

**BEFORE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE BENCH, AT CHENNAI
APPEAL NO. 49 OF 2022**

IN THE MATTER OF:

K. Rukmangada Reddy & Ors. ...Appellant

Versus

Union of India & Ors. ...Respondents

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Date: 14 .01.2023

Place: Chennai

DRAWN & FILED BY:



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**BEFORE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE BENCH, AT CHENNAI
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IN THE MATTER OF:

K. Rukmangada Reddy & Ors ...Appellant

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Union of India & Ors. ...Respondents

**COMPREHENSIVE REJOINDER OF THE APPELLANT TO THE
REPLY OF SEIAA, ANDHRA PRADESH POLLUTION CONTROL
BOARD, MINES DEPARTMENT, COLLECTOR, ANDHRA
PRADESH POLLUTION CONTROL BOARD AND THE
DIVISIONAL FOREST OFFICER.**

1. That the present Appeal has been filed challenging the Environment Clearance (hereinafter referred as "EC") dated 16.08.2022 of the Respondent No.7 for mining of granite over an area of 11.583 ha in violation of the Environment Impact Assessment Notification, 2006 (hereinafter referred as 'EIA Notification, 2006). The said EC has been granted to Respondent No. 7 in the absence of a proper District Survey Report for minor minerals other than sand as per Appendix X of the EIA Notification, 2006, without conducting public hearing in the stipulated time period of forty-five days and without following the appropriate procedure for publication of the Environment Clearance as per para 10 of the EIA Notification, 2006. That further, the said EC also directs withdrawal of groundwater in an area which is critical as per the Dynamic Resource Study of Central Ground Water Authority, 2017.
2. That the Appellant herein on 14.11.2022 was granted liberty by this Hon'ble Tribunal to file his Rejoinder to the Reply Affidavits of the Respondents in the present Appeal. In pursuance of the same, the Appellant is filing a comprehensive Rejoinder to the Reply submitted by Andhra Pradesh State Environment Impact Assessment Authority (SEIAA) vide Affidavit dated 14.10.2022 and the Replies submitted by the Mines Department, Collector Tirupati, Andhra Pradesh Pollution

Control Board (A.P.PCB) and the Divisional Forest Officer vide Affidavits dated 14.11.2022 who raise similar objections in their said responses. It is submitted that all those averments in the said Replies that have not been specifically admitted are herewith denied and are not to be construed as having been accepted by the Appellant as if *traversed seriatim*.

3. That the Appellant would like to respond and supplement the arguments to rebut the contentions of the Respondents in their Replies as follows to establish that the Environment Clearance granted to Respondent No. 7 is in abject violation of the EIA Notification, 2006 and requires to be set aside by this Hon'ble Tribunal.

Issue I: The requirement of preparation of the District Survey Report for the new district of Tirupati is a mandatory requirement under law and the EC granted in the absence of the same is in violation of the EIA Notification, 2006.

4. That the Appellant humbly submits that para 7(iii) of the EIA Notification, 2006, requires preparation of the District Survey Report (hereinafter referred as 'DSR') for sand, river bed or other minor minerals as per the procedure prescribed in Appendix X of the said Notification. That Appendix X, Para II requires that in preparation of the DSR for minor minerals other than sand or river bed mining, the DSR for each minor mineral should be kept separately in the public for comments and should be finalized by SEIAA within six months. Further, the said DSR should include detailed list of mining leases in the District, Letter of Intent that has been granted, land utilization pattern, details of the clusters, impact on environment, risk & Disaster Management Plan, among others.
5. That at the outset, it is pertinent to mention that the requirement of preparation of DSR is a must prior to the processing of the EC and this Hon'ble Tribunal has cancelled the issue of tender and the EC's obtained in pursuance of the same where the DSR has been improperly prepared by the requisite regulatory authorities. (Dinesh Kumar Thakur v. Mining Officer, Seoni & Others OA No. 21/2022)
6. That however, the Respondent state authorities, despite being aware of the re-organization of the thirteen districts in the State of Andhra Pradesh vide Government Order dt. 25.01.2022, have processed the

application of the EC of Respondent No. 7 and granted him the Terms of Reference on 26.04.2022.

7. That the Appellant places reliance on the communications between the Andhra Pradesh SEIAA and the Director of Mines and Geology annexed in the Affidavit dated 14.10.2022 of SEIAA, which clearly highlight that it is only after the grant of the TOR, at a belated stage and in violation of the EIA Notification, 2006, that SEIAA requested the Director of Mines and Geology vide Letter dated 13.05.2022 to obtain the revised District Survey Reports for sand and other minor minerals for the 26 new districts.
8. That subsequently the Director of Mines and Geology vide letter dated 03.06.2022 had informed that the EC applications can be processed based on the previous DSR and the new DSR has not been prepared as the same is a 'time-consuming process'. It is humbly submitted that the Director of Mines and Geology cannot forgo the statutory requirement of preparation of the DSR under the EIA Notification, 2006 without an appropriate Direction/Office Order from the requisite authority or Ministry of Environment, Forest & Climate Change in the present case and allow an illegality merely on the premise that it is a 'time consuming process'. It is humbly submitted that the Respondents have also not put on record any communication from the MoEF&CC affirming the action of the Respondents to forgo the mandatory statutory requirement of preparation of DSR for the new district of Tirupati. Further there is no provision in the EIA Notification or the Environment Protection Act, 1986 where such exemption or permission is provided wherein any previous DSR of another district or a different geographical area has been construed to be valid for a new District and a new area. This is a ground alone to set aside the said impugned Environment Clearance.
9. That further, the District of Tirupati has been carved out of the erstwhile District of Chittoor and SPS Nellore. The carrying capacity of the erstwhile Districts cannot be akin to the changed land use pattern, number of mining leases for the carrying capacity of the new District and the environment remediation measures that would be required to be taken for the same. That although the State Respondents have accepted the requirement of preparation of the DSR for the new District, there is

no clarity in the timeline for completing preparation and finalization of the said DSR. In the absence of the DSR for the new District, no EC can be granted as per the existent EIA Notification, 2006 as amended upto date.

