

BEFORE NATIONAL GREEN TRIBUNAL (SZ) CHENNAI

MEMORANDUM OF APPLICATION

(Under Section 18(1) read with 14 and 15 of National Green Tribunal Act 2010)

Original Application No. 204 /2017

BETWEEN:

Bhoja Shetty,
And another

: APPLICANT

AND

The Deputy Commissioner / Chairman,
District Stone Crushers Licensing and Regulation Authority,
And others

: RESPONDENTS

Submissions on Joint Committee Report dated 22.02.2021

1. On 06.02.2020 this Hon. Tribunal after hearing the matter had formed a Joint Committee consisting of DC Udipi District, Scientist from Regional Office MoEF&CC, Senior Officer from SEIAA, Senior Officer from KSPCB, to inspect the Stone mining area of M/s Mookambika Crusher at Sy. No.176, Shivapura Village, Karkala Taluk and report whether:
 - the project proponents are having Environment Clearance,
 - they are complying with EC and COF conditions,
 - there is any excess mining if so to what extent,
 - there are pollution control mechanisms in place,
 - there are damages to nearby houses, ascertain air and water quality and assess the environmental compensation if required.

2. Consequently, Joint Committee had submitted its report dated 22.02.2021 which was placed before the Hon. National Green Tribunal on 13.07.2021 and during the hearing State Level Environment Impact Assessment Authority, Bangalore (SEIAA) made the submission that on the basis of observations made during the joint inspection with the joint committee SEIAA has already cancelled the Environment Clearance issued to M/s Mookambika Crusher / Industries and assured to file a report on EC cancellation proceedings shortly.

3. Perusal of the above said Joint Committee report reveal serious violation of mandated mining norms as well as Pollution Control guidelines and the concerned authorities have observed Stone Crushing / mining activities by M/s Mookambika Crusher without valid licence / environmental clearances and they have imposed penalties.

4. A) It is pertinent to note that under para no. 5.3 at page no. 8 of the report, Department of Mines and Geology, Udupi has confirmed that there are 3 (three) quarry leases operating in the said Sy. No. 176/PI/PI and Google imaginaries show that quarrying activity was carried out before grant of lease in various places in Sy. No. 176/PI/PI. However, under para no. 5.1 at page no. of the report of SEIAA mentions only about only 2 (two) mining sites, out of which one is issued contrary to EIA Notification 2006.

B) As evident from para no. 5.4.1 and 5.4.2 at page no.9 and 10 of the report, KSPCB has submitted that Ambient air quality and Water quality in and around the stone crusher is found to be within permissible limit. Here it is noteworthy that as admitted by KSPCB at para no. 5.4.1 at page no.9 of the report , Ambient air quality and Water quality monitoring is carried out when the stone crusher was not in operation due to Covid situation. Thus, the Ambient air quality and Water quality does not reflect the true situation on ground.

5. At para no. 4.2 at page no.5 of the report it is stated that during the inspection they have visited the houses of Smt. Kanala Kulal and Sri.Sunder Harijan and they were informed that there were no health / other problems on account of stone mining / crushing activity in the area and houses are intact and no damage is caused to the houses in the area. However the reality therein is totally different.

In this regard we wish to submit that

- It is evident from photographs enclosed to OA No. 204 /2017 as annexure – 1 that several houses in the vicinity of stone quarrying site of respondent no. 4 has developed cracks, tiled roof damaged, vegetation and agriculture land is covered with stone dust emanated from stone quarrying process.
- Smt Kamala Handthi W/o Late Gopal Handa , refered in the joint inspection report is an aged widow residing at Yalogoli , Shivapura Village with her daughter and grandchildren. On 13.08.2016 at around 1.00 P.M. when her daughter and grand children were at home, on account of untimely explosion carried out by M/s Mookambika Crusher for stone quarrying, a stone of considerable size which flew from the quarrying site during explosion fell on the roof of her house and breaking the tiled roof landed right inside the house and they escaped from life threatening situation very narrowly. Smt Kamala Handthi reported this matter to the Deputy Commissioner as well as Superintendent of Police Udupi District seeking justice. Copies of the said complaints duly acknowledged by the concerned authorities and photographs of the damaged roof are enclosed as annexure – 6, to OA No. 204 /2017.
- Further, Public Works, Ports and Inland Water Transport department vide their letter RTI/2016-17/HC/142 dated 19.05.2016 also confirmed that there are 27 houses, one private office and one temple are in existence within 500 meters from the land allotted for stone quarrying. This report also states about the cracks developed in the houses of villagers; however, they have submitted in the report that they are not in a position to confirm the exact reasons for the houses developing cracks due to non availability of technical instruments. The report of joint survey conducted by Mines and Geology Department Udupi along with Public Works, Ports and Inland Water Transport department, subdivision Karkala Taluk as well as

the connected papers are enclosed as annexure – 8, to OA No. 204 /2017.

6. a) We wish to submit that in terms of notification of MOEF dated 20.08.2014, in tune with the directions of Hon. Supreme Court, project proponent is required to get the clearance from standing committee of the National Board for wildlife for stone mining within 10 k.ms of National wild life sanctuary. Copy of MOEF notification of dated 20.08.2014 is enclosed as annexure – 9, to OA No. 204 /2017.
- b) In the instant case respondent 4, is carrying out stone quarrying activity without concurrence from wildlife warden though the mining area is very much within 10 K.ms from Someshwara Wild life Sanctuary. Copy of Regional Forest Officer's letter along with other details is enclosed as annexure – 10 to OA No. 204 /2017.
- c) We submit that with regard to the issue – " what the distance should be between reserve forest, wild life sanctuary and stone crushing unit using explosives ? ", Regional Forest Officer Hebri vide letter dated 13.05.2016 had opined that M/s Mookambika Crusher Unit at Sy. No.176 is located 890 meters from Kachinamale Forest and 4K.M from Wild Life Area and stone crushing at this place using explosives and permanent machineries is not advisable. Copy of Regional Forest Officer's letter in this regard along with other details is enclosed as annexure – 11, to OA No. 204 /2017.

These important facts are not covered in the Joint Inspection report.

In view of all these facts and circumstances, we urge the Hon. NGT to take into account the above stated facts and award proper compensation to the poor helpless villagers who have been undergoing untold agony and sufferings due to the illegal functioning of the above said Stone Crusher / mining activity in Shivapura Village, since nearly a decade.

Dated 09.08.2021

Bangalore



(Ranjan Shetty)
Counsel for Applicants.