

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

APPEAL NO. 51 OF 2022

1. K. RUKMANGADA REDDY

S/o Shri K Mumnuwamy Reddy

R/o KapuVeedhi, Puttur,

Tirupati District, Andhra Pradesh and 2 others**APPELLANTS**

Versus

UNION OF INDIA

Through Secretary, Government of India

Ministry of Environment, Forests and Climate Change

Indira Paryavaran Bhawan Jor Bagh Road,

New Delhi-110003

Secy-moef@gov.nic.in

Contact no. +91 11 20819308, 20819408 and 5 others**RESPONDENTS**

COUNTER AFFIDAVIT FILED BY THE 3rd RESPONDENT

DATE-11-11-2022



**M/s MADHURI DONTI REDDY
ADVOCATE**

**STANDING COUNSEL FOR GOVERNMENT OF ANDHRA PRADESH
A.P. POLLUTION CONTROL BOARD
T.T.D. SUPREME COURT OF INDIA**

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Counsel for 3rd Respondent

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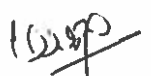
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It is certified that all the documents contained in the above annexure are true copies.

Date: 11 -11-2022


Deponent

**DISTRICT COLLECTOR
TIRUPATI**

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

APPEAL NO. 51 OF 2022

1. K. RUKMANGADA REDDY

S/o Shri K Mumnuswamy Reddy
R/o KapuVeedhi, Puttur,
Tirupati District, Andhra Pradesh

2. B. VENKATARAMA RAJU

S/o Shri B. Chengalraju,
R/o Ontimitta, Rachapalam, Puttur,
Tirupati District, Andhra Pradesh

3. K. MANOHAR

S/o Shri Narasimha Reddy,
R/o 17-193 Beedi Colony,
Puttur, Tirupati District,
Andhra Pradesh.....**APPELLANTS**

Versus

1. UNION OF INDIA

Through Secretary, Government of India
Ministry of Environment, Forests and Climate Change
Indira Paryavaran Bhawan Jor Bagh Road,
New Delhi-110003
Secy-moef@gov.nic.in.
Contact no. +91 11 20819308, 20819408

2. STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY, ANDHRA PRADESH

Through Member Secretary
Ministry of Environment, Forests & Climate Change
Government of India
apsciaams@gmail.com
Contact no. 9949122144

3. COLLECTOR AND DISTRICT MAGISTRATE,

Tirupati Road, New Balaji Colony,
Tirupati District,
Andhra Pradesh-517501
collectortirupati@gmail.com
Contact No. 0877 227 0984

4. DEPARTMENT OF MINING AND GEOLOGY

Government of Andhra Pradesh,
Through its Secretary,
State government office,
Ibrahimpattanam, Krishna district,
Andhra Pradesh 521456
admin@apmines.gov.in/directormines@yahoo.com.
Contact no. 0866-2882170.

5. ANDHRA PRADESH STATE POLLUTION CONTROL BOARD

Through Member Secretary
1st APSFC Building, Balaji Colony, Tirupati,


Deponent

DISTRICT COLLECTOR
TIRUPATI

Andhra Pradesh 517502
Contact No. 040-23451133

6. M/s AMARA COMMODITY VENTURES,

Through the Proprietor,
SyNo. 388/1, 388/2, 387/3, 383 & 6P (old Sy.No.6)
Eswarapuram village, Puttur Municipality,
Tirupati District, Andhra Pradesh-636451
amaracommodities@gmail.com, jagadeesh@plrproperties.com
Contact No. 9490951922/ 8555952708

...RESPONDENTS

COUNTER AFFIDAVIT FILED BY THE 3rd RESPONDENT

I, K Venkata Ramana Reddy S/o Venkata Reddy, Aged about 58 years,
Occ: Collector and District Magistrate, Tirupati District, Andhra Pradesh do
hereby solemnly and sincerely affirm and make oath and state as follows:

1. I am the 3rd Respondent herein and as such I am well acquainted with the facts of the case.
2. This respondent denies each averment made in the affidavit filed in support of the application as false and incorrect except those that are specifically admitted herein in this counter affidavit.
3. With regard to the averments made in paragraph 1 & 2 of the affidavit they are not related to this respondent and hence there are no remarks.
With regard to the averments made in paragraph 3 & 4 of the affidavit they are denied as false. It is submitted that the District Environmental Engineer, RO, Tirupathi has conducted Public hearings for individual mines separately duly following the procedures laid down in the EIA notification 2006. The period of 45 days is specified in the notification to facilitate the regulatory authority to complete the process otherwise to engage another public agency to complete the process within a period of 45 days if the SPCB could not complete it within 45 days. The applicant did not approach the regulatory authority for making any alternative arrangement in place of SPCB for conducting Environmental Public hearing for this mine. Hence, the public hearing conducted as scheduled.


