

IN THE NATIONAL GREEN TRIBUNAL (SZ) CHENNAI

Original Application No. 213 of 2021

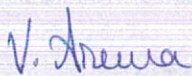
Thiru. S. Sakthivel,
Environment Protection & Anti-Pollution
Group,
S/o. PK Subramaniam,
Alagu Vinayakar Kovil Street,
Fairland, Salem - 636 016.

.....Petitioner

-Vs-

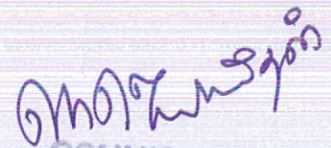
1. The Secretary to Government of India,
Ministry of Environment and Forest and
Climate Change,
Indira Paryavaran Bhavan Jorbagh
Road,
New Delhi.
2. The Director,
Department of Geology and Mining,
Industrial Estate,
Guindy, Chennai-32.
3. The District Collector,
Collectorate, Salem-636001.
4. The District Environmental Engineer,
Tamil Nadu 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 Bharat Sugar and
Industries Ltd.,
Chettichavadi Village,
Jagir Magnesite and Dunite Mines,
Chettichavadi Village, Salem West
Taluk,
Salem - 636 012.

.....Respondents



JOINT DIRECTOR

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



COMMISSIONER
COMMISSIONERATE OF GEOLOGY AND MINING,
GUINDY, CHENNAI-600 032.

STATUS REPORT FILED BY THE RESPONDENT

I, Thiru.J.Jayakanthan, S/o. Thiru.Jagadeeswaran, Hindu, aged about 55 years, working as Commissioner of Geology and Mining, Industrial Estate, Guindy, Chennai-600 032 do hereby solemnly affirm and sincerely state as follows:-

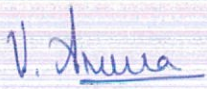
I am the 2nd respondent herein and as such I am well acquainted with the facts of the case from the available records.

The Hon'ble Tribunal in Original Application No.213/2021 dated: 23.11.2022 under Para 3 have ordered the following which is extracted here under:-

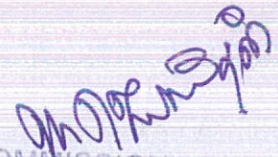
“The learned counsel representing the State Government requested time to get appropriate instruction with regard to the pendency of the application of the 6th respondent and also about the status of the Writ Petition viz., W.P.No. 25518 of 2006.”

As per the instructions of the Learned Standing Counsel of the Hon'ble National Green Tribunal and in continuation to the detailed reports already filed, I am filing this status report on the following two aspects-

- a) Status of Writ Petition No. 25518/2006 filed by Tvl. Dalmia Cements Bharat Limited.


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

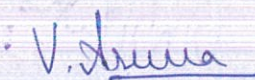
2

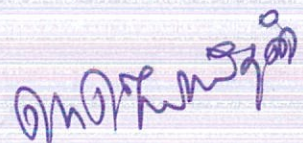

COMMISSIONER
COMMISSIONERATE OF GEOLOGY AND MINING,
GUINDY, CHENNAI-600 032.

b) Status on the Pendency of the Renewal application of the 6th respondent viz., Tvl. Dalmia Cements Bharat Limited with the State Government.

a. Status of Writ Petition No. 25518/2006 filed by Tvl. Dalmia Cements Bharat Limited:

- i. Tvl.Dalmia Cements Bharat Ltd., filed Writ Petition No.25518/2006 before the Hon'ble Madras High Court with a prayer to restrain the respondents from interfering with the mining of minerals by the petitioner in the schedule premises and to continue issue permits for removal of excavated mineral on payment of royalty pending disposal of the renewal application dated 07.07.2005.
- ii. It is submitted that, the Hon'ble Madras High Court by Interim Order dated 17.08.2006 in W.P.No.25518/2006, ordered that in view of the statutory provision i.e., Rule 24A(6) of Mineral Concessions Rules, 1960, if an application for renewal made within the time referred to in sub-rule(1) is not disposed by the State Government, the lease period shall be deemed to have been extended by a


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

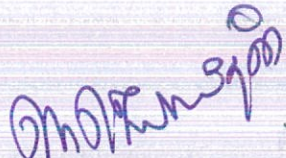

COMMISSIONER
COMMISSIONERATE OF GEOLOGY AND MINING,
GUINDY, CHENNAI-600 032.

further period till the State Government pass orders there on, there will be an order of interim injunction.

