

BEFORE THE NATIONAL GREEN TRIBUNAL (SOUTH ZONE)
AT CHENNAI

APPEAL NO. 58 OF 2021

Between

Prince,

S/o. Durairaj Jesubatham,

3/26 West Street,

Marakattuvilai, Karaichuthu Navaladi,

Tisaiyanvilai Taluk, Tirunelveli District.

... Appellant

And

1. Member Secretary.

State Level Environment Impact Assessment Authority,

Tamil Nadu,

3rd Floor, Panagal Maaligai,

No.1 Jeenis Road, Saidapet,

Chennai – 15, email:mstnseiaa@yahoo.com.

2. The District Environmental Engineer,

Tamil Nadu Pollution Control Board,

Tirunelveli, Email:deentnv@gmail.com

3. Thiru.S.Rajendran,

No.13-85/43, Pathitta Villai,

Chitharal Post,

Kanniyakumari – 629 151

Email: kkmbbluemetal@gmail.com.

... Respondents

REPLY BY THE 3rd RESPONDENT

I, S.Rajendran, son of Mr.Sridharan, Hindu, aged about 56 years, residing at No.13-85/43, Pathitta Villai, Chitharal Post, Kanniyakumari District, Pin Code – 629 151, now temporarily come down to Chennai, do hereby solemnly affirm and sincerely state as follows :

Page No. 1

Corns : *nil*

S. Rajendran

1. I submit that I am the 3rd Respondent in the above Appeal and as such I am well acquainted with the facts stated herein.

2. I submit that the above Appeal filed by the Appellant Mr.Prince has been read over and explained to me in Tamil and I deny the correctness of all the averments and allegations contained therein except those that are specifically admitted hereunder.

3. At the outset, I respectfully submit the above Appeal is not maintainable in law and on facts. The Appellant has filed the above Appeal against the Environmental clearance given by the State Level Environment Impact Assessment Authority, Tamil Nadu to this Respondent, in Lr.No.SEIAA-TN/F.No.6976/1(a)/EC.No.4675/2021, dated 05.07.2021 before this Hon'ble Tribunal under Sec. 16 and 18 of National Green Tribunal Act, 2010 (Act No.19 of 2010), which is hereinafter called as "the Act" Sec. 16 (h) of the Act states that any person aggrieved by an order made, on or after the commencement of the National Green Tribunal Act, 2010, granting environmental clearance in the area in which any industries, operations or processes or class of industries, operations and processes shall not be carried out or shall be carried out subject to certain safeguards under the Environment (Protection) Act, 1986 (29 of 1986). A reading of the above provision makes it clear that the aggrieved person alone can file the Appeal before this Hon'ble Tribunal against the Environment Clearance given by the SEIAA. Similarly, Sec. 18 of the Act has categorized the persons, who can approach the Hon'ble Tribunal for relief. The Appellant herein has not come within the ambit of Sec. 16 and Sec.18 of the Act. The Appellant has not whispered anything as to how he is



aggrieved by the Environment Clearance given to this Respondent by SEIAA. The area in respect of which the Environment Clearance given to the Respondent is in Kasthuriengapuram Part II Village, Radhapuram Taluk, Tirunelveli District. The Appellant is a resident of Navaladi, which is more than 8 Kilo Meters from the area in respect of which Environment Clearance is given to this Respondent. The Appellant does not own any land in Kasthuriengapuram Part II Village. The Appellant does not state in the Appeal how he is interested and how the public is affected in the matter of grant of Environment Clearance to this Respondent. The above Appeal is liable to be dismissed on the threshold for want of locus standi. From the averments and allegations apart from giving incorrect and half-baked facts in the Appeal, it appears that the above Appeal is engineered by some vested interests. The above Appeal is clear abuse of process of Court. This Appeal is also devoid of merits.

4. Without prejudice to the maintainability of the above Appeal, I respectfully submit that the Appellant has not come forward with the correct and complete facts. Before advertng to the averments made in the Appeal, it is necessary for me to submit the facts and the material facts leading to grant of Environment Clearance given by the SEIAA to this Respondent for quarrying stones in the Patta lands bearing S.F.Nos.191/1 (P) and 194/1B (P) admeasuring 4.98.56 Hectares in Kasthuriengapuram Part II Village, Radhapuram Taluk, as under.



