

**BEFORE THE NATIONAL GREEN TRIBUNAL**  
**SOUTHERN ZONE BENCH AT CHENNAI**  
**ORIGINAL APPLICATION NO: 30 OF 2020**  
**(EARLIER O.A.NO.337 OF 2018 PB)**

**IN THE MATTER OF:-**

**K. HIROJI RAO**

...APPLICANT

VERSUS

**UNION OF INDIA & ORS**

...RESPONDENTS

THROUGH



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**PLACE:** Chennai

**DATE:** 5.3.2021

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**WRITTEN SUBMISSION ON BEHALF OF THE APPLICANT**

1. That the Applicant a farmer having agriculture land near the stone crusher units has approached this Hon'ble Tribunal after several years of endless fight against pollution activities caused by the Mine lease holders and Stone crusher units before Revenue department, Lokayukta, Hon'ble High Court of Andhra Pradesh. After the intervention of this Hon'ble Tribunal, a comprehensive study has been conducted on the reasons for pollution, noncompliance of the conditions imposed in Consent For Operation, illegal blasting etc. Though the officials/Committee members changed their stand multiple times, finally the Joint Committee recommended **Rs. 1,17,40,000/-** as Environment Compensation to recover from the polluting units. This vindicates the contention of the Application on the pollution caused by the Stone crusher units.
2. This Hon'ble Tribunal has expressed its doubt about the collusion of the officials with the Stone crusher units in its order 12.11.2018. The relevant extracts of the order are reproduced as under:

**“7. We are seriously perturbed by the scenario. There appears to be an obvious collusion between the miners, operators of the crusher units and the regulatory authorities. It is not understood as to how the closure order could have been revoked merely on the compliance of only some of the observations made in the joint inspection report.”**

8. The scale of mining in a limited area of 200 acres in our view is beyond its capacity which is revealed by its effect on the three villages in the vicinity.”

3. That after filing the detailed objections to the Report dated 4.3.2020 by the Applicant, ***the Joint inspection Committee has taken complete ‘U’ turn in the December, 2020 report and imposed the above Environment Compensation.*** But the calculation of Environment Compensation was completely contrary to the formula prescribed by the CPCB and the actual loss caused to the Ambient Air Quality, Damage to the health and Agriculture loss, loss caused to public structure, violations of mining norms leaving aside the punitive compensation.
4. As per the methodology prescribed by CPCB for fixation of Environment compensation, the number of days of violation has to consider ***“between the day of violation observed/due date of direction’s compliance and the day of compliance verified by CPCB/SPCB/PCC”***. Thought it is not correct in the present case because the polluting units are carrying their activities in violation of Environment (Protection) Act, Air and Water Act from 2007-08. That the PCB has issued multiple closer orders/directions to the Respondent Units between 2015-18. But the Joint Committee has considered only 43 days as non-compliance which is completely erroneous and contrary to Article 14 and 21 of the Constitution of India. That the committee erroneously calculated the Environment Compensation as mentioned below:
  1. **Environmental Price of Particulate Matter** (EP<sub>pm10</sub> & EP<sub>pm2.5</sub>) was calculated by the Joint Committee at para 3.1.3 of page 5 of the report as Rs.7,90,000/- per day. And in para 3.1.4 at page 6 of the report, the “Damage to Air Quality/day (DamageAO) in monetary terms” was reduced/calculated 25 percent to Rs.7,90,000/- **based on assumption not on the basis of facts and circumstances.** So the Committee has reduced the liability on the polluting industry 3 times. Besides that the period of damage caused/non-compliance was considered by the committee as only 43 days. The formula adopted for this purpose is **period between committee visit and closer order/disconnection of power supply.** But the applicant has produced the show cause notice issued by Revenue Department dated 14.12.2016 at page 71, Report of

**Assistant Director of Agriculture vide Roc.No.79/2016-17 dt.30.12.2016 at page 66,67, Report of Joint Director of Animal Husbandry dated 7.3.2017 at page 89 of the Application filed before this Hon'ble Tribunal that the authorities have confirmed the pollution and initiated action against the polluting units.** That the contention of the Applicant is that the Units are running without following the pollution control norms from the existence/establishment of Units till the closer orders issued prior and subsequent to filing of the present Application before the Hon'ble Tribunal. Hence the period of damage is not 43 days. It would be around 10 years. As per the Section 15 of the NGT Act, 2010, damage caused in for the past 5 years has to be considered. But the Joint Inspection Committee has erroneously considered only 43 days. The Committee has erred in two counts:

- a. **By assuming the contribution of Stone crushers in Air quality as 25 percent. If stone crushers are not exists, there would have no pollution in the surrounding areas. Hence the Environment compensation according to the committee even for 43 days must be  $7,90,000 \times 43 = 3,39,70,000/-$ . But the committee fixed only Rs. 84,92,500/-.** This needs to be recalculated.
2. Damage Assessment of Health Issue, the Committee has considered the census of 2011 during the preparation of report in December, 2020. That only respiratory related cases considered by taking data from MPHC, Bommanahal. Where as the pollution effected residents takes treatment for skin, heart etc in Bellaray of Karnataka State as the better health facilities are available at 10-15 Km distance. Besides that the health damage caused to livestock is not considered by the committee as the people depend on livestock. That the applicant produced the report of Animal husbandry at page 89 of Original Application clearly indicates that **“heavy silica dust on leaves which is harmful to the animal upon consumption”**. This aspect is not yet all considered. That the Applicant and other small farmers get/supplement their livelihood by way of grazing of livestock such as goats, sheep etc. They were undergone heavy loss due to pollution caused by stone crushers.

3. Agriculture Production Loss in 1238.52 acres of land surrounding to the 21 Stone Crushers has been confirmed by the Joint Committee. This confirms the contention of the Applicant whose agriculture land is situated 50-100 mtrs from to the Stone crusher units. **That the crop loss due to dust pollution caused by Stone crushers was considered for only 2018-19. Whereas the farmers were undergoing losses at the cost of profits/business to the Stone crushers for more than a decade. The production of Groundnut and Cotton was very badly affected. The normal yield of Groundnut in the area is 4 quintal whereas the average yield of Groundnut in the affected area is only 1.6 Quintal which means less than 60 percent. In case of Cotton, normal yield of the crop is 8 Quintal whereas in the affected area it is 3.6 Quintal. This is also 55 percent less than normal yield. Besides that in case of cotton, if the colour/brightness of the cotton is low, then the farmers will get very less rate. That the total Agricultural production loss is quantified for the year 2018-19 as Rs. 1,64,25,252.4/- by the Joint Committee. But it has attributed to the Stone crushers as only 10 percent of the total loss (mentioned at Page 8 of the Report of December, 2020). That on the one hand the Joint Committee itself states that the loss caused to the agriculture is Rs. 1.64,25,252.4/- in the year 2018-19 but it has erroneously reduced it to one tenth of the actual loss which will benefit the Polluting Units at the cost of poor farmers. That the Committee erred in two counts;**

**a. By reducing the Crop loss to one tenth**

**b. By not calculating the loss atleast for 5 years for the past violations/causing pollution according to the Section 15 of the NGT Act.**

That Section 15 of the NGT Act, 2010 reads as under:

*“15 Relief, compensation and restitution. -*

*(1) The Tribunal may, by an order, provide,-*

*(a) relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in the Schedule I (including accident occurring while handling any hazardous substance);*

*(b) for restitution of property damaged;*

*(c) for restitution of the environment for such area or areas, as the Tribunal may think fit.*

*(2) The relief and compensation and restitution of property and environment referred to in clauses (a), (b) and (c) of sub-section (1) shall be in addition to the relief paid or payable under the Public Liability Insurance Act, 1991 (6 of 1991).*

*(3) No application for grant of any compensation or relief or restitution of property or environment under this section shall be entertained by the Tribunal unless it is made within a period of five years from the date on which the cause for such compensation or relief first arose: Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days.*

*(4) The Tribunal may, having regard to the damage to public health, property and environment, divide the compensation or relief payable under separate heads specified in Schedule II so as to provide compensation or relief to the claimants and for restitution of the damaged property or environment, as it may think fit.*

*(5) Every claimant of the compensation or relief under this Act shall intimate to the Tribunal about the application filed to, or, as the case may be, compensation or relief received from, any other court or authority."*

