

REPORT OF THE JOINT COMMITTEE CONSTITUTED IN THE MATTER OF O.A. NO. 204 OF 2017 FILED BY SRI BHOJASHETTY & ANOTHER VS DEPUTY COMMISSIONER AND OTHERS, SUBMITTED BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL, CHENNAI, REGARDING COMPLIANCE STATUS OF M/S MOOKAMBIKA STONE CRUSHER AND ATTACHED QUARRY LOCATED AT SY. NO. 176, YALAGOLI, SHIVAPURA VILLAGE, KARKALA TALUK, UDUPI DISTRICT KARNATAKA, AS PER THE ORDER DATED 13.07.2021 AND 01.09.2021.

1.0 PREAMBLE

In the matter of Original Application, No 204 of 2017 (SZ) of Sri. Bhojashetty and another Vs Deputy Commissioner & Ors., the National Green Tribunal (NGT), Southern Bench has passed an order dated 6th February 2020 and directed that “.... Under the circumstances, in order to ascertain the real state of affairs, we feel it appropriate to appoint a Joint Committee comprising of District Collector, Udupi District, Senior Officer/Scientist from Regional office, MoEF and CC, Bangalore, State Level Environment Impact Assessment Authority(SEIAA), Karnataka, and Senior Officer from Karnataka State Pollution Control Board, to inspect the area in question and ascertain whether the fourth respondent is having Environmental Clearance for doing mining in both the lease areas, whether he is complying with the conditions imposed in Environmental clearance as well as consent to operate and other clearances., whether there is any excess mining done, if so, what is the quantity, whether the fourth respondent has provided all necessary pollution control mechanism to arrest possible pollution within the prescribed norms, whether there is any damage caused to the nearby houses as alleged by the petitioner on account of the operation of the quarry by the fourth respondent and also ascertain the ambient air quality as well as water quality in that area and if there is any violation, assess the environmental compensation which has to be collected by the fourth respondent and submit a factual and action taken report before this Tribunal within a period of two months. The KSPCB was made the nodal agency for compliance co-ordination.

In compliance to Hon'ble NGT order, the committee has inspected the location in question on 19.03.2020 and submitted its report along with its findings and recommendations on 16.10.2020.

The matter has subsequently come up for hearing before Hon'ble NGT on 13.07.2021 and after hearing the case, the Hon'ble NGT has observed as follows:

...10. "The committee has mentioned that quarrying has been done even prior to obtaining Environmental Clearance (EC), but they have not assessed the value of the same and they have not assessed the Page 3 of 5 environmental compensation for unauthorized quarrying said to have been committed by them

11. "That the Environmental Compensation assessed by the State Pollution Control Board for the non-compliance of the conditions which is different from assessing compensation for the actual loss caused to the environment on account of excess mining or unauthorized mining and that will have to be done on the basis of the directions given by the Hon'ble Apex court in **Common Cause Vs. Union of India and Ors. , (2017) 9 SCC 499**. So, the Committee is directed to submit a further report considering the above aspects to this tribunal before next hearing date" (i.e., 10.08.2021)"

The case was later adjourned to 01.09.2021 and on this day, the Hon'ble NGT has observed that the official respondents have not submitted the action taken reports on the recommendations of the committee and sought this report before the 24th September 2021. Hon'ble NGT order dt: 13.07.2021 & 01.09.2021 are enclosed as **Annexure 1 & 2**.

2. Meeting of the Joint Committee:

Based on the directions of the Hon'ble NGT, a meeting of the Joint Committee was called through video conference under the chairmanship of the Deputy Commissioner, Udupi on **21.09.2021** and reviewed the status of implementation of the earlier recommendations of the Committee by the official respondents and also the calculation of Environmental compensation for the excess/ unauthorised quarrying. The proceedings of the Joint Committee meeting are given as **Appendix-A**

3. ACTION TAKEN BY THE CONCERNED AUTHORITIES ON THE OBSERVATIONS AND RECOMMENDATIONS OF THE COMMITTEE:

3.1 Action taken by KSPCB on Environmental Compensation

The Committee was informed that as per the Hon'ble NGT directions, KSPCB has issued demand notice to the respondent industry on 22.09.2021 imposing the Environmental compensation assessed by the Joint Committee. Copy of the demand notice issued by KSPCB is given as **Appendix B**

3.2 Action taken by SEIAA on non-compliance of EC conditions

As informed by the SEIAA representative Sri Ravikumar, Scientific Officer, Grade-I, SEIAA & CRZ, Bangalore, SEIAA has not yet cancelled the EC. He informed that before cancellation of the EC, an opportunity of being heard was to be provided to the respondent quarry owner and in this regard, a show cause notice was served to the quarry owner in compliance to the order of Hon'ble NGT (SZ) with a direction to appear before the SEIAA on 27th of September 2021. Accordingly, the respondent quarry owner appeared before the Authority along with his advocate and informed that he was not in receipt of their show cause notice and that he appeared for the meeting based on the what's app message and requested for time of one month to submit appropriate reply to the notice. In the said meeting, the Authority has decided to call the respondent quarry owner again on 25th October 2021.

Copy of the Show cause notice and the Proceedings of the said meeting are also enclosed as **Appendix-C and D** respectively.

3.3 Calculation of Environmental Compensation for excess mining or unauthorized mining

3.3.1 Hon'ble NGT(SZ) in OA 204 of 2017 has passed an order dated 01.09.2021 where in it is directed as follows:

... "10. *The committee has mentioned that quarrying has been done even prior to obtaining Environmental Clearance (EC), but they have not assessed the value of the same and they have not assessed the Page 3 of 5 environmental compensation for unauthorized quarrying said to have been committed by them*

11. *The environmental compensation assessed by the State Pollution Control Board for non-compliance of the conditions is different from assessing compensation for actual loss caused to the environment on account of the excess mining or unauthorized*

mining and that will have to be done on the basis of the directions given by the Hon'ble Apex Court in Common Cause Vs. Union of India & Ors. (2017) 9 SCC 499. So, the committee is directed to submit a further report considering the above aspects to this Tribunal before the next hearing date...."

3.3.2 Environmental Clearance for Mining of stone Quarry:

Environmental Impact Assessment Notification 1994 is only applicable for the Major Minerals more than 5 ha.

The Environment Impact Assessment (EIA) Notification, 2006, requires mining projects (new projects, expansion or modernization of existing projects as also at the stage of renewal of mine lease) with lease area of 5 ha and above, irrespective of the mineral (major or minor) to obtain prior environment clearance under the provisions thereof.

The Hon'ble Supreme Court in its Judgment dated the 27th February 2012 in I.A. No.12- 13 of 2011 in Special Leave Petition (C) No.19628-19629 of 2009, in the matter of Deepak Kumar etc. Vs. State of Haryana and Others etc. made prior environment clearance mandatory for mining of minor minerals irrespective of the area of mining lease.

Following the directive of Hon'ble Supreme Court, MoEF and CC issued an office memorandum vide No. L-11011/47/2011-IA. II (M) dated 18.05.2012 asking all States to follow the apex court order.

Further, the EIA Notification was amended vide S O (E) 2731 dated 09.09.2013. It provided specifications for "minor minerals" and noted that leases of less than 50 ha for minor minerals would be considered under Category B.

In M.A. NOs. 529 of 2014 & M.A. NO. 623 OF 2014 in Original Application No. 171 OF 2013, Hon'ble NGT (PB) set aside the Notification dt 09.09.2013 stating that it was not issued as per the law. Further, Hon'ble NGT(PB) made following observations:

"..... The Hon'ble Supreme Court in the case of Deepak Kumar (supra) has clearly directed that the miners possessed of mining area of less than 5 hectares cannot operate without taking Environmental Clearance. This would unexceptionally apply to the new units, but, in our considered view, would also apply to the existing mine lease holders as well; except that they would have to be given time to comply with the requirements of law."

The judgement contains the following direction:

"IV. We further hold that the existing mining lease right holders would also have to comply with the requirement of obtaining Environmental Clearance

from the competent authorities in accordance with law. However, all of them, if not already granted Environmental Clearance would be entitled to a reasonable period (say three months) to submit their applications for obtaining the same, which shall be disposed of expeditiously and in any case not later than six months from pronouncement of this judgment.”

Government of Karnataka vide Letter No. CI 375 MMN 2014 dated 20.02.2015 directed the Director, DMG, Karnataka that the directions of Hon’ble NGT dated 13.01.2015 in the Judgement passed by Hon’ble NGT (Principal Bench) in M.A. NOs. 529 of 2014 & M.A. NO. 623 of 2014 in Original Application No. 171 of 2013 shall be followed in the letter and spirit.

According to the above, all the existing lease holders should have made application for obtaining prior EC on or before 12.04.2015 and the SEIAA should have granted EC by 12.07.2015. From 12.07.2015, all the existing lease holders supposed to run with valid EC. In view of the above, the operation of mines beyond 12.07.2015 without EC needs to be considered as violation.

3.3.3 Environmental Compensation

As per the DMG, Udupi / SEIAA, Karnataka, the details of grant of lease and grant of EC, period of violation, quantity mined/ sold during the violation period for the project under the OA 204 of 2017 are given in Table 1 and 2.

Table 1: Details of grant of lease and grant of EC for the project under the OA 204 of 2017.