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4. It is submitted that the conduct of public hearing is primarily within the purview of APPCB. However, the SEIAA observed that the EE (RO), Tirupati, APPCB, issued press notification on 16.06.2022 in Telugu & English dailies intimating the public before 30 days of date of public hearing. The public hearing was conducted by EE (RO), Tirupati, APPCB on 19.07.2022 along with Presiding Officer Sri. M. SreenivasaRao, District Revenue Officer & Addl. District Magistrate, duly following the procedure mentioned in the EIA notification, 2006 and its amendments thereof and recorded the minutes The

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said public hearing was attended by a significant number of people. The petitioner has not attended the public hearing and raised any objections was contended in the affidavit and the hearing scheduled is published to the general public to attend and give their objections if any.

5. It is to submit that, the Collector and District Magistrate, Tirupati District have suggested the date of Environmental Public hearing of M/s.

Amara Commodities, Sy No. 388/1, 388/2, 387/3, 383 & 6/P (Old Sy.No.6), Eswarapuram (V), Puttur (M), Tirupati District 12.07.2022.

But, the representative of the industry has failed to issue Paper Notification prior to 30days before the Environmental Public hearing. Based on the request and readiness of the proponent for

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suance of paper notification, the proposed public hearing was rescheduled to be held on 19-07-2022

With regard to

the averments made in paragraph 5 to 7 of the affidavit they are not related to this respondent and hence there are no remarks

6. With regard to the averments in Paragraphs 8 to 11, of the affidavit they are denied as false. It is submitted that the the same advert to correspondence between the other officials, do not pertain to the Answering Respondent and are best left to be explained by the said officials. The Answering Respondent however states that assuming without admitting that the letter dated 02.06.2022 was addressed to the PanchayatSecretary, the same is not a ground to quash the Environment Clearance as contended.

7. It is humbly submitted that, in matters pertaining to the official acts and correspondence, there exists a legal presumption regarding the regularity of the same

It is submitted that the 6th respondent requested the APPCB who is

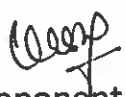
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the 5th respondent herein on 31.05.2022 for conduct of public hearing duly submitting the draft EIA&EMP as per the TOR issued by SEIAA. Based on the Note file circulated by the Environmental Engineer, Regional office, Tirupati the District Collector, Tirupati initially have suggested for conduct of the date of Public hearing on 12.07.2022. Subsequently, Based on the request and non-readiness of the proponent for issuance of paper notification, the Environmental Engineer have again circulated file to the District Collector with the proposed date of public hearing i.e., 19.07.2022.

8. With regard to the averments in Paragraph 12 of the Appeal read with Ground B, the contents thereof are denied in toto. Firstly, there has been no postponement in the date of hearing, as alleged by the Appellant, in as much as the notification issued by way of paper publication contained the date of public hearing as 19.07.2022, which notice was issued 30 days in advance as required. Therefore, there has been no change or postponement of the date of hearing. Secondly, the consequence of not conducting the public hearing within the prescribed period of 45 days is only to enable the Answering Respondent to request the State Government to engage another agency or authority to complete the process. The time limit of 45 days prescribed endures to the benefit of the Project Proponent in order to ensure an expeditious consideration of the Application for EC and the consequence of failure to meet the same cannot result in the cancellation of the EC. No prejudice has been caused to the Appellant or any member of the general public as a result of any delay, as alleged or at all.
9. With regard to the averments in Paragraph 13 of the Appeal read with Ground D, the Answering Respondent submits that there has been no derogation with the requirements under the extant provisions of law pertaining to the public consultation for cluster of mines. On the contrary, the Answering Respondent states that all the hearings were conducted on the same day and the public was given a longer window of time and adequate opportunity to put forth their representations by fixing a dedicated time slot to each of the Applicants in the cluster as opposed to cramming all the hearings in one slot. The argument that separate hearings were afforded, merely because the timeslots were different for each application is fallacious to say the least and is in any event, a hyper


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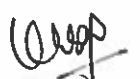
technical approach. The Answering Respondent states that the public consultation in the matter has complied with the spirit and letter of the law.