**Damage to Anjaneya Swami temple, houses, ground water, borewells, mining violations, noise nuisance not considered by the Committee:**

4. That the Joint Committee stated that it has felt the ground shocks at the time of their visit to Nemekallu beyond 1.5 km due to blasting in the mining quarry. This fact was referred in the report dated 18.8.2018. But it has not assessed the compensation for the loss/damage caused to the Idle and building of Anjaneyaswami in Nemekallu Temple complex a historical religious place and public property, residential houses in SC Colony etc, due to vibrations caused by high intensity bore blasting. The relevant extracts of the Joint Committee report dated 27.6.2018 and 18.8.2018 are reproduced as under:

**Extracts of the Report dt. 18.8.2018:**

**Field Observations:**

a. Nemakal Village: The village is located in the Western side of hillock (Stone quarry), out of 22 crusher, five (5) crushers are located in South- East direction and seventeen (17) crushers are located in North - East direction of the village. During monitoring, major wind direction observed was either North-West to South-East or West to East and also observed heavy wind blow in the area. Because of prevailing wind pattern no much impact due to stone crushing activity was observed. However, the SC colony of Nemakal village is located 0.5 km from the stone quarry (mining) area. The dust generated during mining and blasting may affect the air quality of Nemakal village. Structural damages due to deep bore / uncontrolled blasting in the quarry may not be ruled out; **during monitoring the joint team also experienced the tremor of earth at a distance of about 1.5 km from the blasting area.** Villagers reported that many people are suffering from skin disease and silicosis due to fumes generated during mine blasting.

#### **Extracts of the report dt. 27.6.2018:**

**“1. Fine cracks shown by the petitioner were observed in the walls of Residential houses and temple. The cracks noticed were air crack type in nature and this may be due to aging of structure, however, same may be ascertained by the concern department.**

2. The applicant alleged that the deep bore blasting is being carried out against the norms in the entire mining area, consequently the Nemakal village is affected more particularly the S.C Colony which is existing proximately to the mining area. The team observed that the total mining activity is carried all around the hill existing in the western direction of the village.

**3. There are about 24 mining leases granted by the Department of Mines & Geology totaling to an extent of about 235 acres spreading about 2 Km radius. Details were furnished in the *Annexure -3* along with map. Though there are 24 individual mining leases, the cumulative impact on the village has to be considered.**

**4. The process of mining involves drilling of bores/holes deep below the surface and packing with the explosive material. The complainant alleges that large numbers of deep holes are made violating the norms of depth and number of holes prescribed by the mining dept resulting more vibrations and fugitive dust emissions. The joint team observed the blasting operations which are resulting in fugitive emissions for short duration along with vibrations causing fine dust blown on the village when the wind direction is towards the village.**

5. The joint team visited the agricultural field and observed the bore wells which were not in operation; however the same may be ascertained by the concerned department

regarding exact causes for collapse/damages of bore wells in the agricultural field.

.....

#### **8. Overall findings :**

i. The Nemakal village has cumulative impact due to blasting operations of 24 mining quarries in western direction of the village and mining activity is causing fugitive fine dust pollution blown on the village for some duration when the wind direction is towards village. The mining dept has to ensure that the norms of blasting are implemented.

ii. The Exact intensity of vibration at village due to blasting can be measured by the respective expert Department/Institution such as Directorate General of Mines Safety, Govt of India.”

#### **Compensation for utilization of Ground Water is not Assessed:**

5. That this Hon'ble Tribunal through its four orders has directed the Joint Committee and Ground water department to assess compensation for the usage of ground water by Stone crusher units. But that aspect was completely ignored by the Joint Inspection Committee. The relevant extracts of the orders in regard to ground water is reproduced as under:

##### **“i. Order dated 29.5.2019:**

5. However, as there is also allegation of unauthorised drawal of ground water, it shall be verified as to whether ground water is being extracted by bore-wells for operation of the units and, if so, whether permissions have been granted for the purpose. It is also to be verified as to whether the area falls under Over-Exploited, Critical and Semi-Critical areas. If the area falls under any of these zones, the CGWA shall consider as to whether permission to extract ground water can be permitted at all.

##### **ii. Order dated 31.7.2019:**

12. In the meantime, the Central Ground Water Authority is directed to ascertain the source of water for these units to run and whether any borewells were dug in the area where the units are operating and whether any permission is granted for that purpose and the quantity of the water required and the source from which they are getting it and whether it is sufficient for them to run the unit in the manner in which they have promised as per the application for getting the necessary environmental clearance as well as consent to operate. If units are found to be extracting ground water without any necessary permission, the CGWA is directed to assess the damage caused on account of exploitation of ground water by the units who have committed such default as has been directed by

this Tribunal in several decisions and if any such illegal borewell is found then steps have to be taken by the CGWA to seal the same as well apart from calculating the compensation payable for such illegal act and the CGWA is directed to submit the report in this regard.

### **iii. Order dated 14.10.2019:**

2. The Mining Department is directed to carry out the exercise taking into consideration the fact that the matter is pending before this Tribunal for nearly one and a half years now and the orders have been passed some six months back. The Central Ground Water Authority is also directed to file their statement regarding the compensation for unlawful extraction of the ground water by the units so that the compensation is payable by the units for the violation can be calculated by the Committee as directed by this Tribunal.

3. The Registry is directed to communicate this order to the Mining Department and the Committee concerned.

4. All the appeals are disposed of with the above directions leaving the allegations of the consideration mentioned in O.A No. 337/2019.

5. If the Mining department did not comply with the direction they are directed to appear through the NGT, SZB through Video Conference at Chennai on the next date of hearing.

6. There is no appearance of Ground Water Authority. Next time they are also directed to submit their report as directed by this Tribunal. If this is not done, the responsible officer of the Ground Water Authority is directed to be present before this Tribunal through Video Conference at NGT, SZB Chennai on the next date of hearing.

### **iv. Order dated 11.2.2020:**

5) The Agency is directed to hand over the report directly to the Committee so that the Committee can comply with the directions issued by this Tribunal by various orders regarding the carrying capacity and assessment of environmental compensation and also the ground water extraction etc.,”

### **Change in Environment compensation between :**

6. That there has been substantial variation in fixation of Environment Compensation by Joint Inspection Committee. It has recommended Environment Compensation **on 29.7.2019 against Sri Varasiddi Veeranjaneya Stone crusher as Rs. 21.50,000/-**. **But in the December, 2020 report Environment Compensation for the same Unit is fixed as Rs. 1,54,500/- only**. Similarly the Joint Committee has fixed Environment Compensation in the 29.7.2019 report against M/s SASP enterprises as

18,12,500/-. But it has been reduced to Rs. 12,35,800/- . This shows that the Joint Committee has not done its responsibility sincerely.

### **Criminal Case against the Applicant, No action against Polluters:**

7. That a criminal case vide FIR No. 22/2017 has been registered against the Applicant along with 500 people under sections 143,342,353 r/w 149 IPC. The extracts of the FIR dated 20.2.2017 which is before the filing of the present Application are reproduced as under:

**“Sir, The Complaint of S. Sivaiah, Thasildhar, Bommanahal. This is case of obstructed of public servant and wrongful confinements. That occurred on 20.02.2019 at 10.30 AM to 5.30 Pm at M.R.O. office Bommanahal. Where in the accused Paramesh, husband of MPTC, Hanumantha Reddy, Sarpanch of Nemekal Village and Heroji Rao, Mazid Sab and Khasim Vali, Unthakal village and about 500 members of Unthakal and Nemakal Villages found in unlawful mob and obstructed the duties of Tahsildar Bommanahal his staff and all so wrongfully confined him and his staff in his office. This is due to they want close all the crusher at Nemakal hillock area.”**

8. Though several names are mentioned in the FIR and also referred 500 people protested demanding the closer of polluting Stone crusher units, the authorities have targeted only the Applicant herein and picked up from his house at 5 am without 41A notice on 4.10.2019 and sent him to judicial remand. The relevant extracts of the Remand report dated 4.10.2019 are reproduced as under:

“The investigation so far made in this case disclosed that on 20.2.2017 morning at 10.30 AM the accused A1 to A5 and some others of Nemakal and Unthakal villagers, Bommanahal Mandal went to the Tahsildar office, Bommanahal in a procession, staged dharna and submitted a representation to LW1 by alleging that the crusher units which were installed in Sy.No. 253, Ext. 436 acres, get stopped immediately, as the crushers dust was spread on their crops and damaging it and also the health of the villagers and cattle is also deteriorating. For that LW1 informed them that the issue is not in his purview and he would brought to the notice to his superiors for taking necessary action and asked them to withdraw dharna, co-operate them not to disturb their legitimate duties. But the accused paid deaf on the words of LW1, entered into the office, disturbed their legitimate duties by

switched off the power supply, abused them in filthy language and they blackmailed them by stating that if they could not take action immediately, they would commit suicide by consuming poison. They also poured water into their office and created nuisance.