5. I submit that initially, pursuant to my Quarry lease Application dated 17.09.2012, the District Collector, Tirunelveli, by proceedings M2/34495/2012, dated 06.06.2013 granted Quarry lease to me for quarrying rough stones, jelly and gravel from the Patta Lands bearing S.F.Nos.191/1 admeasuring 4.98.0 Hectares in Kasthuriengapuram Part II Village, Radhapuram Taluk, for a period of 5 years under the Tamil Nadu Minor Mineral Concession Rules 1959. Before the grant of the said Lease, I obtained approval of mining plan followed by Environmental Clearance. Pursuant to the said grant of Lease, the Lease Agreement in Appendix IV prescribed in the Tamil Nadu Minor Mineral Concession Rules 1959 came to be executed between me and the District Collector, Tirunelveli, for a period of 5 years commencing from 06.06.2013 ending with 05.06.2018.

6. I submit that in the year 2012, I established a stone crusher in the name of K.K.M. Crusher in my (another) Patta land bearing S.F.No.180 over an extent of 5.43.50 Hectares in Kasthuriengapuram Part II Village, Radhapuram Taluk, Tirunelveli District. I obtained consent Orders for establishment (CTE) from the District Environmental Engineer, Tamil Nadu Pollution Control Board, Tirunelveli on 18.09.2012. After installation of the necessary machineries for the crusher, I applied for consent Orders to operate the crusher from the Pollution Control Board. By Proceedings dated 26.08.2013, initially, the District Environmental Engineer, Tamil Nadu Pollution Control Board, Tirunelveli, granted consent to operate the crusher under the water (Prevention and Control of Pollution) Act 1974 and Air (Prevention and Control of Pollution) Act, 1981 for the period ending with 31.03.2014.



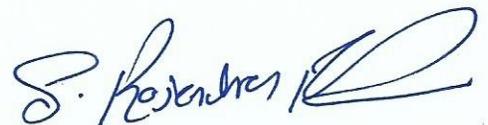
Thereafter, the consent Orders by the Tamil Nadu Pollution Control Board are renewed periodically from time to time. I also established the M sand Unit and also got the product approval from the PWD. Recently, the District Environmental Engineer, Tamil Nadu Pollution Control Board, Tirunelveli, by Proceedings dated 09.01.2021 granted consent Orders (consent to operate for Expansion) for the crusher for producing blue metal jelly of various sizes, M sand and Weather sand from the above said Patta land bearing S.F.No.180 under water (Prevention and Control of Pollution) Act, 1974 as amended in 1988 and Air Pollution (Prevention and Control of Pollution) Act, 1981 as amended in 1987 for the period ending with 31.03.2028. The operation of the crusher is complying with the conditions of consent orders of the Tamil Nadu Pollution Control Board.

7. I submit that pursuant to my Quarry Lease Application dated 24.03.2016, the District Collector, Tirunelveli, by Proceedings R.C.No.M1/12755/2016, dated 04.04.2018, granted lease to me for quarrying Rough stone, Jelly and Gravel from the Patta land over an extent of 2.45.48 Hectares in S.F.No.181/1A (P) of Kasthuriengapuram Part II Village, Radhapuram Taluk, Tirunelveli District for a period of 5 years under Rule 19 (1) & 20 of Tamil Nadu Minor Mineral Concession Rules 1959. Pursuant to the said grant of lease, the Lease Agreement in Appendix IV in the Tamil Nadu Minor Mineral Concession Rules 1959 came to be executed between me and the District Collector, Tirunelveli for a period of 5 years commencing from 17.04.2018 ending with 16.04.2023. Prior to the grant of lease aforesaid, I obtained the approved mining plan followed by Environment Clearance from the



SEIAA for quarrying operation in the above said land. The lease is in currency and subsisting. I am following the conditions of lease and the Rules scrupulously without any violation. The said land is situate on the eastern side of the area in respect of which the EC is granted now.

