

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL**

**SOUTHERN ZONE, CHENNAI**

**APPEAL NO.48 OF 2022 (SZ)**

**IN THE MATTER OF:**

**Roy Thomas**

...Appellant

v.

**Union of India, Ministry of Environment, Forests  
& Climate Change & Others**

...Respondents

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Dated at Chennai on this 19<sup>th</sup> day of December, 2022

*Vidyalakshmi Vipin*

**COUNSEL FOR 10<sup>TH</sup> RESPONDENT**

**VIDYALAKSHMI VIPIN**

Standing Counsel for SEIAA, Kerala and KSBB

No.GF-A, 19, Casa Major Road, Egmore, Chennai -600 008.

Mobile :- +91-91767 90131

E-mail: [vidyalakshmij@wialegal.com](mailto:vidyalakshmij@wialegal.com)

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**IN THE MATTER OF:**

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**REPLY FILED ON BEHALF OF THE 10<sup>TH</sup> RESPONDENT**

I, **RANI R.S.**, wife of Mr.R.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 10<sup>th</sup> Respondent. I crave leave of the Hon'ble Tribunal to file additional reply as and when additional facts are available to the Respondent.
2. It is submitted that the above Appeal has been filed by the Appellant before this Hon'ble Tribunal to set-aside the revalidation of Environmental Clearance dated 26.07.2022, which was granted by the State Environmental Impact Assessment Authority, (SEIAA), the 10<sup>th</sup> Respondent herein.
3. It is submitted that the impugned clearance was granted on 26.07.2022 and the present appeal was filed on 26.08.2022 before this Hon'ble Tribunal and there is a delay in filing the appeal since the same was filed beyond the period of 30 days.
4. It is submitted that the above appeal itself is not maintainable at all as it is barred by limitation and this apart it is devoid of merits on both the factual and legal aspects. It is submitted that the Appellant has no locus standi to file the above appeal and as such the same has been filed with vested interest and is an abuse of process of law.



*R. Rani*

**RANI. R.S**  
Deputy Secretary to Govt. &  
Legal Officer  
State Environment Impact Assessment Authority  
4th Floor, KSRTC Bus Terminal Complex  
Thiruvananthapuram-1  
Ph: 0471-2334262

5. It is submitted that this respondent denies all the allegations and averments raised by the Appellant except that are specifically admitted herein. It is submitted that certain facts, which are necessary for the present appeal, are placed hereunder in seriatim.
6. It is submitted that the Environmental Clearance was issued to the building stone quarry project of Sri.K.Sadanandan in Sy. Nos.143/2, 143/4, 144/1, 144/2, 144/3, 146/1, 146/2, 146/3, 147/1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 148, 149/4, 152/4, 152/5, 152/6, 152/7, 152/8, 152/9, 152/10, 152/11, 152/12, 152/13, 152/14 and 152/15 in V-Kottayam Village, Konni Taluk, Pathanamthitta District vide Proceedings No. 200/SEIAA/EC4/86/2014 dated 10.08.2015 and the validity expired on 09.08.2020.
7. It is submitted that Sri. M.G. Madhu, Convener, Grama Raksha Samithi, Kottayam submitted a complaint against the said quarry alleging that the quarry blatantly violates the existing rules in environment conservation and becoming a threat to the inhabitants and the same was considered in the 88<sup>th</sup> SEIAA meeting held on 25<sup>th</sup> January 2019. Authority decided to obtain a report from the District Collector, Pathanamthitta after conducting an enquiry through the Geologist, against the alleged quarrying of Shri.K.Sadanandan.
8. It is submitted that direction was given to the District Collector, Pathanamthitta vide letter No. 200/SEIAA/EC4/86/2014 dated 15.02.2019. It was noted that, the District Collector had already taken up the matter with SEIAA as per his letter No. C7/186928/2018, dated 05.11.2018.
9. It is submitted that the complaint was filed by Shri.Roy Thomas, Chairman, Gramareksha Samithi, V-Kottayam, Pathanamthitta against the building stone quarry project of Sri.Sadanandan, wherein it was stated as follows:

*"Sri.K.Sadanandan obtained EC in plantation land in Block No.31, Vallicode Kottayam Village, Konni Taluk, Pathanamthitta District. Sri.K.Sadanandan and his family owned 15.8068 Hectares of*



*R. Rani*

**RANI. R.S**  
Deputy Secretary to Govt. &  
Legal Officer  
State Environment Impact Assessment Authority  
4th Floor, KSRTC Bus Terminal Complex  
Thiruvananthapuram-1  
Ph: 0471-2334262

*land which is mapped as plantation land in Revenue records. As the plantation land will not come under the purview of*

*commercial site, hence illegal quarrying activities has to be immediately stopped and the petitioner requests to cancel EC”.*

**10.** It is submitted that the proposal was then placed in the 99<sup>th</sup> SEIAA meeting held on 05.11.2018 and held as follows:-

*“Authority noticed that the issues relating to land type and ownership do not come under the purview of Authority. However, the matter may be brought to the notice of District Collector Pathanamthitta for appropriate further action by enclosing copy of the petition. Authority also noticed that as per Letter Dt.05.11.2018, District Collector has made certain observations about the functioning of the quarry. District Collector may be requested to make definite recommendations in case the EC issued has to be cancelled. The petitioner may be informed accordingly.”*

**11.** It is submitted that as per the decision in the 99<sup>th</sup> SEIAA meeting, the complaint received from Mr. Roy Thomas was forwarded to District Collector, Pathanamthitta for necessary action and to suggest definite recommendations in case the EC issued has to be cancelled.

**12.** It is submitted that Sri. Madhu. M.G, Convenor, Grama Raksha Samithi requested SEIAA to take action to stop the quarrying operation in the plantation land. Since the validity of EC of M/S Ambadiyil Granites expired on 09.08.2020, direction was given to District Geologist to take necessary action to stop the quarrying operation vide letter dated 18.08.2020.

**13.** It is submitted that Shri. Roy Thomas, Chairman, Grama Raksha Samithi had submitted a complaint regarding the quarrying in Sy. No. 147/1, 2, 3, & 149/4 in Vallicode Kottayam Village. He alleged that the Sy. Nos were included in the proposal of M/S J&S granites in which



*Rani R.S.*  
**RANI. R.S**  
 Deputy Secretary to Govt. &  
 Legal Officer  
 State Environment Impact Assessment Authority  
 4th Floor, KSRTC Bus Terminal Complex  
 Thiruvananthapuram-1  
 Ph: 0471-2334262

SEAC had recommended ToR in 113<sup>th</sup> meeting along with four additional terms. As per the aforesaid recommendation comments, the proponent was also requested to submit 9 more additional documents/details.

**14.** It is submitted that a letter received from the Geologist, Pathanamthitta, dated 23.09.2020 requesting SEIAA to give advice on the course of action has to be taken regarding the extension of EC to the quarry project of Sri.K.Sadanandan by the order of Hon'ble High Court and also about the working of quarrying lease granted by the Director, Mining & Geology based upon the documents by the Revenue Department.

**15.** It is submitted that this proposal was placed in the 105<sup>th</sup> SEIAA meeting held on 22<sup>nd</sup> and 23<sup>rd</sup> October 2020. The decision is as follows:

*"Authority noticed that the Project Proponent had obtained a favourable judgement in W.P.(C) No.8210 of 2020 for extending a EC period to 7 years against the EC period of 5 years granted by SEIAA, by misguiding the Honourable High Court quoting wrong sections in EIA notification 2006. Upon enquiry Standing Council in High Court has informed that Honourable High Court has called back the Judgement.*

*Authority noticed that repeated complaints have been received about the functioning of the quarry and these complaints have been forwarded DC Pathnamthitta and reply of DC are awaited. Authority decided to forward copies of all complaints to DC Pathnamthitta once again in his name cover seeking replies within 15 days.*

*Authority noticed that the EC period had expired on 9.8.2020 and proponent has not applied for extension of EC. In the light of the fact that the Judgement has been called back and Proponent has no locus standi to continue the quarry operations, Proponent may be asked to stop all quarry operation with immediate effect, after seeking legal advice from standing counsel on priority.*