Today at 7.00 AM, while I was in the PS, one person came to police station and introduced him his name is Heroji Rao of Unthakallu village, Bommanahal mandal, then I identified him as he was the accused A3 in this case. I examined the accused in this case for his involvement, he admitted the commission of the offence. After informing the grounds of their arrest, I arrested him at 7.15 AM and the arrest information of the accused has been passed to their relatives U/s 50 (a) Cr.PC. Then I confined the accused in police lockup and handed over to the custody of sentry PC at 7.30 AM for safe custody.

I have reason to believe that Sec.41(1) (b)(ii)(a) Cr.P.C. to prevent such persons from committing any further offences or (b) for proper investigation.(c) to prevent such person from causing the evidence of the offence and to disappear or tampering evidence (d) to prevent such person from making any inducement, threat or promise to any persons and (e) As unless said person was arrested their presence in the court whenever required can't be ensured and essential judicial custody for arresting of the accused.

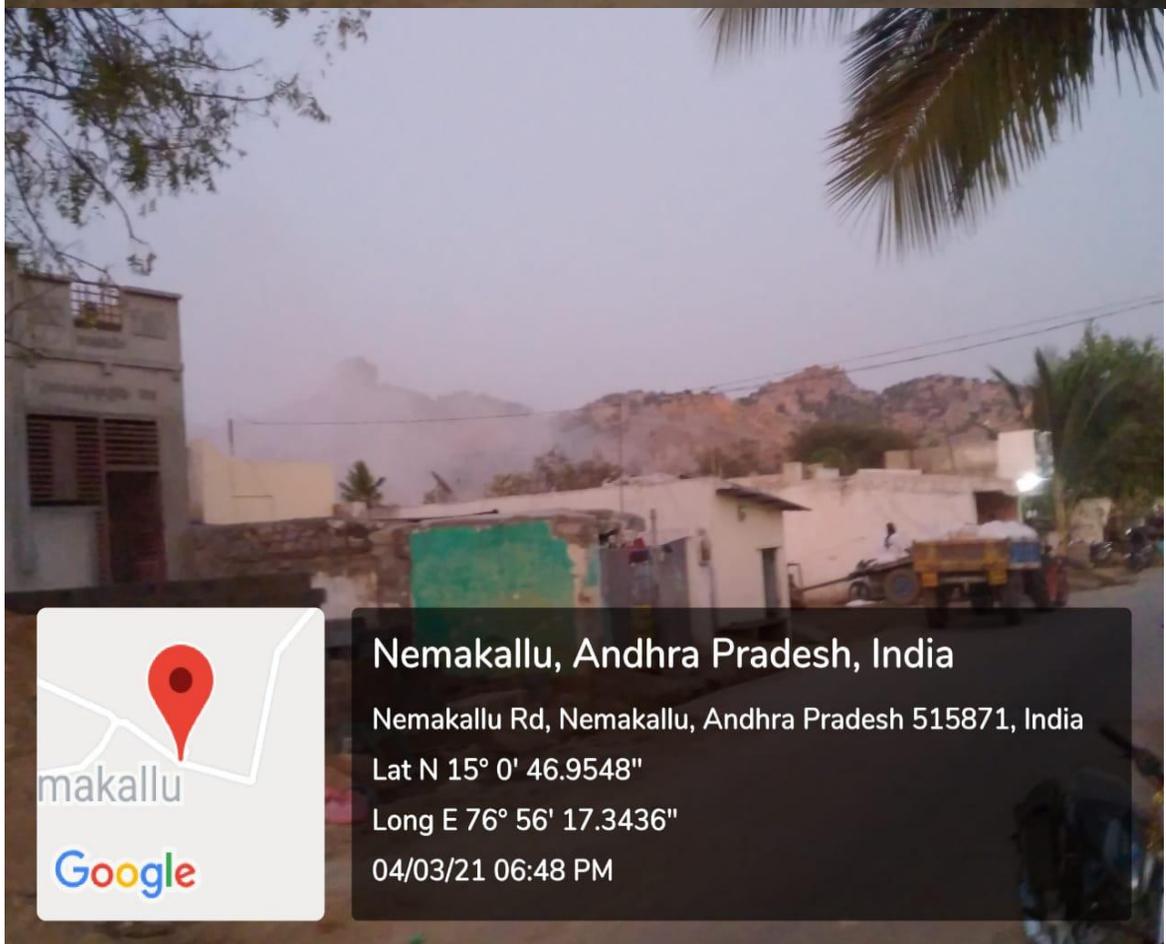
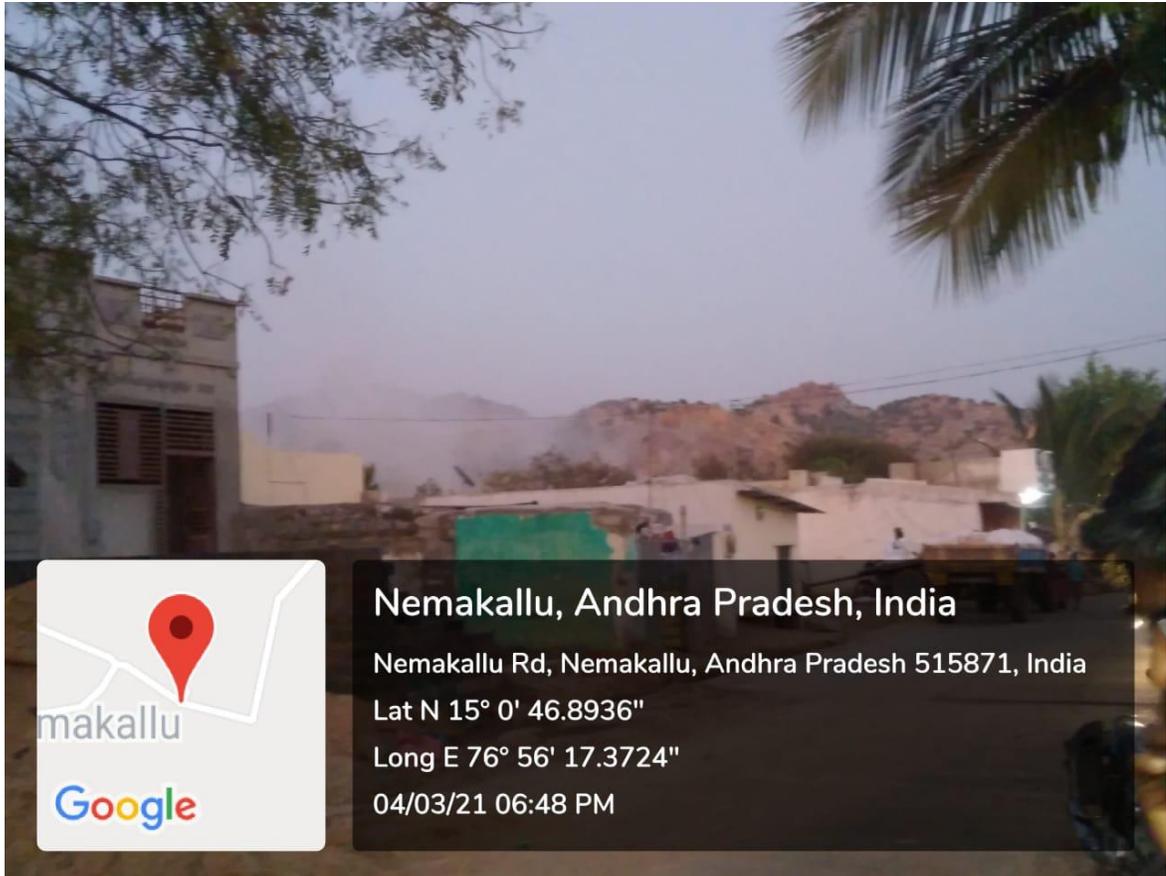
It is further, submitted that the accused let off without judicial remand, he may threatened the witness and he would commit further offences if he was not arrested.”

