

Presented on: 23 .08.2022

**BEFORE THE HON'BLE NATIONAL GREEN  
TRIBUNAL (SZ), CHENNAI**

**APPEAL No. 43 OF 2022**

**BETWEEN**

RATHEESH KARATTU & ANR .....**APPELLANTS**

*Versus*

MINISTRY OF ENVIRONMENT, FOREST AND  
CLIMATE CHANGE & ORS.....**RESPONDENTS**

**REJOINDER AGAINST THE COUNTER AFFIDAVIT FILED BY THE  
RESPONDENTS No.1 - 5**

RAJAN VISHNURAJ (R-1268) [K/653/2010]

HARISH VASUDEVAN (H-253) [K/779/2013]

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Dated this the 23<sup>rd</sup> day of August, 2023

  
COUNSEL FOR THE APPELLANTS

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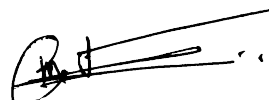
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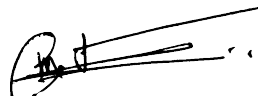
I, Nidhin CM, aged 30 years, S/o Chandroth Madhusoodanan, Tholambra PO, Peravoor, Kannur District – 670 673, Kerala, do hereby solemnly affirm and state as follows:

1. I am the 2<sup>nd</sup> appellant in the above mentioned memorandum of appeal and as such I am conversant with the facts of the case. I am competent to swear this affidavit on behalf of the 1<sup>st</sup> appellant also.
2. A Reply affidavit was filed by the Counsel for the 1<sup>st</sup> respondent on 05.01.2022. A Reply Affidavit on behalf of respondents No.2 - 4 was filed on 10.01.2023 and a Reply Affidavit on behalf of the 5<sup>th</sup> respondent was filed on 23.02.2023. Most of the averments in the said Reply Affidavits are not true and hence this rejoinder.
3. All the averments in the Reply Affidavit filed on behalf of the respondents No.2 – 4, except which are specifically admitted hereunder are stoutly denied. There is absolutely no proof produced by the



respondents No. 2 – 4 to disprove the allegations made in this appeal. There is no documents produced to show that a proper detailed scrutiny and appraisal was done in the given case and there is absolutely no application of mind in the decision making. It is an admitted fact that the high hazard zone is nearby and an illegally functioning quarry site is adjacent. It is also an admitted fact that there are two quarries within 500 meters of the proposed quarry and therefore argument of the appellants that this is a cluster is to be accepted.

4. All the averments in the Reply Affidavit filed on behalf of the respondent No.5, except which are specifically admitted hereunder are stoutly denied. The 2<sup>nd</sup> and 3<sup>rd</sup> respondents have considered the ecological sensitivity of the area in detail and the impact of mining in the said area especially in close proximity to a river/ natural water stream originated from the nearby property. Based on a direction of Hon'ble High Court of Kerala in WP[C].20583 of 2021, a field inspection was conducted by SEAC on 06.03.2023 and observed that the project area falls on a very steep slope frank of a hill and the feasibility of quarry operation is extremely poor. The moderate hazard zone location which is in continuation with high hazard zone within 140 meter west is also noted by SEAC. It was found that the boulders found in the project area can cause accident due to induced drifting down and a perennial stream of water flows through a gorge-like structure with steep vertical hard rock walls as banks and the said stream flows as a waterfall (Povathar waterfall) and cascades very near to the project site of Mr.Surendran, which is a quarry falls within 500 meters periphery of the proposed quarry site of the 5<sup>th</sup> respondent. The SEAC categorically found that the location is ecologically sensitive and rare aquatic species are seen in the



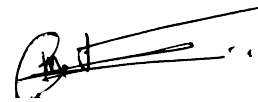
stream. A decision was taken on the 146<sup>th</sup> meeting of SEAC to recommend cancellation of the EC granted to Mr.Surendran. A true photocopy of the relevant pages of 146<sup>th</sup> meeting of SEAC minutes is produced herewith and marked as **Annexure A15.**

5. Based on this, all the contentions made in this Appeal are found true by the SEAC and the deliberate suppression of material facts is also proved beyond doubt. This area is found to be ecologically sensitive and presence of rare aquatic species and a natural stream and high hazard zone is found out correctly by SEAC. Based on this all the contention made by the 5<sup>th</sup> respondent is found false and hence the counter affidavits filed by all the respondents should be rejected and appeal should be allowed.

Therefore, it is most humbly requested and prayed that, having regard to the above mentioned and other grounds that may be pleased to accept this rejoinder and allow this appeal, in the interest of justice, equity and good consistence.

All the facts stated above are true to the best of my knowledge, belief & information.

Dated this the 23<sup>rd</sup> day of August, 2023



DEPONENT

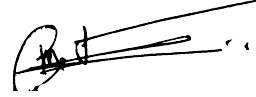
Solemnly affirmed and signed before me by the deponent whom I know on this the 23<sup>rd</sup> day of August, 2023 in my office.



Harish Vasudevan  
ADVOCATE

VERIFICATION

I, Nidhin C M, aged 30 years, S/o Chandroth Madhusoodanan, Tholambra PO, Peravoor, Kannur District – 670 673, Kerala , do hereby verifies that the contents of the above paragraphs 1 to 5 are true to the best of my knowledge and I have not suppressed any material facts.



