

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL (SZ) CHENNAI**  
**APPLICATION No.56 OF 2022**

**BETWEEN**

STANELY JOSEPH & ANOTHER

:

APPLICANTS

**Vs.**

UNION OF INDIA AND OTHERS

:

RESPONDENTS

**REPLY FILED BY THE 5<sup>TH</sup> RESPONDENT REPRESENTED BY MANAGING  
DIRECTOR**

**REMASMRITHI.V.K**  
**&**  
**NIVEDITA .S. MENON**  
**NGN ASSOCIATES,**  
**ANAGHA, DIWANS ROAD,**  
**ERNAKULAM, KOCHI – 682016**

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Dated this the 21<sup>st</sup> day of January, 2023



Counsel for the 5<sup>th</sup> Respondent

REMASMRITHI.V.K

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

**APPLICATION No.56 OF 2022**

**IN THE MATTER BETWEEN**

1. Stanely Joseph, aged 52 years,  
S/o M.JSacaria, Mundattuchundayil House,  
Chegalam.P.O, Kottayam – 686 585  
Email: [stanleyjmc@gmail.com](mailto:stanleyjmc@gmail.com)  
Mob:9747322197
2. Sajan George, aged 43 years,  
S/o George Naipilavil,  
Chegalam.P.O, Kottayam – 686 585  
Email: [sajang6716@gmail.com](mailto:sajang6716@gmail.com)  
Mob:8304045955

.....APPLICANTS

AND

1. Union of India,  
Ministry of Environment, Forest and Climate Change  
Represented by its Principal Secretary, Ministry of Environment Forest and  
Climate Change, Regional Office (SZ),  
Kendriya Sadan, 4<sup>th</sup> Floor, E&F Wings, 17<sup>th</sup> Main  
Road, Koramangala II Block, Bangalore – 560034.  
Email: [rosz.bng-mef@nic.in](mailto:rosz.bng-mef@nic.in). Ph:080-25537184
2. State Environment Impact Assessment Authority  
Represented by its Secretary,  
Pallimukku – Kannammoola Road, Overbridge,  
Velakudi, Thiruvananthapuram – 695024  
Email: [seacseaakerala@gmail.com](mailto:seacseaakerala@gmail.com)  
Ph: 471-2334265
3. The Director of Mining and Geology,  
Pattom Palace P.O, Kesavadasapuram,  
Thiruvananthapuram – 695004  
Email: [director.dir.dmg@kerala.gov.in](mailto:director.dir.dmg@kerala.gov.in)  
Ph: 0471-2447429
4. M/s Plalthra Constructions Pvt. Ltd.,  
Palathra Building, Thuruthy.P.O, Changanacherry,  
Kottayam – 686535, Represented by its Director Charles Mathew,  
S/o P.P.Mathew, Palathra House,  
Thuruthy.P.O, Changanacherry, Kottayam – 686535  
Email: [gsassociatesktm@gmail.com](mailto:gsassociatesktm@gmail.com)  
Ph: 09539700641





5. Rockfield Estates Pvt. Ltd.,  
Palathra Building, Thuruthy.P.O, Changanacherry,  
Kottayam – 686535, Represented by its  
Managing Director Shibu Mathew  
Email: [rockfieldestatespvtltd@gmail.com](mailto:rockfieldestatespvtltd@gmail.com)  
Ph: 9048490000

.....RESPONDENTS

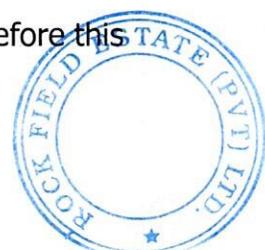
**REPLY FILED BY THE 5<sup>TH</sup> RESPONDENT REPRESENTED BY MANAGING DIRECTOR**

I, Shibu Mathew Palathra, Thuruthy.P.O, Changanacherry, Kottayam – 686535 being the Managing Director of the 5<sup>th</sup> Respondent Company and duly authorised to represent the company do solemnly swear and state as follows:

**PRELIMINARY OBJECTION**

1. That this Application is not maintainable as against the 5<sup>th</sup> Respondent as the same is being filed against an EC application pending before the 2<sup>nd</sup> Respondent and where till date no decision on grant of the EC has been made. This Respondent reserves the right to file a detailed counter if necessary at a later stage.
2. That this Application is not maintainable as it is speculative and preemptive in nature and the 5<sup>th</sup> Respondent has not started any activity which has caused any environmental damage. Mining of minor minerals is an allowable activity and application for EC cannot by any stretch of imagination be causing any environmental concern. It is up to the Authorities to allow or deny the 5<sup>th</sup> Respondents Applications.
3. That Section 14 Application is not maintainable since the Applicants have not put forth any substantial question of the environment. Section 16 vests Appellate jurisdiction on this Hon'ble Tribunal to deal with EC violation or grant cases. Therefore, the Applicant has a remedy to approach this Tribunal and raise concerns regarding the grant of EC under Section 16 of the NGT Act, 2010
4. That the proposed site of the 5<sup>th</sup> Respondent is distinct from the site of the 4<sup>th</sup> respondent and neither is any cause of action that is stated which is fundamental to be present before instituting any Application before this Hon'ble Tribunal.