*R. Rani*

**RANI, R.S**  
Deputy Secretary to Govt. &  
Legal Officer  
State Environment Impact Assessment Authority  
4th Floor, KSRTC Bus Terminal Complex  
Thiruvananthapuram-1  
Ph: 0471-2334262

*Authority once again decided to request DC Pathnamthitta to speed up his reply to Authorities letter dated 17.3.2020 enclosing the complaints Sri. M. G. Madhu and Shri Roy Thomas. DC may also be requested to give definite recommendations if EC has to be cancelled.*

*Authority decided to inform the above position to District Geologist, Pathanamthitta, as a reply to his letter dated 23.09.2020. "He may also be informed that in case the proponent applies for revision of mining plan for extension of EC, he shall verify all relevant land documents in relation to complaint of Shri.Roy Thomas carefully and he shall also verify whether any violation has taken place in carrying out mining operations, before approving the revised mining plan.*

*Authority also decided to inform District Geologist that the project proponent had also applied for starting a new quarry project in the same survey no's and he should obtain all relevant documents from local self-government institutions and verify the complaint of Shri. Roy Thomas before executing the lease deed."*

**16.** It is submitted that based on the decision of 105<sup>th</sup> SEIAA meeting, Authority vide letter dated 23.11.2020, sought legal opinion of the Standing Counsel and the Standing Counsel forwarded legal opinion on 26.11.2020. The Authority vide letter dated 07.12.2020 directed the proponent to stop all quarrying operations with immediate effect. The Authority also informed District Geologist that the project proponent had also applied for starting a new quarry project in the same survey no's and he should obtain all relevant documents from local self-government institutions and verify the complaint of Shri. Roy Thomas before executing the lease deed vide letter dated 14.12.2020. Complaint regarding the quarrying operations of Sri.Sadanandan was forwarded by Secretary, Pramadom Grama Panchayath vide letter dated 23.02.2021.

**17.** It is submitted that the project proponent filed WP(C) No.12420/2020 dated 02.11.2020 before the Hon'ble High Court



*Rani R.S.*  
**RANI. R.S**  
 Deputy Secretary to Govt. &  
 Legal Officer  
 State Environment Impact Assessment Authority  
 4th Floor, KSRTC Bus Terminal Complex  
 Thiruvananthapuram-1  
 Ph: 0471-2334262

regarding the revalidation of EC. This was considered in 118<sup>th</sup> SEAC meeting held on 1<sup>st</sup>, 2<sup>nd</sup> & 3<sup>rd</sup> February, 2021. The proponent and consultant were present. The consultant made the presentation. The Committee decided to direct the proponent to submit additional documents. The Authority vide letter dated 17.02.2021 and remainder letter dated 09.03.2021 directed the proponent to submit the details sought by 118<sup>th</sup> SEAC meeting.

**18.** It is submitted that based on the decision of 120<sup>th</sup> SEAC meeting, the subcommittee consisting of Smt.Beena Govindhan and Shri.G.Sankar conducted field inspection regarding revalidation of EC on 15.07.2021. The field inspection report was received on 11.08.2021.

**19.** It is submitted that as per the decision of 105<sup>th</sup> SEIAA meeting, D.O. letter dated 24.11.2020 and urgent letter dated 30.03.2021 was forwarded to the District Collector, Pathanamthitta seeking report. The District Collector, Pathanamthitta vide letter dated 29.07.2021 forwarded report of the quarrying operations of Sri.Sadanandan.