8. I submit that in order to continue the quarry operation in the land bearing S.F.No.191/1 (P) admeasuring 4.46.51 Hectares and the adjacent land bearing S.F.No.194/1B (P) admeasuring 0.52.05 Hectares (total 4.98.56 Hectares) in Kasthuriengapuram Part II Village, I made an application to the District Collector, Tirunelveli for grant of lease for quarrying Rough stone, Jelly and Gravel for a period of 5 years. The land bearing Survey No.191/1 (P) admeasuring 4.98.0 Hectares was already in quarry operation for the period of 5 years from 06.06.2013 to 05.06.2018 and Mr.M.Sivaprasad is the owner of the land bearing S.F.No.194/1B over an extent of 4.39.50 Hectares, as per patta, which is located on the western side of my Patta land bearing S.F.No.191/1 (P). I obtained consent from the land owner Mr.M.Sivaprasad through an agreement with him to quarry stones for the extent of 0.52.05 Hectares in the said S.F.No.194/1B, which is on the western side of my Patta land (applied area) and which is next to my land on the west. Pursuant to the above said Quarry Lease Application dated 10.07.2018, the Tahsildar, Radhapuram and the Sub Collector, Cheeranmahadevi inspected the applied area and submitted the reports recommending for grant of lease in my favour. The Deputy Director of Geology and mining Tirunelveli has inspected the applied area and submitted the report.



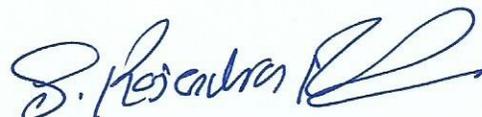
9. After obtaining the reports of the Revenue Authorities and the Deputy Director of Geology and Mining, the District Collector, Tirunelveli, by Notice in Ref. Rc.No.M1/27169/2018, dated 08.04.2019 issued the precise area communication with a direction to produce mining plan for approval of the Deputy Director of Geology Mining, Tirunelveli and also to obtain Environment Clearance for grant of quarry lease for quarrying Rough stone, Jelly and Gravel from the above applied area. After getting the precise area communication from the District Collector, Tirunelveli dated 08.04.2019, I got the mining plan prepared for the applied area by engaging the Recognized Qualified Person (RQP), and got the mining plan approved from the Deputy Director of Geology, Tirunelveli by Letter dated 13.05.2019. With the approval of mining plan, I made an application for Environmental Clearance to the SEIAA on 29.07.2019. After consideration of my application for Environmental Clearance, the State Level Environment Impact Assessment Authority, Tamil Nadu (SEIAA) issued TOR in Lr.No.SEIAA-TN/F.No.6976/SEAC/TOR-736/2020, dated 06.08.2020. Public hearing was conducted by the District Environmental Engineer, Tamil Nadu Pollution Control Board, Tirunelveli and The District Revenue Officer, Tirunelveli District, on 18.12.2020. After considering all the reports and compliance of all the requirements by me and the site inspection by the officials of the SEIAA, the State Level Environment Impact Assessment Authority, Tamil Nadu (SEIAA) issued Environmental Clearance in Lr.No.SEIAA-TN/F.No.6976/1(a)/E.C.No.4675/2021, dated 05.07.2021. The Environment Clearance given to me for quarrying Rough stone, Jelly and Gravel over an extent of 4.98.56 Hectares in S.F.No.191/1 (P) and



194/1B (P) in Kasthuriengapuram Part II Village, is perfectly in accordance with Law and cannot be faulted.

10. That being so, for the reasons well known to the Appellant, the Appellant has filed the above Appeal questioning the correctness of the Environment Clearance granted to me. There are no valid grounds raised in the Appeal against the grant of Environment Clearance. The facts and grounds raised in the Appeal are untenable besides being false. The appellant suppressed many facts about issue of TOR, public hearing and SEAC sub-committee inspection before the grant of EC.

