

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL (SZ)
CHENNAI
Original Application No. 213 of 2021 (SZ)**

S. Sakthivel ... Petitioner
Vs.
The Secretary to Government of India,
Ministry of Environment and Forest and Climate Change
And 5 others ... Respondent

**CHRONOLOGY OF EVENTS FILED ON BEHALF OF
THE SIXTH RESPONDENT**

Dated at Chennai on this the 20th day of February, 2023.

FILED BY



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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL (SZ)

CHENNAI

Original Application No. 213 of 2021 (SZ)

S.Sakthivel

Environmental Protection and Anti-Pollution Group

S/o P.K.Subramanyam

Alagu Vinayakar Kovil Street,

Fairland, Salem 636016

...Applicant

Vs

1. The Secretary to Government of India
Ministry of Environment and Forest and Climate Change
Indira Paryavaran Bhawan Jorbagh Road,
New Delhi 110003
2. The Director,
Department of Geology and Mines,
Industrial Estate, Guindy, Chennai 600032
3. The District Collector,
Collectorate, Salem 636 001
4. The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
Siva Tower, 2nd Floor, Salem 636004
5. The Member Secretary,
Central Ground Water Authority
Jam Nagar House,
18/11 Man Singh Road, New Delhi 110011
6. The Managing Director,
Dalmia Bharat Sugar and Industries Ltd.
Chettichavadi, Jagir Magnesite and Dunite Mines,
Chettichavadi Village, Salem West Tk.
Salem 636 012

...Respondents

CHRONOLOGY OF EVENTS FILED ON BEHALF OF
THE SIXTH RESPONDENT

S.No	Dates	Events
1.	25 th Feb 1966 G.O.MS.No.903	State Govt. of Tamil Nadu granted a mining lease in favor of Answering Respondent for mining of Magnesite.
2.	26 th June 1976 G.O.MS.No.801	Another Mining Lease was granted over the same area of land in favor of Answering Respondent for mining of Dunite for a period of 10 years.
3.	27 th Jan 1994	Environment Impact Assessment Notification 1994 came into force introducing requirement of Environment Clearance (EC) for industrial projects.
4.	11 th March 1997 G.O.MS.No.74/ 30 th March 1998	Order by the Government of Tamil Nadu sanctioning the first renewal of mining lease for a period of 20 years from 20.08.1986 to 19.08.2006 for mining Magnesite and Dunite minerals. (<i>Typeset of Documents – Volume III – filed on 21.04.2022 - Annexure R21 @ Page 47 to 50 @ Paragraph 3 and 4</i>)
5.	28 th Oct, 2004	Requirement of Environment Clearance (EC) at the time of renewal of mining lease (ML) was introduced by way of Office Memorandum in wake of Hon'ble Supreme Court Judgment dated 18 th March, 2004 <i>M.C. Mehta vs UOI & Ors</i> in (W.P. 4677/1985). (2004) 12 SCC 118
6.	11 th July 2005	Answering Respondent applied for the second renewal of aforesaid ML. The ML was due for renewal on 20 th August 2006. (<i>Typeset of Documents – Volume I – filed on 01.02.2022 - Annexure R1 @ Page 48</i>)
7.	9 th Feb 2006	Answering Respondent moved application for EC before Respondent No. 1 through the Secretary, Industries Department, and Government of Tamil Nadu, as per the prescribed procedure at the relevant time. (<i>Typeset of Documents – Volume I – filed on 01.02.2022 - Annexure R2 @ Page 62</i>)

