

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

APPEAL NO. 55 OF 2022 (SZ)

IN THE MATTER OF:

1. Lukose K T Alias Luka,
2. Emmanuel T M,

...Appellants

v.

Ministry of Environment, Forests
& Climate Change & Others

...Respondents

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Dated at Chennai on this 21st day of December, 2022

Vidyalakshmi Vipin

COUNSEL FOR 2ND TO 4TH RESPONDENTS

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REPLY FILED ON BEHALF OF THE 2ND TO 4TH RESPONDENTS

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 2nd to 4th Respondents. I crave leave of the Hon'ble Tribunal to reply as and when additional facts are available to the Respondent.
2. It is submitted that this respondent denies all the allegations and averments raised by the Appellant except that are specifically admitted. It is submitted that the 2nd to 4th Respondents submit certain facts, which are necessary for the present appeal, are placed hereunder in seriatim.
3. It is submitted that the above Appeal has been filed by the Appellant before this Hon'ble Tribunal to challenging the Environmental Clearance granted by the State Environmental Impact Assessment Authority, (SEIAA), the 2nd to 4th Respondents herein.
4. It is submitted that Shri.Rajeevan, P.V. S/o. Kunhiraman, Puthiya Veetil House, Kooveri P.O., Kannur - 670581 submitted an application for




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Environmental Clearance via Parivesh Portal on 15.09.2020 for the proposed granite building stone quarry project in Re.Sy.No.5 at Thimiri Village, Thaliparamba Taluk, Kannur District of Kerala for an extent of 0.9936 Ha.

5. It is submitted that the 108th SEAC meeting held on 13th & 14th January 2020, the Committee directed the proponent to furnish the following documents/details:-

1. Revise project cost with details
2. Show OB dumping site on map
3. Recent cluster certificate missing
4. Revise CER/CSR
5. The proponent should apply in the Prescribed Form (Form 1M) for projects having lease area less than 5Ha.

The Project Proponent has submitted the documents on 02.06.2020.

6. It is submitted that the 114th SEAC meeting held on 06th - 08th October, 2020, the Committee decided to invite the proponent for presentation. The 116th meeting of SEAC held on 02nd, 3rd & 07th December 2020, the proponent and consultant were present. The consultant made the presentation. The Committee entrusted Dr. R.Ajaykumar Varma and Dr. N.Anilkumar for the field inspection and decided to direct the proponent to submit the following additional document/details:

- a. Revised EMP incorporating the specific CER activities in physical terms to be undertaken by the proponent in consultation with the stakeholder as stipulated in the OM No.22-65/2017-1A.III dated 30.09.2020 and OM No.22-65/2017-1A.III dated 20.10.2020 of the MoEF & CC, GOI instead of allocation of funds under CER. The CER activities incorporate in the EMP should be undertaken during the first two years of validity period of the EC so as to ensure that the maintenance of the interventions undertaken can be done by the proponent during the remaining validity period of the EC.



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- b. Recent survey map showing distance to residential/public buildings, inhabited sites, canals, roads, electric lines, mobile towers, religious places etc., within 200 m. radius of the lease boundary certified by the Village Officer concerned.
- c. Geo coordinates of observations wells.
- d. Revise application from ToR to EC.
- e. Detailed land use/land cover map within the 500m. radius.

The Subcommittee visited the project site on 12.02.2021.

7. It is submitted that the 119th SEAC meeting held on 23rd , 25th February, 2021, the FIR was discussed and approved. The proponent was directed to submit the following details/documents:

- a. Revised water requirement details based on reassessment
- b. Identify and locate an appropriate source of water along with its safe yield and geo-coordinates.
- c. Google map with boundary pillars
- d. Revised EMP incorporating the specific CER activities in physical terms to be undertaken by the proponent in consultation with the stakeholders as stipulated in the OM No.22-65/2017-1A.III dated 30/09/2020 and OM No.22-65/2017-1A.III dated 20/10/2020 of the MoEF & CC, GOI instead of allocation of funds under CER. The CER activities incorporated in the EMP should be undertaken during the first two years of validity period of EC so as to ensure that the maintenance of the interventions undertaken can be done by the proponent during the remaining validity period of the EC.
- e. A Recent survey map showing distance to residential public buildings, inhabited sites, canals, roads, electric lines, mobile towers, religious places etc., within 200 m radius of the lease boundary certified by the Village Officer.
- f. A detailed land use/land cover map within the 500m radius.
- g. Updated District Survey Report.