Sl.No	Name of the Lease	Lease No	Location	Extent, ha	Date of grant/ Renewal	Date of EC
1	Prasanna Shetty	2960,258,371	Shivapura 176/p1	3.00	17.11.2004, 23.07.2010 26.10.2015	18.09.2015
2		85,358		2.00	13.05.2008 23.07.2015 22.06.2017	30.10.2014

Table 2: Details of the period of violation and the quantity mined / sold during the period.

Sl.No.	Lease	Date of EC	Violation period/ Period from 12.07.2015, days	Quantity mined / sold during the violation period ie. From 12.07.2015 to 18.09.2015, MT
1.	2960,258,371	18.09.2015	68	750
2.	85,358	30.10.2014	0	0

TOTAL	68	750
--------------	-----------	------------

The Joint Committee also noted that one more Stone quarry by Shri Sudhakar Shetty is also in operation in the same survey number. Though it is not covered under the OA 204 of 2017, the Joint Committee decided to include the same as the issues are similar. The details of grant of lease and grant of EC, period of violation, quantity mined/ sold during the violation period are given in Table 3 and Table 4.

Table-3: Details of grant of lease and grant of EC for the project (not covered under the OA 204 of 2017)

Sl.No	Name of the Lease	Lease No	Location	Extent, ha	Date of grant/ Renewal	Date of EC
1	Sudhakar Shetty	109	Shivapura 176/p1	2.00	21.07.2008 09.01.2019	07.08.2015

Table- 4: Details of the period of violation and the quantity mined / sold during the period

Sl.No.	Lease	Date of EC	Violation period/ Period from 12.07.2015, days	Quantity mined / sold during the violation period ie. From 12.07.2015 to 18.09.2015, MT
1.	109	07.08.2015	26	1500

3.3.4 Environmental compensation Calculation based on “polluter pays principle”:

The committee has calculated an environmental compensation based on the ‘Polluter Pays Principle’

$$EC = PI \times N \times R \times S \times LF$$

Where PI is Pollution Index (Red-80, Orange-50, and Green – 30),

N is No of days, R is Factor of Rupees (between 100-500),

S is Size (Big-1.5, medium-1.0 and small- 0.5) and

LF is Location Factor (less than 5 million -1.25, 5 to 10 million 1.5 and 10 million- 2)

PI is considered as 50, R is considered as 250 (average) and S is 0.5, and LF is 1.25.

Environmental Compensation for the project of Shri Prasanna Shetty,
 $Rs = 50 \times 68 \times 250 \times 0.5 \times 1.25$
 $= Rs.5,32,250.$

Environmental Compensation for the project of Shri Sudhakar Shetty,
 $Rs = 50 \times 26 \times 250 \times 0.5 \times 1.25$
 $= Rs.2,03,125.$

3.3.5 Environmental compensation based on judgement in “*Common Cause Vs. Union of India & Ors. (2017) 9 SCC 499*”:

Hon’ble NGT vide order dated 02.09.2021 has directed to calculate the Environmental Compensation based on *Common Cause Vs. Union of India & Ors. (2017) 9 SCC 499*.

The case relates to mining activity covered under EIA, 1994 and EIA, 2006(i.e mining in more than 5 ha). Following are the directions contained in the Judgement dated 02.07.2017 of Hon’ble Supreme Court in Common Cause Vs. Union of India & Ors. (2017) 9 SCC 499:

“ (5) Any iron ore or manganese ore extracted contrary to EIA 1994 or EIA 2006 would constitute illegal or unlawful mining (as understood and interpreted by us) and compensation at 100% of the price of the mineral should be recovered from 2000-2001 onwards in terms of Section 21(5) of the MMDR Act, if the extracted mineral has been disposed of. In addition, any rent, royalty or tax for the period that such mining activity was carried out outside the mining lease area should be recovered.

(6) With effect from 14th September, 2006 all mining projects having a lease area of 5 hectares or more are required to have an EC. The extraction of any mineral in such a case without an EC would amount to illegal or unlawful mining attracting the provisions of Section 21(5) of the MMDR Act.

(7) For a mining lease of iron ore or manganese ore of less than 5 hectares area, the provisions of EIA 1994 will continue to apply subject to EIA 2006.”

As per the table 2 above, 750 MT has been mined out unlawfully by Shri Prasanna Shetty i.e without EC. In view of the above judgement, 100 % of the price of this material need to be recovered. According to DMG, the price of the material of Royalty Rate in the Year 2015 is Rs 60 per Metric ton is considered.

Therefore, Environmental Compensation to Prasanna Shetty works out to be
 $= (750 \times 60 = Rs\ 45,000) + (750 \times 60 = Rs\ 45,000)$
 $= Rs. 90,000/-$

As per the table 4 above, 1500 MT has been mined out unlawfully by Shri Sudhakar Shetty i.e., without EC. In view of the above judgement, 100 % of the price of this material need to be recovered. According to DMG, the price of the of Royalty Rs 60 / MT is considered.

Environmental Compensation to Sudhakar Shetty works out to be
 = (1500 x 60) + (1500 x 60)
 = Rs 90, 000+ Rs. 90,000
 = Rs.1,80,000/-

So, Environmental Compensation works out to be as follows:

I. As per "Polluter Pays principle": Method: -

Sl. No.	Name of the Quarry owner	Quarry lease number	Amount of compensation
1	Mr Prasanna Shetty	371 and 358	Rs. 5, 32, 250/-
2	Mr. Sudhakara Shetty	109	Rs, 2,03,125/-

II As per "Common cause Vs Union of India & others": method: -

Sl. No.	Name of the Quarry owner	Quarry lease number	Amount of compensation
1	Mr Prasanna Shetty	371 and 358	90,000/-
2	Mr. Sudhakar Shetty	109	1,80,000/-

4. Conclusions of the Joint Committee:

- As per the directions of the Hon'ble NGT, KSPCB has issued necessary order fixing the Environmental Compensation of Rs. 7, 80,000/- (Rupees seven lakhs and eighty thousand only) on the respondent industry, i.e, M/s Mookambika Stone crushing Industry, sy, no. 176, Shivapura village, Karkala Udupi dist. Copy of the KSPCB demand notice enclosed as **Appendix B.**

SEIAA, Bangalore, Karnataka has served show cause notice on the respondent quarry owner and called him to appear before the Authority on 27th September 2021 to decide on the EC cancellation for **two quarry leases 371 and 358**, pertaining to the respondent quarry owner. However, considering the plea made by the quarry owner during the meeting, the Authority has directed him to appear before the Authority again on 25th October 2021 along with his replies. Copy of the Show Cause Notice and the Proceedings of the meeting of the SEIAA are enclosed as **Appendix-C and D**

- The Joint Committee has assessed the Environmental compensation for the three quarry leases that are in the Sy. Number 176 of Shivapura village, Karkala Taluk, Udupi Dist., based on the operation of these quarry leases before the issue of EC. Assessment is done by using two methodologies, **1) Polluter Pays Principle and 2) As per Apex Court judgement in “Common Cause Vs. Union of India and others.”**. However, the Compensation calculated on the basis of 1st methodology, i.e., **Polluter Pays Principle** is more than the compensation calculated based on the 2nd methodology, and hence, the Committee recommends for the larger amount of compensation calculated based on **“Polluter Pays Principle”**. The summary of assessment of Environmental Compensation is as below:

Sl. No.	Name of the Quarry owner	Quarry lease number	Amount of compensation
1	Mr Prasanna Shetty	371 and 358	Rs. 5, 32, 250/-
2	Mr. Sudhakara Shetty	109	Rs, 2,03,125/-

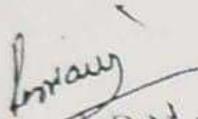
It is to be brought to the kind notice of the Honble NGT that the Sy. Number 176 of Shivapura village has three quarry leases in operation and out of these three quarry leases, quarry lease number 371 and 358 are of Sri Prasanna Shetty and quarry lease number 109 is of Sri Sudhakar Shetty. There has been quarrying done before the issue of EC in Quarry lease number 109 of Sri Sudhakara Shetty also. Considering this fact,

Quarry Lease Number 109 of Sudhakara Shetty is also assessed for the Environmental Compensation, though the matter is not falling under the purview of this OA No. 204/2017.

Hon'ble NGT, may kindly peruse the calculation of Environmental Compensation and issue appropriate orders to the concerned in this regard.



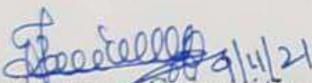
Sri Kurma Rao M. IAS.
Deputy Commissioner, Udupi Dist.
and Chairman of the Joint Committee.



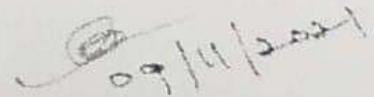
Sri Ramesh D Naik,
Senior Environmental Officer,
KSPCB, Zonal Office, Mangalore



Sri Thirunavukkarasu, Scientist E,
Ministry of Environment, Forest and CC



Sri Ravikumar, Scientific Officer,
State Environment Impact Assessment Authority,
DFEE, GOK, Bangalore



Sri Sandeep, Senior Geologist,
Dept of Mines and Geology,
Udupi

Item No.9:

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI

Original Application No.204 of 2017 (SZ)
(Through Video Conference)

IN THE MATTER OF:

Bhoja Shetty and Another.

...Applicant (s)

Versus

The Deputy Commissioner/Chairman,
District Stone Crushers Licensing and
Regulation Authority,
Office of the Deputy Commissioner,
Udupi and Ors.