8.	17 th Aug 2006	In the Writ Petition No. 25518 of 2006, filed by Answering Respondent, Hon'ble High Court of Madras granted an interim injunction in favor of Answering Respondent to operate the said mining lease. The said order dated 17 th August, 2006 still continues to be in force. (<i>Typeset of Documents – Volume I – filed on 01.02.2022 - Annexure R3 - @ Page 64</i>)
9.	14 th Sep 2006	New EIA notification issued by Respondent No. 1 without prescribing any requirement of EC at the time of renewal of ML. (<i>Petitioner's Typeset – Annexure A1 @ Page 21</i>)
10.	July 2010	The application for Environmental Clearance as filed by the Answering Respondent on 09.02.2006, was not processed by the authorities concerned for the period of 4 (four) years and it was returned by the Government of Tamil Nadu for submission to MoEF.
11.	17 th Aug 2010 / 12 th Oct 2011 /10 th Jan 2012	Answering Respondent fled / refiled its application for grant of EC to Respondent No. 1. The EC application was kept pending for want of credible action for mining without EC post August 2006. (<i>Typeset of Documents – Volume I – filed on 01.02.2022 - Annexure R3 - @ Page 68-70 & @ 71 to 73</i>)
12.	4 th April 2011	EIA notification of 14 th Sep 2006 was amended to include requirement of EC at the time of ML renewal. Stipulation as to EC in case of renewal of mining lease introduced for the first time. (<i>Typeset of Documents – Volume III – filed on 21.04.2022 - Annexure R24 @ Page 95</i>)
13.	8 th November, 2012	Consent to operate the mines under Air Act and Water act was renewed till 31.03.2013. Thereafter, TNBCB has not renewed the consent for want of EC
14.	5 th February, 2013	Two show cause notices were issued by TNPCB, Salem under Section 25 of the Water (Prevention and Control of Pollution) Act, 1974 and Section 21 of the Air (Prevention

		and Control of Pollution) Act, 1981 and the Answering Respondent has submitted its response.
15.	3 rd June, 2014	Show cause notice issued by TNPCB, Salem under section 19 (1) of the Environment Protection Act to show cause why criminal action should not be initiated for mining without EC and the Answering Respondent has submitted its response.
16.	18.09.2014 & 30.12.2014	TNPCB has amongst others refused to grant the consent order to operate the mines for want of EC.
17.	28 th Nov 2014	In W P No. 2364/2014, in the matter of Hindustan Copper v Union of India, reported in 2014 (307) ELT 662 (JHAR), the Hon'ble Jharkhand High Court observed that grant of EC and action for violation of EC norm are independent of each other and grant of EC cannot be withheld for want of action for violation of EC
18.	12 th Jan 2015	MMDR Amendment Act 2015 came into effect, prescribing amongst others, deemed extensions of exiting mining leases up-to 31 st March 2030 (Sec 8A (5) of MMDR 1957)
19.	4 th April 2016	Supreme Court in the matter Common Cause [(2016) 11 SCC 455] while clarifying scope of Sec 8A (5) of MMDR 1957 that If the renewal of ML are pending when MMDR Amendment Act came into force/ ML which had not been adjudged as lapsed would be entitled for benefit of extension up to 31 st March 2030
20.	14 th March 2017	MOEF issued notification prescribing procedure for grant of EC for the projects who are facing allegation of violation of environmental laws. (<i>Typeset of Documents – Volume III – filed on 21.04.2022 - Annexure R23 @ Page 88</i>)
21.	20 th June 2017	The First Respondent vide its letter dated 20 th , June 2017 had informed the Answering Respondent that its EC application can be considered under Notification bearing S.O. No. 804(E) dated 14.03.2017.

22.	2 nd August 2017	Supreme Court in the matter of <i>Common Cause v Union of India</i> reported in (2017) 9 SCC 499, imposed penalty equal to 100% of price of the mineral extracted during such illegal mining and F.Y. 2000-2001 was prescribed as base year to calculate such penalty.
23.	19 th March 2018	Answering Respondent submitted revised application for EC to MoEF (<i>Typeset of Documents – Volume I – filed on 01.02.2022 - Annexure R6 - @ Page 74</i>)
24.	11 th December 2018	Letter issued by Respondent No.2 (Department of Geology & Mining) to Dalmia confirming the production details from 1979-1980 to 2018 -2019 as per pit mouth register, pursuant to Dalmia's request to furnish the same (<i>Typeset of Documents – Volume III – filed on 21.04.2022 - Annexure R19 @ Page 31</i>)
25.	18 th June, 2019	District Collector directed Answering Respondent, to pay compensation of INR 11.44 Crores (approx.), without any show cause or hearing, for the Dunite cleared during the period 1 st April, 2000 to 31 st March, 2018 on the alleged ground of mining without EC, on the basis of Common Cause Judgement (W.P. NO. 114/2014, orders dated 2 nd Aug 2017). (<i>Typeset of Documents – Volume I – filed on 01.02.2022 - Annexure R7 - @ Page 75</i>)
26.	2018 -2020	EAC (Expert Appraisal Committee) meetings held for grant of TOR directing amongst others (a) to produce valid mining lease documents regarding subsistence /extension of lease up to March 2030 (b) Affidavit to comply with the directions of Supreme Court in the matter of Common Cause .
27.	Jan 2020	Answering Respondent filed W.P No. 889 /2020 before Madras H.C. to quash demand of INR 11.44 Crore , raised by District Collector, Salem , vide orders dated 18 th June 2019