X 



5. The Hon'ble Supreme Court of India and this Hon'ble Tribunal has in a plethora of decisions held that pre-emptive litigation is not maintainable.

**WITHOUT PREJUDICE**

6. That all the averments made against this respondent are vehemently denied as being false and fabricated and illegal and the Applicants are put to strict proof of the same.
7. That the 5<sup>th</sup> Respondent Company has applied for a Environmental Clearance for conducting a quarry but the same is pending before the State Environmental Impact Assessment Authority and no approval or otherwise have been granted till date.
8. That the 5<sup>th</sup> Respondent is distinct from the 4<sup>th</sup> Respondent and though some of the Directors of both the companies are the same the shareholding pattern and the businesses they are involved in are divergent.
9. That the 5<sup>th</sup> Respondent has while applying for the EC has clearly stated that there is no cluster mining in the proposed site as the site in which 4<sup>th</sup> Respondent had been quarrying has been closed and mine closure plan is being implemented therein. No cluster certificate issued by the Village Officer Chengalam (East) is produced and attached herewith as **Annexure R5 1.**
10. That as per S.O 3977(E) dated 14.08.2018 of the MOEF gives the procedure to be adopted for obtaining EC for a site which is situated within 500 meters of a existing mine. In the instant case the quarry belonging to 4<sup>th</sup> Respondent has stopped functioning since 2021 and the mine closure and restoration of the site is in progress. Being so there is no impediment for the 5<sup>th</sup> Respondent from applying for an EC before the 2<sup>nd</sup> Respondent SEIAA.

**PARAWISE REPLY**

11. That para 1-20 relate to averments against the 4<sup>th</sup> Respondent hence are not relevant to this Respondent and are not responded to.
12. That all averments made against 5<sup>th</sup> Respondent are vehemently denied as being false and fabricated and the Applicant is put to strict proof. The 5<sup>th</sup> Respondent is a distinct entity and the site selected for the quarrying is a virgin site away from the site of the 4<sup>th</sup> Respondent. Further Annexure R5 1 that is issued by the 3<sup>rd</sup> respondent clearly shows that this site is not part of a cluster.



13. All averments made in para 22 are denied as being false and fabricated and vehemently denied. The sketches provided by the Respondent are approved only after inspection by the various authorities. Hence mere speculation by the Applicants will not prove a right to be wrong. Further if there is any dispute regarding the sketches the Applicants should approach the appropriate authority and not before this Hon'ble Tribunal u/s 14.
14. That the statement made in para 23 is only reiterates the 5<sup>th</sup> Respondents stand that Applicants should have come under appeal before this Hon'ble Tribunal as they have already approached the SEIAA who has refused to intervene in the matter.
15. All averments made in para 24 are denied as being false and fabricated and the Applicants are put to strict proof of the same.
16. Averments in para 25 are not pertaining to 5<sup>th</sup> Respondent.
17. That the statements made in para 26 and 27 are generic in nature and require no specific response except that unless the Applicant can prove violation by the 5<sup>th</sup> Respondent no amount of mudslinging will prove otherwise.
18. That this Hon'ble Tribunal may dismiss this Application as being frivolous and fabricated and impose exemplary costs on the Applicants.



For ROCK FIELD ESTATES (PVT) LTD

X  Managing Director

5<sup>th</sup> Respondent

Solemnly affirm and signed before me by the deponent who is personally known to me in my office at Ernakulam, on this the 21<sup>st</sup> day of January, 2023.



Counsel for the 5<sup>th</sup> Respondent

REMASMRITHI.V.K

No.215/DOY/ML/20120

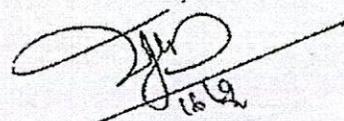
District office of the Department of Mining  
& Geology, Kottayam-686 002  
Email. [kot.geologist@gmail.com](mailto:kot.geologist@gmail.com)  
Phone: 0481 2301405  
Date: 16.09.2020

**CERTIFICATE**

This is to certify that there is no quarry working at present, other than the quarry of an area of 1.8851 Hectares under quarrying lease and is owned by M/s Palathra Constructions Pvt. Ltd. within an area of 500 meters radius from the quarry of Shri. Shibu Mathew, Managing Director, Rock Field Estates, Pvt. Ltd., Palathra Building, Thuruthy P.O which falls in Block No.48 in Re-Survey Nos. 400/1,400/2, 401/5-2, 406/5 of Chengalam(E) Village of Kottayam Taluk in Kottayam District, Kerala with an area of 0.8706 Hectares, as per the report No. 205/2020 dtd. 27.08.2020 of the Village Officer, Chengalam(E)

This certificate is issued for producing before the State-Environmental Impact Assessment Authority (SEIAA) Thiruvananthapuram.