...Respondent(s)

Date of hearing: 13.07.2021.

CORAM:

HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE MR. K. SATYAGOPAL, EXPERT MEMBER

For Applicant(s):

Mr. Ranjan Shetty.

For Respondent(s):

Mr. Vasanth H.K. represented
Mr. Darpan K.M. for R1, R2.
Mr. Vasanth H.K. for R3.
Mr. Jaban Alpha represented
Mr. T.S. Gopalan for R4.

ORDER

1. The above case has been posted to today for considering the report to be filed by the Joint Committee appointed by this Tribunal and also the respective reports to be filed by the official respondents.
2. When the matter came up for hearing today through Video Conference, Mr. Ranjan Shetty represented the applicant. Mr. Vasanth H.K. represented Mr.

Darpan K.M. for respondents 1 & 2, Mr. Vasanth H.K. represented 3rd respondent and Mr. Jaban Alpha represented Mr. T.S. Gopalan for 4th respondent.

3. We have received the Joint Committee report dated Nil, e-filed on 22.02.2021 and received on 25.02.2021 which reads as follows:-

1

REPORT OF JOINT COMMITTEE APPOINTED BY HON'BLE NGT (SB) IN O.A NO. 204 OF 2017(SZ), AS PER ORDER DATED 06.02.2020 TO VERIFY THE COMPLIANCE STATUS OF M/S MOOKAMBIKA STONE CRUSHER AND ATTACHED QUARRY LOCATED AT SY. NO. 176, YALAGOLI, SHIVAPURA VILLAGE, KARKALA TALUK, UDUPI DISTRICT -REG.

Petitioners: Sri. Bhoja Shetty and another
Respondents: Deputy Commissioner & Ors.,

1.0 Preamble:

In the matter of Original Application No 204 of 2017 (SZ) of Sri. Bhoja Shetty and another Vs Deputy Commissioner & Ors., the National Green Tribunal (NGT), Southern Bench has passed an order dated 6th February 2020 (Annexure 1) and directed that ".... Under the circumstances, in order to ascertain the real state of affairs, we feel it appropriate to appoint a Joint Committee comprising of District Collector, Udupi District, Senior Officer/Scientist from Regional office, MoEF and CC, Bangalore, State Level Environment Impact Assessment Authority(SEIAA), Karnataka, and Senior Officer from Karnataka State Pollution Control Board, to inspect the area in question and ascertain whether the fourth respondent is having Environmental Clearance for doing mining in both the lease areas, whether he is complying with the conditions imposed in Environmental clearance as well as consent to operate and other clearances., whether there is any excess mining done, if so, what is the quantity, whether the fourth respondent has provided all necessary pollution control mechanism to arrest possible pollution within the prescribed norms, whether there is any damage caused to the nearby houses as alleged by the petitioner on account of the operation of the quarry by the fourth respondent and also ascertain the ambient air quality as well as water quality in that area and if there is any violation, assess the environmental compensation which has to be collected by the fourth respondent and submit a factual and action taken report before this Tribunal within a period of two months.

Karnataka State Pollution Control Board will act as the nodal agency for co-ordination and also for providing necessary logistics for this purpose... "

The applicant Sri. Bhoja Shetty and another have filed objections about the stone crusher by name M/s Mookambika crusher at Sy.No. 176 at Yalayoli, Shivapura village, Karkala taluk, Udupi Dist., against the norms and without following the conditions imposed in the Environment clearance and also consent granted.

According to the Petitioner, on account of lack of pollution control mechanisms, dust emanates from the unit causing air pollution, affecting the health of the people in the locality. They were using extensive explosives during the day time while quarrying and without providing any safety measures.

Small pieces of stones are flying and falling in nearby houses causing damage to the tile roofs of the houses. Cracks have developed due to high intensity of the blasting.

Quarry is situated 200 meters from the public roads and dwelling units violating the Karnataka Mines and Minerals Concession Rule, 1994.

Further, the authority doesn't have Environment Clearance for one of the Mining area and he is violating the conditions of Environment Clearance.

2.0 Constitution of the Committee:

In compliance to Hon'ble NGT order, the Member Secretary, Karnataka State Pollution Control Board (KSPCB) constituted a committee vide Office Memorandum No. PCB /SEO/MIN/NGT/2019-20/6271 dated 02-03-2020 consisting of the following members, the copy of the same is enclosed as Annexure 2.

Sl.No	Name & Designation	Details
1	The District Collector, Udupi District	Chairman
2	The Zonal Senior Environmental Officer, Karnataka State Pollution Control Board, Mangaluru	Member
3	Senior Officer from Regional Office, Ministry of Environment Forest & Climate Change, South Zone Office, E-3/240,	Member

	Kendriya Sadan, 4 th Floor, E & F Wings, 17 th Main Road, 2 nd Block, Koramangala, Bengaluru -560 034	
4	State Level Environment Impact Assessment Authority (SEIAA) Karnataka, (Ecology & Environment), Department of Forest Ecology and Environment, Government of Karnataka, Room No. 709, 7 th Floor, 4 th gate, MS building Bengaluru-560 001	Member
5	Environmental Officer, KSPCB, Udupi	Member Convenor

3.0 Meeting Notice for carrying out the Spot Inspection:

Based on the above OM, Deputy Commissioner and Chairman of the Committee, directed the Member Convenor to issue meeting notice to all the members to assemble at the location in question on 19-03-2020 at 2.30 PM for conducting spot inspection. Since the issue involved excess mining and damage caused to nearby houses due to quarrying, the Deputy Commissioner directed to include the Senior Geologist, Dept. of Mines and Geology as Special Invitee for the spot inspection. Accordingly, Member Convenor issued meeting notice in this regard vide letter No. PCB/RO/Udupi/NGT-OA No. 204/2017/2019-20/1297 dated 12.03.2020.

4.0 Spot Inspection Details:

As per the notice, the following members were present for spot inspection

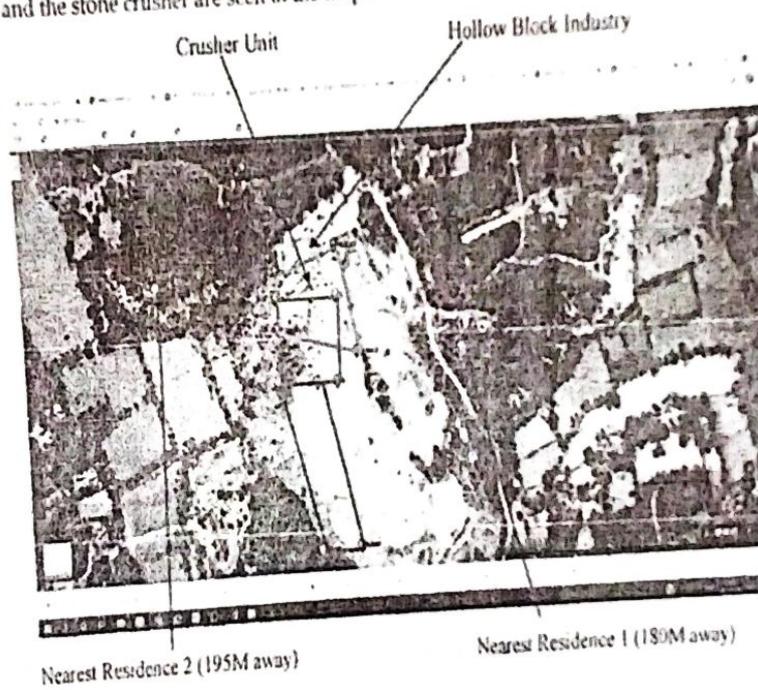
Sl No.	Name and designation of the officer	Details
1	Deputy Commissioner, Udupi District	Chairman
2	Sri. Ramesh D Naik, Senior Environmental Officer, KSPCB Mangalore	Member
3	Sri Ranji Naika, Senior Geologist, Department of Mines & Geology, Udupi.	Special Invitee
4	Sri Ravikumar J K, Scientific Officer, Grade-I, SEIAA & CRZ Bangalore.	Member

5	Smt. Vijaya Hegde, Environmental Officer, KSPCB, Udipi	Member Convener
---	--	--------------------

Sri. E Thirunavukkarasu, Scientist 'E', Ministry of Environment, Forest & Climate Change, Bangalore was absent for the spot inspection in view of his ill health. He has sent a letter in this regard to the Convener of the committee. However, he has taken part in the discussion and provided his comments based on the Half-yearly compliance report of the project.