True copy of the Remand Report submitted to Ld. Judicial Magistrate of 1<sup>st</sup> Class, Rayadurg dated 4.10.2019 against the Applicant is annexed as ANNEXURE A1.

**9.** That except the Applicant, nobody in the FIR or the 500 people present in the protest were arrested and sent to Judicial Remand till date. That the local Police have registered two other cases vide Crime No. 82/2016 U/s 384, 506 r/w 34 IPC and Crime No. 37/2017 u/s 447, 427 IPC filed by Stone Crusher Units against the Applicant(which were not known till the filing of Remand report to the Applicant) whereas no criminal case is registered against the Polluting Units for causing immense loss to the Public Health, environment and Lord Anjaneyaswami Temple, residential houses etc.

**10.** That the Applicant and his relatives have received several threats for taking up legal proceedings against Stone crushers before this Hon'ble Tribunal. After some time of receiving threatening calls, Applicant was attached with iron rod by unknown persons and vanished in motor cycle while Applicant was travelling in e-byke along with his wife.

11. It is submitted that the Stone crushers, mine lease holders started their activities without taking pollution control and precautionary measures. The following photographs dated 5.3.2021 shows the heavy dust formation during the blast at one of the quarry near the SC Colony at NemaKallu village.





The above pictures dated 5.3.2021 shows that heavy dust formation near the activity. It is submitted that none of the Units are using dust control measures, sprinklers etc because most of the Units does not have bore wells or water source for dust suppression. The blasting is being conducted beyond the recommendations of the Joint Committee which is resulting vibration, Noise nuisance and dust pollution.

12. That the Hon'ble Supreme Court in **Nidhi Kaim & Anr. v. State of Madhya Pradesh & Ors, (2017) 4 SCC 1**, while dealing with admissions of students to MBBS Course on the basis of illegal and unfair process, held that conferring the rights to the illegal doer who have consciously committed illegality is contrary to law and '*It would seem as if the Court was not supportive of the cause of those who had adopted and followed rightful means*'. In the present case, the mine lease holders have been conducting mining activity blatant violation of Air Act, Water Act and Environment (Protection) Act, 1986 without obtaining Environment Clearance from MoEF, without preparing Environment Management Plant, without conducting Public Hearing near the affected areas and further causing massive dust pollution by running Stone crushers without adopting polluting control measures according to conditions imposed in CFO issued by APPCB. The relevant extracts of the Hon'ble Apex Court in **Nidhi Kaim & Anr. v. State of Madhya Pradesh & Ors, (2017) 4 SCC 1** are reproduced as under:

*"92. ...Having given our thoughtful consideration to the above submission, we are of the considered view that conferring rights or benefits on the appellants, who had consciously participated in a well thought out, and meticulously orchestrated plan, to circumvent well laid down norms, for gaining admission to the MBBS course, would amount to espousing the cause of "the unfair". It would seem like allowing a thief to retain the stolen property. It would seem as if the Court was not supportive of the cause of those who had adopted and followed rightful means. Such a course would cause people to question the credibility of the justice-delivery system itself. The exercise of jurisdiction in the manner suggested on behalf of the appellants would surely depict the Court's support in favour of the sacrilegious. It would also compromise the integrity of the academic community. We are of the view that in the name of doing complete justice it is not possible for this Court to support the vitiated actions of the appellants through which they gained admission to the MBBS course.*

xx xx xx

*94. ...Even in situations where a juvenile indulges in crime, he has to face trial, and is subjected to the postulated statutory consequences. Law, has consequences. And the consequences of law brook no exception. The appellants in this case, irrespective of their age, were conscious of the regular process of admission. They breached the same by devious means. They must therefore, suffer the consequences of their actions. It is not the first time that admissions obtained by deceitful means would be cancelled. This Court has consistently annulled academic gains arising out of wrongful admissions. Acceptance of the prayer made by the appellants on the parameter suggested by them would result in*

overlooking the large number of judgments on the point. Adoption of a different course, for the appellants, would trivialise the declared legal position. Reference in this behalf may be made to the judgments relied upon by the learned counsel representing Vyapam.

108. ...In the facts and circumstances of the case in hand, it would not be proper to legitimise the admission of the appellants to the MBBS course in exercise of the jurisdiction vested in this Court under Article 142 of the Constitution. We, therefore, hereby decline the above prayer made on behalf of the appellants.

13. That the Principal Bench of this Hon'ble Tribunal in the matter of **Mathala Chandrapati Rao v. Member secretary, Odisha State Pollution Control Board** (Appeal 97/2013), while dealing with irresponsible operation of stone crushers in violation of conditions stipulated for its operation under consents by the Odisha Pollution Control Board directed the following in judgment dated 23<sup>rd</sup> November, 2016:

**'Considering the extent of damage caused to the health of the local villagers and appellant's relentless struggle to seek environmental justice, particularly, the fact that he had to come from a distant village in Odisha to Delhi for at least on 35 occasions, we, pass the following order:**

1. We direct Respondent No.4-Project Proponent, to pay Environmental Compensation of Rs. 5,00,000/- (Rs. Five Lakhs) to the Collector, Gajapati District within 30 (thirty) days of this order. The said amount would be used towards upgradation of the local Community Health Centre at Kashinagar with 195 additional beds and other infrastructure for outpatient department. The existing number of 16 beds will thereby increase to 21. The Collector will make a plan for health care to spend Rs. Five Lakhs, urgently and a compliance report regarding the same be filed before the Tribunal by 1<sup>st</sup> February,2017.

2. We direct the Project Proponent (Respondent No.4) to pay an amount of Rs. 2,00,000/-(Rupees Two Lakhs only) to the Appellant to cover his cost of transportation to approach this Tribunal.

14. That the Hon'ble Supreme Court while dealing a similar case relating to Stone mining in Haryana case vide M.C.Mehta Vs Union of India & Ors (1996) 8 SCC 462 issued several directions including stopping mining activity. The relevant extracts of the Judgment are reproduced as under:

"2. This Court by order dated 20-11-1995 directed the Board to inspect and ascertain the impact of mining operations on the ecologically sensitive

area of Badkal Lake and Surajkund. The inspection was done by a team of the Board comprising Dr. B. Sengupta, Senior Scientist, Shri Lit Kapoor, Senior Environmental Engineer, Shri R.C. Kataria, Environmental Engineer and Dr. J. Moitra, Scientist 'B'. The inspection report of the Board was placed before this Court along with an affidavit filed by Dr. S.P.Chakrabarti, Member Secretary of the Board. In the affidavit, regarding the mining activities, it is stated as under:

“For the purpose of mining, explosives are being used for rock blasting. Because of unscientific mining operation, overburden materials (topsoil and murum remain) were observed to be lying haphazardly. Deep mining for extracting silica sand lump is causing ecological disaster as these mines lie unreclaimed and abandoned. As a matter of fact mining site reveals total lack of environmental planning”

The report contains the following recommendations regarding the mining activities in the area:

#### “Mining

At present, manual as well as semi-mechanised mining of hard stone, weathered soft stone and coarse sand in 33 mining areas leased by the State Government of Haryana is operative. Explosives are used for rock blasting.

#### Recommendations:

- (1) Environment Management Plan (EMP) shall be prepared by mine lease holders for their mines and actual mining operation made operative after obtaining approval from State Department of Environment or Haryana State Pollution Control Board. The Environmental Management Plan (EMP) should be implemented following a time bound action plan. Land reclamation and afforestation programmes shall be included in the EMP and must be implemented strictly by the implementing Authorities.
- (2) Mining activities should be stopped within a radius of 5 kms from Badkal Lake and Surajkund (tourist place).
- (3) At present mining activities are going on without obtaining consent as required under the Air (Prevention and Control of Pollution) Act, 1981, from the Haryana State Pollution Control Board. Mine Lease Holders shall take appropriate steps to obtain consent from the State Pollution

Control Board failing which the State Pollution Control Board shall take action in this regard.