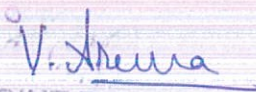
- iii. It is submitted that, Tvl.Dalmia Cement Bharat Ltd had submitted an application on 11.07.2005 in the prescribed Form-J for grant of second renewal of mining lease for mining Magnesite and Dunite over an extent of 449.36.4 hectares (1110.37 acres) of Government Poramboke land in S.F.No.6 of Chettichavadi village, Salem Taluk and District for a further period of 20 years from 20.08.2006.
- iv. It is submitted that, the Second Renewal of mining lease application was filed in time i.e. 12 months before the expiry of first renewal of mining lease
- v. It is submitted that, Tvl.Dalmia Cements (B) Ltd. submitted an application on 09.02.2006 before the Ministry of Environment & Forests, Government of India for grant of Environmental Clearance in respect of the subject area applied for second renewal of mining lease. The said application seeking for environmental clearance is pending with Ministry of Environment, Forest & Climate Change, Government of India.

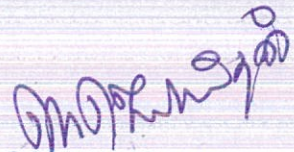

JOINT DIRECTOR
Department of Geology & Mining
Guindy, Chennai - 600 032.

4


COMMISSIONER
COMMISSIONERATE OF GEOLOGY AND MINING,
GUINDY, CHENNAI-600 032.

- vi. It is submitted that, as per the interim orders of the Hon'ble High Court dated: 17.08.2006, Tvl.Dalmia Cements (B) Ltd. had carried out mining operations in the subject area under the deemed extension provisions of erstwhile Rule 24A (6) of Mineral Concession Rules, 1960 without Environmental Clearance.
- vii. It is submitted that, when the W.P.No.25518/2006 filed by Tvl.Dalmia Cement Bharat Ltd., was pending before the Hon'ble Madras High Court, Tvl.Dalmia Bharat Sugar and Industries Ltd., filed another W.P.No.29275/2016 before the Hon'ble Madras High Court with a prayer for issuance of Writ of Mandamus, forbearing the respondents from interfering with mining operations of the petitioner in the schedule premises and directing the respondents to continue to issue permits to excavate minerals Magnesite and Dunite on payment of the requisite royalty and without insisting an Environmental Clearance Certificate.
- viii. It is submitted that, the Hon'ble Madras High Court by order dated 11.01.2022 in W.P.No.29275/2016 disposed the Writ Petition with the following directions:-


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

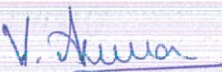

COMMISSIONER
COMMISSIONERATE OF GEOLOGY AND MINING,
GUINDY, CHENNAI-600 032.

“6. In the present case, the Writ itself is to forbear the respondent from interfering with the mining operations of the petitioner company and the petitioner company have made a submission that they are not carrying on any mining operation at present. It is left to open to the petitioner company to submit all the required documents, including the Environmental Clearance Certificate issued by the Competent Authorities of the State, enabling the State Authorities to consider the case and take a decision and pass appropriate orders on merits and in accordance with law. The respondents are directed to conduct inspection and verify whether mining operations were done or not, by verifying the statement made by the learned counsel for the petitioner.”

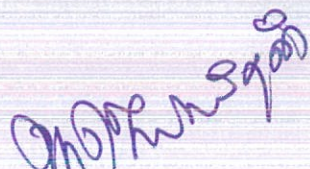
- ix. The prayer sought for by the Tvl. Dalmia Cement Bharat Ltd., in W.P.No. 25518 of 2006 and W.P.No.29275 of 2016 are of identical one except filed on different time period. Though W.P.No.25518 of 2006 has not been disposed, the final order issued in W.P.No. 29275 of 2016 on 11.01.2022 ought to be taken into account, in all aspects.

b. Status on the Pendency of the Renewal application of the 6th respondent viz., Tvl. Dalmia Cements Bharat Limited with the State Government.

