

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI**

ORIGINAL APPLICATION NO.211 of 2021

IN THE MATTER OF:

P.Palaniappan

...Applicant

-vs-

Union of India & Others

...Respondents

**OBJECTIONS FILED BY THE 13TH RESPONDENT TO THE INTERIM
REPORT FILED BY THE JOINT COMMITTEE**

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Place: Chennai

Date:20.02.2023

T.Sai Krishnan

Counsel for 13th respondent

Southern Zone, Chennai

O.A. No. 211/2021

P. Palaniappan

... Applicant

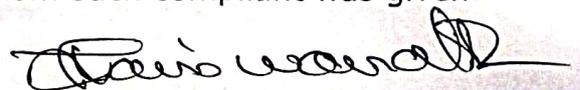
Vs.

Union of India& others

... Respondents

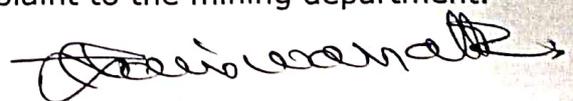
OBJECTIONS FILED BY THE 13TH RESPONDENT TO THE INTERIM REPORT FILED BY THE JOINT COMMITTEE

1. It is respectfully submitted that this Hon'ble Tribunal was pleased to constitute a joint committee vide order dated 30.09.2021 to submit a report on the aspects mentioned in the said order. Pursuant to the said directions an interim report has been filed by the joint committee wherein certain observations are made in respect of the quarry lease granted to the 13th Respondent.
2. The 13th Respondent files these objections to the said interim report of joint committee as follows:-
 - a) There was no notice about the inspection by the joint committee members and it was after coming to know of the inspection, that the son of this Respondent went to the quarry area and after ascertaining as to whom he was, his signature was obtained by the joint committee members saying that it was an attendance sheet.
 - b) It is submitted that DGPS survey said to have been conducted during joint inspection was not made by the officials but by private individuals. The names of such persons who had been engaged for conducting such survey was not disclosed at the time of inspection and has not been mentioned in the joint inspection report. The officials of the mining department did not conduct the survey when they were the most appropriate authority to do so.
 - c) When the inspection was conducted pursuant to the directions of this Hon'ble Tribunal on the constitution of joint committee, it is surprising that the joint committee should be referring to an alleged compliant dated 2.2.2021 said to have been given by Panchayat President Tmt. D. MegalaDevendran of Masinayackanpatti Panchayat. It is not known as to whom such compliant was given



and as to how it came to be taken note of by the joint committee constituted by this Hon'ble Tribunal.

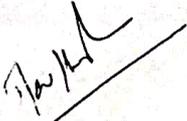
- d) It is further surprising that as to how the joint committee has noticed about fresh cutting without taking any steps to ascertain the date and time of such cutting which according to them is "fresh cutting". It is not stated in the report as to the exact location of such alleged "fresh cutting". It is also not known as to whether there is any acceptable methodology available for ascertaining "fresh cutting" and as to whether such methodology was employed by the joint committee. At any rate just by observation with the naked eye no one can identify and find out the date and time of such rock cutting. Therefore such observations as though quarrying activities are carried out after the expiry of lease period is totally and absolutely baseless and seems to have been hurriedly made without any basis.
- e) In so far as this Respondent's is concerned, the mining had been stopped way back during November, 2016 itself as per the instructions of the officials of the mining department to stop mining activities as environmental clearance was made mandatory for carrying out mining activities. Thereafter, permits have not been issued by the mining department to this Respondent and no mining activity has been carried out by this Respondent. For all that mining done by this respondent, the seignorage fee and other payments have been paid and collected by the Mining Department.
- f) This Respondent objects to the observation made in the joint committee report as regards the alleged quarrying activity after expiry of the lease period and quarry in non-leased out area. Such observation has been made without any basis and without verification of the facts.
- g) This Respondent objects to the calculation made in the tabular column as regards alleged excess quantum of rough stone alleged to have been quarried and transported over the permitted quantity. The same is based on assumptions and presumptions and the measurements are also approximate and it is not known as to whether the joint committee took note of the fact that the area given to this Respondent under the mining lease had been subjected to mining operations even earlier to the lease in favour of this Respondent and as regards which this respondent had also given complaint to the mining department.

