

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
SOUTHERN ZONE, CHENNAI**

**APPEAL NO. 43 OF 2022 (SZ)**

**IN THE MATTER OF:**

1. Ratheesh Karattu,
2. Nidhin C.M,

...Appellants

v.

Ministry of Environment, Forests  
& Climate Change & Others

...Respondents

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Dated at Chennai on this 10<sup>th</sup> day of January, 2023

*Vidyalakshmi Vipin*

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**IN THE MATTER OF:**

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**REPLY FILED ON BEHALF OF THE 2<sup>ND</sup> TO 4<sup>TH</sup> RESPONDENTS**

I, **RANI R.S.**, wife of Mr. Prabodh Chandran, aged about 46 years, working as Legal Officer, SEIAA at Thiruvananthapuram, do hereby solemnly affirm and sincerely state as follows:-

1. I am well acquainted with the facts of the case from the available records and I am authorized to file this Reply on behalf of the 2<sup>nd</sup> to 4<sup>th</sup> Respondents. I crave leave of the Hon'ble Tribunal to reply as and when additional facts are available to the Respondent.
2. It is submitted that this respondent denies all the allegations and averments raised by the Appellant except that are specifically admitted. It is submitted that the 2<sup>nd</sup> to 4<sup>th</sup> Respondents submit certain facts, which are necessary for the present appeal, are placed hereunder in seriatim.
3. It is submitted that the above Appeal has been filed by the Appellant before this Hon'ble Tribunal to challenging the Environmental Clearance granted by the State Environmental Impact Assessment Authority, (SEIAA), the 2<sup>nd</sup> to 4<sup>th</sup> Respondents herein.
4. It is submitted that Sri.K.K.Premkumar, S/o K.K.Kunhiraman, Kolanthra House, Melmuringodi, Kannur as per his Application received in Parivesh on 21.11.2019 has sought Environmental Clearance for quarry project at Tholambra Village, Thalassery Taluk, Kannur District for an area of 1.4621 Hectares.
5. It is submitted that in the 108<sup>th</sup> meeting of SEAC held on 13<sup>th</sup> & 14<sup>th</sup> January 2020, the Committee decided to scrutinize the proposal further in detail. In the 109<sup>th</sup> meeting of SEAC held on 31<sup>st</sup> January & 01<sup>st</sup> February



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2020, the Committee directed the proponent to submit the following documents/details:

1. Form-1 M
2. Rework CER
3. Land use & Land Form Map within 500 m radius certified by Village Officer.

The proponent submitted the documents on 19.03.2020.

6. It is submitted that in the 111<sup>th</sup> meeting of SEAC held on 02<sup>nd</sup> - 04<sup>th</sup> June 2020, the proponent was invited for presentation along with the letter from beneficiaries of CER. In the 113<sup>th</sup> meeting of SEAC held on 15<sup>th</sup> - 17<sup>th</sup> September 2020, the proponent was present. The RQP made the presentation. The Committee decided to direct the proponent to submit the following documents/details;

1. Environmental sensitivity analysis of the area considering the nearness of the site to high hazard zone.
2. Mitigation measures, if any to be suggested for nullifying the adverse impacts, if any, due to environmentally sensitive aspects.
3. Write up on the afforestation plan.
4. Revised CER with location specific and monitorable targets

The Committee also entrusted Dr.R.Ajayakumar Varma & Dr.N.Anil Kumar for field inspection. The Subcommittee visited the project site on 01.10.2020.

7. It is submitted that in the 115<sup>th</sup> meeting of SEAC held on 03<sup>rd</sup> - 05<sup>th</sup> November 2020, the Committee accepted the FIR and decided to direct the proponent to submit the following documents.

1. Detailed plan for stabilization of the adjacent High Hazard Zone in which the abandoned quarry of the same proponent is located.
2. Affidavit regarding the implementation of safeguards against the accident potential of the adjacent quarries of the proponent.
3. Affidavit regarding the closure of the adjacent abandoned quarry taking all the environmental safeguards.
4. Detailed drainage plan including that in the quarry and outflow.
5. Revised EMP incorporating the specific CER activities in physical terms to be undertaken by the proponent in consultation with the stakeholders as stipulated in the OM No.22-65/2017-IA.III dated



  
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30/09/2020 and OM No. 22-65/2017-IA.III dated 20/10/2020 of the MoEF &CC, GOI instead of allocation of funds under CER. The CER activities incorporated in the EMP should be undertaken during the first two years of validity period of the EC so as to ensure that the maintenance of the interventions undertaken can be done by the proponent during the remaining validity period of the EC.