- (4) The mine-owners, should adhere strictly to Mine Safety Plan and install all necessary devices.
- (5) The overburden along with topsoil should be properly preserved for use at the time of reclamation of abandoned mine.
- (6) Use of explosives in the mines should be regulated as per the Explosives Act, 1884 and after obtaining approval from the competent authorities.

.....

8 We are, therefore, of the view that in order to preserve environment and control pollution within vicinity of the two tourist resorts it is necessary to stop mining in the area. The question, however, for consideration is what should be the extent of the said area? NEERI in its report has recommended that 200 meter green belts be developed at 1 km radius all around the boundaries of the two lakes. It is thus obvious that 1200 meters are required for the green belts. Leaving another 800 meters as cushion to absorb the air and noise pollution generated by the mining operations, we are of the view that it would be reasonable to direct the stoppage of mining activity within two km radius of the tourist resorts of Badkal and Surajkund.”

True copy of the Judgment passed by the Hon'ble Supreme Court in M.C.Mehta Vs Union of India & Ors 1996 8 SCC 462 is annexed as ANNEXURE A2.

### **Vigilance and Enforcement Report not filed before Hon'ble NGT**

**15.** That pursuant to the notice issued by this Hon'ble Tribunal to the Andhra Pradesh Vigilance and Enforcement Director General in the present Application, the vigilance department has conducted detailed study in the mining area. It has assessed various illegalities including illegal extraction of mineral by lease holders. But that report was not placed before the Hon'ble Tribunal. This will save the illegal mine lease holders at the cost of loss to the environment and revenue to the public exchequer.

**16.** Applicant prays to consider the reply/submissions dated 26.4.2020 along with the present written submissions.

17. In the above circumstances, the Hon'ble Tribunal may pass appropriate orders considering the chronic pollution issue continuing for the past 10-12 years by appointing an Oversight Committee headed by a Retired Member of this Hon'ble Tribunal and direct the Government authorities to provide compensation to the Applicant and other pollution affected farmers of 1232.58 acres referred by the Joint Inspection Committee. It is also prayed that the Hon'ble Tribunal may recover costs to pay the applicant who has faced jail and life threats by filing the present Application against the powerful Mining mafia in Andhra-Karnataka Border.



**SRAVAN KUMAR  
ADVOCATE**

COUNSEL FOR THE APPLICANT  
6461, 2<sup>ND</sup> Floor, Block 8, Lane 3  
Karolbagh, New Delhi- 110005  
Mobile: 9811237009  
Email: advsravan@gmail.com

**FIRST INFORMATION REPORT**

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(Under Sections 154 &amp; 157 Cr.P.C)

1. Dist: Anantapur, Police Station: Bommanahal Year-2017 F.I.R No:22/2017 Date: 20.02.2017
2. i) Act: IPC Sections: 143,342,353 r/w 149 IPC.  
 ii) Act: Sections:  
 iii) Act: Sections:  
 \* Other Act & Sections : Sections:
3. a) Occurrence of offence day: Monday Date: 20.02.17 Time: IN between 10.30 A.M.to 05.30 PM  
 b) Information received at the Police station Date 20.02.2017 Time: 07:00 PM  
 c) General Diary Reference Entry No(s). 10 Time: 07:00PM
4. Type of information written.
5. Place of occurrence MRO office Bommanahal Village & Mandal
- a) Distance & Distance from P.S: south 500 Mts Beat No:  
 b) Address:- MRO office, Bommanahal Village & Mandal.  
 c) If outside the limits of this P.S, then the name of concerned P.S. District.....
6. **Complainant / informant:**
- a) Name:- : S.Sivaiah  
 b) Fathers/husband's name: :  
 c) Date of birth: :  
 d) Nationality: : INDIAN  
 e) Pass Post No. Date of issue: Place of issue:  
 f) Occupation:- Tahsildar  
 g) Address:- Bommanahal Village & Mandal.
7. Details of known / suspected / un-known accused with full particulars (attach separate sheet if necessary).

**Accused.**

1. Parameswara husband of the MPTC Nemakal Village.
  2. Hanumantha Reddy, Sarpanch of Nemakal Village.
  3. Heroji Rao, Unthakal Village
  4. Mazid sab, Unthakal Village.
  5. Khasim, Unthakal Village, Bommanahal Mandal.
- And 500 others .All are resident of Nemakal & Unthakal villages. Bommanahal Mandal.

sex	Date / year of birth	* Build	* Height in CMs	* Complexion	Identification marks
	2	3	4	5	6
Deformities / Peculiarities	* Teeth	* Hair	* Eyes	* Habt(s)	* Dress Habits
7	8	9	10	11	12
PLACE OF					
* Languages / Dialect	* Burn Marks	* Leuco-derma	Mole	* Scar	Tattoo
13	14	15	16	17	18

8. Reasons for delay in reporting by the Complainant/Informant.

The complainant gave his compliant in delay.

9. Particulars of properties stolen/involved (Attach separate sheet, if necessary)

10. Total value of properties stolen / involved:-

11. Inquest report / U.D. Case No. if any:-

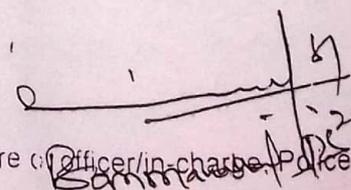
12. **First Information contents** (Attached separate sheets, if required)

Sir, The compliant of S.Sivaiah, Thasildhar, Bommanahal This is a case of obstructed of public servant and wrongful confinements. That occurred on 20.02.2017 at 10.30 AM to 05.30 Pm at M.R.O. office Bommanahal. Where in the accused Paramesh, husband of MPTC. Hunumantha Reddy, Sarpanch of Nemakal Village and Heroji Rao, Mazid Sab, and Khsim vali, Unthakal Village and about 500 members of Unthakal and Nemakal Villages found in unlawful mob and obstructed the duties of Tahsildar Bommanahal his staff and all so wrongfully confined him and his staff in his office. This is due to they want close all the crusher at Nemakal hillock area.

13. Action Taken: Since the above information reveals commission of offence (s) U/s as mentioned at item No:2

- 1) Registered the case and took up the investigation or
- 2) Directed (Name of I.O) Srirama Srinivasulu, Rank SI of Police No 2477 to take up the investigation or.
- 3) Refused investigation due to .....
- 4) Transferred to P.S..... District..... on the point of jurisdiction.

F.I.R read over to the complainant / informant, admitted to be correctly recorded and a copy given to the complainant / informant, free of cost.

  
 20.2.17

14. \*Signature / Thump impression of the complainant / informant

Signature of Officer/in-charge, Police Station.

Name:- Srirama Srinivasulu

Rank: Sub-Inspector of Police No: 2477

Sivaiah  
ahsildar  
Bommanahal

To  
The Station House Officer,  
Bommanahal

Rc.No:48/2017, dated:20.02.2017

Sir,

Sub:- Mines and Minerals – Bommanahal Mandal – Nemakal village – Sy.No:253 Extent: 436.00 acres of Nemakal village – Some Crushers – running for mining operations- The villagers of Nemakal and Unthakal have represented on :20.02.2017 for stopping of mining Operations – Requested- Regarding.

Ref:- Representation of the Husband of MPTC ,Sarpanch of Nemakal village and Villagers of Nemakal and Unthakal villages , dated:20.02.2017.

@@@

With reference to the cited above, it is to inform you that the Paramesu, husband of the MPTC , Hanumantha Reddy, Sarpanch of Nemakal village and Heroji Rao, Mazid sab and Khasim Vali Unthakal village and about 500 members of Unthakal and Nemakal villages have come to my officer with procession and sit in front of it for Dharna and given representation stating that the crushers which are installed in Sy.No:253 Extent:436.00 acres of Nemakal fields have to be stopped immediately, because the stone dust has spread on their raising crops and the health of the public and animals is spoiling.

In this connection, I have taken their representation and informed that as the issue is not under my purview, I have to be taken the issue in to the notice of higher authorities for appropriate action and assured the same and suggested them to withdraw from the Dharna and co-operate with the officials in discharge of their legitimate duties. In this regard, it is to informed that they did not heed to my words and mob entered into my office and disturbed the legitimate duties of my self and my staff members. They also switched off the Electric supply to my office. Further they have used vulgar language towards officials and also blackmailed us that if immediate action is not taken, they will consume poison and commit suicide in front of my office. Further they have thrown the water inside the office and created nuisance.