10. That arguendo, assuming but not admitting that EC's may be processed on the basis of the erstwhile DSR, the DSR of the erstwhile Chittoor also fails to comply with the format of the DSR as specified in the EIA Notification, 2006 for minor minerals other than sand and could not have been relied upon for processing the EC of Respondent No. 7. The Respondents, instead of complying the statutory requirement of compliance with EIA Notification, are categorizing the creation of the new District as a political and administrative division. That it is pertinent to highlight that previously in the said area, granite mining by existing mining leases had damaged the nearby Puttur Summer Storage Tank. It is humbly submitted that preparation of the new DSR would have assessed the cluster of mining leases existing in the said area and the impact of new mining leases on the nearby population, summer storage tank, road capacity, among others which in the present case has been foregone since the preparation of the new DSR is a "time consuming process". The Appellant humbly submits that this Hon'ble Tribunal should take strict note of the conduct of the Respondents to blatantly violate the statutory process as envisaged in the EIA Notification, 2006.

11. That the Hon'ble High Court of Madras in the case of Gem Granites Cathedral Road v. The State of Tamil Nadu & Others (2010 SCC OnLine Mad 4387) has categorically noted that unlike in other mining, granite mining/quarrying leads to cropping and mining of the tops of the hillocks and mountains destroying and scarring the landscape forever. Thus, the adverse environmental considerations from granite mining cannot be undermined simply by stating that formation of new Districts, being a political and administrative move, would not require fresh assessments of the carrying capacity and environmental considerations from mining in the said District.

Issue II: Consequence of failure to conduct public hearing in 45 days can lead to the cancellation of the Environment Clearance as per the EIA Notification, 2006 and the Judgments of this Hon'ble Tribunal

12. That the Respondents in their Affidavits have submitted that the consequence of failure to conduct public hearing in forty-five days cannot lead to cancellation of the Environment Clearance under EIA Notification, 2006. It is humbly submitted that Appendix IV, Para III has a statutory mandate to complete the process of public hearing in forty-five days. That this Hon'ble Tribunal in the case of *Sreeranganathan KP v. Union of India (2014 Online NGT 15)* has quashed the EC of the Project Proponent where the Public Hearing was not completed within the period of 45 days from the date of the receipt of the application of the Project Proponent as per the EIA Notification, 2006.
13. That the Hon'ble High Court of Chhattisgarh in the case of *Ramesh Agarwal v. Union of India (2022 SCC OnLine Chhh 430)* has held that postponement of the public hearing can only be undertaken in case of 'untoward emergency situation' and 'exceptional circumstances' as required by Appendix IV of the EIA Notification, 2006. That in case of the failure of the SPCB to conduct Public Hearing within the stipulated period of 45 days, para 7.2 of Appendix IV provides that the State Government will engage any other agency or authority to complete the process for Category 'B' Projects. In the present case as well, failure of the Andhra Pradesh SPCB to complete the process of Public Hearing within 45 days would require the State Government to engage any other authority to complete the said process.
14. That further, despite the said mining leases existing in a cluster, different public consultations have been carried out by the Regulatory Authorities. It is humbly submitted that this Hon'ble Tribunal in the case of *Satendra Pandey v. MoEF&CC (2018 SCC OnLine 2388)* has held that one Public Consultation for Clusters is essential for ensuring that the impact of the entire cluster on ecology and nearby habitation is clear to the public. That where the requirements of compliance with Appendix XI (Procedure for EC for mining of minor minerals including cluster) have been flouted by the regulatory authorities while processing

the Application for EC, this Hon'ble Tribunal has quashed the EC of the Project Proponent and grant of fresh EC in accordance with the EIA Notification, 2006. (*Ravi Kumar v. MoEF&CC & ors. 2021 SCC OnLine NGT 244*). In another case of *Jitul Deka v. State of Meghalaya & Others* (OA No. 48/2019), this Hon'ble Tribunal vide Judgment dated 27.05.2022, *inter alia*, directed the Pollution Control Board to cancel the Consent to Operate of stone crushers operating in violation of the Cluster Norms as given in Appendix XI of the EIA Notification, 2006 and imposition of Environment Compensation on the violators. This Hon'ble Tribunal may take strict note of the non-compliance with Cluster Norms under Appendix XI of the EIA Notification, 2006 by failing to conduct one Public Consultation and preparation of one Cluster EIA/EMP Report by the State Regulatory Authorities and the Project Proponent and may issue appropriate directions.

Issue III: The State Respondents have wrongly relied upon the Order dated 21.07.2020 in OA No. 304/2019 to state that this Hon'ble Tribunal has fixed the minimum distance from residential/public building and allowed mines within 100 mtrs when blasting is not involved and 200 mts for stone quarrying

15. That it is humbly submitted that the State Respondents have wrongly relied upon the Order dated 21.07.2020 of the Principal Bench of this Hon'ble Tribunal in the case of *M. Haridasan & Others v. State of Kerala* (O.A. No. 304/2019) to state that the Hon'ble Tribunal has allowed mines within 100 mts when blasting is not involved and 200 mts for stone quarrying from residential/public buildings.

16. That further, the Respondents have submitted incomplete information regarding the status of the matter in OA No. 304/2019 to state that the minimum distance criteria has been fixed by the Hon'ble Tribunal. It is pertinent to note that the said O.A. 304/2019 is still pending for adjudication and there is no finality to the said dispute. The main issue in contention in the said O.A. was with respect to minimum distance criteria for Kerala. Accordingly, the Principal Bench of this Hon'ble Tribunal had directed the Central Pollution Control Board to file a report suggesting the minimum distance criteria. That subsequent to the said Report of the CPCB and the Order dated 21.07.2020, certain

Miscellaneous Applications were filed in the O.A. No. 304/2019 for revisiting the minimum distance criteria suggested by the Central Pollution Control Board. The Hon'ble Tribunal vide Order dated 09.12.2021 has constituted a seven-member expert committee on the subject of safe distance of mining from the habitations. That the said report of the committee is awaited and has not been filed yet before the Hon'ble National Green Tribunal. A Copy of the Order dated 09.12.2021 in OA No. 304/2019 is marked and annexed herein as **Annexure A/1**. It is humbly submitted that this Hon'ble Tribunal may take strict note of the conduct of the Respondents in collusion with the Project Proponent to submit the incomplete status of the Orders issued in OA No. 304/2019, for reasons best known to them.

