

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

Appeal No.27 of 2023

IN THE MATTER OF:

Pasupuleti Suresh Badu

Suryapet District, Telangana.

...Appellant(s)

Versus

The Govt. of India,

MoEF&CC New Delhi and Ors.

...Respondent(s)

**COUNTER FILED BY THE 6TH RESPONDENT (DISTRICT FOREST
OFFICER) ON BEHALF OF THE 3RD, 4TH, 5TH RESPONDENTS**



Mrs. H. YASMEEN ALI,

COUNSEL FOR THE 6TH RESPONDENT

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

APPEAL NO. 27 of 2023

BETWEEN

Sri. Pasupulteti Suresh Babu, M/35,
Son of Shivaramakrishna,
D.No.41-139,Vajinepalli Village,
Chintalapalam Mandal,
Suryapet District,
Telangana state-508246,
E-mail ID:safeman6789@gmail.com
Phone No:9381469656.....

... Petitioner

AND

1. The Government of India,
Ministry of Environment, Forest and Climate change,
Impact Assessment Division,
3rd Floor, Vayu wing,
Indira paryavaran Bhavan,
Jor Bagh Road,
Aliganj, New Delhi-110003,
E-mail ID: rb.lal@nic.in
Phone No:011-20819346.
2. The Inspector General,
Integrated Regional Office,(M.O.E.F & C.C)
Aranya Bhavan, Opp. Reserve Bank of India,
Hyderabad,
Telangana state-500004,
E-mail ID: iro.hyderabad-mefcc@gov.in
Phone No: 9989044556.
3. The Special Chief Secretary to Government,
Department of Environment, Forest, science & Technology,
Government of Telangana,
Hyderabad,
Telangana state-500004,
E-mail ID: prlsecy_efst@telangana.gov.in
Phone No:040-23453111.

H/23
Forest Range Officer
SURYAPET

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11/2/2024
District Forest Officer
SURYAPET.

4. The principal Chief Conservator of Forests,
Telangana,(Head of the Forest),
Aryana Bhavan, Saifabad,
Hyderabad-500004,
E-mail ID: pccftelangana@gmail.com
Phone No:040-234531404.
 5. The District Collector,
Suryapet District,
Telangana-508213,
E-mail ID: dfosuryapet@gmail.com
Phone No:7093215511.
 6. The District Forest Officer,
Suryapet District,
Telangana State-508213.
E-mail ID:dfosuryapet@gmail.com
Phone No:7093215511.
 7. The Assistant Director of Mines & Geology,
Suryapet District,
Telangana State-508213
E-mail ID:admgsuryapet@gmail.com
Phone No:8106660012.
 8. M/s.Deccan Cements Limited,
Represented by its Chairman/Managing Director,
6-3-666/B, SOMAJIGUDA,
Opp.NIMS Hospital,
Telangana,
Hyderabad-500082.
E-mail ID:md@deccancements.com
Phone No:9849031851
- ...Respondents

COUNTER AFFIDAVIT FILED BY THE 6TH RESPONDENT

I, Vemuri Sathish Kumar, S/o Seetha Ramaiah, aged about 55 years, working as District Forest Officer, Suryapet District, Telangana do hereby solemnly affirm and sincerely state on oath as follows:

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Attested
Forest Range Officer
SURYAPET

15/2/2024
District Forest Officer
DEPONENT
SURYAPET.

1. I am the 6th respondent herein and as such I am well acquainted with the facts of the case and depose here and also on behalf of 3rd, 4th, 5th respondents. I have gone through the affidavit filed by the petitioner in support of the writ petition and I hereby deny all the averments made therein except those which are specifically admitted hereunder and the petitioner is put to strict proof of all the allegations made therein.
2. In reply to the averments made in Para No.1 of the affidavit, I respectfully submit that, no remarks are submitted.
3. In reply to the averments made in Para No.2 of the affidavit, I respectfully submit that, these are the statements of facts and hence no remarks are submitted.
4. In reply to the averments made in Para No.3 of the affidavit, I respectfully submit that, it is a fact that the Forest Advisory Committee in its meeting held on 26.11.2011 specifically stipulated that State Government shall ensure reclamation of forest land located in the existing mines of project proponent i.e., M/s. Deccan Cements Ltd. and its extract is as below.