11. With regard to the averments contained in paragraph 1 to 5, I submit that I am operating the crusher from my Patta land bearing S.F.No.180 of Kasthuriengapuram Part II Village with the consent of the Tamil Nadu Pollution Control Board from the year 2013. As stated earlier, I got quarry lease from the Patta land bearing S.F.No.191/1 (P) admeasuring 4.98.0 Hectares for a period of 5 years commencing from 06.06.2013 to 05.06.2018. I have also obtained quarry lease from the other Patta land bearing S.F.No.181/1A Part admeasuring 2.83.5 Hectares for the period of 5 years commencing from 17.04.2018 ending with 16.04.2023. The said area is adjacent to my patta land bearing S.F.No.191/1 on the east. The said lease is subsisting. Similarly, one Mr.C.Sugu obtained lease for quarrying stones from the Patta land bearing S.F.No.193 (P) admeasuring 3.53.0 Hectares for the period from 06.06.2013 to 05.06.2018. The said Mr.C.Sugu has obtained quarry lease in respect of the other portion of S.No.193 (P) admeasuring 1.26.25 Hectares for a period of 5 years commencing from 16.04.2018 to 15.04.2023. There is a seasonal odai in S.F.No.181/2



between the patta lands of this respondent bearing S.F.Nos.191/1 (P) and 181/1A and S.F.No.194/1B belonging to Mr.M.Sivaprasad and the patta lands of Mr.C.Sugu (S.F.No.193 Part). It is also relevant to state here that one Mr.K.Rajendran (not this Respondent) had obtained quarry lease for quarrying stones from the land bearing S.F.No.190/2 admeasuring 3.85.0 Hectares for a period of 5 years from 20.06.2005 to 19.06.2010. The said land bearing S.F.No.190/2 is situate on the northern side of the land bearing S.F.No.191/1(P) belonging to this Respondent. Abandoned quarry is the land bearing S.F.No.190/2 and the portion in S.F.No.193 (P) admeasuring 3.53.0 Hectares and not the entire extent in S.F.No.193 (P), as assumed by the appellant.

12. I respectfully submit that I am quarrying rough stones and jelly within the lease hold area bearing S.F.No.181/1A (P) admeasuring 2.83.5 Hectares with transport permits on payment of seigniorage fee. My quarry operation is within the lease hold area. The averments in paragraph 4 regarding illegal mining activities by the respondent are totally false and untenable. The reference to the complaints by the local people is also without any basis. The Appellant has made reckless allegations against this respondent without any basis or material at all. The Appellant has no personal knowledge about the area and he made allegations by collecting some papers without continuity thereof.

13. I respectfully submit that the averments contained in grounds (a), (b), (c) and (d) are totally false and untenable. I specifically referred to the existing quarries and abandoned quarries earlier. These are form part of the records. The applied area, in respect of which the EC was granted, now, was earlier subject to quarry operations for a



period of five years from 06.06.2013 to 05.06.2018. Now, I reduced the area from 4.98.0 Hectares to 4.46.51 Hectares in S.F.No.191/1(P) to keep and maintain 40 meters distance from the seasonal odai, as seasonal odai is running east-west direction on the southern side of the applied area. In the approved mining plan, it is clearly stated thus:

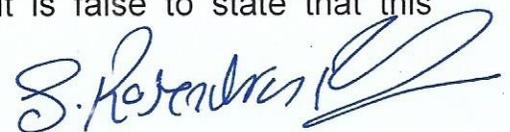
“one seasonal odai is passing on the southern side at the distance 40 Meter for which 10 Meter safety distance is provided from the lease boundary”.

Hence, 50 Meters distance is provided from the seasonal odai.

14. I submit that the 1st Respondent SEIAA, while granting Environment Clearance stipulated the condition, particularly condition No.13 that a safety distance of 50 Meter from the water body should be left vacant without any mining activity. This condition No.13 is found in Page No.13 in the Appeal book.

15. The averments contained in ground No.(e) and (f) are false and untenable. The averments are recklessly made without any regard for truth. The Appellant referred to the report of the Sub. Committee of SEAC, but he has not filed it.

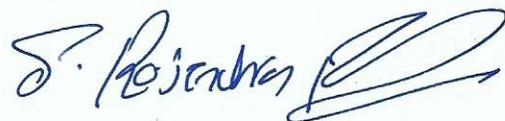
16. I submit that the allegations contained in Ground No.(g) are false, frivolous and untenable. I purchased the lands bearing S.F.No.191/1 admeasuring 5.60.0 Hectares in Kasthuriengapuram Part II Village by registered Sale Deed dated 03.09.2012. Similarly, I purchased another Patta lands bearing S.F.No.180 by way of registered Sale Deed dated 06.09.2012. Therefore, it is false to state that this