In the circumstances stated above, I request that to take action against the Paramesu, husband of the MPTC , Hanumantha Reddy, Sarpanch of Nemakal village and Heroji Rao, Mazid sab and Khasim Vali Unthakal village and about 500 members of Unthakal and Nemakal villages who obstructed our legitimate duties and forced us for abuse of my official power.

Sir,

Yours faithfully

I registered the above case  
as C.No: 22/17 Ue 143,342,  
353 v/w 149 & PC of Bomma  
-nahal ps and took up investigation.  
On 20.2.17 at 7.00pm

Tahsildar  
Bommanahal

*[Signature]*  
Bommanahal  
20.2.17

REMAND REPORT

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To,

The Hon'ble Judicial Magistrate of 1<sup>st</sup> Class,  
RAYADURG

Honoured Sir,

Sub:- Criminal case- Request to grant remand to the marginally noted  
accused to the Judicial custody for a period of 15 days- Reg.

Ref:- Cr.No.22/2017 U/s 143, 342, 353 R/w 149 IPC of Bommanahal  
P.S.

ACCUSED:-

Katike Heroji Rao, age 52 years, S/o. Late K. Narsoji Rao, Unthakallu village,  
Bommanahal mandal, Aadhar No. 886306561618 (A3)

I submit that the accused noted in the margin are the resident of  
Unthakallu (v) of Bommanahal Mandal and he committed the offence within the  
jurisdiction of this Hon'ble court.

Brief facts of the case :- I submit that this is a case of unlawful assembly,  
wrongful confinement and assault or criminal force to deter public servant from  
discharge of his duty with common object that occurred on 22.02.17 in between  
10.30 AM to 5.30 PM at MRO office, Bommanahal village and Mandal and  
reported in the PS on the same day at 7.00 PM wherein the accused  
Parameswara, husband of MPTC, Nemakal village, Bommanahal Mandal and  
known four others and some unknown other persons formed themselves into an  
unlawful assembly, staged dharna in front of the MRO office, submitted  
representation, demanding to get stopped the crusher units which were installed  
in Sy. 353, Ext. 436 acres in Nemakal village fields, as the stone dust has spread on  
their raising crops and the health of the public and animals are deteriorating and  
then they entered into the MRO office and disturbed their legitimate duties of the  
complainant Sri S. Sivaiah, Tahsildar, Bommanahal village and Mandal and others  
by switched off the electric supply and also blackmailed them if action could not  
be initiated they will commit suicide by consuming poison in front their office.

Basing on the complaint of Sivaiah, Tahsildar my predecessor Srirama  
Srinivasulu a case in Cr.No. 22/2017 U/s 143, 342, 353 R/w 34 IPC was  
registered on 20.02.2017 at 7.00 PM and submitted copies of FIR to all concerned  
officers and took up investigation.

Soon after registering the case, my predecessor Srirama Srinivasulu left  
police station and reached to reached to Tahasildar office and secured the  
complaint Sivaiah, Tahasilda and examined him as LW1 and recorded his statement  
u/s 161 (3) Cr.P.C statements in my Part-II of the CD. Due to light failure, next day  
my predecessor Srirama Srinivasulu left police station and reached to Tahasildar

office and secured Deputy Tahasildar namely Guruprasad and VRO Sriramulu and examined them as LWs 2 & 3 and recorded their statements and he inspected the scene of offence and draw rough sketch of scene of offence.

The investigation so far made in this case disclosed that on 20.02.20107 morning at 10.30 AM the accused A1 to A5 and some others of Nemakal and Unthakal villagers, Bommanahal Mandal went to the Tahsildar office, Bommanahal in a procession, staged dharna and submitted a representation to LW1 by alleging that the crusher units which were installed in Sy. No. 253, Ext. 436 acres, get stopped immediately, as the crushers dust was spread on their crops and damaging it and also the health of the villagers and cattle is also deteriorating. For that LW1 informed them that the issue is not in his purview and he would brought to the notice to his superiors for taking necessary action and asked them to withdraw dharna, co-operate them not to disturb their legitimate duties. But the accused paid deaf on the words of LW1, entered into the office, disturbed their legitimate duties by switched off the power supply, abused them in filthy language and they blackmailed them by stating that if they could not take action immediately, they would commit suicide by consuming poison. They also poured water into their office and created nuisance.

Today at 7.00 AM, while I was in the PS, one person came to police station and introduced him his name is Heroji Rao of Unthakallu village, Bommanahal mandal, then I identified him as he was the accused A3 in this case. I examined the accused in this case for his involvement, he admitted the commission of the offence. After informing the grounds of their arrest, I arrested him at 7.15 AM and the arrest information of the accused has been passed to their relatives U/s 50 (a) Cr.P.C. Then I confined the accused in police lockup and handed over to the custody of sentry PC at 7.30 AM for safe custody.

I have a reason to believe that Sec.41 (1) (b) (ii) (a) Cr.P.C. to prevent such persons from committing any further offences or (b) for proper investigation, (c) to prevent such person from causing the evidence of the offence and to disappear or tampering evidence (d) to prevent such person from making any inducement, threat or promise to any persons and (e) As unless said person was arrested their presence in the court whenever required can't be ensued and essential judicial custody for arresting of the accused.

It is further, submit that, the accused let off without Judicial remand, he may threatened the witness and he would commit further offences if he was not arrested

Further, it is to submit that, the following are the ground for his arrest.

If the accused let off without judicial remand and it is not possible to control law and order in Bommanahal Mandal. If the accused is not remanded, he

may be chance to create law and order problem at Bommanahal police station limits. The arrest of the accused is necessary to prevent any further such offences and to prevent from tampering the evidence of the witnesses and to prevent the arrested accused by making any inducement, threat of promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to the police officer. The accused previously extract some amount from crusher mission owners and threatened them for amount and sharing on crusher missions, if not give the money , he threatened them he will stop crusher mission by approaching Hon'ble courts and others. He collected some mob by saying false promises and he created nuisance for small issues in Bommanahal Mandal. Hence I arrested the accused A3.

The accused did not complain any ill treatment in the hands of Police and he was produced before the Duty medical officer, Bommanahal and got checked up his health condition and obtained fitness certificate in accordance U/s 54 Cr.P.C.

Then I also verified my station records and found that the accused was involved the following cases.

S.No.	Cr.No.	Section of law	Figured as accused	Stage of the case
1	82/2016	384, 506 r/w 34 IPC	A1	Case is PT vide CC.No. 97/2017
2	37/2017	447, 427 IPC	A1	Case is PT vide CC.No. 251/2018

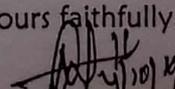
Investigation in this case is pending for the examination of some more witnesses and arrest of remaining accused in to this case. The accused is being produced in the Hon'ble Court for remand under proper escort with remand report, within the stipulated time. In this case some more witnesses are to be examined and arrest of remaining accused.

Investigation in this case is pending for some witnesses are to be examined and arrested of remaining accused.

The accused A3 is herewith sent to the Hon'ble Court for remand under proper escort.

Hence I request the Hon'ble Magistrate kindly remand the marginally noted accused to judicial custody for a period of 15 days so as to enable me to complete the investigation and file charge sheet.

Yours faithfully,

  
Sub-Inspector of Police,  
Bommanahal P.S

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must be for good reason. No such reason is shown to have existed while issuing the second order. In the circumstances, the subsequent order is liable to be quashed.

(Para 3)

Appeal allowed

H-M/16176/S

ORDER

1. Leave granted. Heard counsel for both the parties.

2. The appellant filed the writ petition challenging the Government order dated 4-8-1992 whereunder the earlier orders of the Government contained in Government order dated 20-1-1990 were revised partly. Under first order (dated 20-1-1990), it was directed as follows:

“Since after complete examination of the explanation of Shri Janardan Dubey, the Governor has reasons to believe that Shri Janardhan Dubey is not guilty of charges communicated through above resolution. Therefore, the Governor of Bihar exonerating Shri Janardan Dubey from all those charges drops the departmental enquiry against him and in partial modification in letter No. 813 dated 22-4-1988 cancelled the Government concurrence for instituting criminal case against him.”