28.	Jan 2020	Answering Respondent filed W.P No. 894 /2020 before Madras H.C. to seek declaration for deemed extension of Mining lease in view of Sec 8 (A) (5) of MMDR Act
29.	18 th Jan 2020	Notice of Temporary Discontinuation of mining operations was sent to DMG notifying discontinuation from 27 th Jan 2020, due to pendency of grant of EC. (<i>Typeset of Documents – Volume I – filed on 01.02.2022 - Annexure R9 - @ Page 81</i>)
30.	4 th May 2020	Show Cause Notice by TNPCB for carrying out mining without EC during the period of deemed renewal under Environment Protection Act. ANSWERING RESPONDENT has filed its reply dated 6 th July 2020. (<i>Typeset of Documents – Volume I – filed on 01.02.2022 - Annexure R10 - @ Page 83</i>)
31.	12 th June 2020	Common Order passed by the Principal Bench of the Hon'ble High Court of Madras in W.P. No. 889 and 894 of 2020, along with a batch of Writ Petitions challenging demand based on <i>Common Cause</i> judgement. Writ Petitions dismissed with costs.
32.	8 th July 2020	District Collector, Salem-636001, to pay compensation of INR 7.24 Crores (approx.), without any show cause or hearing, for the Magnesite cleared during the period 1 st April, 2000 to 31 st March, 2018 without any show cause notice and/or opportunity of hearing on the basis of Common Cause Judgement (W.P. NO. 114/2014, orders dated 2 nd Aug 2017). Interim reply filed. (<i>Typeset of Documents – Volume I – filed on 01.02.2022 - Annexure R8 - @ Page 78</i>)
33.	19 th August 2020	Madurai Bench of Madras High Court in a different batch of petitions (W.P (MD) No. 24463 of 2018 & Ors,) in respect of demand of compensation for mining without EC and it has taken a contrary view that such demands cannot

		be imposed without Show Cause / opportunity of hearing and has referred the matter to a larger Bench.
34.	August 2020	Answering Respondent filed WA No. 834 -835 of 2020 against orders dated 12 th June 2020. The Writ Appeals are pending before the Division Bench.
35.	31 Dec 2020	EAC (Expert Appraisal Committee) meeting for grant of TOR. Standard TOR recommended during meeting itself.
36.	5 th Feb 2021	MOEF issued letter granting TOR, directing Answering Respondent amongst others to produce: (a) valid mining lease documents regarding subsistence /extension of lease up to March 2030 (Condition (xviii) of ToR – relates to submission of mining lease document) (b) Affidavit to comply with the directions of Supreme Court as per judgement in Common Cause matter. <i>(Typeset of Documents – Volume I – filed on 01.02.2022 - Annexure R11 - @ Page 85)</i>
37.	14 th July 2021	Answering Respondent filed application U/r 20 of MCR 2016 seeking extension of period of temporary discontinuation for period exceeding two years
38.	Oct 2021	NGT Application filed by the Applicant raising issues which are also the subject matter of the Writ Appeals, pending before the Hon'ble High Court.
39.	29 th Nov 2021	In pursuance of TOR, Answering Respondent filed its Environment Management Plan before Expert Appraisal Committee (EAC) of Respondent No 1
40.	15 th Dec 2021	43 rd EAC Meeting of MoEF conducted meeting from 14 th to 16 th December 2021 for consideration of EC applications, including that of Dalmia's. The project proponent was directed to comply with condition (xviii) of ToR dated 05.02.2021 i.e. submission of mining lease documents and evidence that the mining lease has not