17. That further, the minimum distance of 1km from water bodies and 500 mts from the habitation was fixed as a criteria by the Hon'ble Supreme Court in the case of Mohammad Haroon Ansari v. District Collector, Ranga Reddy, Andhra Pradesh (Civil Appeal No. 1907-1908/2001). That the Respondents cannot rely upon an Order of the National Green Tribunal to state that the same would apply and supersede the Judgment of the Hon'ble Supreme Court.

18. That the Appellant humbly submits that the minimum distance criteria that has been set by the Hon'ble Supreme Court cannot be overruled by this Hon'ble Tribunal. That infact, the said decision of the Hon'ble Supreme Court has been relied upon in a catena of cases by this Hon'ble Tribunal as well as the High Courts. (NGT Judgment dated 05.07.2016 in Suo Motu Application No. 03/2016; Gujarat High Court Judgment dated 12.03.2012 in Yakubhai Sharifbhai Aaglodiya & Ors. v. Collector, District Magistrate & Others 2012 SCC OnLine Guj 6314) That thus, the said minimum distance criteria of the Hon'ble Supreme Court would hold as the law of the land till overturned by a larger Bench of the Hon'ble Supreme Court or any other subsequent law.

Issue IV: The consequences or steps to be taken after the grant of the Environment Clearance have not been followed in terms of the EIA Notification or the Judicial decisions thereto.

19. That para 10(i)(b) and para 10(i)(d) of EIA Notification, 2006 states that for Category B Projects, the Project Proponent should prominently advertise in the newspaper the EC granted to the Project, the

MOEF&CC/SEIAAs is statutorily required to place the EC in the public domain and the copies of the EC is required to be submitted by the Project Proponent to the local bodies, panchayats, municipal bodies in addition to the relevant offices of the government who are required to display the same for a period of 30 days from the date of receipt. All of the above conditions have been flouted by the Project Proponent except uploading of the said clearance by SEIAA.

20. That it is humbly submitted that this Hon'ble Tribunal in the case of *Save Mon Region Federation v. Union of India (MA No. 104/2012 in Appeal No. 39/2012)* has held that the 'Communication' of the EC is complete only when all the methods of communication as per post monitoring mechanism under para 10(i)(b) and para 10(i)(d) of EIA Notification are complete. (*M/s Medha Patkar v. MoEF&CC (2013 SCC Online NGT 63)*). Further, paragraph 16 of the Judgment dated 1403.2013 in *Save Mon Region Federation* states that –

“Upon analysis of the above, it is clear that ‘communication’ is made by one and received by another. It requires sufficient knowledge of the basic facts constituting the communication. The action of communicating is precisely sharing of knowledge by one with another of the thing communicated. Communication, particularly to the public, has to be by methods of mass communication, like satellite, website, newspapers etc. ‘Communicated’ is a strong word. It requires that sufficient knowledge of basic facts constituting the grounds of the order should be imparted fully and effectively to the person.”

21. That as stated earlier, in the present case project proponent has failed to publish the EC either in the local dailies, nor a copy of the same has been given to the heads of the local government bodies in violation of the procedure for post monitoring compliance under the EIA Notification, 2006 and the directions of this Hon'ble Tribunal in *Save Mon Region Federation v. Union of India (MA No. 104/2012 in Appeal No. 39/2012)*. That this Hon'ble Tribunal may take note of the State Respondents as well as the Project Proponent in failing to ensure compliance with the post environment clearance monitoring procedure and direct strict action to be taken against the project proponent. In fact this is also a strong ground for quashing the EC itself as the communities at large have been prevented in understanding the

implications of such huge scale mining that will change the entire character of their land scape and that have been so harmful in the past because of which the present Appeal has been filed.

Issue V: The EC allows Respondent No. 7 to extract groundwater despite assessment units in groundwater being semi-critical as per the Dynamic Ground Water Resources of India, 2020 Assessment.

22. That the Appellant, had in the Appeal, highlighted that the permission to withdraw groundwater has been granted to Respondent No. 7 despite the critical level of ground water in the neighbouring assessment units in Pakala and Ramachandrapuram in terms of the groundwater exploitation as per the Dynamic Ground Water Resource Study of 2017.

23. That recently, the Ministry of Jal Shakti has uploaded the Dynamic Ground Water Resource Study of 2020 wherein the District of Puttur has now been included in the Semi-Critical Assessment unit of the said Study. The relevant extracts of the Dynamic Ground Water Resource Study of 2020 are marked and annexed herein as **Annexure A/2**. That this categorically highlights the failure of SEIAA/Respondent No. 2 to apply their mind in assessing the Environment Impact Assessment and the adverse impact on the groundwater in the region and is a ground alone to quash the Environment Clearance of Respondent No. 7.

Issue VI: Two Divisional Forest Officer given two contradictory stand on the issues of Gutta Paramboke Land And its use.

24. That in pursuance of the Standard Terms of Reference No. 12, the Respondent No. 7 had approached the Divisional Forest Officer, Chittoor East Division for obtaining the Forest No-Objection Certificate for undertaking mining on land classified as 'Gutta Paramboke'. On 11.04.2022, the then Divisional Forest officer had written to the Assistant Director of Mines & Geology, Chittoor that the quarry lease of Respondent No. 7 is near to the Compt. No. 337 of Karvetinagar Forest Block cairn No, 209 and 284 mts. away from the boundary forest line as per GPS survey plotted on the topo sheet. Further, the applied mining area is classified as "Gutta Paramboke", therefore the Respondent No. 7 (M/s Amaram Commodity Ventures) was directed to follow the procedure as per the Forest Conservation Act, 1980.