**20.** It is submitted that the proposal was placed in the 111<sup>th</sup> SEIAA meeting held on 17<sup>th</sup> & 18<sup>th</sup> August 2021. Authority noted that "there are repeated complaints about the status of the land and the complaints were forwarded to DC Pathanamthitta for verification and report. DC, Pathanamthitta vide letter dated 29.07.2021 has forwarded report on the status of land and quarrying operations of Sri.Sadanandan, the Project Proponent, but there are ambiguities about the status of the land". Under the above circumstances, the Authority decided the following:

1. *The field inspection report shall clearly state the field observations and the observations made by SEAC expert team during field inspection have to be attended before recommendation for revalidation of EC. There shall be a clear recommendation of SEAC for revalidation of EC.*
2. *The ambiguities about the status of land noticed in the letter of DC Pathanamthitta should be clarified in clear terms as to*



  
**RANI. R.S**  
 Deputy Secretary to Govt. &  
 Legal Officer  
 State Environment Impact Assessment Authority  
 4th Floor, KSRTC Bus Terminal Complex  
 Thiruvananthapuram-1  
 Ph: 0471-2334262

*whether the land in question is a plantation land or commercial land, if so whether the quarry operations can be allowed or not.*

3. *As per Letter Dt.05.11.2018, District Collector has made certain observations about the functioning of the quarry. District Collector may be requested to give definite recommendations, in case the EC issued has to be cancelled after getting a report from District Geologist.*

21. It is submitted that the decision of the 111<sup>th</sup> SEIAA meeting was forwarded to the District Collector, Pathanamthitta vide letters dated 10.09.2021 & 26.10.2021. The report from DC is not yet received.

22. It is submitted that the proposal was placed in 124<sup>th</sup> SEAC meeting held on 24<sup>th</sup> - 27<sup>th</sup>, August, 2021. The Committee discussed the Field Inspection Report and decided to direct the proponent to submit the additional documents/details:

23. It is submitted that the decision of the 124<sup>th</sup> SEAC meeting was informed to the proponent vide letter dated 10.09.2021.

24. It is submitted that the proponent vide e-mail dated 04.09.2021 forwarded certificate of Village Officer dated 19.07.2021 (copy enclosed). The Village Officer, V-Kotayam intimated that the nature of land was marked as "purayidam" in the column no.5 of the Land Tax Register.

25. It is submitted that the letter of the Village Officer, it is difficult to assess that whether the land comprised in plantation category or not and if belongs to plantation category mining is permissible or not. Hence the Authority vide letter dated 05.10.2021, requested to furnish clarification on the nature of land.

26. It is submitted that the Standing Counsel vide e-mail dated 31.10.2021 forwarded WP(C) No.23666 of 2021 filed by Shri.K.Sadanandan before the Hon'ble High Court, in which SEIAA & SEAC were 2<sup>nd</sup> & 3<sup>rd</sup> respondents respectively. The main prayer of the petitioner is that to direct the 1<sup>st</sup> respondent to complete the



*Rani R.S.*  
**RANI, R.S**  
 Deputy Secretary to Govt. &  
 Legal Officer  
 State Environment Impact Assessment Authority  
 4th Floor, KSRTC Bus Terminal Complex  
 Thiruvananthapuram-1  
 Ph: 0471-2334262

proceedings for revalidating the validity of Ext.P1 EC in tune with Ext.P2 judgment, on the basis of Exts.P4, P6 and P7, as expeditiously as possible, at any rate, within a period of 1 month.

**27.** It is submitted that the Village Officer, V-Kotayam vide e-mail dated 26.12.2021, forwarded clarification regarding the category of land.

**28.** It is submitted that the proposal was placed in the 125<sup>th</sup> SEAC meeting held on 18<sup>th</sup> – 19<sup>th</sup> March, 2022. The Committee verified the documents and found them satisfactory. The report of Village Officer V-Kottayam was also satisfactory. The Committee recommended the issuance of EC for the life of mine of 10 years, from the date of issuance of original EC subject to the decision of the 111<sup>th</sup> SEIAA that observations made by the SEAC Expert Team during field inspection have to be attended before recommendation of SEAC for revalidation of EC. Accordingly, the committee entrust Smt. Beena Govindan and Dr.Mahesh Mohan for field level verification. The Subcommittee conducted field inspection on April 1, 2022.

**29.** It is submitted that the Kanjirappara-Thudiurulippamala Devasom Trust vide letter dated 10.03.2022, forwarded complaint against the quarry project of Sri.Sadanandan and this complaint was forwarded to DC, Pathanamthitta for report vide Authority's letter dated 21.03.2022. Sri.K.Sadanandan vide letter dated 22.03.2022 forwarded satisfactory CCR from MoEF and also the certificate of the Geologist dated 05.03.2022.