  
16/9  
GEOLOGIST

No. 278/2022

വില്ലേജ് ഓഫീസ്, ചെങ്ങളം(ഈസ്റ്റ്)

തീയതി: 25.07.2022

email-vocnglmektym.rev@kerala.gov.in

സാക്ഷ്യപത്രം

കോട്ടയം ജില്ലയിൽ കോട്ടയം താലൂക്കിൽ ചെങ്ങളം ഈസ്റ്റ് വില്ലേജിൽ കാനിയിങ് പെർമിറ്റ് അനുവദിക്കുന്നതിലേക്ക്, റോക്ക് ഫീൽഡ് എസ്റ്റേറ്റ് പ്രൈവറ്റ് ലിമിറ്റഡിനു വേണ്ടി മാനേജിംഗ് ഡയറക്ടർ ശ്രീ.ഷിബു മാത്യു എന്നയാളുടെ അപേക്ഷാപ്രകാരമുള്ളതും ബ്ലോക്ക് 48-ൽ റീസർവ്വെ 400/1, 400/2, 401/5-2, 406/5 എന്നീ നമ്പരുകളിലായി സ്ഥിതി ചെയ്യുന്ന സ്ഥലത്തിന്റെ 500 മീറ്റർ ചുറ്റളവിൽ പാലാത്ര കൺസ്ട്രക്ഷൻസ് ലിമിറ്റഡ് എന്ന കമ്പനിയുടെ ഉടമസ്ഥതയിലുള്ളതും നിലവിൽ പ്രവർത്തന രഹിതവുമായ പാറമട അല്ലാതെ മറ്റു പാറമടകൾ ഇല്ല എന്ന് അന്വേഷണത്തിൽ അറിയുന്ന വിവരം സാക്ഷ്യപ്പെടുത്തുന്നു.

ഈ സാക്ഷ്യപത്രം മൈനിങ് ആന്റ് ജിയോളജി വകുപ്പ് മുമ്പാകെ ഹാജരാക്കുന്നതിന് നൽകിയിട്ടുള്ളതാണ്.



*[Handwritten Signature]*

വില്ലേജ് ഓഫീസർ  
**Village Officer**  
**Chengalam East**

No. 278/2022

Village Office, Chengalam (East)

Date: 25.07.2022

[email-vocnglmektym.rev@kerala.gov.in](mailto:email-vocnglmektym.rev@kerala.gov.in)

AFFIDAVIT

It is hereby certified from the inspection of Re-Sy. Nos 400/1, 400/2, 402/1, 401/5-2, 406/5 in Block no 48 of Chengalam East Village, Kottayam Taluk, Kottayam District as per the request submitted by M/s.Rockfield Estates Pvt Ltd represented by the managing director Mr. Shibu Mathew for the approval of the quarrying lease, that the surrounding area with a radius of 500m which is owned by M/s. Palathra Constructions Pvt Ltd only consists of a non-functioning quarry and no other functioning quarries.

This affidavit has been prepared for submission before the Mining and Geology Department.

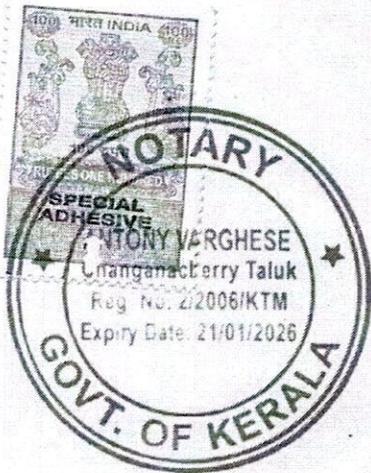
Village Officer

*True photo copy*

*Attended*

*Antony*

*19/1/2023*



ANTONY VARGHESE  
ADVOCATE & NOTARY  
CHANGANACHERRY  
PH: 2420444

**BEFORE THE NATIONAL GREEN  
TRIBUNAL, SOUTHERN ZONE,  
CHENNAI**

**OA No.56 of 2022 (SZ)**

**Report filed by 5th respondent by  
Managing Director**

**M/s.Remma Smrithi VK  
Nivedita S. Menon  
Respondent No. 4**

**94445782946**