25. That however, the Divisional Forest Officer, Tirupati has now submitted a revised No-Objection Certificate Report with the Assistant

Director, Mines and Geology, Chittoor at the behest of the Representation submitted by Respondent No. 7 (Refer Annexure IV and V of the Reply Affidavit dated 12.11.2022 of the Divisional Forest officer, Tirupati). It is pertinent to highlight that the previous Divisional Forest officer had directed the Respondent No. 7 to comply with the Forest Conservation Act, 1980 as the land has been classified as 'Gutta Paramboke', however the subsequent DFO has taken a contrary stand to submit that the land classified as Gutta Paramboke would not require prior Forest Clearance as per Forest Conservation Act, 1980. In view of such contradictory stand of two different officers, this Hon'ble Tribunal may direct the Principal Chief Conservator of Forest to clarify the applicability of the Forest Conservation Act, 1980 on land classified as 'Gutta Paramboke'.

ISSUE VII: The Hon'ble High Court of Andhra Pradesh has categorically restricted use of land classified as 'Gutta Paramboke', for private profiteering noting that natural resources are the bounty of nature and the same cannot be allotted to any public and no private ownership can be created on such lands.

26. That it is pertinent to mention that the Hon'ble High Court of Andhra Pradesh in the case of Smt. S. Maheswari v. The State of Andhra Pradesh & Others 2021 SCC OnLine AP 3495, while adjudicating upon the issue of conversion of Gutta paramboke or Yetteri Gutta for assignment of house sites, has categorically and unequivocally held that land classified as gutta, locally known Yetteramma Gutta, classified as a hillock, cannot be converted into a house site due to the impact on the environment and bio-diversity.

27. That in the present case, land classified as 'Gutta Paramboke' has been granted to Respondent No. 7 to undertake mining activities, not only environmentally adverse for the entire village but which is in abject violation of the letter and spirit of the Judgment of the Hon'ble High Court of Andhra Pradesh which has clearly restricted grant of such land even for housing purposes. The Respondent No. 7 is put to strict proof for acting in violation of the directions of the Hon'ble High Court of Andhra Pradesh. This is ground alone for setting aside the EC granted by the State Respondents.

28. That in view of abovementioned facts, it is evident that the State Respondents have failed to comply with the provisions of EIA Notification, 2006 by processing the application of Environment Clearance without a valid District Survey Report, in non-compliance with the Cluster Norms in Appendix XI, violation of the minimum distance criteria as per the Judgment of the Hon'ble Supreme Court in Mohammad Haroon and non-compliance with the post EC monitoring procedure for completing the communication of the EC through all the means of communication. That further, the EC application has been processed without assessing the level of groundwater in the region, which is semi-critical in the District of Puttur. That in view of the abovementioned submissions, it is humbly submitted by the Appellant that the Environment Clearance to Respondent No. 7 has been granted in violation of the EIA Notification, 2006 and the same should be quashed by this Hon'ble Tribunal.

Date: 14 .01.2023

Place: Chennai

DRAWN & FILED BY:



Sanjay Upadhyay, Eisha Krishn

Mansi Bachani, Sonali Sengupta & Shubham Upadhyay

Advocates for the Appellants

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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

SOUTHERN BENCH AT CHENNAI

IN

APPEAL NO. OF 2022 (SZ)

IN THE MATTER OF:

K. Rukmangada Reddy & Ors

...Applicant

-VERSUS-

Union of India & Ors.

...Respondents

AFFIDAVIT

I, B. Venkataramana Raju, S/o Shri B Chengalraju, resident of Ontimitta, Rachapalam, Puttur Municipality, Tirupati District, aged 63 years, presently at Andhra Pradesh, do hereby solemnly affirm and state as under:

1. That I am the Appellant in the present appeal, familiar with the facts and circumstances of the case and am competent to swear this affidavit.
2. That I have read and understood the contents of the accompanying Rejoinder and they have been drafted by my counsel on my instructions and nothing material has been concealed therefrom.

B. Venkata Raman Raju
DEPONENT

VERIFICATION:

I, the above-named deponent do hereby verify that all the facts mentioned in the affidavit are true to my knowledge and no part thereof is false and nothing material has been concealed therefrom.

Verified at PUTTUR On this 09th day of December, 2022.

U.S. Rayudu
U.S. RAYUDU, M.Sc., B.L.
ADVOCATE / NOTARY
11/108, NGO's Colony
PUTTUR. Ph.No: 9000875394

B. Venkata Raman Raju
DEPONENT

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

SOUTHERN BENCH AT CHENNAI

IN

APPEAL NO. OF 2022 (SZ)

IN THE MATTER OF:

K. Rukmangada Reddy & Ors. ...Applicant

-VERSUS-

Union of India & Ors.Respondents

AFFIDAVIT

I, K. Manohar Reddy, S/o Shri Narasimha Reddy, resident of 17-193 Beedi Colony, Puttur, aged about 63 years, presently at Andhra Pradesh, do hereby solemnly affirm and state as under:

1. That I am the Appellant in the present appeal, familiar with the facts and circumstances of the case and am competent to swear this affidavit.
2. That I have read and understood the contents of the accompanying Rejoinder and they have been drafted by my counsel on my instructions and nothing material has been concealed therefrom.

K. Manohar Reddy
DEPONENT

VERIFICATION:

I, the above-named deponent do hereby verify that all the facts mentioned in the affidavit are true to my knowledge and no part thereof is false and nothing material has been concealed therefrom.

Verified at PUTTUR..... On this 9th..... day of December, 2022.

U.S. Rayudu
U.S. RAYUDU, M.Sc., B.L.
ADVOCATE / NOTARY
11/106, NGO's Colony
PUTTUR. Ph.No: 9000875394

K. Manohar Reddy
DEPONENT

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

SOUTHERN BENCH AT CHENNAI

IN

APPEAL NO. OF 2022 (SZ)

IN THE MATTER OF:

K. Rukmangada Reddy & Ors

...Applicant

-VERSUS-

Union of India & Ors.