- i. The second renewal application of Tvl. Dalmia Cement Bharat Ltd filed on 11.07.2005 for mining **Magnesite and Dunite** over an extent of **1110.37 acres (449.36.4 ha)** of Government Poramboke lands in S.F.No.6 of Chettichavadi



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

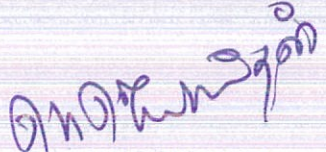
6


COMMISSIONER
COMMISSIONERATE OF GEOLOGY AND MINING,
GUINDY, CHENNAI-600 032.

Village, Salem West Taluk Salem District for a further period of 20 years from 20.08.2006 is pending on the following requirements:

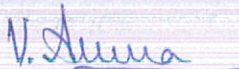
- a. As per EIA, 2006 prior environmental clearance is required for projects or activities both for major as well as minor minerals, if the leased area is 5 hectares or more. In this connection, Tvl. Dalmia Cements (B) Ltd. submitted application on 09.02.2006 before the Ministry of Environment & Forests, Government of India for grant of Environmental Clearance in respect of the subject area applied for second renewal of mining lease. The application is pending with MoEF.
- b. As per Rule 72 of MCR,1960, demand towards Annual Surface Rights Compensation for a sum of Rs.79,88,39,062/- (79.88 Crore) over the Government Poramboke land held under mining lease by Tvl. Dalmia Bharat Sugars and Industries Ltd for the period from 20.08.1966 to 31.10.2017 have been raised by the District Collector, Salem vide


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

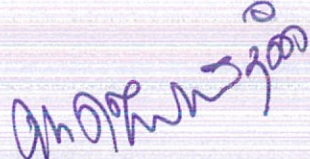

COMMISSIONER
COMMISSIONERATE OF GEOLOGY AND MINING,
GUINDY, CHENNAI-600 032.

proceedings Rc.No.577/2017/Mines-A, dated 22.11.2017. Against the demand, Tvl. Dalmia Bharat Sugars and Industries Ltd has filed Writ Petition No.2517/2018 and obtained interim stay. When the Writ Petition came up for hearing on 28.02.2022, the Hon'ble Madras High Court has posted the Writ Petition along with Writ Appeal No.757/2020 which is pending before the Hon'ble First Bench of Madras High Court.

- c. In compliance to the orders passed by the Hon'ble Supreme Court of India dated 02.08.2017 and as directed by the MoEF & CC in their Office Memorandum dated 30.05.2018, demand notice, were issued by the District Collector, Salem with a direction to Tvl.Dalmia Bharat Sugars and Industries Ltd to remit Rs. 18.69 crore towards cost of mineral for Magnesite and Dunite mined and transported from the subject area without obtaining Environment Clearance for the period from 01.04.2000 to 31.08.2018 as detailed below.


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

8


COMMISSIONER
COMMISSIONERATE OF GEOLOGY AND MINING,
GUINDY, CHENNAI-600 032.

Name of the mineral	Quantity of Mineral excavated from 01.04.2000 to 31.08.2018	100% cost of the mineral to be remitted (in Rs.)	Demand notice No. & Date issued by the District Collector, Salem
Dunite	1,75,159.309 M.T	11,44,30,605/-	Rc.No.45/2018/D1/Mines-A dated 18.06.2019
Magnesite	54,396.79 M.T	7,24,73,501/-	Rc.No.45/2018/M9/Mines-A dated 08.07.2020
Total		18,69,04,106/-	

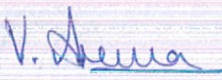
d. Against the Demand Notices issued by the District Collector, Salem Tvl.Dalmia Bharat Sugars and Industries Ltd., filed Writ Petition Nos.889 of 2020 and 894 of 2020 before the Hon'ble Madras High Court and the Writ Petitions were dismissed by the Hon'ble Madras High Court by Common Order dated 12.06.2020 in a batch of 175 Writ Petitions. Aggrieved by the above order, Writ Appeal No. 834 and 835 of 2020 filed by Tvl.Dalmia Bharat Sugars and Industries Ltd., and the appeals are pending before the Hon'ble First Bench of Madras High

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

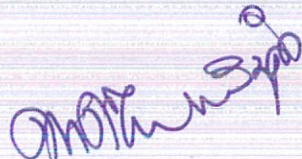
[Signature]
 COMMISSIONER
 COMMISSIONERATE OF GEOLOGY AND MINING,
 GUINDY, CHENNAI-600 032.