4.1 Location Details:

The stone quarry and the stone crusher are located at Sy.No. 176 of Yalagoli, Shivapura village, Karkala taluk, Udipi Dist. The salient features around the quarry and the stone crusher are seen in the map shown below:



<input type="checkbox"/>	Crusher Safer Zone Area	Points	Latitude	Longitude
		A	N 13.40341667	E 74.96694444
		B	N 13.40366667	E 74.96777778
		C	N 13.40252778	E 74.96805556
		D	N 13.40280556	E 74.96694444

□	Quarry 1 Area	Points	Latitude	Longitude
		A	N 13.40313889	E 74.96694444
		B	N 13.40313889	E 74.96777778
		C	N 13.40222222	E 74.96777778
		D	N 13.40225000	E 74.96694444
□	Quarry 2 Area	Points	Latitude	Longitude
		A	N 13.40225000	E 74.96694444
		B	N 13.40222222	E 74.96750000
		C	N 13.40047222	E 74.96805556
		D	N 13.40044444	E 74.96750000

4.2 Physical Observations made during inspection:

- The stone crusher and quarry were not in operation at the time of inspection.
- One of the members, Senior Geologist from Dept. of Mines and Geology has briefed the committee that this stone crusher is established in the safer zone as required under the The Karnataka Regulation of Stone crushers Act, 2011 as amended in 2013 and joint survey was done on 07.02.2019 for the purpose of extension of License and accordingly, there are 16 houses spread here and there across 500 meter radius and there are no cluster of houses, no temples or schools in this radius.
- The nearest house was of Shri Kamala Kulal which was around 180 meter from the crusher site. The next house was of Shri Sundar Harijan, which was 195 from the crusher area. Both these houses were visited and the people staying in the houses were enquired about their grievances.
- During enquiry, none of them expressed either any kind of health problems or otherwise created due to quarrying activities. They informed that they are getting drinking water supplied through the bore well situated in the Crusher site during summer when their wells get dried up.
- The houses were intact and there were no damage caused to the houses.
- Photos of the location taken during inspection are enclosed as Annexure-3 for kind perusal of the Hon'ble Court.

5.0 Detailed Reports from each of the Concerned Departments:

Since the matter required the observation of compliance with respect EC conditions, issue of excess mining/quarrying and pollution control measures etc., Deputy Commissioner directed the individual Departments to verify compliance and submit reports to the Member Convenor to enable compilation. Accordingly, the reports of following Departments were obtained:

viz;

- i. State Environment Impact Assessment Authority, Multi Storeyed Building, Bangalore
- ii. Ministry of Environment and Forest, Regional Office, Bangalore
- iii. Department of Mines and Geology
- iv. Karnataka State Pollution Control Board.

Gists of the reports of each Department are briefly discussed as below:

5.1 Report from SEIAA, Bangalore:

The fourth respondent is having EC for doing mining in both the lease areas. SEIAA, Karnataka has issued Environmental Clearance to Sri Prasanna Shetty, Soodaramane Kukkude, Kerebettu Village, Shivapura post, Karkala Tq, Udupi Dist vide no. SEIAA 458 MIN 2015 dated 18-09-2015 for Quarrying of Building Stone at Sy No 176/P1 of Shivapura Village, Karkala Tq, Udupi Dist for the existing Quarry lease bearing No. 258/2010-11 dated 23.07.2010 with a total quarry lease area of 3.00 Acres for quarrying Building stone of capacity 4094 TPA.

SEIAA, Karnataka has also issued Environmental Clearance to the same proponent bearing no. SEIAA 132 MIN 2014 dated 30-10-2014 for Quarrying of Building Stone at Sy No 176/P1 of Shivapura Village, Karkala Tq, Udupi Dist with a total quarry lease area of 3.00 Acres for quarrying Building stone of capacity 4000 TPA, which is adjacent to the above mentioned lease area. Whereas the Department of mines and Geology has granted lease limiting the area to 2.0Acres under quarry lease bearing No 358 dt.23.07.2015 against an EC for 3 Acres without amending the Environmental clearance issued, which is mandatory as per the EIA Notification 2006.

f

7

General compliance to EC conditions by the quarry authorities is very poor and unsatisfactory. In this regard, SEIAA has submitted detailed report and observations made with reference to compliance to the EC conditions issued for both the leases bearing Lease No's 358 and 371(old 258).

Detailed report is enclosed as Annexure-4

5.2 Report of Ministry of Environment and Forest and Climate Change, GOI:

State Environment Impact Assessment Authority (SEIAA) has issued the Environment Clearance to the above project vide SO 637 (E) dated 28.02.2014 (Copy enclosed). As per the requirement of Environment Clearance, the Project authorities have to submit half yearly compliance report to the MoEF and CC. Accordingly, the compliance report was sought from the Project Authority (PA) and examined.

It was noted that the compliance report submitted by the PA was incomplete. There were no information on compliance detail on certain conditions; supportive documents on the compliances have not been submitted. In view of the above, PA was addressed vide mail dated 09.04.2020 to provide certain additional information. PA has submitted reply in June 2020. The details submitted and the remarks are enclosed. It is noted from the information submitted by the PA that the compliance of EC conditions is unsatisfactory. The matter was also discussed with the member of the Committee who visited the project and learnt that the compliance to the EC conditions is very poor.

Since SEIAA, Karnataka has granted EC to the above project and As per S.O. 637 (E) dated 28.02.2014, they are empowered to take action against the project for the non-compliances of EC conditions under Section 5 of the Environment(Protection) Act, 1986.

Detailed report is enclosed as Annexure-5

5.3 Report of Department of Mines and Geology, Udupi:

Dept. of Mines and Geology, vide their letter have given the quantity of mineral removed from the area in the Sy No. 176/P1/P1. It is informed that there are three quarry leases operating in the said Survey Number and that the Google imageries show that quarrying activity was carried out before grant of lease in various places in Sy. No. 176/P1/P1.

Detailed report is enclosed as Annexure-6

5.4 Report from Karnataka State Pollution Control Board (KSPCB), Regional Office, Udupi:

KSPCB has issued the consent for operation of the stone crusher vide consent order No. 599/PCB/346/MIN/2017-18/OB/1290 Dated 27.03.2018. Validity period of this consent was up to 18.11.2018. The industry has not applied for renewal of consent under Air Act, 1981 for further period.

As per the provisions of the Karnataka Regulation of Stone Crushers Act, 2011 as amended on 2013, all the stone crushers in the state have to be located at Safer Zone which is to be notified by the District Stone Crushers Licensing and Regulation Authority (working under the chairmanship of the Deputy Commissioner) after conducting a joint survey of the proposed site.

Only after obtaining license to work in the safer zone, the stone crusher industry can seek consent for operation from the KSPCB. For this stone crusher, License issued by the Stone crusher Licensing Authority expired on 18.11.2018, so was the consent for operation issued by the KSPCB since both were co-terminus with each other. It should be mentioned here that in Udupi district, for the past two years license (Form-C) for stone crushers was not renewed because of issues related to deemed forest and license for this stone crusher was also held up for the same reasons by the Stone Crusher Licensing and Regulation Authority.

f

Further, compliance to consent conditions issued by this KSPCB was verified and found that the compliance is not satisfactory. Industry has implemented physical measures for controlling the dust emissions at the site, such as, covering of the jaw crushers, secondary crushers and vibratory screens, covering the conveyor belts with semi-circular sheets, providing wind breaking walls, etc., However, there is gap with respect to regular ambient air quality monitoring and submission of reports from time to time to the statutory body

5.4.1 Monitoring of Ambient air quality within and outside the stone crusher premises:

KSPCB has got the ambient air quality monitoring carried out at two locations, one at the crusher site and another near the office outside the crusher compound on 24.03.2020 for the parameters PM_{2.5} and PM₁₀.

Monitoring was carried out for 24 hrs and the results are meeting with the NAAQM standards. Results of monitoring are as below.

Date of sampling	Sampling location	PM ₁₀ micro gm/m ³	PM _{2.5} micro gm/m ³	Remarks
	NAAQM *standard for 24 hours average	100*	60*	
		Monitored results		
24.03.2020	Near office, outside the crusher compound	49.4	19.1	** Within the limits
	At the crusher site	78.9	39.2	** Within the limits

Note: **The stone crusher was not under operation at the time of monitoring due to Covid situation.

5.4.2 Monitoring of Water quality within and outside the stone crusher premises:

The stone crusher surrounding is very sparsely populated. As per the joint survey conducted on 07.02.2019 by the members of the District stone Crusher Licensing Authority which includes Dept. of Mines and Geology, Revenue officials, District

Forest Officer and jurisdictional officer of Pollution Control Board, there are 16 independent houses in 500 meter vicinity of the stone crusher. The nearest house is around 180 meter from the crusher site which doesn't have open well. The next house which is 195 from the crusher area has an open well but dried up during summer time.

KSPCB has collected and analysed two water samples during May 2020 (14.05.2020).
 i) bore well water from the crusher site ii) Open well water from Mr Sundar Poojary's house which is about 253 meter from the crusher site. The results of analysis show that the analysed parameters are well within the range of drinking water standards (IS 10500:2012). Results of analysis are reproduced as below:

Sample 1: Bore well water within the Crusher site
 Sample 2: Open well water from Sundar Poojary's house
 Date of Collection: 14.05.2020

Parameters analysed mg/l	Standards		Results	
	**AL	**PL	Sample 1	Sample 2
Hardness as CaCO ₃	200	600	100	76
Calcium as Ca	75	200	16	15
Magnesium as Mg	30	100	15	9
Chloride	250	1000	48	44
Sulphate	200	400	8	3
Fluoride as F ⁻	1	1.5	0.0486	0.058
Sulphide	0.05	No relaxation(NR)	Below Detectable limit(BDL)	BDL
TRC	0.2	1	BDL	BDL
Total alkalinity	200	600	BDL	BDL
Nitrate as NO ₃	45	No relaxation	4.72	4.64

**AL: Acceptable Limit
 **PL: Permissible Limit

Industry claims that it was operating the stone crusher intermittently since the expiry of the last consent of KSPCB, but, as verified from the Office of the local Electricity Supply Company (MESCOM), the crusher was in operation except four months' time during rainy season. Operating the stone crusher without valid consent from the Board is also a violation of consent conditions.