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The Project proponent has submitted the documents on 21.12.2021.

8. It is submitted that the 126th SEAC meeting held on 11th - 13th April 2022, the Committee deferred the item for detailed scrutiny. In the 127th SEAC meeting held on 28th - 30th April 2022, the Committee examined the documents submitted by the proponent and decided to recommend EC for 5 years the subject to the following specific conditions in addition to the general conditions.

- a. Retaining wall should be provided for the dumping site to a height of about 2m.
- b. Garland drain should be provided all around the project area with intermittent silt traps, siltation ponds and outflow channel connecting natural drain.
- c. The garland drain along with silt traps, siltation ponds and outflow channel should be desilted periodically to avoid obstruction of overland flow and geo-tagged photo of the same should be uploaded in the Half Yearly Compliance Report (HYCR).
- d. The transportation of mined material should be prevented during the peak hours in the forenoon and afternoon.
- e. Sprinkling of water should be done on the un surfaced road prior to each movement of truck.
- f. The green-belt development should initiate before the commencement of quarry operations. This need to be done first with fast-growing local tree species and later on with trees of multiple values traditionally preferred in the locality.
- g. The mining will lead to the development of a quarry pond of depth 10m, which should be safeguarded with barbed wire fencing and gate.

9. It is submitted that the 128th SEAC meeting held on 23rd - 24th May 2022, the Committee decided to adhere to the decision No.5 in Part 5 (ToR-SIA/KL/MIN/41944/2019, 1431/EC3/SEIAA/2019) taken in its 127th




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meeting to recommend to issue EC for 5 years subject to certain Specific Condition.

10. It is submitted that the 114th SEIAA meeting held on 25th, 26th May and 01st June 2022, the Authority observed that the appraisal and recommendation of EC by SEAC were completed in the ToR application and the proponent has not been submitted the EC application in PARIVESH. Hence Authority decided to direct the Proponent to apply for Environmental Clearance through PARIVESH with all necessary documents and SEAC to consider the project on priority in the next meeting itself.

11. It is submitted that on verification, it is noticed that Sri.Rajeevan P.V. has already submitted the EC application having proposal number (SIA/KL/MIN/173261/2020) (1431/EC3/SEIAA/2019) and the same is also processed in file No.1432/EC3/SEIAA/2019.

12. It is submitted that the 115th SEIAA meeting held on 30th June 2022, the Authority decided to issue Environmental Clearance for a project life of 5 years for the quality mentioned in the approved Mining Plan subject to the following Specific Conditions in Addition to the General Conditions.

1. The proponent shall carry out quarrying as per the approved Mining Plan and the proponent should strictly follow the Kerala Minor Mineral Concession Rules 2015 and amendments thereby.
2. The EC shall be valid from the date of execution of permit/lease from the Department of Mining and Geology. The copy of the lease order should be provided to the SEIAA before commencing the mining activity.
3. Retaining wall should be provided for the dumping site to a height of about 2m.
4. Garland drain should be provided all around the project area with intermittent silt traps, siltation ponds and outflow channel connecting natural drain.



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5. The garland drain along with silt traps, siltation ponds and outflow channel should be desilted periodically to avoid obstruction of overland flow and geo-tagged photo of the same should be uploaded in the Half Yearly Compliance Report (HYCR).
6. The transportation of mined material should be prevented during the peak hours in the forenoon and afternoon.
7. Sprinkling of water should be done on the un surfaced road prior to each movement of truck.
8. The green-belt development should initiate before the commencement of quarry operations. This needs to be done first with fast-growing local tree species and later on with trees of multiple values traditionally preferred in the locality.
9. The mining will lead to the development of a quarry pond of depth 10m, which should be safeguarded with barbed wire fencing and gate.
10. As per OM. F.No.22-65/2017-IA.III dated 30th September 2020, under Corporate Environmental Responsibility (CER), the project proponent shall prepare an Environment Management Plan (EMP) as directed by SEAC during appraisal, covering the issues to address the environmental problems in the project region, indicating both physical and financial targets year wise. The EMP shall be implemented in consultation with local self Govt. Institutions. The indicated cost for CER shall be 2% of the project cost depending upon the nature of activities proposed. The follow up action on implementation of CER shall be included in the Half Yearly Compliance Report which will be subjected to field Inspection at regular intervals. A copy of the approved EMP shall be made available to the concerned Panchayat for information and implementation support.
- 11 In the wake of occurrence of large scale landslide in the state, as per the information provided by the Department of Mining & Geology, it is directed to use only NONEL (Non Electrical) technology for blasting to reduce the vibration of the ground, which is one of