**30.** It is submitted that the proposal was placed in 126<sup>th</sup> SEAC meeting held on 11<sup>th</sup> to 13<sup>th</sup> April, 2022. The Committee accepted the field inspection report submitted by Smt. Beena Govindan and Dr. Mahesh Mohan. As per the report of the Village Officer, V- Kottayam Village, the land in question does not come under the plantation category. The CCR received from the IRO, MoEF & CC, Bangalore is found satisfactory. Re-verification of the compliance is also satisfactory. In these circumstances, the committee decided to recommend the revalidation of EC with a project life of 10 years from



*Rani R.S.*

**RANI. R.S**  
Deputy Secretary to Govt. &  
Legal Officer  
State Environment Impact Assessment Authority  
4th Floor, KSRTC Bus Terminal Complex  
Thiruvananthapuram-1  
Ph: 0471-2334262

the date of issuance of the original EC with the following specific conditions in addition to general conditions:

1. The growth of buffer plantations should be monitored and geo-tagged photographs are to be incorporated into the HYCR.
2. The geo-tagged photographs taken on various dates showing the outflow of water from the silt traps are to be incorporated in the HYCR.
3. Photographs with the date and time showing periodic cleaning of silt traps are to be incorporated in the HYCR.

**31.** It is submitted that Sri.Roy Thomas, Chairman, Gramarakshasamithi, V-Kottayam P.O., forwarded complaints against the issuance of license by Panchayath to quarrying without obtaining EC and not to allow EC to the proposed project. Also another petitioner, Sri Aji.K., Secretary, Thudiyurulippara Hanuman Swami Temple Administrative Committee, Vallicodu, Kottayam requests not to renew and not to allow EC to the proposal of Sri.K.Sadanandan. The complaints were forwarded to DC, Pathanamthitta vide Authority's letter dated 26.04.2022.

**32.** It is submitted that the proposal was placed in the 114<sup>th</sup> SEIAA meeting held on 25<sup>th</sup>, 26<sup>th</sup> May and 1<sup>st</sup> June 2022. The decision of the Authority is as follows:

*"The Authority perused the item and noted the decisions of various SEAC meetings including the 126<sup>th</sup> meeting in which the EC was recommended for revalidation and the Field Inspection Report (FIR) of the Sub-committee. The Authority found that the proponent has simultaneously applied for revalidation of EC to MoEF&CC and Sri.Pankaj Varma, Scientist-E, MoEF vide e-mail dated 24.02.2022 requested to provide the files (without zip) of the concerned proposal for considering in the EAC meeting. The Authority vide e-mail dated 25.03.2022 forwarded the scanned documents in PDF format to the MoEF&CC. The status of the application is yet to be updated either by MoEF & CC or by the proponent.*



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**RANI. R.S**  
Deputy Secretary to Govt. &  
Legal Officer  
State Environment Impact Assessment Authority  
4th Floor, KSRTC Bus Terminal Complex  
Thiruvananthapuram-1  
Ph: 0471-2334262

***Under the circumstances the Authority decided the following:***

1. *The present status of the proposal submitted to MoEF & CC shall be ascertained from the Project Proponent/ MoEF & CC.*
2. *The complaints received from Sri. Roy Thomas, Chairman, Gramaraksha Samithy, V-Kottayam and Sri. Aji, Secretary, Thudiyurulipara Hanuman Swami Temple Administrative Committee shall be forwarded to District Geologist, Pathanamthitta, and Secretary, Vallicode Grama Panchayth for urgent enquiry report within 15days.*
3. *The District Collector may be reminded to submit the report sought within 15days urgently”.*

**33.** It is submitted that the mass petition was filed by the residents of V-Kottayam against the quarry project of Sri.K.Sadanandan vide letter dated 22.05.2022. Also, Shri.Roy Thomas vide letter dated 14.06.2022 requested not to allow EC and cancel all procedures along with the application of Sri. K. Sadanandan and he also stated that based on the judgment dated 25.05.2022 in WP (C) 11249/2010 of the Hon'ble High court specifically ordered the Kerala Government to stop all mining activities in the LA patta lands, under the Kerala Land Assignment Rules, 1964. These complaints were forwarded to the DC, Pathanamthitta vide Authority's letter dated 24.06.2022 for enquiry report within 15 days.