The subsequent Government order dated 4-8-1992 states:

“After review of facts it has transpired that at the time of issuance of abovesaid resolution actually no decision was taken by the Government for dropping the departmental proceedings and withdrawing/cancelling of Government sanction for lodging criminal case and the abovesaid resolution to that extent was issued without jurisdiction.

Therefore, after due consideration under Government order the decision for dropping departmental proceedings and to cancel the sanction for lodging criminal case as contained in resolution No. 108 dated 20-1-1990 is deleted.”

3. A reading of the subsequent order discloses that no reasons are given therein for reviewing the earlier orders. The statement that no decision was taken by Government while issuing the earlier order is a bald statement and no attempt has been made before us to substantiate it. While the Government has certainly the power to revise its orders, it must be for good reason. No such reason is shown to have existed while issuing the second order. In the circumstances, we quash the Government order dated 4-8-1992.

4. The appeal is accordingly allowed.

(1996) 8 Supreme Court Cases 462

(BEFORE KULDIP SINGH AND K. VENKATASWAMI, JJ.)

M.C. MEHTA

.. Petitioner;

*Versus*

UNION OF INDIA AND OTHERS

.. Respondents.

I.A. No. 29 in Writ Petition (C) No. 4677 of 1985, decided on May 10, 1996

**Constitution of India — Arts. 32 and 21 — PIL — Ecology — Mining activities in the vicinity of tourist resorts — Pollution caused by stone crushing, pulverising**

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- and mining operations in Faridabad-Balabgarh area in State of Haryana — Report submitted by the expert body viz. Haryana Pollution Control Board to the Court recommending closure of mining activities within a radius of 5 kms from Badkal Lake and Surajkund (tourist places) — On the basis of the report (without any order of the Court) mining operations within the 5 kms radius of the said area stopped by order of State of Haryana — Objections raised before the Court against the closure by the State without affording any opportunity to lessees of the mines — Report obtained by the Court from another expert body viz. National Environmental Engineering Research Institute (NEERI) — Having regard to the opinion of two expert bodies, held, mining activities in the vicinity of tourist resorts are bound to cause severe impact on the local ecology and therefore, mining activities should be stopped within 3 kms of Badkal Lake and Surajkund — Directions issued accordingly**

R-M/16297/S

ORDER

- 1. Mr M.C. Mehta — environmentalist lawyer — has filed this public interest petition under Article 32 of the Constitution of India seeking a direction to the Haryana Pollution Control Board (the Board) to control the pollution caused by the stone crushers, pulverisers and mine operators in the Faridabad-Balabgarh area. We are in the process of monitoring the petition. The core question which we propose to deal with in this order is whether — to preserve environment and control pollution — the mining operations should be stopped within the radius of five kilometres (kms) from the tourist resorts of Badkal Lake and Surajkund in the State of Haryana.**

- 2. This Court by order dated 20-11-1995 directed the Board to inspect and ascertain the impact of mining operations on the ecologically sensitive area of Badkal Lake and Surajkund. The inspection was done by a team of the Board comprising Dr B. Sengupta, Senior Scientist, Shri Lalit Kapoor, Senior Environmental Engineer, Shri R.C. Kataria, Environmental Engineer and Dr J. Moitra, Scientist 'B'. The inspection report of the Board was placed before this Court along with an affidavit filed by Dr S.P. Chakrabarti, Member Secretary of the Board. In the affidavit, regarding the mining activities, it is stated as under:**

- “For the purpose of mining, explosives are being used for rock blasting. Because of unscientific mining operation, overburden materials (topsoil and murum remain) were observed to be lying haphazardly. Deep mining for extracting silica sand lumps is causing ecological disaster as these mines lie unreclaimed and abandoned. As a matter of fact mining site reveals total lack of environmental planning.”**

The report contains the following recommendations regarding the mining activities in the area:

- g* “Mining**

**At present, manual as well as semi-mechanised mining of hard stone, weathered soft stone and coarse sand in 33 mining areas leased by the State Government of Haryana is operative. Explosives are used for rock blasting.**

***Recommendations***

- (1) Environmental Management Plan (EMP) shall be prepared by mine leaseholders for their mines and actual mining operation made operative after obtaining approval from the State Department of Environment or**

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Haryana State Pollution Control Board. The Environmental Management Plan (EMP) should be implemented following a time-bound action plan. Land reclamation and afforestation programmes shall also be included in the EMP and must be implemented strictly by the implementing authorities. a

(2) Mining activities should be stopped within a radius of 5 kms from Badkal Lake and Surajkund (tourist place).

(3) At present mining activities are going on without obtaining consent as required under the Air (Prevention and Control of Pollution) Act, 1981, from the Haryana State Pollution Control Board. Mine leaseholders shall take appropriate steps to obtain consent from the State Pollution Control Board failing which the State Pollution Board shall take necessary action in this regard. b

(4) The mine-owners should adhere strictly to Mine Safety Plan and install all necessary devices.

(5) The overburden along with topsoil should be properly preserved for use at the time of reclamation of abandoned mine. c

(6) Use of explosives in the mines should be regulated as per the Explosives Act, 1884 and after obtaining approval from the competent authorities.”

This Court on 21-3-1996 noticed the statement of Mr Gopal Subramaniam, the learned counsel appearing for the State of Haryana in the following words: a

“Mr Gopal Subramaniam states that the mining work has stopped within the radius of 5 kms of Badkal Lake and Surajkund. We appreciate the gesture of the Haryana Government. Mr Subramaniam states that the steps to provide green belt in that area are also in progress. He shall place on record the positive steps which are in contemplation.” b

Mr Shanti Bhushan, Mr G.L. Sanghi and Mr R.S. Suri, the learned counsel appearing for the mine-operators, vehemently contended before this Court on 29-3-1996 that the mining operations were closed without affording any opportunity to the lessees of the mines. After hearing the learned counsel, this Court passed the following order: e

“There is no order by this Court directing the closure of the mines. Mr Shanti Bhushan, however, states that in view of the observations made by this Court in the earlier orders, the Haryana Government has closed the mines in the area. The main contention raised is that without hearing the mine-owners and without giving them any opportunity, the mines have been closed. Needless to say that action regarding closure of the mines has been taken on the basis of the report submitted by the Central Pollution Control Board. Be that as it may, we give opportunity to these mine-owners to present their case before this Court.” f

The mining operations within the radius of 5 kms from Badkal Lake and Surajkund were stopped by the Haryana Government on the basis of the recommendation made by the Board. The mine-operators through their learned counsel raised serious objection to the recommendation of the Board seeking closure of the mining operations within the radius of 5 kms. According to the learned counsel the pollution generated, if any, by the mining activities cannot go beyond a distance of one km and as such the closure of the mines within the area of 5 kms was wholly unjustified. It was suggested by the learned counsel g  
h

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that another opinion in this respect may be obtained from an expert body like the National Environmental Engineering Research Institute (NEERI). This Court on  
a 12-4-1996 passed the following order:

“We have heard learned counsel for the parties. We are of the view that it would be useful to have the expert opinion of the National Environmental Engineering Research Institute on the point whether the mining operations in the said area are to be stopped in the interest of Environmental Protection, Pollution Control and Tourism Development. If so whether the limit should be five kms or less.

b We, therefore, request Dr Khanna to send an inspection team to the area concerned preferably within next week to examine the question of closure of the mines from the environment and pollution point of view. The team shall also examine the working of the stone crushers and pulverisers in the area. Initially report regarding mines may be filed. We request Dr Khanna to have the report filed in this Court within ten days.”

c The NEERI has filed its inspection report dated 20-4-1996.