....Respondents

AFFIDAVIT

I, K. Rukmangada Reddy, S/o Shri K Munnuswamy Reddy, resident of Kapu Veedhi, Puttur, aged about 66 years, presently at Andhra Pradesh, do hereby solemnly affirm and state as under:

1. That I am the Appellant in the present appeal, familiar with the facts and circumstances of the case and am competent to swear this affidavit.
2. That I have read and understood the contents of the accompanying Rejoinder and they have been drafted by my counsel on my instructions and nothing material has been concealed therefrom.

K. Rukmangada Reddy

DEPONENT

VERIFICATION:

I, the above-named deponent do hereby verify that all the facts mentioned in the affidavit are true to my knowledge and no part thereof is false and nothing material has been concealed therefrom.

Verified at PUTTUR..... On this 9th..... day of December, 2022.

K. Rukmangada Reddy

DEPONENT

U.S. Rayudu 09/12/22
 U.S. RAYUDU, M.Sc., B.L.
 ADVOCATE / NOTARY
 11/106, NGO's Colony
 PUTTUR. Ph.No: 9000875394

Item No. 01

(Court No. 1)

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

(By Video Conferencing)

M.A. Nos. 80 to 83, 85 to 88, 95 and 96/2021

IN

Original Application No. 304/2019

M. Haridasan

Applicant

Versus

State of Kerala & Ors.

Respondent(s)

Poabs Granites (Pvt.) Ltd. & Anr.
Kuthirakulam P.O., Vellanand,
Thiruvanthapuram District,
Kerala State

Applicants in M.A.
Nos. 80 & 81/2021

M/s. Panachayil Industries
West Othara P.O.,
Thiruvalla Taluk,
Pathanamthitta District
Kerala State

Applicant in M.A.
Nos. 82 & 83/2021

Crystal Granites Ltd. & Anr.
Chulli P.O., Thathupara,
Ernakulam,
Kerala State-683581

Applicants in M.A.
Nos. 95 & 96/2021

Raju K. Thomas & Ors.
Vadasserikkara Post,
Pathanamthitta District,
Kerala-689662

Applicants in M.A.
No. 85/2021

Reji Joseph & Anr.
Narikkattu House,
Chamampathal Post,
Vazhoor, Kottayam District
Kerala-686517

Applicants in M.A.
No. 86/2021

Thomsun Aggregates
Kuttipparambil (H),
Vadaathoor P.O., Kottayam District
Kerala State-686010

Applicants in M.A.
No. 87/2021

Michael Granites & Ors.
Kanjirathumkunnu House,
Ramapuram Bazar Post,
Kottayam District,
Kerala State-686576

Applicants in M.A.
No. 88/2021

Date of hearing: 09.12.2021

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Applicant: Ms. Nishtha Kumar Advocate for original applicant

Respondent(s): Mr. Krishnan Venugopal, Senior Advocate with
Mr. E.M.S. Anam, Advocate for Applicant in M.A 80-81/2021
Mr. E.M.S. Anam, Advocate for Applicant in
M.A. 82,83,95&96/2021
Mr. Abhilash M.R., Advocate for Applicant in M.A 85 to 88/2021
Mr. Jogy Scaria, Advocate for KSPCB

ORDER

1. These applications have been filed by mining lessees (project proponents) undertaking quarry mining at various locations in Kerala, which also involves blasting. Mining is beyond 50 meters while according to the original applicant longer distance has to be maintained, following precautionary principle having regard to the right of inhabitants, who are affected by air and noise pollution generated in the course of mining operations. This Tribunal earlier passed order dated 21.7.2020 laying down longer distance in the light of report of the CPCB by which the present PPs are aggrieved.

2. The PPs have drawn attention to the order of the Hon'ble Supreme Court dated 25.10.2021 in a batch of matters permitting filing of

applications before this Tribunal by the parties affected by the order of this Tribunal. The said batch of matters involved *inter-alia* the issue whether this Tribunal has jurisdiction to initiate *suo motu* action against violation of environmental norms which stands concluded by the judgment reported in *Municipal Corporation of Gr. Mumbai Vs. Ankita Sinha & Ors.*, 2021 (12) SCALE 184. Therein, it was held that the affected parties are entitled to be heard and they had not been heard in the present matter. The operative part of the order is reproduced below:

“In light of the issue answered by this Court in Civil Appeal Nos. 12122-12123 of 2018 and connected cases titled as "Municipal Corporation of Gr. Mumbai Vs. Ankita Sinha & Ors." reported in 2021(12) SCALE 184, it would be appropriate to permit the appellant(s) to raise all contentions/objections as may be available and permissible in law before the National Green Tribunal (In short "the Tribunal") in the first place. The Tribunal may consider those contentions/objections and record reasons for accepting or rejecting the same, so that the appellant(s) if dis-satisfied may have further remedy of appeal(s) before this Court.

In other words, all contentions raised in the present appeal(s) on these aspects, including on merits are left open, to be considered by the Tribunal afresh.

We say so because the judgment rendered by this Court predicates that even if the Tribunal intends to initiate suo motu action, must give opportunity to the parties likely to be affected before passing any adverse order against them. Viewed thus, the ex-parte preemptory order(s) passed by the Tribunal without giving opportunity to the person(s) likely to be affected by such order(s), be treated as effaced from the record.

Keeping that principle in mind, we deem it appropriate to relegate the appellant(s) before the Tribunal with liberty to raise all contentions as may be permissible in law, to be decided by the Tribunal afresh on its own merits.

Notably, the decision of the High Court assailed in these appeal(s) also gives that liberty to the appellant(s). However, we expressly grant such liberty to the appellant(s), as aforesaid, in terms of this order.

The appellant(s) may, therefore, file a formal application to take up all contentions before the Tribunal which may be considered by the Tribunal afresh on its own merits and in accordance with law, including raised in this appeal(s) and in respect of matters, referred to by the Tribunal in the earlier order. The Tribunal to decide the proposed application expeditiously.