		lapsed. (<i>Typeset of Documents – Volume III – filed on 21.04.2022 - Annexure R20 @ Page 34</i>)
41.	11 th Jan 2022	W.P 29275/ 2016 was disposed of Hon'ble High Court of Madras with the observation that Answering Respondent is to first seek EC and then approach Respondent No. 2 for regularization of its mining lease
42.	31 st Jan 2022	Answering Respondent move application for removal of the condition pertaining to submission of valid mining lease document from the ToR. (<i>Typeset of Documents – Volume III – filed on 21.04.2022 - Annexure R21 @ Page 43</i>)
43.	15 th Feb 2022	EAC (Expert Appraisal Committee) of Respondent No. 1 considered EC application, grant of EC was opposed by Respondent No. 2. EAC (Expert Appraisal Committee) observed that clear cut orders from the Court would be required for grant of EC. (<i>Typeset of Documents – Volume VII – filed on 15.02.2023 - @ Page 1</i>)
44.	18 th April, 2022	Answering Respondent submitted its representation to the 1 st Respondent for grant of EC without insisting for mining lease document. (<i>Typeset of Documents – Volume VI – filed on 29.07.2022- Annexure R34 @ Page 39</i>)
45.	9 th December, 2022	Letter issued by Commissioner of Geology and Mining to the First Respondent, confirming that the mining lease of Answering Respondent is valid till 31.03.2030 in view of Section 8A(5) of MMDR Act. (<i>Typeset of Documents – Volume VII – filed on 15.02.2022 - @ Page 14</i>)
46.	17.01.2023	EAC (Expert Appraisal Committee) of Respondent No. 1 considered EC application, and deferred the proposal for the reasons amongst the others being <ul style="list-style-type: none"> i. Deposit of demand of Rs. 18.69 Crores raised by the State authorities and to submit the proof of payment. ii. Status of Credible action to be initiated by the State Government against the Answering

		<p>Respondent/proof of filing of criminal complaint.</p> <p><i>(Typeset of Documents – Volume VII – filed on 15.02.2022 - @ Page 16)</i></p>
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The Answering Respondent submits that the Applicant's primary grievance in the Original Application pertained to mining operations that were allegedly carried out without a valid mining lease and environmental clearance. In fact, upon receipt of the application for Environment Clearance, the MoEF had insisted on the production of valid mine lease documents to be submitted (**Condition (xviii) of ToR**). Vide letter dated 09.12.2022, the Commissioner of Geology and Mining has clarified that the mining lease has been deemed to be extended *inter alia* up to March 31, 2030 or for a period of 50 years from the date of grant of such lease, whichever is later, by virtue of Sec 8A (5) of the MMRD Act 2015. In view of the above position/ clarification, the Answering Respondent submits that *it is now clear* there is no impediment to consider the grant of environment clearance. It is not out of place, to *most respectfully submit*, that the MoEF, may fairly and, positively consider the issue qua the EC, in regard, to which this aspect has been inordinately delayed and, MOEF may not to insist on payment of compensation for purported violations/ initiation of credible action by TNPCB for purported violations, as it is against the well-settled position of law. In any event, the issues *pertaining to* payment of such amounts is *sub judice* before the Hon'ble Madras High Court and TNPCB is seized of the initiation of credible action. Lastly, the instant Original Application deserves to be closed as the allegation of the Applicant stands, *validly* addressed in view of the aforementioned facts.

Dated at Chennai on this the 20th day of February, 2023.



Counsel for the 6th Respondent



Nataraj Rao Raghu & Sundaram <nrrandschennai@gmail.com>

O.A. No. 213 of 2021 - S.Sakthivel Vs. Secretary, MoEF and 5 others - National Green Tribunal, Chennai

Nataraj Rao Raghu & Sundaram Advocates <nrrandschennai@gmail.com> Mon, Feb 20, 2023 at 8:24 AM

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Cc: POORNAM THANGAPERUMAL <poornamt@yahoo.com>, Rishwanth V S <rishwanthvs@gmail.com>

Sirs,

We act for the 6th Respondent in the Subject O.A.

Please find attached a scanned copy of the Chronology of Events filed on behalf of the 6th Respondent.

Kindly Acknowledge Receipt.

Yours faithfully

T.Poornam

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