“The state government shall ensure reclamation of forest land located in their existing mine. Mining in the forest land proposed for diversion shall be allowed only after the work for reclamation of the mined-out area in their existing mine is initiated and the State Forest Department shall monitor the progress of the reclamation work”.

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District Forest Officer
Deponent
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And the allegation made by petitioner that the State Forest Department has totally failed to monitor the reclamation work in the existing mines operated by the 8th respondent is false as the State Forest Department is continuously monitoring the reclamation work and ensured that the same has been initiated in the field and guiding the project proponent to implement the same in proper manner from time to time.

5. In reply to the averments made in Para No.4 of the affidavit, I respectfully submit that, the Dy. Conservator of Forests, in his monitoring report Dt.04.07.2016, for ML-3 (Diversion of 183.11 ha of Forest Land, in Compartments No.26 & 27 of Saidulanama Reserve forest of erstwhile Nalgonda Forest Division in erstwhile Nalgonda District, for limestone mining, in favour of M/s Deccan Cement Limited, Hyderabad, under Forest(Conservation)Act,1980), reported that the following omissions are noticed in implementation of reclamation of land.
- a. The reclamation plan as stipulated in the FC conditions has not been carried out properly and also the mine has not been closed properly as per the IBM approved mine closure plan. Proper sloping has not been provided to mined out area.
 - b. The plantation carried out as part of reclamation work has been found unsatisfactory. The General Manager, Deccan Cements, present during the inspection has informed that since all the dug- up material are exhausted by the company, enough material is not available for carrying out the reclamation. Hence UA may be instructed to bring out fresh soil from outside and carry out the reclamation work properly.

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- c. The lime stone material is dug up from the rocky portions up to a depth of 10 to 20 meters resulting in creation of large water body.

The UA, in consultation with Divisional Forest Officer, Nalgonda may be asked to carry out pisciculture in the stored water.

It is submitted that, the Dy. Conservator of Forests, in his report has pointed out the above omissions and instructed the State Forest Department to give compliance report on the above mention observations. Hence, the report says that the reclamation work is not satisfactory and that all the dug-up material was exhausted in reclamation work and hence directions was given to bring fresh soil from outside. Hence, the averment that the reclamation has not been initiated and not monitoring is not done by State Forest Department is false.

6. In reply to the averments made in Paras No.5 to 11 of the affidavit, I respectfully submit that, the petitioner repeatedly submitted about the noncompliance of conditions imposed in stage - I (in-principle) and stage -II (final) forest clearances (of Diversion of 183.11 Ha. of Forest Land, in Compartments No.26 & 27 of Saidulanama Reserve Forest of Nalgonda Forest Division in Nalgonda District, for limestone mining, in favour of M/s Deccan Cement Limited, Hyderabad under Forest (Conservation) Act,1980), as well as the forest advisory committee meeting decisions on reclamation of forest land and also the orders of the Hon'ble Supreme Court Dt.08.01.2020 in W.P.(Civil)No.114 of 2014; and the State Forest Department has failed to monitor the conditions.

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A. It is respectfully submitted that the reclamation of land in mined out area by project proponent i.e., M/S Deccan Cemets Ltd. has been initiated and the State Forest Department is monitoring the same from time to time by inspecting frequently and suggesting the project proponent in implementation of plan. During the inspection by the Forest Range Officer, Huzurnagar and District Forest Officer, Suryapet Dt.20.05.2023 the following reclamation initiations are observed:

a) Mining Lease – I: Extent of Forest area involved is 22.50 Ha in Compt.No.27, Saidulnama RF, Huzurabad Range, Suryapet District.

Stage-II (final) forest clearance was granted vide vide GoAP, EFS&T (For.I) Dept. Go.Ms.No.298, Dt.02.11.1991. Forest land was handed over back to the Forest Department on 23.12.2000 after completion of mining.