Learned counsel for the appellant(s) submits that before the Tribunal finally answers the issues raised by the appellant(s), the Tribunal may consider of issuing appropriate interim order to enable the appellant(s) to give effect to the contract/lease agreement in respect of the project in question. We accede to this prayer.”

3. All the Applications are identical and relief sought is impleadment and directions not to interfere with the distance presently being followed as per rules laid down by the mining department and Kerala PCB.
4. We have heard learned Counsel for the parties.
5. As far as impleadment is concerned, the said prayer is granted, as the applicant has no objection to such a course being adopted in the light of order of the Hon’ble Supreme Court.
6. On merits also, stand in all the applications is almost same. The PPs claim to be carrying on quarry mining, using blasting at various locations under leases granted by the Mines Department of Kerala under the Kerala Minor Mineral Concession Rules, 1967. Minimum safety distance of 50m is maintained from nearest dwelling units. Grievance of the original applicant that 50m distance is not enough and reliance on observations of the Hon’ble Supreme Court in *M.C. Mehta v. Union of India*, (1996) 8 SCC 462 and *Mohammaed Haroon Ansari v. District Collector, Ranga Reddy District*, (2004) 1 SCC 491 is uncalled for.
7. To complete the narration, we may record that the Tribunal sought a report from CPCB and as per report dated 09.07.2020, it was suggested

that minimum distance should be 100m where blasting is not involved and 200m where blasting is involved. The Tribunal accepted the said view and, vide order dated 21.07.2020, issued directions in terms thereof which are reproduced for ready reference, as follows:

“3. Accordingly, the CPCB has filed its report on 09.07.2020 concluding as follows:

“6.0 Conclusion:

In view of available information, following minimum distance criteria may be considered for permitting stone quarrying by SPCBs:

Mining Type		Minimum Distance	Locations
A.	When Blasting is not involved	100 m	<i>Residential/Public buildings, Inhabited sites, Protected monuments, Heritage sites, National / State Highway, District roads, Public roads, Railway line/area, Ropeway or Ropeway trestle or station, Bridges, Dams, Reservoirs, River, Canals, Lakes or Tanks, or any other locations to be considered by States.</i>
B.	When Blasting is involved	200 m **	

****Note: The regulations for danger zone (500 m) prescribed by Directorate General of Mines Safety also have to be complied compulsorily and necessary measures should be taken to minimise the impact on environment.**

However, if any states is already having stringent criteria than the above for minor mineral mining (i.e. more prescribed distances than the above), the same shall be applicable.”

4. In view of the above, the said criteria be followed throughout India. The CPCB may monitor compliance.”

8. In view of rival submissions, question is whether there is any scope for interference by this Tribunal.

9. Original applicant has opposed the applications of the PPs and submitted that minimum distance of 200m must be maintained in the interest of safety of the inhabitants as well as flora and fauna in the area. The Tribunal must follow the ‘Precautionary’ principle and, if any, further

study is undertaken, mining may not be allowed within 200m pending such study. It was also submitted that mining is continuing illegally in violation of orders of Hon'ble Supreme Court and on that aspect the matter is being further raised before the Hon'ble Supreme Court by the applicant.

10. Stand of learned Counsel for the PPs is that distance of 50m is laid down under the Mines and Mineral Rules as well as under the orders of the State PCB. Any longer distance is beyond the jurisdiction of this Tribunal. CPCB also has no jurisdiction as powers under the EP Act are only with MoEF&CC.

11. Further submission is that due to topography of the State of Kerala, longer distance will obstruct the legitimate mining activities in violation of sustainable development principle. With the use of Nonel Detonation technology, 50m distance is adequate and does not cause any adverse impact.

12. Reliance has also been placed on a CSIR-Central Institute of Mining & Fuel Research study conducted in June 2021 on "SCIENTIFIC STUDIES FOR DESIGN OF SAFE BLAST PARAMETERS AT PEROORKADA STONE MINE, KUTHIRAKALAM P.O. VELLANADU, THIRUVANANTHAPURAM, KERALA" concluding and recommending as follows:

"8. CONCLUSIONS AND RECOMMENDATIONS

8.1 Conclusions:

The following conclusions can be drawn from the results of the study on blast vibration analysis:

- i) From the blasting trials, with the designed blast patterns, it was observed that blast induced ground vibrations; air overpressure and fly rock were within safe limits*
- ii) The use of bottom hole-initiation systems like shock tubes in conjunction with noiseless trunk line delays (NTLD) during trial blasts kept the vibration and air over-pressure to the allowable limits.*

- iii) *Proper stemming with coarse grained sand reduced the chances of flyrock and limited to bare minimum within the quarry area.*
- iv) *The throw of the muck was found to be favourable for easy removal and handling by machines*
- v) *The maximum value of blast induced ground vibration (PPV) level recorded at the south eastern boundary from where the closest civil structure (water tank), is 1.024 mm/s with dominant excitation frequency as 82.25 Hz at a distance of 125 m.*
- vi) *The maximum projectiles range of flyrock was observed as 10-15 m from the blast site and the air overpressure levels recorded were within the safe limits (<128 dB).*
- vii) *This clearly indicates that the blast design parameters followed during the studies at the mine are quite safe to the nearby habitats and structures.*

8.2 Recommendations:

On the basis of data analysis and results of the study the following points are recommended for consideration and strict adherence for controlled blasting and safety of structures:

1. *It is recommended to practice the blast design parameters as burden = 1 m spacing = 1.2m, hole depth = 1.8 m to 3m and specific charge = 0.35 kg/m³.*
2. *Maximum hole depth can be upto 3m. Holes of lesser depth may have a tendency of generating more flyrock.*
3. *In case of varying hole depth, charge per holes should be calculated on the basis of specific charge (0.35 kg/m³)*
4. *The hole diameter should be kept at 32mm and there should be no variation in diameter of the drilled holes.*
5. *Typical blast designs shown in the figure 6 and 7 should be followed for safe blasting practice*
6. *The safe maximum charge per delay for the distances of 45m and above, from the dwellings/structures is mentioned in Table-5, and Figure 16, which should be followed to contain the ground vibrations and flyrock within the limits.*
7. *Although, the nearest house not belonging to quarry owner, is towards South-east direction of the mine at a distance of 250 m and the safe maximum charge per blast for that distance, as per the Table-4, is 8.29 kg*
8. *Prilled Ammonium Nitrate Fuel Oil (ANFO) and Cartridge emulsion explosive of 25mm diameter to be used for all production blast rounds. Care should be taken to ensure utilization of explosive within the prescribed shelf-life period.*
9. *Blast rounds should be planned in such a manner that at least one free face is available*
10. *Maximum four rows are to be fired in each blast round to avoid cumulative confinement and flyrock problem.*
11. *Top of the face should be cleaned for any debris. The face should be cleared of muck of the previous blast as it creates flyrock.*
12. *The free face direction should be, as far as possible, opposite from the hutments/ structures (temporary or*

permanent). The propagation of the initiation should be opposite to the structures/ habitats.”

13. We have duly considered the above submissions. We do not find any merit in the objection of the PPs that this Tribunal has no jurisdiction in view of distance laid down under the Mines and Mineral Rules. in view of law laid down *inter-alia* in *Mantri Techzone Pvt. Ltd. v. Forward Foundation and Ors.*,¹ and *the Director General (Road Development) NHAI v. Aam Aadmi Lok Manch.*² There is also no merit in the contention that CPCB has no jurisdiction under the EP Act. CPCB has jurisdiction under EP Act, as per delegation under section 23 of the said Act as well statutory powers under the Air and Water Acts and also under directions of this Tribunal. Plea of the PPs that the study relied upon clinches the matter in their favour is also not born out from the said study. There is also no merit in the contention that even at the cost of environment mining must be allowed having regard to peculiar topography of Kerala.

14. Thus, while the stand of the PPs cannot be accepted, out of abundant caution, we are inclined to consider further expert study on the subject of safe distance for mining from habitations.

15. Accordingly, we constitute a seven-member joint Committee comprising CPCB, Indian Institute of Mines/ IIT, Dhanbad, CSIR - Central Institute of Mining & Fuel Research (CIMFR), Dhanbad, CSIR-Central Building Research Institute (CBRI), Roorkee, IIT Roorkee, Wadia Institute of Himalayan Geology, Dehradun and Directorate General of Mines Safety, GoI. The nodal agency will be CPCB for coordination and compliance. The cost of the study will be initially borne by CPCB and thereafter as may be decided by this Tribunal. The Committee may undertake visit to the

¹ 2019 SCC online SC 322, Para 43-47

² AIR 2020 (SC) 3471, Para 75

relevant sites and except for such visits, conduct proceedings online, if necessary. The Committee will be at liberty to take assistance from any other expert/institution. The Committee may inter-alia study the impact of blasting with Nonel Detonation technology at distances of 50m, 75m, 100m, 125m, 150m, 200m and 250m. The study will include the impact caused by vibrations on different soil strata /earth profile in the area and on noise and air levels, on building and human and wildlife. The study may be completed within three months and report furnished within four months. Any stakeholder will be at liberty to give their respective view point to the Committee. State of Kerala and Kerala State PCB will facilitate undertaking of above study. The report may be furnished to this Tribunal within four months by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF and also upload the same on website of CPCB simultaneously so that the concerned parties/Departments can access the same for further course of action.

M.A. Nos. 80/2021, 82/2021, 95/2021 stand disposed of.

List OA 304/2019 for further consideration on 11.05.2022.

A copy of this order be forwarded to CPCB, Indian Institute of Mines/ IIT, Dhanbad, CSIR - Central Institute of Mining & Fuel Research (CIMFR), Dhanbad, CSIR-Central Building Research Institute (CBRI), Roorkee, IIT Roorkee, Wadia Institute of Himalayan Geology, Dehradun, Directorate General of Mines Safety, GoI, State of Kerala and Kerala State PCB by e-mail for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