Considering the above non-compliances, KSPCB has assessed the Environmental compensation to the tune of Rs 7,80,000/- (Rupees Seven Lakhs, Eighty Thousand only) as per the guidelines evolved by Central Pollution Control Board. Detailed Environmental Compensation Assessment report is enclosed as Annexure-7.

5.4.3 Latest status of the Stone Crusher with respect to obtaining License from District Stone crusher Licensing Authority and Consent from KSPCB:

Govt. of Karnataka has brought out the new Karnataka Regulation of Stone Crushers Amendment Act, 2020 which is enabling all the crusher authorities to have extension of License/Form-C for another 20 years. Under this new clause, Industry has obtained the necessary license from District Stone crusher Licensing authority. Subsequently, the stone crusher industry has also applied for consent of KSPCB and the consent is issued for the period up to 30.09.2028.

Detailed compliance report to KSPCB consent conditions along with the photos of air pollution control measures adopted in the premises is enclosed as per the report vide Annexure-8.

6.0 Concluding Remarks of the Committee:

- The stone quarry industry has obtained the necessary Environmental Clearance from SEIAA, Bangalore for the operation of both the Mining Leases, namely; ML No. 358 and ML No.371 (old 258) and executing both the leases.
- However, the quarry authority have started quarrying operations even before the issue of EC and the Dept. of Mines and geology have assessed the quantities mined before and after the issue of EC in their report vide Annexure-6.

- As per the report given by the SEIAA and MoEF and CC, the compliance status of both the quarries with respect to EC conditions is not satisfactory.
- Stone crusher is established in the safer zone as required under the The Karnataka Regulation of Stone crushers Act, 2011 as amended in 2013 and the area is sparsely populated.
- None of the residents staying in the nearby houses expressed either any kind of health problems or otherwise created due to quarrying activities.
- As observed during the inspection, there is no damage caused to the nearby houses due to quarrying operations.
- Stone crusher industry is under operation without consent from KSPCB and without the license from the District Stone Crusher Licensing Committee. The validity of both these licenses expired on 18.11.2018 itself.
- Regarding compliance of the stone crusher to the air consent order of KSPCB, the industry has provided the air pollution control mechanism such as covering of the primary and secondary crushers units, conveyor belts, vibratory screens, providing of wind breaking walls etc. for containing the fugitive dust emissions from these non-point sources of pollution, however, there is gap with respect to compliance monitoring and reporting to the statutory body from time to time.
- Ambient air quality monitoring results within and outside the premises show the parameters such as PM₁₀ and PM_{2.5} are within the prescribed National air quality standards and to the one prescribed in the consent order.
- Water quality monitoring results of well water collected from the nearby well and bore well within the premises is meeting with the drinking water quality parameters (IS: 10500: 2012).
- The crusher industry and the quarry was not in operations during the inspection of the committee due to Covid-19 issues; however, keen observation of the location indicated that the industry has taken up infrequent operations of the crusher without the statutory consent for operation under Air Act, 1981.

/

- Environmental compensation has been assessed by the KSPCB for the non-compliances to consent conditions and further procedure is being initiated by the KSPCB for imposing the compensation.
- SEIAA, Bangalore have recommended for initiating action on the industry for non-complying with the EC conditions.
- Of late, the District Stone crusher Licensing and Regulation authority has issued necessary license for the stone crusher industry valid up to 18.11.2038.
- Similarly, KSPCB has issued consent to the stone crusher for a period up to 30.09.2028 without any bias to the pending case in the Hon'ble NGT.

7.0 Recommendations:

- The project authority has to be directed to seek an amendment of EC for Quarry lease no. 358 as the EC issued for 3 acres and ML issued for 2 acres.
- SEIAA, Bangalore has to initiate action for non-compliance of the EC conditions under the provisions of the Environment (Protection) Act, 1986.
- KSPCB has to issue necessary order for fixing the estimated Environmental compensation for the observed non-compliances of the Stone crusher after following due procedure.
- SEIAA, Bangalore and Dept. of Mines and Geology may take action for suspending Environmental Clearance/Mining Lease until the EC compliance is assured.

4. The learned counsel appearing for the applicant, as well as the 4th respondent submitted that they have not received the copy of the report.
5. Normally, the reports will be uploaded in the official portal of the National Green Tribunal and the parties are at liberty to get it by downloading the same, instead of waiting for serving the copies by the parties. If the parties want to file any objection to the report, they are at liberty to file the same before the next hearing date.

6. The learned counsel appearing for the 3rd respondent submitted that on the basis of the observations made at the time of inspection along with the joint committee, they have already issued proceedings, cancelling the Environmental Clearance (EC) granted to the 4th respondent and he wants to file a report to that effect before this Tribunal.

7. The learned counsel appearing for the applicant submitted that they have not received any information from the 3rd respondent, but if the submission made by the 3rd respondent is true, then the 4th respondent is not entitled to continue with the quarrying work, but they are still continuing with the same.

8. The State Environmental Impact Assessment Authority, Karnataka is directed to ascertain the above allegation and submit a further report in this regard while submitting their independent report regarding the action taken by them and serve the copy of the action taken report to the counsel appearing for the 4th respondent as well as to the applicant, so that, they can file their objection (if any) to the same without further delay.

9. It is needless to say that if the Environmental Clearance (EC) granted to the 4th respondent is cancelled by the SEIAA, Karnataka, then the 4th respondent is not entitled to do further quarrying in the area without modifying or setting aside the order passed by the SEIAA in this regard.

10. The committee has mentioned that quarrying has been done even prior to obtaining Environmental Clearance (EC), but they have not assessed the value of

the same and they have not assessed the environmental compensation for unauthorized quarrying said to have been committed by them.

11. The environmental compensation assessed by the State Pollution Control Board for non-compliance of the conditions is different from assessing compensation for actual loss caused to the environment on account of the excess mining or unauthorized mining and that will have to be done on the basis of the directions given by the Hon'ble Apex Court in *Common Cause Vs. Union of India & Ors. (2017) 9 SCC 499*. So, the committee is directed to submit a further report considering the above aspects to this Tribunal before the next hearing date.

12. The parties are at liberty to file their objection to the committee report and the official respondents are also directed to file their further action taken report on the basis of the joint committee report and also regarding the allegations made by the applicant regarding the conduct of the 4th respondent and the committee is directed to submit a report to this Tribunal on or before 10.08.2021 by e-filing in the form of Searchable PDF/OCR Supportable PDF and not in the form of Image PDF along with necessary hardcopies to be produced as per Rules.

13. The Registry is directed to communicate this order to the members of the committee, official respondents including SEIAA, Karnataka and State Pollution Control Board by e-mail immediately for their information and compliance of the direction.

14. For consideration of further report and objection (if any) to the report already filed, post on 10.08.2021.

Sd/-

.....J.M.
(Justice K. Ramakrishnan)

Sd/-

.....E.M.
(Dr. K. Satyagopal)

O.A. No.204/2017,
13th July, 2021. Mn.



Annexure - 2

Item No.9:

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI

Original Application No.204 of 2017 (SZ)

(Through Video Conference)

IN THE MATTER OF:

Bhoja Shetty and Another.

...Applicant (s)



The Deputy Commissioner/Chairman,
District Stone Crushers Licensing and
Regulation Authority,
Office of the Deputy Commissioner,
Udupi and Ors.

...Respondent(s)

Date of hearing: 01.09.2021.

CORAM:

HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE Dr. K. SATYAGOPAL, EXPERT MEMBER

For Applicant(s):

Mr. Ranjan Shetty.

For Respondent(s):

Mr. G. Stanley Hebzon Singh represented
Mr. Darpan K.M. for R1, R2.
Mr. Vasanth H.K. for R3.
Mr. T.S. Gopalan for R4.

ORDER

1. As per order dated 13.07.2021, this Tribunal had considered the Joint Committee report dated Nil, e-filed on 22.02.2021 and received on 25.02.2021 which was extracted in Para 3 of the order and then, passed the following order:-

6. The learned counsel appearing for the 3rd respondent submitted that on the basis of the observations made at the time of inspection along with the joint committee, they have already issued proceedings, cancelling the Environmental Clearance (EC) granted to the 4th respondent and he wants to file a report to that effect before this Tribunal.

7. The learned counsel appearing for the applicant submitted that they have not received any information from the 3rd respondent, but if the submission made by the 3rd respondent is true, then the 4th respondent is not entitled to continue with the quarrying work, but they are still continuing with the same.

8. The State Environmental Impact Assessment Authority, Karnataka is directed to ascertain the above allegation and submit a further report in this regard while submitting their independent report regarding the action taken by them and serve the copy of the action taken report to the counsel appearing for the 4th respondent as well as to the applicant, so that they can file their objection (if any) to the same without further delay.

9. It is needless to say that if the Environmental Clearance (EC) granted to the 4th respondent is cancelled by the SEIAA, Karnataka, then the 4th respondent is not entitled to do further quarrying in the area without modifying or setting aside the order passed by the SEIAA in this regard.

10. The committee has mentioned that quarrying has been done even prior to obtaining Environmental Clearance (EC), but they have not assessed the value of the same and they have not assessed the

environmental compensation for unauthorized quarrying said to have been committed by them.