The proponent submitted the documents on 23.12.2020.

8. It is submitted that the 118<sup>th</sup> SEAC meeting held on 01<sup>st</sup>, 02<sup>nd</sup> & 03<sup>rd</sup> February 2021, the Committee scrutinized the additional documents/details submitted by the proponent. The committee observed that the processing at the SEAC level has been completed. As per the judgment of Hon'ble High Court of Kerala Dt.21.12.2020, the Committee decided to await the NGT order on the minimum distance criteria.

9. It is submitted that the 125<sup>th</sup> SEAC meeting held on 18<sup>th</sup> - 19<sup>th</sup> March 2022 and deferred for further scrutiny. Sri. Ratheesh Karattu, Secretary, Puralimala Samrakshana Samithi, Kannur filed a complaint in SEIAA on 31.03.2022. The petitioner stated that the District Geologist, Kannur Certified that there is another two quarries within 500m from the proposed quarry of the proponent. The Geologist certified that the K.K.Surendran quarry adjacent to the proponent proposed quarry is not working at present is not correct. The quarry is at present not working since the Hon'ble High Court of Kerala in its order dated 04.01.2022 has directed the SEIAA to consider the complaints raised by the residents of the area before the SEIAA in WPC 20583/2021. The petitioner requested to consider the objection and given opportunity to be heard in person before recommending EC.

10. It is submitted that the 126<sup>th</sup> SEAC meeting held on 11<sup>th</sup> to 13<sup>th</sup> April 2022, the committee examined the complaint received from 1<sup>st</sup> Appellant and found that, as per the existing norms there is no veracity in the complaint. The committee examined and discussed the proposal, documents submitted and the field inspection report and decided to recommend EC for Project life of 8 years subject to the following specific conditions in addition to the general conditions:

1. The garland canal should be provided with intermittent silt traps and siltation pond and it should be connected to a natural drain.



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2. The drainage channel should be maintained periodically by desilting the channel, silt traps and siltation pond to preventing any obstructions to overland flow.
  3. The blasting in the mine should not be done when the crushes is in operation, which is located at a distance of 85m from the project site.
  4. The traffic plan should be adhered to strictly.
  5. Transportation of the mined material should not be done during the peak hours of forenoon and afternoon.
  6. The green-belt development should initiate before the commencement of quarry operations
  7. High volume discharge of water from the abandoned quarry, nearby, should be prevented.
  8. There should be close monitoring of the overland flow through the natural drain as well as overflow from the abandoned quarry pit to ensure that the discharge of water from the site and its watershed is within the carrying capacity of the natural drain.
  9. The abandoned quarry located adjacent to the proposed site should be closed and rehabilitated based on a scientific closure plan.
  10. The boundary of the abandoned quarry should be protected appropriately and entry prevented without permission to avoid any accident.
  11. The CER should be implemented during the first two years and operated and maintained during the subsequent years
  12. The tree saplings for planting should be certified by a competent tree specialist or ecologist for their ecological characteristics and natural distribution.
  13. The impact of vibration due to blasting should be monitored for peak particle velocity and amplitude and included in the Half Yearly Compliance Report.
- 11.** It is submitted that the 1<sup>st</sup> Appellant again filed a complaint in SEIAA on 10.05.2022. The petitioner stated that SEAC rejected their objection with the findings that the complaint lacks veracity and hence SEAC decided to recommend EC. Petitioner submitted that complaint was based on facts and documents, but SEAC did not pay any attention to the facts. The petitioner has also requested to consider a chance to present complaint and connected documents so as to prove the veracity of complaint.



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12. It is submitted that the 114<sup>th</sup> SEIAA meeting held on 25<sup>th</sup>, 26<sup>th</sup> May and 01<sup>st</sup> June 2022. Authority decided to issue EC initially for a period of 5 years for the quantity mentioned in the approved mining plan and to extend the EC period to cover Project life of 8 years, from the date of issuance of original EC, subject to the review by SEAC at the end of five years, to verify whether the Project Proponent has violated any EC conditions and thereby caused any damage to the environment in the project region by violating EC conditions.

13. It is submitted that the Environmental Clearance is subject to General Conditions and the following Additional Specific Conditions.