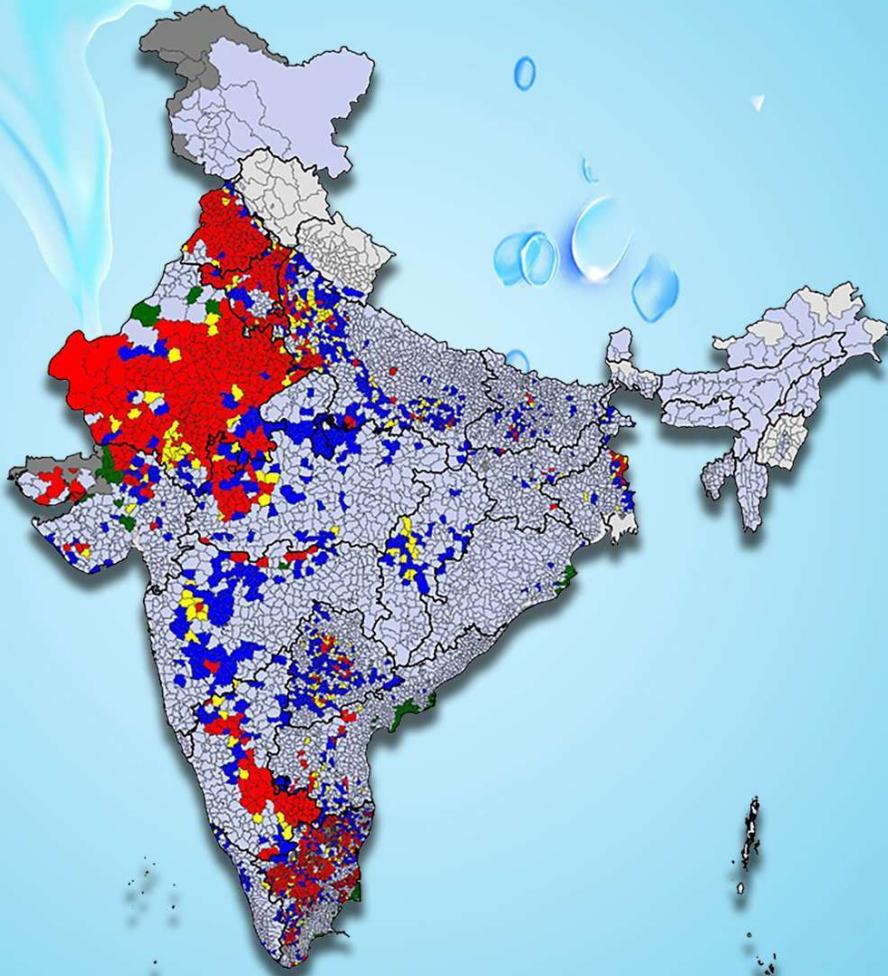
Dr. Nagin Nanda, EM

December 09, 2021
M.A. No. 80/2021 to M.A. No. 83/2021,
M.A. No. 95/2021, M.A. No. 96/2021,
M.A. No. 85/2021 to M.A. No. 88/2021
DV

-True Copy-



**National Compilation on
DYNAMIC GROUND WATER RESOURCES OF INDIA, 2020**



Central Ground Water Board
Department of Water Resources,
River Development & Ganga Rejuvenation
Ministry of Jal Shakti
Government of India

**National Compilation on
DYNAMIC GROUND WATER RESOURCES OF INDIA, 2020**



**Central Ground Water Board
Department of Water Resources,
River Development & Ganga Rejuvenation
Ministry of Jal Shakti
Government of India**

**Faridabad
June, 2021**

Dynamic Ground Water Resources Assessment of India - 2020

CATEGORIZATION of ASSESSMENT UNITS, 2020							
ANDHRA PRADESH							
S. No	Name of District	S. No	Name of Semi-Critical Assessment Units	S. No	Name of Critical Assessment Units	S. No	Name of Over-Exploited Assessment Units
1	Ananthapur	1	Chilamathur	1	Nambulipulikunta	1	Somandepalle
		2	Amadagur			2	Tanakal
		3	Madakasira			3	Puttur
		4	Roddam			4	Yadiki
						5	Hindupur
						6	Yellanur
						7	Rolla
						8	Amarapuram
						9	Gandlapenta
						10	Gudibanda
						11	Agali
						12	Lepakshi
						13	Kothacheruvu
						14	Nallacheruvu
						15	Talupula
2	Chittoor	1	Chandragiri	1	Srirangarajapuram		
		2	Kurabalakota	2	Nindra		
		3	Palasamudram	3	Tirupati		
		4	Santhi Puram	4	Gudi Palle		
		5	Rama Kuppam	5	Ramasamudram		
		6	Thavanampalle	6	Puthalapattu		
		7	Gurramkonda				
		8	Pakala				
		9	Baireddi Palle				
		10	Pedda Panjani				
		11	Ramachandrapuram-17				
		12	Nimmanapalle				
		13	Venkatagiri Kota				
		14	Chowdepalle				
		15	Nagari				
		16	Penumuru				
		17	Gangavaram				
		18	Pulicherla				
		19	Puttur				
3	East Godavari	1	Rangampeta				
		2	Rajahmundry (Urban)				
4	Guntur			1	Piduguralla	1	Bollapalle
						2	Veldurthi
5	Kadapa	1	Chennur	1	Vemula	1	Chitvel
		2	Proddutur	2	Vempalle	2	Pulivendla
		3	Royachoti	3	Kamalapuram		
		4	Brahmangarimattam	4	Sambepalle		
		5	Obulavaripalle	5	Chapad		
		6	Duvvur				
		7	Chinnamandem				
6	Krishna	1	Musunuru				
7	Kurnool	1	Kosigi	1	Bethamcherla		
		2	Chagalamarri				
8	Nellore	1	Gudur	1	Naidupeta		
9	Prakasam	1	Cumbum			1	Racherla
		2	Tarlapadu			2	Pedaaraveedu
		3	Giddaluru			3	Pullalacheruvu
		4	Komarolu			4	Markapur
ABSTRACT							
Total No. of Assessed Units		Number of Semicritical Assessment Units		Number of Critical Assessment Units		Number of Over Exploited Assessment Units	
667		40		15		23	



ENVIRO LEGAL DEFENCE FIRM <eldflegal@gmail.com>

Service in K. Rukmangada Reddy vs. Union of India & Ors. (Appeal No. 49 to 53 of 2022/SZ)

1 message

ELDF <eldflegal@gmail.com>

Sat, Jan 14, 2023 at 7:29 PM

To: reddymadhuri09@gmail.com

Cc: Mansi Bachani <mansi@eldfindia.com>, Shubham Upadhyay <Shubham@eldfindia.com>, Sonali Sengupta <sonali@eldfindia.com>, "Cc: Sanjay Upadhyay" <sanjay@eldfindia.com>, Admin <admin@eldfindia.com>

Dear Sir/Madam,

Please find the attached Comprehensive Rejoinder to Replies filed by Comprehensive Rejoinder of the Appellant to the Reply Affidavit dated 14.10.2022 of State Environment Impact Assessment Authority and Affidavits dated 14.11.2022 of the Andhra Pradesh Pollution Control Board, Mines Department, Collector, and the Divisional Forest Officer. on behalf of Appellants in the matter of captioned matter filed by Mr Sanjay Upadhyay, Advocate for Appellants.

[Rejoinder of Appellant KR Reddy Appeal No 49.pdf](#)[Rejoinder of Appellant KR Reddy Appeal No 50.pdf](#)[Rejoinder of Appellant KR Reddy Appeal No 51.pdf](#)[Rejoinder of Appellant KR Reddy Appeal No 52.pdf](#)[Rejoinder of Appellant KR Reddy Appeal No 53.pdf](#)

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