11. The environmental compensation assessed by the State Pollution Control Board for non-compliance of the conditions is different from assessing compensation for actual loss caused to the environment on account of the excess mining or unauthorized mining and that will have to be done on the basis of the directions given by the Hon'ble Apex Court in *Common Cause Vs. Union of India & Ors.* (2017) 9 SCC 499. So, the committee is directed to submit a further report considering the above aspects to this Tribunal before the next hearing date.

12. The parties are at liberty to file their objection to the committee report and the official respondents are also directed to file their further action taken report on the basis of the joint committee report and also regarding the allegations made by the applicant regarding the conduct of the 4th respondent and the committee is directed to submit a report to this Tribunal on or before 10.08.2021 by e-filing in the form of Searchable PDF/OCR Supportable PDF and not in the form of Image PDF along with necessary hardcopies to be produced as per Rules.

13. The Registry is directed to communicate this order to the members of the committee, official respondents including SEIAA, Karnataka and State Pollution Control Board by e-mail immediately for their information and compliance of the direction."

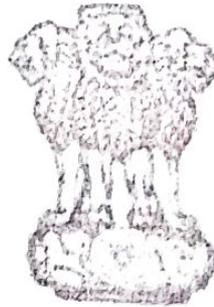
2. The case was posted to 10.08.2021 for filing further report and objections (if any) to the report already submitted. On 10.08.2021, it was adjourned to today by notification.
3. The applicant has filed their objection to the Joint Committee report.
4. The official respondents have not filed their further reports as directed by this Tribunal, though certain directions and recommendations have been

made by the joint committee which the independent respondents have to carry out.

5. The Karnataka State Pollution Control Board and the Karnataka State Environment Impact Assessment Authority are directed to file their further action taken report without further delay on the basis of the recommendations made by the Joint Committee, as even on the last hearing date, it was mentioned by the counsel for the SEIAA, Karnataka that certain proceedings have already been initiated.
6. The 4th respondent is also at liberty to file their objection to the committee report and also the present status of the quarry, after action (if any) taken by the authorities.
7. They are directed to submit their respective reports and objections to this Tribunal on or before 24.09.2021 by e-filing in the form of Searchable PDF/OCR Supportable PDF and not in the form of Image PDF along with necessary hardcopies to be produced as per Rules, failing which, this Tribunal will be compelled to dispose of the matter, as the matter is of the year 2017.
8. The Registry is directed to communicate this order to the members of the committee, official respondents including SEIAA, Karnataka and Karnataka State Pollution Control Board by e-mail immediately who is not a party to the proceedings, though certain directions have been issued by

the committee to them by e-mail immediately for their information and compliance of the direction.

9. For consideration of further report and objections (if any) to the committee report by the 4th respondent and also for hearing, post on 24.09.2021.



सत्यमेव जयते

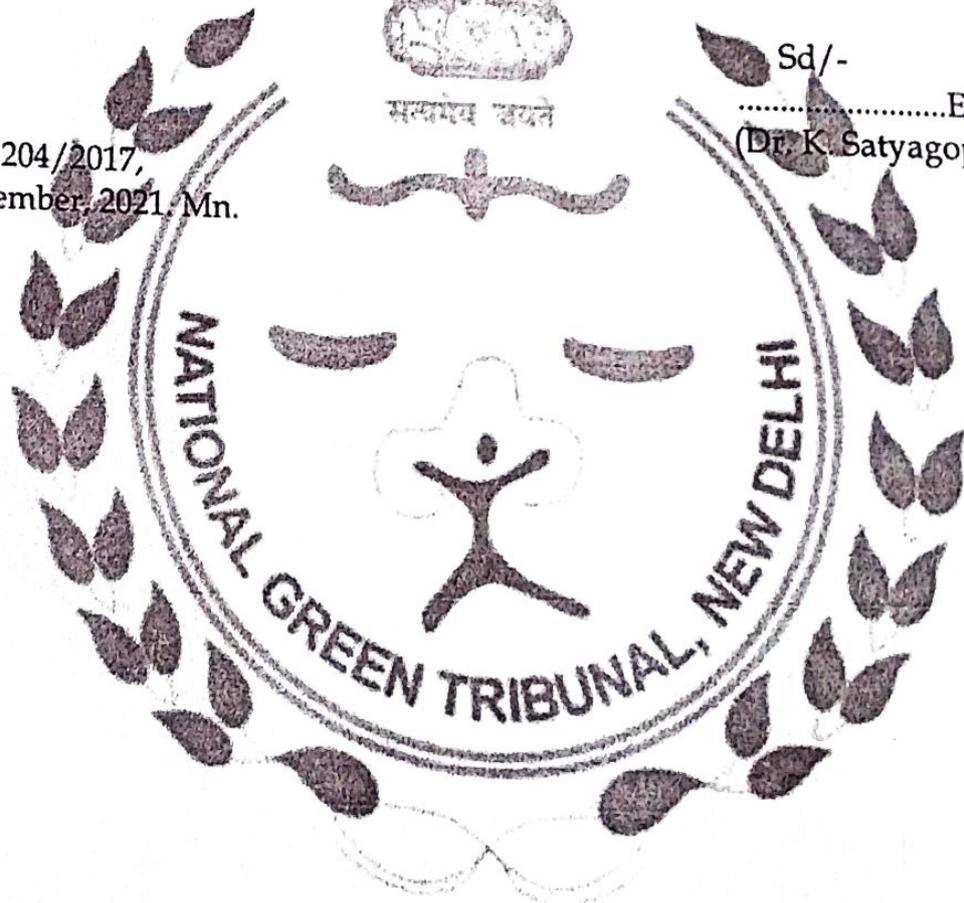
Sd/-

.....J.M.
(Justice K. Ramakrishnan)

Sd/-

.....E.M.
(Dr. K. Satyagopal)

O.A. No.204/2017,
01st September, 2021, Mn.



Appendix - A

Date:

KSPCB/RO (Udupi)/NGT/OA 204/2021/

Proceedings of the meeting of the Joint Committee constituted as per the order of the Hon'ble NGT in OA No: 204/2017 (SZ) to verify the compliance status of M/s Mookambika stone crusher and attached quarry located at sy. no. 176, Yalagoli, Shivapura village, Karkala taluk, Udupi district held through video conference.

Date and time: 20/09/2021 at 4-30PM

In the matter of Original Application No 204 of 2017 (SZ) of Sri. Bhojashetty and another Vs Deputy Commissioner & Ors., Hon'ble National Green Tribunal (NGT), Southern Bench has passed an order dated 6th February 2020 and appointed a Joint Committee comprising of District Collector, Udupi District, Senior Officer/Scientist from Regional office, MoEF and CC, Bangalore, State Level Environment Impact Assessment Authority(SEIAA), Karnataka, and Senior Officer from Karnataka State Pollution Control Board, and directed to inspect the area in question and ascertain whether the respondent industry M/s Mookambika Stone crushers/attached quarry located at sy. no. 176, Yalagoli, Shivapura village, Karkala taluk, Udupi district is having Environmental Clearance for doing mining in the allocated lease areas, whether the respondent is complying with the conditions imposed in Environmental clearance as well as consent to operate and other clearances., whether there is any excess mining done, if so, what is the quantity, whether the respondent industry has provided all necessary pollution control mechanism to arrest possible pollution within the prescribed norms, whether there is any damage caused to the nearby houses as alleged by the petitioner on account of the operation of the quarry by the respondent industry and also to ascertain the ambient air quality as well as water quality in that area and if there is any violation, assess the environmental compensation which has to be collected by the respondent industry and submit a factual and action taken report before the Tribunal.

In compliance to Hon'ble NGT order, the committee has inspected the location in question on 19.03.2020 and submitted its report to the Hon'ble NGT along with its findings and recommendations on 16.102020

The matter has subsequently come up for hearing on 13.07.2021 and the after hearing the case, the Hon'ble NGT has observed as follows:

...10. "The committee has mentioned that quarrying has been done even prior to obtaining Environmental Clearance (EC), but they have not assessed the value of the same and they have not assessed the Page 3 of 5 environmental compensation for unauthorized quarrying said to have been committed by them

11. "That the Environmental Compensation assessed by the State Pollution Control Board for the non-compliance of the conditions which is different from assessing compensation for the actual loss caused to the environment on account of excess mining or unauthorized mining and that will have to be done on the basis of the directions given by the Hon'ble Apex court in **Common Cause Vs. Union of India and Ors. , (2017) 9 SCC 499**. So, the Committee is directed to submit a further report considering the above aspects to this tribunal before next hearing date" (i.e., 10.08.2021)....

The case was later adjourned to 01.09.2021 and on this day, the Hon'ble NGT has observed that the official respondents have not submitted the action taken reports on the recommendations of the committee and sought this report before the 24th September 2021.

In order to discuss the above issue, a video conference of the committee members was arranged on 21.09.2021 inviting all the members to join the meeting.

The following members attended the said video conference.