respondent is in possession of part of the proposed mining site from 2002 onwards and he illegally excavated gravel and jelly in S.F.No.191 without valid mining lease, environmental clearance and consent to establish and consent to operate. For my alleged possession from 2012, the appellant referred to the patta No.1062 at Page No.30 in the Appeal book. There is a reference to the date 08.05.2002 in the said Patta. Based on that, the Appellant has alleged that I am in possession of the land from 2002. From that, it is very clear that the Appellant has no personal knowledge about the area and the actual state of affairs. For the reasons well known to the Appellant, he collected some papers somewhere and fished out something here and there and filed the case without knowing the correctness thereof. As stated earlier, my quarry operation and the crusher operation are only after getting necessary lease and licence.

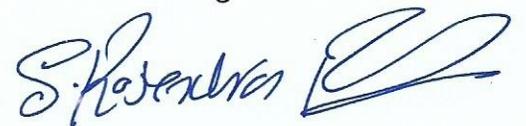
17. I submit that the averments contained in ground Nos.(h), (i) and (j) are false and untenable. Those allegations are baseless and recklessly made. The averments that the environmental clearance was obtained by the 8th Respondent in a fraudulent manner, are untenable and without any basis. Similarly, the averments that by granting environmental clearance, the 1st respondent blatantly ratified the illegal mining activity which is against the spirit of environmental laws and regulations, are also untenable and baseless.

18. I submit that the averments contained in ground No.(k) are also contrary to the facts. As stated earlier, a seasonal odai is passing in S.F.No.181/2 East-West direction between the lands of this respondent and one Mr.C.Sugu. The land (leasehold area) and the

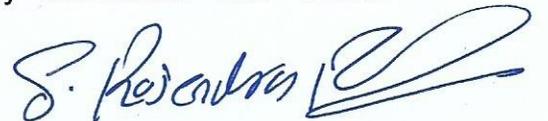


applied area of this respondent is located on the northern side of the seasonal odai. In other words, the seasonal odai is situate on the southern side of the lands of the Appellant bearing S.F.No.191/1 and 181/1A. Similarly, the same seasonal odai is situate on the northern side of the Patta lands of Mr.C.Sugu. Seasonal odai is not at all affected. No natural stream is passing through the applied area. The natural stream (seasonal odai), as it is, in existence. The averments contra alleged in ground No.(k) are baseless and false.

19. The averments contained in ground (i) are false. I executed a lease agreement with one Mr.M.Sivaprasad to enable me to get quarry lease only for an extent of 0.52.0 Hectares out of 4.39.50 Hectares in S.No.194/1B (P), which is situate on the western side of S.No.191/1 (P) belonging to me. The natural odai in S.F.No.181/2 is running East-West from which, it turns to the patta land bearing S.F.No.194/1B belonging to Mr.M.Sivaprasad. The total extent of the patta land in S.F.No.194/1B is 4.39.50 Hectares. As stated earlier, out of 4.39.50 Hectares in S.F.No.194/1B, I applied for quarry lease for the extent of 0.52.05 Hectares only, which is adjacent to my land bearing S.F.No.191/1 (P). The small branch odai running in S.F.No.194/1B (patta land) is at the distance of more than 50 meters from the proposed quarry area bearing S.F.No.194/1B(P). The Appellant proceeded on the assumption that I applied for a lease for the entire extent of 4.39.50 Hectares in S.F.No.191/1B. The seasonal odai running east west in S.No.181/2 is no way affected by the quarry operation of this respondent. The google map and the village map referred to by the appellant shows the existence of seasonal odai and nothing more.



