

BEFORE THE NATIONAL GREEN TRIBUNAL (SZ) CHENNAI

Original Application No.213 of 2021

Between

S.Sakthivel,
Environmental Protection & Anti-Pollution Group,
S/o.P.K.Subramaniam,
Alagu Vinayakar Kovil Street,
Fairland, Salem - 636 016

--Petitioner

AND

1. The Secretary to Government of India,
Ministry of Environmental & Forest and Climate Change,
Indira Paryavaran Bhavan Jorbagh Road,
New Delhi-110003.

2. The Director,
Department of Geology and Mining,
Industrial Estate, Guindy, Chennai-32

3. The District Collector,
Collectorate, Salem-636001

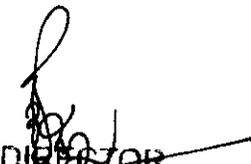
4. The District Environmental Engineer,
Tamilnadu Pollution Control Board,
Siva Tower, 2nd Floor, Salem - 636 004.

5. The Member Secretary,
Central Ground water Authority,
Jam Nagar House,
18/11, Mansingh Road, New Delhi - 110 011.

6. The Managing Director,
M/s.Dalmia Bharath Sugar and Industries Ltd,
Chettichavadi Village, Jagir Magnesite and Dunite Mines,
Chettichavadi Village, Salem West Tk,
Salem - 636 012.

--Respondents


JOINT DIRECTOR
Department of Geology & Mining
Guindy, Chennai - 600 032.


DIRECTOR
Department of Geology & Mining
Guindy, Chennai - 600 032.

Report filed by the Second Respondent

I, Thiru L.Nirmal Raj, S/o.Thiru K.Lakshmana Perumal, Hindu, aged about 49 years residing at Chennai do hereby solemnly affirm and sincerely state as follows:-

I am the Director of Geology and Mining, the 2nd respondent herein and I am well acquainted with the facts of the case from the records. As directed by this Hon'ble National Green Tribunal on 04.01.2022 in this original application, I am filing this status report.

2. It is submitted that, one Thiru. S.Sakthivel has filed O.A.No.213 of 2021 before this Hon'ble Tribunal with a prayer among other things that

- i. To declare the operation of the Tvl.Dalmia Bharath Sugar and Industries Ltd as illegal, un-authorized and in violation of the Environment (Protection) Act, 1986.
- ii. To restrain the Tvl.Dalmia Bharath Sugar and Industries Ltd from carrying on further activities without mandate Environmental Clearance and NOC from CGWA.
- iii. To direct the Tvl.Dalmia Bharath Sugar and Industries Ltd to pay Environmental Compensation as may be determined by the Hon'ble Tribunal.

3. It is further submitted that, The Hon'ble National Green Tribunal by Order dated 06.10.2021 has appointed a Joint Committee consisting of (1) The District Collector, Salem or his nominee not below the rank of Assistant Collector or Sub Divisional Magistrate as nominated by the District Collector (2) A Senior officer from Ministry of Environment, Forest and Climate

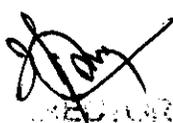

JOINT DIRECTOR
Department of Geology & Mining
Guindy, Chennai - 600 032.

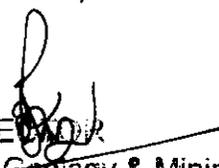

DIRECTOR
Department of Geology & Mining
Guindy, Chennai - 600 032.

Change, Integrated Regional Office, Chennai (3) The Director, Department of Geology and Mining or his nominee as nominated by the Director not below the rank of Additional Director of Mining and Geology (4) The District Environmental Engineer, Tamil Nadu Pollution Control Board, Salem district (5) A Senior officer from the Public works Department, Groundwater Division, Salem district to inspect the area in question and submit a factual as well as action taken report, if there is any violation found.

4. It is submitted that, The Hon'ble Tribunal has directed the Committee to ascertain as to whether,

- i. Tvl.Dalmia Bharath Sugar and Industries Ltd is having all necessary permissions/clearances from the authorities under the Environmental Law,
- ii. Whether the Tvl.Dalmia Bharath Sugar and Industries Ltd is conducting mining in violation of the environmental laws without obtaining necessary clearance / permissions, if so since when they are doing the same,
- iii. What is the quantity of the mineral extracted by doing such illegal mining, what is the nature of action taken by the authorities when such violations are brought to their notice,
- iv. Whether any damage is caused to the Environment on account of the illegal mining done by the Tvl.Dalmia Bharath Sugar and Industries Ltd, and if so assess the damage caused to the environment including the environmental compensation to be recovered from them, apart from suggesting recommendation for restoration for damage caused to the environment,


JOINT DIRECTOR
Department of Geology & Mining
Guindy, Chennai - 600 032.


DIRECTOR
Department of Geology & Mining
Guindy, Chennai - 600 032.

- v. Whether the Tvl.Dalmia Bharath Sugar and Industries Ltd had obtained necessary permission for extracting groundwater for their industrial purpose and if not, what is the action taken including the imposition of compensation for un-authorized drawl of groundwater by the Tvl.Dalmia Bharath Sugar and Industries Ltd.