**34.** It is submitted that based on the decision of the 114<sup>th</sup> SEIAA meeting, the complaints were forwarded to District Geologist, Pathanamthitta, and Secretary, Vallicode Grama Panchayth vide Authority's letter dated 24.06.2022.

**35.** It is submitted that the proponent vide e-mail dated 22.06.2022 forwarded clarification regarding the decision of the 114<sup>th</sup> SEIAA meeting.



*RANI R.S.*

**RANI. R.S**  
Deputy Secretary to Govt. &  
Legal Officer  
State Environment Impact Assessment Authority  
4th Floor, KSRTC Bus Terminal Complex  
Thiruvananthapuram-1  
Ph: 0471-2334262

**36.** It is submitted that the proposal was placed in the 115<sup>th</sup> SEIAA meeting held on 30<sup>th</sup> June 2022. The Authority decided to revalidate the EC with a project life of 10 years from the date of issuance of original EC i.e. from 10.08.2015. The revalidation of EC is subject to Terms and Conditions in the original EC in addition to the General Conditions and the following Additional Specific Conditions.

1. *The growth of buffer plantations should be monitored and geo-tagged photographs are to be incorporated in the HYCR.*
2. *The geo-tagged photographs taken on various dates showing the outflow of water from the silt traps are to be incorporated in the HYCR.*
3. *Photographs with the date and time showing periodic cleaning of silt traps are to be incorporated in the HYCR.*

**37.** It is submitted that the Authority also noticed that the mass petition received from the residents of V-Kottayam, complaint from Sri. Roy Thomas vide letter dated 14.06.2022, have already been forwarded to District Collector for enquiry report.

**38.** It is submitted that based on the decision of 115<sup>th</sup> SEIAA meeting held on 30<sup>th</sup> June 2022, revalidation proceedings was issued vide order dated 26.07.2022 to the proposed quarry project of Sri.K.Sadanandan.

**39.** It is submitted that the answering respondent followed the procedures laid down under the EIA Notification without any default and considering the materials placed before it including the complaints, when deciding the application for revalidation of Environmental Clearance.

Under the above circumstances, it is humbly prayed that this Hon'ble Tribunal may be pleased to dismiss the appeal as barred by limitation and devoid of any merits and pass such further or other orders as this Hon'ble tribunal may deem fit and proper in circumstances of the case and thus render justice.



  
**RANI. R.S**  
 Deputy Secretary to Govt. &  
 Legal Officer  
 State Environment Impact Assessment Authority  
 4th Floor, KSRTC Bus Terminal Complex  
 Thiruvananthapuram-1  
 Ph: 0471-2334262

Dated at Chennai on this the 19<sup>th</sup> day of December, 2022.

**10<sup>TH</sup> RESPONDENT**

**VERIFICATION**

**RANI. R.S**  
Deputy Secretary to Govt. &  
Legal Officer  
State Environment Impact Assessment Authority  
4th Floor, KSRTC Bus Terminal Complex  
Thiruvananthapuram-1  
Ph: 0471-2334262

I, **RANI R.S.**, wife of Mr.R. Prabodh Chandran, aged about 16 years, working as Legal Officer, SEIAA at Thiruvananthapuram, do hereby verify that the contents of paras 1 to 39 are true to the best of my personal knowledge and paras 1 to 39 believed to be true on legal advice and that I have not suppressed any material fact.

Dated at Chennai on this the 19<sup>th</sup> day of December, 2022.

**10<sup>TH</sup> RESPONDENT**

**RANI. R.S**  
Deputy Secretary to Govt. &  
Legal Officer  
State Environment Impact Assessment Authority  
4th Floor, KSRTC Bus Terminal Complex  
Thiruvananthapuram-1  
Ph: 0471-2334262