3. We have heard the learned counsel for the mine-operators at length.

d 4. The two tourist places, Surajkund and Badkal Lake, are located in Faridabad District of Haryana State and are at a distance of about 18/24 kms from New Delhi. Because of their proximity to the capital city of India these resorts have a great tourist potential. We may refer to the relevant parts of the NEERI report:

e “Air Quality Monitoring was carried out by the inspection team at one working mine beyond 5 kms from Badkal Lake and Surajkund area to assess the extent of air pollution from the mining activities, overburden loading and haulage, and to determine fugitive emissions of Suspended Particulate Matter (SPM). One monitoring station was established in upwind direction at a distance of 300 mts, whereas another monitoring station was located in downwind direction at 50 mts distance from the face of the mine. The mining activity was being carried out in an area of 0.75 x 1.0 km<sup>2</sup>. The air quality monitoring was conducted for four hours during mining operations. The blasting operation also took place during the air quality monitoring. At the upwind and downwind stations, SPM concentrations were observed to be 124 and 416 ug/m<sup>3</sup> respectively. The contribution from mining activities was 292 ug/m<sup>3</sup>.

f Fugitive air pollutant emission rate of SPM for mining activities was also estimated using upwind-downwind technique. The fugitive emission rate was 30.26 gm/sec for production of 4000 tons of stones during four hours.

g Noise levels were measured by the inspection team at the working mine beyond 5 kms from Badkal Lake. The noise levels were observed to be in the range of 52-80 dBA. The noise levels were also measured at a distance of 500 mts away from the working mine, and it was observed to be equal to the background noise level of 40-42 dBA. Noise levels were also measured during blasting, when 820 gms of explosive was used in four holes of 1.2 mts depth. The maximum noise level of 59.5 dBA was recorded at a distance of 500 mts from the blast site.”  
h

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The following recommendations have been made by the NEERI in the report:

“6.1 *Mining*. (1) Detailed exploratory operations need to be undertaken to facilitate the estimation of reserves in the region, and for scientific management of mining operations. a

(2) The mine lease-owners need to undertake the mining operations in series, i.e. mining activities must be completed to full potential in a block before moving to the next. This will help in reclamation of land in the block in which mining operations have been completed.

(3) All the mine leaseholders need to prepare detailed mining plans, and obtain approvals before the actual mining operations are initiated. The implementation of approved mining plans by the mine leaseholders needs to be ensured by a designated authority with specialization in environment. b

(4) The mine leaseholders should also prepare mine safety plans, and ensure installation of necessary devices for protection of mine workers.

(5) In view of the observations made by the Archaeological Survey of India (ASI) on the availability of stone age tools and other historic remains, ASI needs to work in collaboration with the mine leaseholders on matters relating to excavation operations. c

(6) Dust suppression measures like sprinkling of water on haulage roads and overburden dumps and other areas need to be implemented by mine leaseholders.

(7) In order to minimise the dust pollution caused due to vehicular traffic, it is necessary to initiate a number of measures, e.g. an alternate bypass road must be laid to ensure that no vehicles pass through the area within 1 km radial distance from the periphery of the lakes. d

(8) It is necessary to minimise the duration of blasting operations.

(9) Necessary measures must be initiated by the Haryana Tourism Department to protect the quality of the lake waters, and to eliminate the non-point sources of pollution. e

(10) The Environmental Management Plans (EMP) being formulated by the mine-owners should include land rejuvenation and afforestation programmes, and other measures necessary to protect the quality of the environment and human health. The mining operations should commence only after the approval of EMPs by a designated authority. A time-bound action plan needs to be initiated for the implementation of the measures delineated in the Environmental Management Plans. f

(11) In order to protect the Surajkund and Badkal lakes and the associated tourist complexes, it is necessary to develop and implement scientifically designed green belts around these complexes, as also around boundaries of different mining blocks. g

(12) Green belt should also be developed and implemented on either side of the roads in the mining area and Surajkund-Badkal Road to minimise the effects of dust and noise pollution.

(13) The question of lifting the ban on mining operations needs to be considered in conjunction with the implementation of stringent pollution control, land reclamation, green belt, and other Environmental Management measures so as to facilitate the availability of construction materials and h

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employment opportunities for the workers along with the protection of environment and public health.

- a* (14) It is considered necessary to prepare a Regional Environmental Management Plan for urgent implementation to enable eco-friendly regional development in the area.”

Regarding the Green Belt Development NEERI has recommended as under:

“Since, plants possess immense capabilities for dust attenuation, it is recommended that green belts be developed in the following areas:

- b* At one km radius all around the Surajkund lake boundary; 200 mts wide green belt  
At one km radius all around the Badkal lake boundary; a 200 mts wide green belt  
Outside the total mining area lease boundary; a 100 mts wide green belt  
*c* On open, peripheral areas around the stone crushers’ zone; a 100 mts wide green belt within the crusher zone boundary (Figure 3).

The sitewise green belt designs have been presented in Table 4.

Roadside plantations are also required. Depending upon the width of various roads and the land available, there is a need for two/three rows of trees on either side of each road. The spacing between the rows may be 5 mts, and that between trees in each row as 6 mts. The requirements of plants for roadside plantation has been indicated in Table 4.

- d* The green belt development involves use of several plant species in hundreds and, therefore, it is desirable that the work be entrusted to the District Forest Department that will be able to maintain and generate the required number of seedlings of all the recommended plant species.”

- e* 5. The two expert opinions — by the Board and by the NEERI — leave no doubt in our mind that the mining activities in the vicinity of tourist resorts are bound to cause severe impact on the local ecology. The mining brings extensive alteration in the natural land profile of the area. Mined pits and unattended dumps of overburdened, left behind during the mining operations, are the irreversible consequences of the mining operations. Rock blasting, movement of heavy vehicles, movements and operations of mining equipment and machinery cause considerable pollution in the shape of noise and vibration. The ambient air in the mining area gets highly polluted by the dust generated by the blasting operations, vehicular movement, loading/unloading/transportation and the exhaust gases from equipment and machinery used in the mining operations.

- f* *g* 6. The Board has notified the Ambient Air Quality Standards by the notification dated 11-4-1994. The notification fixes limiting standards of pollutants (Sulphur Dioxide, Oxides of Nitrogen, Suspended Particulate Matter, Respirable Particulate Matter, Lead and Carbon Monoxide) in respect of sensitive areas, industrial areas and residential, rural and other areas. The standards for sensitive areas are stringent than the standards prescribed for industrial and residential areas. The Board has recommended that the area of 5 kms around the periphery of a centre of tourism be notified as sensitive area.

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7. The Badkal lake and Surajkund are monsoon-fed water bodies. The natural drainage pattern of the surrounding hill areas feed these water bodies during rainy season. The mining activities in the vicinity of these tourist resorts may disturb the rainwater drains which in turn may badly affect the water level as well as the water quality of these water bodies. The mining may also cause fractures and cracks in the subsurface, rock layer causing disturbances to the aquifers which are the source of groundwater. This may disturb the hydrology of the area.

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8. We are, therefore, of the view that in order to preserve environment and control pollution within the vicinity of the two tourist resorts it is necessary to stop mining in the area. The question, however, for consideration is what should be the extent of the said area? NEERI in its report has recommended that 200 metre green belts be developed at 1 km radius all around the boundaries of the two lakes. It is thus obvious that 1200 metres are required for the green belts. Leaving another 800 metres as a cushion to absorb the air and noise pollution generated by the mining operations, we are of the view that it would be reasonable to direct the stoppage of mining activity within two km radius of the tourist resorts of Badkal and Surajkund. We, therefore, order and direct as under:

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1. There shall be no mining activity within two km radius of the tourist resorts of Badkal and Surajkund. All the mines which fall within the said radius shall not be reopened.

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2. The Forest Department of the State of Haryana and in particular the Chief Conservator and the District Forest Officer, Faridabad shall undertake to develop the green belts as recommended by NEERI with immediate effect. The NEERI has also suggested the development plan and the type of trees to be planted. We direct the Chief Conservator of Forests, Haryana, District Forest Officer, Faridabad and all other officers concerned of the Forest Department to start the plantation of trees for developing the green belts and make all efforts to complete the plantations of trees before the monsoons (1996).

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3. We direct the Director, Mining and Geology, Haryana, the Haryana Pollution Control Board to enforce all the recommendations of NEERI contained in para 6.1 of its report (quoted above) so far as the mining operations in the State of Haryana are concerned. All the mine-operators shall be given notices to implement the said recommendations. Failure to comply with the recommendations may result in the closure of the mining operations.

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4. We further direct that no construction of any type shall be permitted now onwards within 5 km radius of the Badkal lake and Surajkund. All open areas shall be converted into green belts.

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5. The mining leases within the area from 2 km to 5 km radius shall not be renewed without obtaining prior "no objection" certificate from the Haryana Pollution Control Board as also from the Central Pollution Control Board. Unless both the Boards grant no objection certificate the mining leases in the said area shall not be renewed.

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