1. *The proponent shall carry out quarrying as per the approved Mining Plan and the proponent should strictly follow the Kerala Minor Mineral Concession Rules 2015 and amendments thereby.*
2. *The EC shall be valid from the date of execution of permit/lease from the Department of Mining and Geology. The copy of the lease order should be provided to the SEIAA before commencing the mining activity.*
3. *The garland canal should be provided with intermittent silt traps and siltation pond and it should be connected to a natural drain.*
4. *The drainage channel should be maintained periodically by desilting the channel, silt traps and siltation pond to preventing any obstructions to overland flow.*
5. *The blasting in the mine should not be done when the crushes is in operation, which is located at a distance of 85m from the project site.*
6. *The traffic plan should be adhered to strictly.*
7. *Transportation of the mined material should not be done during the peak hours of forenoon and afternoon.*
8. *The green-belt development should initiate before the commencement of quarry operations*
9. *High volume discharge of water from the abandoned quarry, nearby, should be prevented.*
10. *There should be close monitoring of the overland flow through the natural drain as well as overflow from the abandoned quarry pit to ensure that the discharge of water from the site and its watershed is within the carrying capacity of the natural drain.*
11. *The Project Proponent shall take immediate measures to close all the abandoned quarries mined by him in the Project site as per the final closure plans in the approved mining plans within 6 months and a*



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report from District Geologist shall be produced to the effect that the final closure of quarries have been done as per the approved norms of department of Mining and Geology. The compliance of this condition should also be reported in the HYCR. On receipt of the report, the SEAC and District Geologist shall jointly verify the mine closure status. The EC given now is liable to be cancelled if the Project Proponent does not attend the mine closure activities as directed.

12. The boundary of the abandoned quarry should be protected appropriately and entry prevented without permission to avoid any accident.

13. The CER should be implemented during the first two years and operated and maintained during the subsequent years

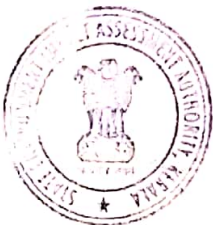
14. The tree saplings for planting should be certified by a competent tree specialist or ecologist for their ecological characteristics and natural distribution.

15. The impact of vibration due to blasting should be monitored for peak particle velocity and amplitude and included in the Half Yearly Compliance Report.

16. As per OM no F.No.22-65/2017-IA.III dated 30th September 2020, under Corporate Environmental Responsibility (CER ) the project Proponent shall prepare an Environment Management Plan (EMP) as directed by SEAC during appraisal, covering the issues to address the environmental problems in the project region, indicating both physical and financial targets year wise. The EMP shall be implemented in consultation with Local Self Govt. Institutions. The indicated cost for CER shall be 2% of the project cost depending upon the nature of activities proposed. The follow up action on implementation of CER shall be included in the Half Yearly Compliance Report which will be subjected to field inspection at regular intervals. A copy of the approved EMP shall be made available to the concerned Panchayat for information and implementation support.

17. In the wake of occurrence of large scale landslides in the state, as per the information provided by the Department of Mining & Geology, it is directed to use only NONEL (Non Electrical) technology for blasting to reduce the vibration of the ground, which is one of the causative factors that triggers landslides, formation of cracks in the surrounding buildings and disturbance to human and wildlife.

18. As per the directions contained in the OM F.No.22-34/2018-IA.III dated 16th January 2020 issued by MoEF&CC, in obedience to the directions of the Hon'ble Supreme Court the Project Proponent shall,



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undertake re-grassing the mining area and any other area which may have been disturbed due to his mining activities and restore the land to a condition which is fit for growth of fodder, flora, fauna etc. The compliance of this direction shall be included in the Half Yearly Compliance Report which will be monitored by SEAC at regular intervals.

19. The violation of EC condition may lead to cancellation of EC and action under The Environment (Protection) Act 1986.

Under the above circumstances, it is humbly prayed that this Hon'ble Tribunal may be pleased to dismiss the plea against the 2<sup>nd</sup> to 4<sup>th</sup> Respondents, pass such order or orders as this Hon'ble tribunal may deem fit and proper in circumstances of the case and thus render justice.

Dated at Chennai on this the 10<sup>th</sup> day of January, 2023.



4<sup>TH</sup> RESPONDENT


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#### VERIFICATION

I, **RANI R.S.**, wife of Mr. Prabodh Chandran, aged about 45 years, working as Legal Officer, SEIAA at Thiruvananthapuram, do hereby verify that the contents of paras 1 to 13 are true to the best of my personal knowledge and paras 1 to 13 believed to be true on legal advice and that I have not suppressed any material fact.

Dated at Chennai on this the 10<sup>th</sup> day of Jaquary, 2023.

4<sup>TH</sup> RESPONDENT



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