10. With respect to averments in Paragraphs 14 and 15 of the Appeal, the same are denied as being false and baseless in so far as the alleged procedural infirmities in the conduct of the public hearing. The Public Hearing has been arranged in a systematic, time bound and transparent manner ensuring widest possible public participation. The allegations regarding lack of adequate notice of the said public hearing are wholly unfounded and baseless. Separate notifications were issued for all the proposed mining projects, with different timings, in telugu and English newspapers, clearly giving 30 days advance intimation to the public as per EIA Notification. It is understood that two employees of AP Pollution Control Board, Tirupati who were supervising the Environmental Public hearing arrangements on 18.07.2022 and 19.07.2022, had also been deputed to intimate as many people as possible. Further, the law only envisages that the competent authority should arrange to inform the local public about the public hearing by other means such as by way of beating of drums in places where newspapers do not reach. In the instant case, no such scenario arose.

11. It is submitted that **as per the MoEF Notification - 2006 a draft Environmental Impact Assessment Authority (EIA) and executive summaries were prepared by National Accreditation Board for Testing and Calibration Laboratories (NABL) consultant M/s. S.V. Enviro Labs & Consultants, Visakhapatnam on behalf of the proponent of the project.** The Environmental Engineer have communicated the copies of draft EIA reports and Executive summaries at the following concerned Government Offices located in Tirupati District for the reference of the public by following due procedure for conduct of Environmental Public Hearing.

- i. The Administrative Officer, Collectorate, Tirupati, Tirupati District.
- ii. The Chief Executive Officer, Zillaparishath, Chittoor.
- iii. The General Manager, District Industries Centre, Tirupati, Tirupati District.
- iv. The Revenue Divisional Officer, Tirupati, Tirupati District.
- v. The Tahsildar, Puttur (M), Tirupati District.
- vi. The Panchayat Secretary, Eswarapuram (V), Puttur (M), Tirupati District.

a. As Member secretary APPPCB is the public hearing date finalization authority, the RO, Tirupathi wrote a letter to the Member Secretary for fixing the date of public hearing.


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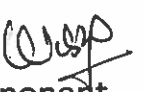
12. It is submitted that the Environmental Engineer, Tirupati has addressed a letter to the Member Secretary, APPCB for change of date of public hearing from 12.07.2022 to 19.07.2022 with a request to finalize and approve the date of public hearing to be held on 19.07.2022. **The process of Environmental Public hearings were completed on 19.07.2022 after issuing paper notification on 16.06.2022 Clearly maintaining 30 days gap as per MoEF Notification – 2006.No postponement was took place after issuing paper notifications on 16.06.2022 and the separate paper notifications were issued for all the proposed mining projects with different timings. In this regard, there is no inordinate delay from the Member convener i.e., Environmental Engineer, AP Pollution Control Board, Regional Office, Tirupati on completion of Environmental Public hearing.**

13. It is submitted that the **same day 05 No's of Environmental Public hearings were conducted on the same day i.e. on 19.07.2022 on different timings as per the paper notifications. There is no provision of conducting single public hearing for all the five (05) proposed mining projects as per MoEF Notification even all the proposed mines are located in the same cluster.** The following proponents of the proposed granite mines (05 Nos) have submitted different request letters along with different TORs and hence, the public hearings were conducted separately.

- i. M/s. Amaram Commodity Ventures (11.583 Ha), Sy No. 379/2, 380, 381/2, 378/2 & 6, Eswarapuram (V), Puttur (M), Tirupati District, Andhra Pradesh.
- ii. M/s. Amara Commudities (6.553 Ha), SyNo. 388/1, 388/2, 387/3, 383 & 6/P (Old Sy.No.6), Eswarapuram (V), Puttur (M), Tirupati Dist., Andhra Pradesh.
- iii. M/s. Amaram Commodity Ventures (1.875 Ha), SyNo. 387/1 (Old Sy.No. 6), Eswarapuram (V), Puttur (M), Tirupati District, Andhra Pradesh.
- iv. M/s. UshasriCommudity Ventures (3.729 Ha), Sy No. 383, 384/4, 384/5 (Old Sy.No.6) & 6/P, Eswarapuram (V), Puttur (M), Tirupati Dist., Andhra Pradesh.
- v. M/s. Sudarshana Granites, (4.540 Ha) SyNo. 387/3 (Old Sy.No. 6), Eswarapuram (V), Puttur (M), Tirupati District, Andhra Pradesh.