The following are the observations made during the field inspection:

- i. There is no mining activity in ML-I
- ii. Out of 22.5 ha leased out forest area, part of the area i.e., 6.50 ha was back filled and planting carried out with Kanuga, Seema thangedu etc., and lot of prosopis growth come up in the filled area.
- iii. An extent of 8.5 ha of mined out area has been converted into water body.
- iv. As per mining plan the user agency is supposed to do pisciculture, boating etc., but presently no such activity is taken up as they are non-forestryactivities.
- v. Out of 22.50 ha of Mining lease area, no mining activities has been taken up in 7.5 ha area and kept unopened.

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vi. It is further respectfully submitted that a Joint Committee appointed by the Hon'ble Green Tribunal, Chennai in connection with the OA No.33 of 2016 reported that

a. MoEF&CC (IA Division) in F.No: 22-34/2018-IA.III, Dt: 16.01.2020, in pursuance to the orders of the Hon'ble Supreme Court Dt.08.01.2020 in W.P.(Civil)No.114 of 2014, directed the Authorities to include the following additional condition in the EC already granted to mining projects and to be granted henceforth:

"The mining lease holder shall, after ceasing mining operations, undertake re-grassing the mining area and any other area which may have been disturbed due to their mining activities and restore the land to a condition which is fit for growth of fodder, flora, fauna etc.,"

- b. As per the IBM approved mining plan of Mine Lease – I, part of the area is back filled and part of the area is kept as a water body for storage of the rain water. The project proponent has handed over the ML-1 area to the Forest Department on 23.12.2000.
- c. The ML-1 area has already been closed as per the IBM approved mining plan and handed over to the Forest Department on 23.12.2000. Hence, this condition may not be applicable to ML-I.

The OA No.33 of 2016 has been disposed off by the Hon'ble National Green Tribunal (NGT), Chennai with directions.

b) Mining Lease – II - Extent of Forest area involved is 73.93 Ha in Compt.No.27, Saidulnama RF, Huzurabad Range, Suryapet District.

Stage-II (final) forest clearance was granted vide vide G.O.Ms.No.51, EFS&T (For.I) Dept., Dt.05.05.1998, a period of (20) years. Deemed extension has been granted by the State Government in GoTS, EFS&T (For.I) Dept. Go.Ms.No..41 EFS&T (For.I) Dept., Dt.15.09.2021 upto .08.02.2050.

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 District Forest Officer
 Deponent
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During the site inspection of ML-II, it is noticed that the following reclamation of land initiated:

- i. Mining activity is under progress in this mining lease area.
- ii. About 9.0 ha of lease area in which mining activity is completed is retained as a waterbody and the waterbody area is demarcated by way of small earthen bund and with RCC pillars.
- iii. Mining lease is boundary demarcated with chain link fencing and boundary walls.
- iv. Along the lease periphery, around 7 to 10m width is maintained as a safety zone and forestry tree species such as Jitregi, Kanuga, Neem are planted and are being irrigated by using drip irrigation system.
- v. The State Forest Department is monitoring the implementation of the reclamation plan as per progressive mine closure plan by the project proponent i.e., M/S Deccan Cements Ltd.
- vi. The mine lease of ML-2 have expected life for a period upto 2050.
- vii. In the Mining Plan and Progressive Mine Closure Plan of ML-2, it is recorded that, **the following methods will be implemented, as it was done in the ML-I.**

- The entire mined out pit covering 61.576 ha (at the end of all the mining operations in the area) will be converted into a water body as there is no backfilling material is available in the lease or generated during the course of mining operations.
- All benches will be dressed up for any loose overhangs and stabilize before discontinuing the mining operations.
- Plantation will be carried out all along the lease periphery buffer zone of 7.5m and approach roads.
- Plantation will also be taken up on the top benches. Garland drains will be made all around the lease area.