Sl No.	Name and designation of the officer	
1	Deputy Commissioner, Udupi District	Chairman
2	Sri. Ramesh D Naik, Senior Environmental Officer, KSPCB, Mangalore	Member
3	Sri. Sandeep, Senior Geologist, Department of Mines & Geology, Udupi.	Special Invitee
4	Sri. Ravikumar J K, Scientific Officer, Grade-I, SEIAA & CRZ, Bangalore.	Member
5	Sri Thirunavakkarasu, Scientist E, Ministry of Environment, Forest and Climate Change, Regional Office, Kendreeya Sadana,	Member

	Koramanagala, Bangalore	
5	Smt Vijaya Hegde, Environmental Officer, KSPCB, Udupi	Member Convenor

During the meeting, the Member Convenor welcomed the Deputy Commissioner and all the members of the Committee to the meeting and drew their attention on the orders of the Hon'ble NGT dated 13.07.2021 and 01.09.2021 and informed that the committee has to submit its comprehensive report on the following:

- a) Assessment of Environmental compensation for excess/unauthorized quarrying done before the issue of EC for both the mining leases of the respondent industry.
- b) Action taken report of SEIAA, Bangalore on the non-compliances observed on the EC conditions.
- c) Action taken report of KSPCB for fixing the already assessed Environmental Compensation on the respondent stone crusher industry.

The Deputy Commissioner and the Chairman of the Committee drew the attention of the member who represented the SEIAA to the para 6 to 9 of the order of the Hon'ble NGT dated 13.07.2021 which discussed about the proceedings drawn by the SEIAA about cancellation of EC issued to the respondent quarry and asked him to explain the latest status of EC.

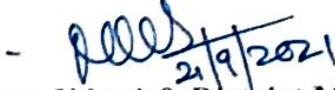
To this, SEIAA representative informed that SEIAA has not yet cancelled the EC. He informed that the cancellation of the EC requires an opportunity of being heard to be provided to the respondent quarry owner and in this regard, a subject is placed before the ensuing meeting of the SEIAA and that the action will be taken as per the decision taken during the said meeting. The SEIAA representative informed that action taken report on the committee's recommendations will be submitted only after the meeting of the SEIAA which is scheduled on 27th of this month.

Regarding the action taken report of the KSPCB, the Environmental Officer, Udupi informed that the issue of necessary order fixing the Environmental compensation on the respondent stone crusher is under process at their Corporate Office, she informed that the Corporate office is following the procedure before issuing the said order.

On the first point of assessing the Environmental Compensation for excess/unauthorized quarrying done before the issue of EC, Sri Sandeep, Senior Geologist informed that only in one quarry lease, i.e., Quarry lease No. 358, they have observed unauthorized quarrying done before the issue of the EC to the tune of 750 tons and the compensation has to be assessed for this quantity.

Shri Thirunavakkarasu, Scientist E, Ministry of Environment and Forest and CC, and the member of the Joint Committee presented before the Committee, the methodologies of assessing Environmental Compensation for unauthorized mining/quarrying. He informed that the compensation can be assessed either by "Polluter Pays Principle" or as per the Apex Court's order in "Common Cause Vs. Union of India and Ors (2017) 9 SCC 499". He showed the calculation for both these cases separately and showed that the Compensation assessed on "Polluter pays principle" has the higher value and asked the Committee to decide on the methodology for calculation of Compensation. To this, the Chairman of the Committee opined that it is better to place both methodologies of calculation before the Hon'ble NGT and recommend for the one which gives a higher value of compensation. Chairman directed the representing members from Dept. of Mines and Geology, SEIAA and MoEF and CC to co-ordinate among each other and provides the Committee the final copy of calculation of Environmental Compensation before 22nd of September, 2021 in order to enable the Committee to submit the same before the Hon'ble NGT.

The meeting was concluded with thanks.

- 
21/9/2021
Deputy Commissioner, Udupi & District Magistrate
and Chairman of the Joint committee constituted by Hon'ble
NGT

Appendix - B

ಫ್ಯಾಕ್ಸ್ / Fax : 080-25586321

ಈಮೇಲ್ / Email : ho@kspcb.gov.in

ವೆಬ್‌ಸೈಟ್ / Website : http://kspcb.gov.in

080-25581383, 25589112
080-25589113, 25589114



ಕರ್ನಾಟಕ ರಾಜ್ಯ ಮಾಲಿನ್ಯ ನಿಯಂತ್ರಣ ಮಂಡಳಿ Karnataka State Pollution Control Board

"ಪರಿಸರ ಭವನ", 1 ರಿಂದ 5ನೇ ಮಹಡಿಗಳು, ನಂ. 49, ಚರ್ಚ್ ಸ್ಟ್ರೀಟ್, ಬೆಂಗಳೂರು - 560 001, ಕರ್ನಾಟಕ ರಾಜ್ಯ, ಭಾರತ
"Parisara Bhavan", 1st to 5th Floor, # 49, Church Street, Bangalore - 560 001, Karnataka State, India

No. PCB/98/SEO/MIN/NGT/2021-22/3010 //BY RPAD//

Date: 22 SEP 2021

To,
The Occupier,
M/s. Mookambika Stone Crusher
Sy. No. 176, Yalagoli, Shivapura Village,
Karkala Taluk, Udupi District

Sir,

Sub: Imposition of Environmental Compensation for operating the unit, M/s. Mookambika Stone Crusher, Sy. No. 176, Yalagoli, Shivapura Village, Karkala Taluk, Udupi District against the norms and without following the conditions imposed in Environmental Clearance and consent issued by the KSPCB - reg.

- Ref:
1. Hon'ble National Green Tribunal, Southern Zone, Chennai order dated: 06.02.2020 in the matter of the O. A. No. 204 of 2017 (SZ).
 2. Board Office Memorandum No. 6271 dated: 02.03.2020.
 3. Inspection of the unit by the Joint Committee constituted based on the directions of the Hon'ble National Green Tribunal on 19.03.2020.
 4. Joint inspection report submitted to the Hon'ble National Green Tribunal by the Regional Officer, KSPCB, Udupi No. 892 dated: 16.10.2020.
 5. Hon'ble National Green Tribunal, Southern Zone, Chennai order dated: 01.09.2021 in the matter of the O. A. No. 204 of 2017 (SZ).
 6. Regional Officer, Udupi letter to the Head Office No. 559 dated: 18.09.2021..

%%%%%%%%

As per the directions of the Hon'ble National Green Tribunal Order in the matter of the O. A. No. 204 of 2017 (SZ) dated: 06.02.2020 vide ref (1), the Board had constituted a Joint Committee to obtain the present status of the stone crusher located at Sy. No. 176, Yalagoli, Shivapura Village, Karkala Taluk, Udupi District vide ref (2).

Accordingly, the Joint Committee headed by the District Collector, Udupi District, Udupi has inspected the crusher on 19.03.2020 vide ref (3) and the Committee has observed violations with respect to; i) Environmental Clearance conditions and ii) KSPCB consent conditions, Annexure-7 Serial No. 2.0 of the joint inspection report vide ref (4):

Based on the CPCB guidelines, the Environmental Compensation has been calculated by using the following prescribed formula:

$$EC = PI \times N \times R \times S \times LF$$

EC= Environmental Compensation (in Rupees)

PI = Pollution Index of industrial sector

N = Number of days of violation took place

R = A factor in Rupees for Environmental Compensation

S = Factor for scale of operation

LF = Location factor

"ಪ್ಲಾಸ್ಟಿಕ್ ಬಳಕೆ ನಿಲ್ಲಿಸಿ, ಪರಿಸರ ಹಾನಿ ತಪ್ಪಿಸಿ"

AVOID USE OF PLASTIC BE BIODIVERSE FRIENDLY



State Level Environment Impact Assessment Authority-Karnataka

(Constituted by MoEF, Government of India, under section 3(3) of E(P) Act, 1986)

No. SEIAA 458 MIN 2015

Date: 18 .09.2021

SHOW CAUSE NOTICE

Sub:- Building Stone Quarry Project at Sy.No.176/P1 of Shivapura Village, Karkala Taluk, Udupi Dist. (3-0 Acres) of Sri Prasanna Shetty, M/s Mookambika Stone Crushers- Compliance to Order of the Hon'ble NGT of Karnataka in OA No. 204/2017(SZ)-reg.

- Ref:-
- 1) Environmental Clearance issued vide letter No. SEIAA 458 MIN 2015, dated 18.09.2015.
 - 2) Proceedings of SEIAA meeting held on 13th May 2021.
 - 3) Joint inspection Report of the Joint Committee constituted by the Hon'ble National Green Tribunal, Southern Zone, Chennai in O.A. No.204/2017 (SZ) dated 06.02.2020, 22-02-2021 and 13-07-2021.

1. Whereas, the Ministry of Environment and Forests, Government of India have issued Notification No. S.O. 1533 (E) dated 14th September 2006 under sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986.

2. Whereas, all new, expansion and modernization and change in product-mix projects listed in schedule to the aforesaid notification require Prior Environmental Clearance from the concerned regulatory authority.

3. Whereas, Environmental Clearance has been granted vide letter No. SEIAA 458 MIN 2015, dated 18.09.2015 pursuant to the information furnished by you in the statutory application and the recommendation made by State Expert Appraisal Committee on 24th, 25th, 27th, 28th & 29th July 2015 for Environmental clearance for quarrying of Building Stone in 3-0 Acres in Government Land at Sy.No.176/P1 of Shivapura Village, Karkala Taluk, Udupi District by Sri Prasanna Shetty subject to compliance to the specific and general Conditions imposed thereon.

Environmental Clearance has been granted vide letter No. SEIAA 132 MIN 2014, dated 30.10.2014 pursuant to the information furnished by you in the statutory application and the recommendation made by State Expert Appraisal Committee on 7th, 9th & 14th October 2014 for Environmental clearance for quarrying of Building Stone in 3-0 Acres in Government Land at Sy.No.176/P1 of Shivapura Village,

Karkala Taluk, Udupi District by Sri Prasanna Shetty subject to compliance to the specific and general Conditions imposed thereon.