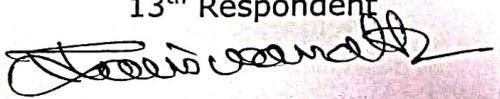


- h) Even without ascertaining the facts and taking any steps for verification of records sweeping allegations have been made and on the basis of some imaginary measurements the report has been prepared.
- i) This Respondent brings to the attention of this Hon'ble Tribunal that the Revenue Divisional Officer of Salem, by proceedings dated 11.12.2009 has observed that one Mr. Kuppudas had carried on illegal mining activities in the area given on mining lease to this Respondent even prior to such lease and measurements were taken and penalty was imposed on the said Kuppudas. The same is filed as Annexure to this objections. It is obvious that the said order has not been brought to the notice of the joint committee by the officials of mining department as well as revenue department and without ascertaining facts correctly sweeping allegations are made as against this Respondent who has not conducted any excess mining or illegal mining. When this Respondent had stopped the mining activities way back in the year 2016 itself, there is no question of any mining having been made in non-leased out area when this Respondent has not even utilized the mining area allotted to him for the full potential in respect of which mining plan had been approved in view of the unexpected requirement of obtaining environmental clearance pursuant to the orders passed by Hon'ble Supreme Court of India. Therefore, the mining activity was left in the midst of mining lease period and while so, it is totally unfortunate that such sweeping allegations are made as against this Respondent in the interim report of the joint committee on the basis of which false prosecution was also launched as against this Respondent and this respondent is subjected to harassment.

It is therefore most humbly prayed that this Hon'ble Tribunal may be pleased to reject the interim report of the joint committee in respect of the observations made against this Respondent and pass such further or other orders as this Hon'ble Tribunal may deem fit and proper and thus render justice.

Dated at Chennai on this the 18th day of February, 2023.


Counsel for 13th Respondent

13th Respondent


சேலம் வருவாய் கோட்டாட்சியர் அவர்களின் செயல்முறைகள்

முன்னிலை. திரு.எம்.ஜி. குமந்தைவேலு.எம்.ஏ..

ந.க. 2683/09 (அ3),

நாள். 11.12.2009

பொருள். கனிமம் மற்றும் சுரங்கம் - சேலம் மாவட்டம் - வாழப்பாடி வட்டம் - மாசிநாயக்கன்பட்டி கிராமம் - புல எண். 219, குன்று புறம்போக்கில் அரசு அனுமதியின்றி சாதாரண கற்கள் வெட்டியது கண்டறியப்பட்டது - அபராதம் விதித்து - உத்தரவு.

தகவல். துணை இயக்குநர், புவியியல் மற்றும் சுரங்கத் துறை, சேலம் அவர்களின் ந.க. 9/09 (க-ஆ), நாள். 01.06.09

2. இவ்வலுவலக ந.க. 2683/09 (அ2), நாள். 23.06.09

உத்தரவு

சேலம் மாவட்டம், வாழப்பாடி வட்டம், மாசிநாயக்கன்பட்டி கிராமம். புல எண். 219, குன்று புறம்போக்கு. விஸ்தீரணம் 4.55.5 ஹெக்டேர் நிலத்தில் 2.00.0 ஹெக்டேர் நிலப்பரப்பில் கல்குவாரி உரிமம் திரு. காசிவிஸ்வநாதன் என்பவர் ஏலம் மூலம் குத்தகை உரிமம் பெற்ற இடத்தில் சிறிது காலத்திற்கு முன்பு கற்கள் வெட்டப்பட்ட தடயங்கள் தொடர்பாக, விசாரணை செய்து திரு. குப்புதாஸ் என்பவர் வெட்டிய கற்குழியின் நீள, அகல மற்றும் ஆழ அளவுகள் கீழ்க்கண்டவாறு சேலம் புவியியல் மற்றும் சுரங்கத்துறை, துணை இயக்குநர் அவர்களால் தெரிவிக்கப்பட்டு, அபராதம் 1959-ஆம் ஆண்டைய தமிழ்நாடு சிறு கனிம சலுகைகள் விதிகளின்படி, அனுமதியின்றி வெட்டியவர் மீது அபராதம் விதி - 36-ஏ-ன்படி எடுக்க தெரிவிக்கப்பட்டுள்ளது.

நீளம்	அகலம்	ஆழம்
L- 73.0	W-1- 12.5	D-1- 6.0
	W-2- 17.0	D-2- 4.5
	W-3- 19.0	D-3- 0.5
	W-4- 15.5	D-4- 0.3
	W-5- 16.5	
	W-6- 14.0	
	W-7- 14.0	
	W-8- 19.0	
	W-9- 22.0	
L- 73.0	W- 16.6	D- 2.83

சராசரி நீளம் 73 மீட்டர் X சராசரி அகலம் 16.6 மீட்டர் X சராசரி உயரம் 2.83 மீட்டர் - மொத்தம் 3429 ச.மீ (அ) 606 லாரி லோடுகள்.

மேற்படி அரசு அனுமதியின்றி 606 லாரி லோடு கற்கள் வெட்டி எடுத்தமைக்கு 1959-ஆம் ஆண்டைய தமிழ்நாடு சிறு கனிம விதிகளின் விதி 36-ஏ-ன் கீழ் கீழ்க்கண்டவாறு அபராதம் விதித்து உத்தரவிடப்படுகிறது.