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the causative factors that triggers landslides, formation of cracks in the surrounding buildings and disturbance to human and wildlife.

12 As per the directions contained in the OM F.No.22-34/2018-IA.III dated 16th January 2020 issued by MoEF & CC, in obedience to the directions of the Hon'ble Supreme Court the Project Proponent shall, undertake re-grassing the mining area and any other area which may have been disturbed due to his mining activities and restore the land to a condition which is fit for growth of fodder, flora, fauna etc. The Compliance of this direction shall be included in the Half Yearly Compliance Report which will be monitored by SEAC at regular intervals.

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

Environmental Clearance was uploaded in Parivesh Portal on 02.08.2022.

13. It is submitted that the State Government prepared the DSR of Minor Minerals on November 2016 and the same is considering as a document for the issuance of EC. As per annexure 10 the MoEF & CC issued procedure for the DSR. The 2016 DSR was prepared by the Mining and Geology Department.

14. It is submitted that the 113th SEIAA meeting held on 19th & 20th April 2022, the Authority considered the case regarding DSR and decided to intimate the concerned department in the Government to take necessary steps for the revision of DSR as per annexure 10. Accordingly SEIAA intimated the matter to the Mining and Geology Department to revise the DSR by giving priority.

15. It is submitted that the revision of DSR is under progress at Mining and Geology Department till then the old DSR is considering for the appraisal. The Hon'ble High Court is also directed the same in its judgment



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dated 16.02.2022 in WPC No.5209/2022 filed by the petitioner Sri.Ananthu Sunil. (Copy enclosed).

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

Dated at Chennai on this the 21st day of December, 2022.

R. Rani

2nd to 4th RESPONDENT

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VERIFICATION

I, **RANI R.S.**, wife of Mr. Prabodh Chandran, aged about 46 years, working as Legal Officer, SEIAA at Thiruvananthapuram, do hereby verify that the contents of paras 1 to 15 are true to the best of my personal knowledge and paras 1 to 15 believed to be true on legal advice and that I have not suppressed any material fact.

Dated at Chennai on this the 21st day of December, 2022.



2nd to 4th RESPONDENT

R. Rani

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

WEDNESDAY, THE 16TH DAY OF FEBRUARY 2022 / 27TH MAGHA, 1943

WP(C) NO. 5209 OF 2022

PETITIONER:

ANANTHU SUNIL,
 AGED 25 YEARS
 GALAXY HOME, GOVINDAPURAM, KARTHIKAPPILLY, ALAPPUZHA.
 BY ADVS.
 PHILIP J.VETTICKATTU
 SAJITHA GEORGE
 NEENU BERNATH

RESPONDENTS:

- 1 STATE OF KERALA,
 REPRESENTED BY SECRETARY TO GOVERNMENT,
 DEPARTMENT OF MINING AND GEOLOGY, SECRETARIAT,
 TRIVANDRUM-695 001.
- 2 STATE ENVIRONMENT IMPACT ASSESSMENT AUTHORITY -SEIAA
 KERALA, 4TH FLOOR, KSRTC BUS TERMINAL BUILDING,
 THAMPANOR, TRIVANDRUM-695 001,
 REPRESENTED BY ITS MEMBER SECRETARY.
- 3 STATE EXPERT APPRAISAL COMMITTEE (SEAC),
 4TH FLOOR, KSRTC BUS TERMINAL BUILDING, THAMPANOR,
 TRIVANDRUM-695 001, REPRESENTED BY ITS MEMBER CHAIRMAN.
- 4 THE ADMINISTRATOR,
 STATE ENVIRONMENT IMPACT ASSESSMENT AUTHORITY (SEIAA),
 4TH FLOOR, KSRTC BUS TERMINAL BUILDING, THAMPANOR,
 TRIVANDRUM-695 001.
- 5 EXPERT APPRAISAL COMMITTEE (IMPACT ASSESSMENT DIVISION),
 NON-COAL MINING SECTOR, MINISTRY OF ENVIRONMENT,
 FOREST AND CLIMATE CHANGE, GOVERNMENT OF INDIA,
 INDIRA PARYAVARAN BHAWAN, JORBAGH ROAD, NEW DELHI-110003
 REPRESENTED BY ITS MEMBER SECRETARY.
 SMT.PRINCY XAVIER-SR.GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
 16.02.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 16th day of February, 2022

The prayer in this writ petition is for a direction to the 4th respondent to forward the District Survey Report for Idukki approved by the respondents 2 & 3 to the Expert Appraisal Committee at New Delhi, and for a direction to the 5th respondent to consider the application submitted by the petitioner by including it in the Agenda in the light of the valid DSR issued by the Department for Mining and Geology, State of Kerala in 2016 and pass orders.

2. The petitioner has produced the DSR 2016 as Ext.P4 along with the writ petition. In Ext.P2, the 5th respondent has deferred consideration for want of availability of the DSR. In the above circumstances, this writ petition is disposed of directing the 5th respondent to consider and pass orders on the application for Environmental Clearance submitted by the petitioner, on the basis of DSR 2016 issued by the Department of Mining and Geology, Government of Kerala, within a period of one month from

the date of receipt of a copy of this judgment. The 2016 DSR shall be forwarded by the 4th respondent to the 5th respondent who shall consider and pass orders as directed above.

3. The certificate issued by the Geologist, Department of Mining and Geology, District Office, Idukki on 02.12.2021, which is produced as Ext.P8 in the writ petition confirming that the DSR 2016 is being applied in the State of Kerala, shall also be considered by the 5th respondent while finalizing their orders. The petitioner may upload the certificate issued by the Geologist in the concerned portal along with DSR of 2016, if not already uploaded.

This writ petition is ordered accordingly.

Sd/ -

ANU SIVARAMAN
JUDGE

WP(C) NO. 5209 OF 2022

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APPENDIX OF WP(C) 5209/2022

PETITIONER'S EXHIBITS:

- Exhibit P1 TRUE COPY OF THE LETTER OF INTENT ISSUED BY THE MINING AND GEOLOGY DEPARTMENT DATED 02.03.2021.
- Exhibit P2 TRUE COPY OF THE MINUTES OF THE MEETING OF 5TH RESPONDENT HELD ON 30.11.2021 TO 03.12.2021.
- Exhibit P3 TRUE COPY OF THE RELEVANT PAGES OF THE SO NO.141(E) DATED 15.01.2016 ISSUED BY THE MOEF.
- Exhibit P4 TRUE COPY OF THE DISTRICT SURVEY REPORT WITH RESPECT TO IDUKKI DISTRICT.
- Exhibit P5 TRUE COPY OF THE RELEVANT PAGES OF SO NO.,3611(E) DATED 25.07.2018 ISSUED BY THE MOEF.
- Exhibit P6 TRUE COPY OF THE PROCEEDINGS OF THE SEIAA GRANTING ENVIRONMENTAL CLEARANCE IN THE CASE OF RAJI MATHEW.
- Exhibit P7 TRUE COPY OF THE PROCEEDINGS OF THE SEIAA GRANTING ENVIRONMENTAL CLEARANCES IN THE CASE OF ANISH ABRAHAM.
- Exhibit P8 TRUE COPY OF THE CERTIFICATE DATED 02.12.2021 ISSUED BY THE MINING AND GEOLOGY TO THE PETITIONER.
- Exhibit P9 TRUE COPY OF THE JUDGMENT DATED 31.01.2022 PASSED BY THIS HON'BLE COURT IN WPC NO.28372/2021.

RESPONDENTS' EXHIBITS: NIL