4. Whereas, Mr. Bhoja Shetty and Another have filled petition before the Hon'ble NGT southern Zone, Chennai, that Sri. Parasanna Shetty (fourth respondent) is not having EC for one of the mining area and he is violating the conditions of EC.

5. Whereas, upon submission of petition by Shri Bhoja Shetty and Another, the Hon'ble National Green Tribunal, Southern Zone, Chennai vide order dated 06.02.2020 in O.A. No. 204 of 2017 (SZ) directing to inspect the quarry site of M/s Mookambika Stone Crusher, Sy no. 176 of Yalagoli Village, Karkala Taluk, Udupi Dist comprising of District Collector, Udupi District, Senior Officer/Scientist from Regional office, Ministry of Environment, Forest and Climate Change (MoEF & CC), Bangalore, Senior Officer from State Environment Impact Assessment Authority(SEIAA), Karnataka and Senior Officer from Karnataka State Pollution Control Board (KSPCB).

6. Whereas, the quarry site of M/s Mookambika Stone Crusher, Sy. no. 176 of Yalagoli Village, Karkala Taluk, Udupi District has been inspected by the Joint committee on 19th March 2020 and the inspection report has been submitted to the Hon'ble NGT by e-filing on 22.02.2021.

7. Whereas, it is reported in the joint committee report that you have obtained the necessary EC from SEIAA for the operation of both the Mining Leases viz., M.L. No. 358 and ML No. 371 (Old 258) and started quarrying operations even before the issue of EC, Further, the compliance status of both the quarries with respect to EC conditions are not satisfactory. Further it is also reported that Department of Mines & Geology has granted lease limiting the area to 2.00 Acres in respect of quarry lease bearing No.358 dated 23.07.2015 against the EC for 3 acres (SEIAA 132 MIN 2014 dated 30.10.2014), without amending the EC issued, which is mandatory as per the EIA Notification.

8. Whereas it is recommended in the report to SEIAA, Karnataka to initiate action for non-compliance of the EC conditions under the provisions of the Environment (Protection) Act, 1986.

9. Whereas, Hon'ble NGT vide order dated 22.02.2021 stated that "the learned counsel appearing for the 3rd respondent submitted on the basis of committee report, they proposed to take certain action against the 4th respondent. So the 3rd respondent (SEIAA) is directed to file an independent action taken report, if any in this regard to this tribunal"

10. Whereas, the State Level Environment Impact Assessment Authority, Karnataka during the meeting held on 13th May 2021 took note of the orders of the Hon'ble NGT and the joint inspection report. The Authority after discussion opined that it is a case of violation and therefore decided to cancel the Environmental Clearance granted vide letter No. SEIAA 458MIN 2015 dated 18.09.2015 to Sri.

Sharma 2

Prasanna Shetty, S/o Bhujanga shetty, Soodaramane Kukkude, kerebettu village, Shivapura Post, Karkala Taluk, Udupi District, with immediate effect

11. Whereas, it is opined that in view of the above observations, the Environmental Clearance to the project proponent issued vide letter dated 18.09.2015 & 30.10.2014 deserves to be cancelled in terms of para 8 (vi) of the EIA Notification, 2006. The Authority therefore decided to provide an opportunity of being heard in accordance with the said provisions of the Notification to you to show cause why the EC granted to them vide letter dated 18.09.2015 & 30.10.2014 should not be cancelled.

Wherefore, Sri. Prasanna Shetty, S/o Bhujanga shetty, M/s Mookambika Stone Crushers Soodaramane Kukkude, kerebettu village, Shivapura Post, Karkala Taluk, Udupi District are to show cause why the Environmental Clearance(s) granted in your favour for quarrying of Building Stone in 3-0 Acres in Government Land at Sy.No.176/P1 of Shivapura Village, Karkala Taluk, Udupi District vide letter No. SEIAA 458 MIN 2015, dated 18.09.2015 and No. SEIAA 132 MIN 2014, dated 30.10.2014 of the Authority should not be cancelled. Further, you are also called upon to appear before the Authority in person on 27.09.2021 at 02:30 PM in the chambers of the Principal Secretary to Govt. (Ecology and Environment), Forest Ecology and Environment Department and Member Secretary, the State Level Environment Impact Assessment Authority Karnataka, Room No 709, 7th Floor, 4th Gate, M.S Building, Bangalore-01 for furnishing the aforesaid clarification.

It is to inform you that this opportunity of being heard is provided in terms of the provision under para 8 (vi) of the EIA Notification No. S.O. 1533(E) dated 14.06.2006 amended from time to time and in the event of your absence, the Authority will be constrained to cancel the Environmental Clearance granted in your favour for the aforesaid project/activity based on available records/ information and merit, presuming that you have no explanation to offer in this regard.


(Brijesh Kumar) 18/9/21
Member Secretary,
SEIAA.

To,
Sri. Prasanna Shetty,
S/o Bhujanga Shetty,
Soodaramane Kukkude,
Kerebettu village, Shivapura Post,
Karkala Taluk, Udupi District,

203.6. Invite Project Proponent

203.6.1. Building Stone Quarry Project at Sy.No.176/P1 of Shivapura Village, Karkala Taluk, Udipi Dist. (3-0 Acres) of Sri Prasanna Shetty, Mukambika Crushers- Compliance to Order of the Hon'ble NGT of Karnataka in OA No. 204/2017(SZ)reg - (SEIAA 458 MIN 2015).

And

203.6.2. Building Stone Quarry Project at Sy.No.176/P1 of Shivapura Village, Karkala Taluk, Udipi Dist. (3-0 Acres) of Sri Prasanna Shetty, Mukambika Crushers- Compliance to Order of the Hon'ble NGT of Karnataka in OA No. 204/2017(SZ)reg -SEIAA 132 MIN 2014

This is a proposal seeking Environmental clearance for quarrying of Building Stone in 3-0 Acres, Government Land at Sy.No.176/P1 of Shivapura Village, Karkala Taluk, Udipi District by Sri Prasanna Shetty

The subject was discussed in the SEAC meeting held on 24th, 25th, 27th, 28th and 29th July 2015. The Committee had recommended to SEIAA for issue of Environmental Clearance. The Authority had perused the proposal during the meeting held on 14th August 2015 and decided to issue Environmental Clearance after taking note of the recommendation made by SEAC.

Accordingly, Environmental Clearance was granted vide letter No.SEIAA 458MIN 2015 dated 18.09.2015.

Mr. Bhoja Shetty and Others have filled petition before the Hon'ble NGT southern Zone, Chennai, that Sri. Parasanna Shetty (fourth respondent) is not having EC for one of the mining area and he is violating the conditions of EC.

In this regard the Joint Committee constituted by the Hon'ble National Green Tribunal (NGT) Southern Zone, Chennai issued an Order dated 06.02.2020 directing to inspect the quarry site of M/s Mookambika Stone Crusher, Sy no. 176 of Yalagoli Village, Karkala Taluk, Udipi Dist comprising of District Collector, Udipi District, Senior Officer/Scientist from Regional office, Ministry of Environment, Forest and Climate Change (MoEF & CC), Bangalore, Senior Officer from State Environment Impact Assessment Authority(SEIAA), Karnataka and Senior Officer from Karnataka State Pollution Control Board (KSPCB).

Accordingly, the quarry site of M/s Mookambika Stone Crusher, Sy. no. 176 of Yalagoli Village, Karkala Taluk, Udipi Dist was inspected by the Joint committee on 19th March 2020 and the inspection report of State Environmental Impact Assessment Authority (SEIAA) with regard to the allegations made by the appellants and the field observations made during joint committee inspection.

In this regard then Hon'ble NGT vide order dated 22.02.2021 stated that "the learned counsel appearing for the 3rd respondent submitted on the basis of committee

Drafted by

110

Proceedings of 203rd SEIAA meeting

Dated 27th September 2021

report, they proposed to take certain action against the 4th respondent. So the 3rd respondent (SEIAA) is directed to file a independent action taken report, if any in this regard to this tribunal"

The Authority after discussion opined that it is a case of violation. The Authority therefore decided to cancel the Environmental Clearance granted vide letter No. SEIAA 458MIN 2015 dated 18.09.2015. to Sri. Prasanna Shetty, S/o Bhujanga shetty, Soodaramane Kukkude, kerebettu village, Shivapura Post, Karkala Taluk, Udipi District, with immediate effect.

In this regard a letter has been addressed to the proponent on 18.09.2021.

The project proponent has appeared before the Authority along with his Advocate. He pleads that he didn't receive the said notice. Further he pleads time of one month to submit appropriate reply to the Authority. Therefore the Authority decides to grant time as requested by the project proponent and decide to call on 25.10.2021 at 11:30AM.

110 of 117

203.7. Complaint received from Shri Jagan Kumar with regard to violation of Hon'ble NGT, Environment (Protection) Act, 1986 and EC condition of M/s. Jana Jeeva Estates Pvt. Ltd. in "JANA JEEVA ORCHID" Residential Apartments Project at Sy.No.54, Halehalli Village, Bidarahalli Hobli, Bangalore East Taluk, Bangalore Urban District. (SEIAA 141 CON 2015)