a) direct the respondents 1 to 4 to declare

the Devarayasamudra Virushabhadri hill region, Devarayasamudra Village, Mulbagal Taluk, Kolar District, Karnataka as eco-sensitive region and thus render justice. (b) For bearing the Respondents 15 to 24 from carrying on the crushing and mining activities in the Devaraysamudra Virushabhadri hill region, Devarayasamudra Village, Mulbagal Taluk, Kolar District, Karnataka.

6. That it is further submitted that respondent Ministry issued Environmental Impact Assessment (EIA) Notification dated 14<sup>th</sup> 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.

8. That it is further submitted that 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) on the recommendations of an Expert Appraisal Committee (EAC) to be constituted by the Central Government for the purposes of this notification.

9. That it is further submitted that all projects or activities included as Category 'B' in the Schedule, including expansion and modernization of existing projects or activities as specified in sub paragraph (ii) of paragraph 2, or change in product mix as specified in sub paragraph (iii) of paragraph 2, but excluding those which fulfill the General Conditions (GC) stipulated in the Schedule, will require prior environmental clearance from the State/Union territory Environment Impact Assessment Authority (SEIAA). The SEIAA shall base its decision on the recommendations of a State or Union territory level Expert

Appraisal Committee (SEAC) as to be constituted for in this notification. In the absence of a duly constituted SEIAA or SEAC, a Category 'B' project shall be treated as a Category 'A' project.

10. 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 14<sup>th</sup> August,2018 wherein, Schematic Presentation of Requirements on Environmental Clearance of Minor Minerals including cluster situation in Appendix-XI and entries relating thereto, the following item and entries shall be substituted. The copy of the Notification S.O.3977 (E) dated 14<sup>th</sup> August, 2018 is attached herein and marked as **ANNEXURE R/1**.

11. That it is submitted that the Hon'ble Apex Court vide order dated 27<sup>th</sup> February 2012 in Special Leave Petition (C) No.19628-19629 of 2009, in the matter of "**Deepak Kumar etc. Vs. State of Haryana and Others etc**" has ordered that prior environmental clearance has now become mandatory for mining of minor minerals irrespective of the area of mining lease. Therefore, the area of less than five hectare must also be brought into purview of EIA Notification, 2006 so that prior Environmental Clearance is made mandatory for mining activity for less than five hectare of lease area.
12. That as per the provision of 23(C) of MMDR Act, the State Government is empowered to make rules for preventing illegal mining, and transportation & storage of Illegal minerals. All such mining which qualifies under illegal shall be dealt with in the provision of MMDR Act by the concern authorities.
13. That the State Pollution Control Board (SPCB) 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. SPCB shall initiate appropriate action under the provision of these acts for non-compliance of violation of the provisions.

14. It is most respectfully submitted that in regard to declaring the Devarayasamudra Virushabhadri Hill Region, Devarayasamudra Village, Mulbagal Taluk, Kolar District, Karnataka as Eco-Sensitive Region is concerned, it is submitted that the Eco-Sensitive Zone (ESZ) Notifications around Protected Areas and other natural sites are notified by the Central Government based on the proposals received from the respective State Governments and in line with the guidelines issued for declaration of ESZs issued by the Central Government. However, no such proposal for declaring the Devarayasamudra Virushabhadri Hill Region, Devarayasamudra Village, Mulbagal Taluk, Kolar District, Karnataka as Eco-Sensitive Zone has been received from Karnataka State with the answering respondent till date.

15. That in view of the aforementioned facts and circumstances, this Hon'ble Tribunal may kindly be pleased to pass appropriate order(s).

*Dr. Murali Krishna Chimata*

**DEPONENT**

Dr. Murali Krishna Chimata  
Scientist "D"  
Ministry of Environment, Forest & Climate Change  
Regional Office, (Southern Zone),  
Kendriya Sadan, Koramangala  
Bengaluru-560034

**VERIFICATION**

I, 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 Bangalore on 4<sup>th</sup> day of August 2021.

*Dr. Murali Krishna Chimata*

**DEPONENT**

Dr. Murali Krishna Chimata  
Scientist "D"  
Ministry of Environment, Forest & Climate Change  
Regional Office, (Southern Zone),  
Kendriya Sadan, Koramangala  
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