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District Forest Officer
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- No permanent structure will be constructed within the lease as stipulated by MoEF & CC. Hence, no buildings or structures will be leftover at the time of closure.
- As on today, out of 73.93 ha of land, in approximately 9 ha of land, mining activity has been completed by project proponent and the same is retained as a water body and the water body area is demarcated by way of small earthen bund and with RCC Pillars.
- Hence the reclamation activity is carrying out in accordance with the IBM approved mining plan.

c) Mining Lease-III – Extent of forest Area involved: 183.11 Ha

Stage-II (final) forest clearance was accorded vide G.O.Ms.No.85, EFS&T(For-I)Dept.,09.10.2013. Opened on 23.03.2015 (vide User agency Lr.Dt.23.03.2015 addressed to C.G & IBM, Nagpur)

- Currently mining activity is under progress.
- ML-III mining activity was started after initiation of reclamation of other mines (i.e., ML-I & ML-II) by M/s. DCL. As per Form-C (notices of initiation of opening of mine) under R-22 (1), 22 (2), 25 & 49 of MCDR, 1988 by useragency to the CG, IBM, Nagpur.
- The mining lease has been monitored from time to time by the field officials and reclamation work in ML-2 is already initiated (creation of water body and planting along periphery) and also reclamation work like creation of water body back filling and planting has been taken up in ML-I by the user agency as per reclamation plan and handed over to Forest Department Dt.26.12.2000.
- The mine lease of ML-3 have expected life for a period upto 2063.

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District Forest Officer
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Hence, it is submitted that from above it is clear that the initiation of reclamation of existing mines has been initiated by UA. Hence, the allegations made by Petitioner on non-initiation of reclamation of plan and also non monitoring by forest department is false and fabricated.

7. **In reply to the averments made in Para No.12 of the affidavit,**

It is respectfully submitted that the petitioner has stated that the District Forest Officer, Suryapet i.e., 6th respondent has conducted field inspection of Mine -III lease area duly suppressing all the material violations of the 8th respondent and issued the certificate dt.05.12.2022 thereby doing favor to 8th respondent and led to issue of the environmental clearance by the 1st respondent is false and fabricated. The 6th respondent has only issued the letter for taking-up conservative measures for protection and development of forests and wild life mentioning the details of flora and fauna and suggesting their conservative measures in Bhavanipuram Mine -III area located in saidulnama RF (copy enclosed).

- i. The letter was issued on request from 8th respondent vide Rc.no.DCL;ML-3:NSR:2020-23:197, dt.18.11.2022 duly inspecting the field by Range Officer, Huzurnagar and District Forest Officer, Suryapet. Hence the alleged certificate dt.05.12.2022 said to be issued by 6th respondent by petitioner is no way connected with reclamation of forest land. Hence, it is clearly showing the mollified intention of the petitioner to blame and defame the State Forest Department with an unknown reason best known to him, as the petitioner also earlier approached the Hon'ble National Green Tribunal vide appeal no.44 of 22. The Appellant herein vide Appeal No. 44 of 2022 had challenged the Environment clearance dated 06.07.2022 for

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"Expansion of Cement Plant with Clinker Production Capacity from 1.7 to 3.2 MTPA and cement (OPC/PPC) production TO 1.8 to 4.0 MTPA (by installing a new unit (Unit III) & power from 18 to 33 MW (by installation of WHRB Power Plant)" issued by the Scientist E cum Additional Director, Ministry of Environment Forest and Climate Change. That the said Appeal was withdrawn by the Appellant with liberty to challenge the Stage 2 approval and hence has chosen to prefer the present appeal now. The order of this Hon'ble Tribunal permitting the Appellant to withdraw is dated 19th January 2023".

The project proponent paid an amount of Rs.5,75,89,921/- as per MoEF instructions towards compensatory afforestation and also paid a sum of Rs.1,20,00,000/- towards cost and erection of boundary pillars throughout the boundary line of Saidulnama Reserve Forest on dated: 12.08.2021. The project proponent identified CA land in nearby area called Charakonda to an extent of 8.98 Ha. and handed over the same to the Forest Department. Wildlife Mitigation plan was also initiated and Rs.80,00,000/- was also deposited towards Wildlife Mitigation measures.

8. For the reasons stated above the Hon'ble National Green Tribunal may be pleased to dismiss the appeal no.27 of 2023 and pass such other order or orders as this Hon'ble National Green Tribunal may deem fit and proper in the interest of the justice with costs.

HJS
Forest Range Officer
SURYAPET

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DEPONENT 15/2/2024
District Forest Officer
SURYAPET.

Solemnly affirmed before

me on this ... 15-2-2024

at ... Suryapet

HJS
Forest Range Officer
SURYAPET