606 லாரி லோடுகள் (606 X 2 = 1212 யூனிட்)
கற்கள் மதிப்பு 1212 X 350 = 4,24,200.00

606 லாரி லோடுகள் (அ) 1212 யூனிட்
சீனியரேஜ் 1212 X 90 = 1,09,080.00

அபராதம் குறைந்தபட்சம் ரூ.25,000/-
(அல்லது) 3 மடங்கு சீனியரேஜ் = 3,27,240.00

மொத்தம் ரூ. = 8,60,520.00

எனவே மேற்படி அபராதத் தொகை ரூ. 8,60,520/-யினை மாசிநாயக்கன்பட்டி கிராமம், சர்வே எண் 219-ன் அருகில் வசிக்கும் திரு.கே. குப்புதாஸ் என்பவர் மேற்படி தொகையினை செலுத்த வேண்டியது.

வாழப்பாடி வட்டாட்சியர் மேற்படி அபராதத் தொகையை சம்மந்தப்பட்ட கிராம நிர்வாக அலுவலரை பொறுப்பாக்கி வசூலிக்க வேண்டியது. தவறும் படசத்தில் கிராம நிர்வாக அலுவலரே மேற்படி கவனக்குறைவுக்கு பொறுப்பாக்கப்படுவார் என தெரிவிக்க வேண்டியது.

வருவாய் கோட்டாட்சியர்,
சேலம்.

பெறுதல்

திரு.கே. குப்புதாஸ், (வாழப்பாடி வட்டாட்சியர் மூலம்)
மாசிநாயக்கன்பட்டி கிராமம்,
வாழப்பாடி வட்டம்,
சேலம் மாவட்டம்.

Translated copy

Proceedings of the Revenue Divisional Officer, Salem

Presence : Mr.M.A.Kulandhaivelu

Na.Ka.2683/09 (A3)

Date:11/12/2009

Sub: Mines and Minerals - Salem District - Vazhapadi Taluk - Masinayakampatti Village - Quarry of Stones made in Government Poromboke in S.No.219 detected – penalty imposed/order

Ref: Proceedings of the Deputy Director, Geology and Mining – Salem, dated 1.06.2009 in Na.Ka 9/09 (Ka.AA)

2. Proceedings of this office dated 26.02.2009 in Na.Ka.2683/09 (A2)

Order

In the stone quarry area in which Thiru.Kasiviswanathan has been granted the mining lease pursuant to the auction and license granted namely the Government Poromboke in S.No.219 of Masinayakampatti village, Vazhapadi Taluk, Salem District measuring 2.00.0 hectares out of 4.55.5 hectares, traces of quarrying operations conducted earlier where detected and enquired and the extent of such quarry done by Mr.Kuppudas was checked by measuring the length, breadth and depth as given below in the tabular column by the Deputy Director, Geology and Mining, Salem and recommended for levy of penalty as per rule 36A of the Tamil Nadu Minor Mineral Concession Rules, 1959.

Length	Breadth	Depth
L-73.0	W-1-12.5	D-1-6.0
	W-2-17.0	D-2-4.5
	W-3-19.0	D-3-0.5
	W-4-15.05	D-4-0.3
	W-5-16.5	
	W-6-14.0	
	W-7-14.0	
	W-8-19.0	
	W-9-22.0	

L-73.0	W-16.6	D-2.83
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Average length 73 meter * average breadth 16.6 meter * average depth 2.83 meter – total 3429 Sq.mtr (or) 606 lorry loads.

In terms of Rule 36A of the Tamil Nadu Minor Mineral Concession Rules, 1959 penalty is levied as follows for the quarrying of 606 lorry loads of stones without the permission of the government:

606 lorry loads (606*2=1212 units)
Stones value 1212*350 = 4,24,200.00

606 Lorry Loads (or) 1212 unit
Seigniorage 1212*90 = 1,09,080.00

Minimum penalty Rs.25,000/-
(or) 3 times the Seigniorage fee = 3,27,240.00

Total Rs. = 8,60,520.00

Therefore Thiru.K.Kuppudas residing adjacent to S.No.219 of Masinayakkampatti village is hereby called upon to pay the above penalty amount of Rs.8,60,520.

The Thasildar of Vazhapadi is to ensure collection of the penalty above by fixing a responsibility on the village administrative officer. It is to be informed that on failure to collect the amount that the village administrative officer will be held responsible for negligence.

Sd.
Revenue Divisional Officer, Salem

To

Thiru.K.Kuppusamy
Masinakkampaati Village,
Vazhapadi Taluk,
Salem District

(Through Thasildar, Vazhapadi)

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T.SAI KRISHNAN

Counsel for 13th respondent