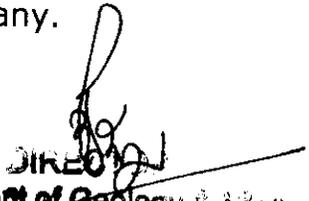
5. It is submitted that, as per the direction of the Hon'ble Tribunal the nominated members of the Joint Committee had inspected the subject area on 27.11.2021 and based on the field observation, a status report was filed by the Director of Geology and Mining on 03.01.2022 covering all the directions of the National Green Tribunal noted above except para 8(iii).

6. It is further submitted that, the Hon'ble National Green Tribunal in its order dated 06.10.2021 in Para 8(iii) directed as follows,

"What is the quantity of the mineral extracted by doing such illegal mining, what is the nature of action taken by the authorities when such violations are brought to their notice"

7. It is submitted that, in order to comply the above orders, the Director of Geology and Mining vide proceeding Rc.No.1355/MM9/2006 dated 05.12.2021 has constituted 3 technical teams to carry out detailed survey in the subject lease area of 6th respondent in S.F.No.6 over an extent of 449.36.4 Hects of Government Lands in Chettichavadi Village, Salem West taluk, Salem District where Magnesite and Dunite are mined to ascertain the volume of mineral extracted to confirm whether illegal mining has been carried out by the lessee company.


JOINT DIRECTOR
Department of Geology & Mining
Guindy, Chennai - 600 032.


DIRECTOR
Department of Geology & Mining
Guindy, Chennai - 600 032.

8. It is further submitted that, the technical teams have surveyed the subject mining areas by using total station survey instrument and submitted report on 31.1.2022. The technical team in its report have observed the following:

- i. No safety Zone is maintained on the north east and south west side of the present lease area.
- ii. The lease area is partitioned by the lessee as 4 Blocks for their convenience viz, Block A, B, C and MT Block. In the lease granted area there are 32 number of pits and 10 number of waste reject dumps noticed during inspection.
- iii. Three dumps are noticed outside the lease granted area with the volume of 63,48,750 cbm of rejects were dumped in patta lands belonging to the said company in Vellakalpatti village.
- iv. Three pits are found to be water stagnated and the dimension of the pits were measured above water level only.
- v. The lessee has operated the subject mine without Environmental Clearance for which demand notices have been issued by the District Administration for a sum of Rs.18.69 cr for transport of Dunite and Magnesite. The Lessee company has filed Writ Petition No.889/2020 before Hon'ble High Court of Madras and which was dismissed. Subsequently they had filed Writ Appeal 834/2020 which is pending.
- vi. As per the pit dimension the total quantity of mineral removed from the subject mining lease area is worked out as follows:


JOINT DIRECTOR
Department of Geology & Mining
Guindy, Chennai - 600 032.


DIRECTOR
Department of Geology & Mining
Guindy, Chennai - 600 032.

Total Volume of Mineral removed (in CBM)	Quantity of rejects/ waste dumped	
	Inside the lease area (in CBM)	Outside the lease area (in CBM)
4,65,36,477 (or) 11,16,87,545 MT	1,94,95,000	63,48,750

vii. From the above by using recovery percentage as per the latest mining plan of 4% for Magnesite and 10% for Dunite, the total quantity of Magnesite and Dunite removed from the lease area is arrived as follows:

Mineral	Quantity of mineral removed (in M.T)	Quantity of mineral transported by valid transport permit from the year 1979-80 to 2018-19 (in M.T)	Stock available in the lease area (in M.T)	Total quantity of mineral transported with valid transport permit and stocks available in the lease area (in M.T)
Magnesite	44,67,502	28,72,450	7,730	28,80,180
Dunite	1,11,68,755	1,83,888	11,851	1,95,739

9. It is further submitted that, as per the findings of the technical team, the total quantity of 28,72,450 M.Tonnes of Magnesite and 1,83,888 M.Tonnes of Dunite were legally permitted to be transported from the mining area and 7730


JOINT DIRECTOR
 Department of Geology & Mining
 Guindy, Chennai - 600 032.


DIRECTOR
 Department of Geology & Mining
 Guindy, Chennai - 600 032.

M.Tonnes of Magnesite and 11851 M.Tonnes of Dunite are available as stock in the subject mining lease area.

10. It is submitted that, from the above findings as per the permit issued by the District mines office from 1979-80 to 2018-19 and stocks available in the lease area, it is brought to the notice that the lessee company has transported 15,87,322 M.Tonnes of Magnesite and 1,09,73,016 M.Tonnes of Dunite from the lease hold areas without any valid transport permits.

11. It is submitted that, from the findings of the technical team it is noticed that there is a prima facie evidence for excess mining and transportation without valid transport permits. Further, the lessee company has dumped the waste rejects outside the lease hold areas and also has not provided safety distance to the adjoining lands abutting the North-east and South-west side of the lease hold area by violating the lease deed conditions. Therefore necessary instructions will be issued to the District Collector for taking action to collect 100 % of cost of the mineral from the lessee company under section of 21(5) of Mines and Minerals (Development & Regulation) Act, 1957, after taking into consideration of the transport permit already issued by the District administration, Salem from 1966-67 to 1978-79.

Under the circumstances stated above, it is respectfully submitted that the Hon'ble Tribunal may consider the above facts and pass appropriate orders in this matter.

Solemnly affirmed at Chennai)
this the 1st day of February, 2022)
and signed his name in my presence)


DIRECTOR
Department of Geology & Mining
Guindy, Chennai - 600 032.

BEFORE ME


JOINT DIRECTOR
Department of Geology & Mining
Guindy, Chennai - 600 032.