SIGNATURE OF THE APPELLANT

DATE :23.08.2023

PLACE: Ernakulam.

**MINUTES OF THE 146<sup>TH</sup> MEETING OF THE SEAC, KERALA HELD FROM  
5<sup>TH</sup> TO 7<sup>TH</sup> JULY, 2023, AT THE CONFERENCE HALL, STATE  
ENVIRONMENT IMPACT ASSESSMENT AUTHORITY, KERALA**

**146.01** Confirmation of the minutes of the 145<sup>th</sup> SEAC meeting held on 19<sup>th</sup> July 2023.

**Decision:** Confirmed.

**146.02** Revalidation of Environmental clearance for the proposed Building stone quarry project in Re Survey No. 76/8, 77/1, 77/2, 78/6, 97/1, 97/2 at Mancode Village, Kottarakkara Taluk, Kollam District, Kerala by Sri. Arun Varghese, Managing Partner, M/s Tasna Mines (File.No.1201/EC2/ 2018/ SEIAA)

**Decision:** Based on the direction of the 145<sup>th</sup> SEAC meeting, the proponent was invited for presentation. The proponent informed that he was unable to attend the meeting. Hence Committee decided to defer the proposal.

**146.03** Request for Revalidation of EC for the proposed building stone quarry project, M/s Poab's Granites Pvt. Ltd at Sy. Nos. 459/1-1 pt, 459/2, 460/10, 12, 460/2-1 pt, 46/2-2, 461/4, 461/1, 462/1 pt, 462/2, 462/3, 446/4 pt, 446/7 pt, 446/8 pt, 462/5, 461/2, 461/3, 447/3, 2 pt, 448/3 pt, 2, 1, pt, 452/5 pt, 452/4, 6, 7, 8 in Peroorkada Village, Thiruvananthapuram Taluk, Thiruvananthapuram Revalidation of EC. (File No. 1071(A)/EC1/2016/SEIAA)

**Decision:** Based on the decision of the 141<sup>st</sup> SEAC meeting, the proponent was invited for presentation. The proponent informed that he was unable to attend the meeting. Hence Committee decided to defer the proposal.

**146.04** Environmental Clearance issued from SEIAA, Thiruvananthapuram for the granite building stone quarry of Sri. Thomas Jacob, M/s Poabs Enterprises Pvt. Ltd at Sy. Nos. 259/1, 256/4, 265/1, 272/1, 272/7, 272/6, 271/3, 271/6, 273/1, 270/1, 265/2, 271/2, 270/2, 269/2, 272/2-2, 273/3, 274/1-2, 268/9-2, 266/15, 266/24, 266/16-1, 266/16-2, 271/7-1, 271/7-2, 271/7-3, 272/5, 267/5, 268/2-1, 268/2-2, 268/3-2-1, 268/3-2-2, 268/5-2, 268/6, 268/7, 269/9-2, 268/8-1, 268/8-2, 268/4, 268/4-2, 268/4-3, 271/4, 271/5 in Chithara Village, Kottarakkara Taluk, Kollam, Kerala - Revalidation of EC. (File No. 1108/EC/SEIAA/KL/2017)

**Complaint received from Link Valley Association against M/s Prestige Hill side Gate Way project - EC issued (File No. 588/SEIAA/KL/4504/2014)**

**Decision:** The Committee verified the documents submitted by the proponent and **decided to entrust Sri. Sheik Hyder Hussain and Dr. Ajayakumar Varma for field inspection and report.**

**146.16 Environmental Clearance issued by DEIAA, Kannur -Judgment dated 04.01.2022 in the WPC No.20583/2021 filed by Sri.Savith Erayi, Kannur before the Hon'ble High Court of Kerala. (File No.2792/EC4/2021/SEIAA)**

**Decision:** The Committee discussed the field inspection report conducted on 06.03.2023 and observed that precautionary principle should be applied to the site. Considering this, the Committee decided to recommend cancellation of the EC due to the following reasons:

- The project area falls on a very steep slope flank of a hill. The feasibility of quarry operation is extremely poor.
- The location is in the moderate hazard zone which is in continuation with high hazard zone (140m west).
- The boulders found in the project area can cause accidents due to induced drifting down .
- Poovathar, a perennial stream flows through a gorge-like structure with steep vertical hard rock walls as banks. The stream flows as waterfalls (Povathar waterfall) and cascades very near to the project site (the western boundary of the project area is located very near to the stream).
- The location is ecologically sensitive and rare aquatic species are seen in the stream.

**146.17 Suggestions put forth by the Representatives of RQPs, EIA Consultants and Quarry Owners Association on the training/interactive session on various aspects of EC for development projects (File No: 2703/A1/2022/SEIAA)**

**Decision:** The Committee decided to seek the e-copy of the suggestions indicated in the Agenda Note to be circulated to the Members of the SEAC.

**PART 1**

**CONSIDERATION/RECONSIDERATION OF ENVIRONMENTAL CLEARANCE**

- 1. SIA/KL/INFRA2/404656/2022 , 2140/EC1/2022/SEIAA  
Environmental Clearance for the Proposed City Side Developmental Project at Pettah Village, Thiruvananthapuram Municipal Corporation, Taluk & District, Kerala to be developed by M/s Adani Airport Holdings Limited. (Additional Documents Received)**