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14. Plenty of time and opportunity was given to the public attended at the public hearing venue. 44 Nos of public were attended the public hearing and signed in the attendance register.
15. It is submitted that the notification where one public consultation was specified vide notification No 141 (E) dt 15.01.2016 is suspended by the Hon'ble NGT in EA No 55/2018 in OA No 520/2016 vide order dated 11.12.2018 and the same has been appealed before the Hon'ble supreme court and the matter is sub- judice. Further, conducting of individual public hearings will give ample opportunity for the stake holders to express their views and suggestions freely in a democratic manner.
16. It is submitted that as per the notification, the Public Hearing shall be arranged in a systematic, time bound and transparent manner ensuring widest possible public participation at the project site(s) or in its close proximity District-wise, by the concerned State Pollution Control Board (SPCB) or the Union Territory Pollution Control Committee (UTPCC). On verification of the attendance register, 03 Nos of villagers from Cherlopalli Village were also attended.
- 17.. With regard to the averments made in paragraph 16 to 19 of the affidavit in facts in brief is denied as false. It is submitted that a representation was received from the Hon'ble minister for Tourism and Culture and Youth advancement, Govt. of Andhra Pradesh & Local MLA, Nagari on conduct of Environmental Public hearing was also submitted along with other representations to the State Level Environment Impact Assessment Authority (SEIAA) and the same was also recorded in the minutes of the Public hearing. With regard to the information on the proposed public hearing, the draft EIA reports and Executive summaries were displayed at the following offices including The Panchayat Secretary, Eswarapuram (V), Puttur (M), Tirupati District
- i. The Administrative Officer, Collectorate, Tirupati, Tirupati District.
 - ii. The Chief Executive Officer, Zillaparishath, Chittoor.
 - iii. The General Manager, District Industries Centre, Tirupati, Tirupati District.
 - iv. The Revenue Divisional Officer, Tirupati, Tirupati District.


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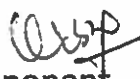
v. The Tahsildar, Puttur (M), Tirupati District.

18. It is submitted that in addition to that, two employees of AP Pollution Control Board, Tirupati who were supervising the Environmental Public hearing arrangements on 18.07.2022 and 19.07.2022 were also intimated the available people on conduct of Environmental Public Hearing. As per the MoEF Notification – 2006 a draft Environmental Impact Assessment Authority (EIA) and executive summaries were prepared by National Accreditation Board for Testing and Calibration Laboratories (NABL) consultant M/s. S.V. Enviro Labs & Consultants, Visakhapatnam on behalf of the proponent of the project. The Regional officer, AP Pollution Control Board, Tirupati acted as a Nodal officer and completed the Environmental Public hearing.

19. It is also submitted that the information about the public hearing was circulated to the public through two no. of newspapers (one Telugu and one English), well in advance before 30 days of public hearing date as per the EIA notification, 2006. Further, the issues such as impact on agricultural productivity, damage to water tanks, water sources due to mining activity mentioned in this para are apprehensive in nature. **The SEIAA observed that the summer storage tank is at 650m from the nearest mine in the cluster which is more than danger zone of 500m. Moreover, granite mining activity does not involve blasting operations and it will be carried through wire saw cutting method.**

20. It is submitted that the provision for conduct of public hearing within 45 days ensures to the benefit of the Applicant, as elaborated hereinabove. No prejudice was caused to the Appellant or any other member of the general public on account of the public hearing being conducted after 45 days. In fact, this only increased the notice period given to enable publicity amongst the general public. The paper notifications, carried on 16.06.2022, gave more than sufficient publicity and time to the public to prepare for the hearing, which evinced due compliance with the letter and spirit of the provisions relating to public hearing.

21. It is submitted that requirement for consolidated public consultation, ostensibility envisaged in Appendix XI of the EIA Notification, 2006 are


Deponent

inapplicable at present, and there was no legal mandate upon the competent authorities to carry out the same. In any event, the public consultation/hearings for all the projects in the cluster have been carried out on the same day with sufficient time intervals in between to enable full and holistic participation by the concerned members of the public.

22. It is submitted that authorities have provided sufficient and adequate notice of the public consultation in local dailies and through local offices, in accordance with law, and there was no scenario in the instant case requiring communication by beating of drums etc.,

23. It is submitted that this respondent craves leave of this Hon'ble Tribunal to address any further queries that may arise during the course of proceedings, through an additional counter, if required.

In the above circumstances, it is humbly prayed that this Hon'ble Tribunal may be pleased to dismiss the above APPEAL No.51 of 2022 and pass such further or other orders, as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case and thus render justice.

Solemnly affirmed Tirupathi
Andhra Pradesh on
this the 11th day of November 2022
and signed his name in my presence


Deponent

DISTRICT COLLECTOR
TIRUPATI
BEFORE ME


Advocate

VERIFICATION

I K Venkata Ramana Reddy S/o Venkata Reddy, Aged about 58 years, Occ: Collector and District Magistrate, Tirupati District, Andhra Pradesh hereby verify that the contents of Para's of Counter Affidavit are based on record and information are true to the best of my knowledge and belief.

Hence, verified on the 11th day of November 2022 at Tirupati.


Deponent

DISTRICT COLLECTOR
TIRUPATI