Court. No interim stay order has been granted in the two Writ Appeals.

- e. The Hon'ble Madras High Court by order dated 11.01.2022 in W.P. No.29275/2016 disposed the Writ Petition with the following directions among others that "6.The respondents are directed to conduct inspection and verify whether mining operations were done or not, by verifying the statement made by the learned counsel for the petitioner."
- f. Subsequently, the present Original Application No.213/2021 filed before the Hon'ble National Green Tribunal in which the National Green Tribunal has constituted a committee to ascertain as to whether,
- i. *The 6th respondent is having all necessary permissions/clearances from the authorities under the Environmental Law,*
 - ii. *Whether the 6th respondent is conducting mining in violation of the environmental laws without obtaining necessary clearance / permissions, if so since when they are doing the same.*



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

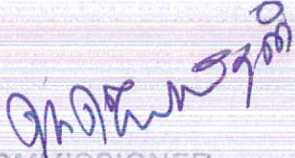
10


COMMISSIONER
COMMISSIONERATE OF GEOLOGY AND MINING,
GUINDY, CHENNAI-600 032.

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.*

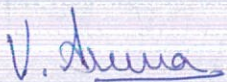
- g. In order to ascertain the quantum of minerals illegally extracted from the subject area, the Director of Geology and Mining vide proceedings Rc.No.1355/MM9/2006 dated 05.12.2021 has formed three teams of officials from the Directorate of Geology and Mining to carry out detailed survey of the subject area for assessment of actual quantum of minerals mined and transported by the 6th respondent without obtaining Environmental Clearance. The teams of officials inspected the area and conducted survey with Total Station and submitted report on 31.01.2022. An additional report on the quantum of mineral mined and transported has been filed by the 2nd respondent before the National Green Tribunal on 07.07.2022.
- h. Besides, the District Collector, Salem have been


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


COMMISSIONER
COMMISSIONERATE OF GEOLOGY AND MINING,
GUINDY, CHENNAI-600 032.

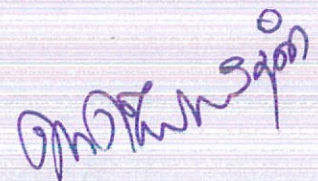
directed to take action under Section 21(5) of Mines and Minerals (Development & Regulation) Act, 1957 for the illegal mining and transportation of Magnesite and Dunite after taking into account of the transport permit issued prior to 1979-80. The demand towards illegal mining by the District Collector, Salem is yet to be finalized.

- i. In the meanwhile, it was decided to verify the report of the team of officials constituted by the Director of Geology and Mining in respect of quantum of minerals illegally removed / extracted in the subject area. Therefore, the Deputy Director General, Geological survey of India has been requested by the 2nd respondent vide letter dated 12.01.2023 to carry out a detailed assessment on the extraction of minerals, recovery percentage of Magnesite and Dunite and actual quantum of mineral mined and transported from the subject mining lease by Tvl. Dalmia Bharat Sugars and Industries Ltd., and to submit a report.
- j. In response to the same, the Geological Survey of



JOINT DIRECTOR

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

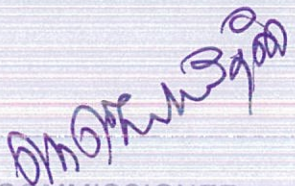


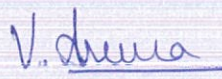
COMMISSIONER
COMMISSIONERATE OF GEOLOGY AND MINING,
GUINDY, CHENNAI-600 032.

India vide letter dated 27.01.2023 has informed that, it has appointed two officials to carry out the survey in the Mining leasehold area at Chettichavadi Jagir Village, Salem Taluk and District. Hence, after receipt of report from the Geological Survey of India, the inspection report of the Department officials will be examined and final report will be submitted before the Hon'ble National Tribunal.

Therefore, I humbly pray that the Hon'ble National Green Tribunal may be pleased to accept this report and pass appropriate orders as deem fit in the interest of justice and thus render justice.

Solemnly affirmed at Chennai
this the 15th day of February, 2023
and signed his name in my presence.


COMMISSIONER
COMMISSIONERATE OF GEOLOGY AND MINING,
GUINDY, CHENNAI-600 032.
BEFORE ME


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