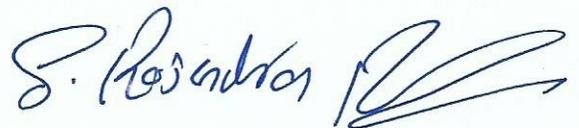
20. I submit that the averments contained in ground No.(m), (n), (o), (p) and (q) are all absolutely false. The averment that this respondent has not furnished Survey numbers wise break up details of applied area in his application to conceal the existence of natural stream, is false. There is no necessity for me to conceal something. This respondent applied for quarry lease by giving survey numbers and their extent and on that basis, the Revenue Authorities and the Deputy Director of Geology and Mining furnished the reports recommending for the grant of quarry lease. The mining plan also clearly mentions the survey numbers and the extent. Therefore, the appellant cannot assume that the appellant has not given the survey number wise break up details. There is a reference about the quarry adjacent to this respondent quarry in ground No.(o) as reported by the sub-committee. In this connection, it is submitted that the lease was granted to one Mr.K.Rajendran, s/o Mr.Kaliappan, residing at No.9C, Ittamozhi Road, Thisaiyanvillai, Radhapuram Taluk, Tirunelveli District for quarrying rough stones from his patta land bearing S.F.No.190/2 admeasuring 3.85.0 Hectares for a period of 5 years from 20.06.2005 to 19.06.2010. This area is situate on the northern side of the applied area bearing S.F.No.191/1 (P). The lease period in respect of the said Survey No.190/2 was over as early as on 19.06.2010. This quarry is considered as abandoned quarry. The sub-committee of SEAC inspected the area on 07.03.2021. After considering all the reports, the Environmental Clearance has been given to this respondent for quarrying stones, jelly and gravel from the above said patta lands bearing S.F.Nos.191/1 (P) and 194/1B (P) over an extent of 4.98.56 Hectares. The allegations against SEAC sub-committee are absolutely baseless. The details



about the existing quarry, the proposed quarry and the abandoned quarry are already on record. There is no necessity for the SEAC sub-committee to narrate the entire history in their report. This respondent has not quarried stones illicitly, as alleged. The appellant alleged that the report of the sub-committee is contradictory, which is also not correct.

21. I submit that initially, the SEAC considered the proposal for EC for the area in the meeting held on 11.02.2021. The SEAC deputed the sub-committee to inspect the applied area and accordingly, the sub-committee inspected the area on 07.03.2021 and submitted the report. Thereafter, the proposal came up for consideration again in the meeting held on 09.04.2021. The matter is deferred to the next meeting, since the documents from the office of the Asst. Director of Geology and Mining about the quantity of minerals mined earlier and actual depth of mining were not received. This respondent submitted the details furnished by the Asst. Director of Geology and Mining on 19.03.2021. Finally, the proposal for EC was placed in 212th meeting of SEAC held on 04.05.2021. After considering the entire documents and reports, the SEAC recommended for grant of EC subject to the conditions mentioned therein. Thereafter, after considering the proposal, the EC has been granted in favour of this respondent by SEIAA.

22. The allegations contained in ground Nos.(r) are totally untenable. This respondent has not blocked any natural stream to approach his stone crusher unit in S.F.No.180 of Kasthuriengapuram Part II Village. The google imagery referred to in ground No.(r) does not

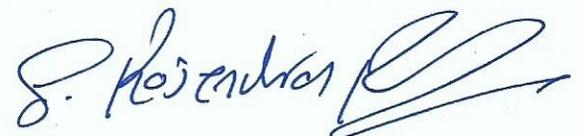


show that this respondent has blocked the natural stream. The appellant made reckless allegations against this respondent.

23. The averments contained in ground No.(s) are also untenable. It is not known how the appellant averred thus:

“It is well established that, the 8th respondent has illegally mined in the proposed area and transported the same to his stone crusher unit which is also illegally expanded”.

For this allegation, a copy of inspection report of the Assistant Environmental Engineer, TNPCB, Tirunelveli showing illegal expansion of stone crusher unit is annexed in the Appeal book at Page No.41. From the report, it is seen that, the Asst. Environmental Engineer, Tamil Nadu Pollution Control Board, Tirunelveli inspected the crusher on 05.09.2019 and submitted the report stating that the unit has installed additional machineries and has increased production capacity without consent of the Board for expansion activity. Thereafter, this respondent applied for consent to operate for expansion by Application dated 13.10.2020. The District Environmental Engineer, Tamil Nadu Pollution Control Board, Tirunelveli, has granted consent to operate for expansion for a period ending 31.03.2028 by proceedings dated 09.01.2021. The appellant has deliberately not chosen to mention about the orders granting consent to operate for expansion by the Proceedings dated 09.01.2021. When he filed the inspection report of the Asst. Environmental Engineer, Tamil Nadu Pollution Control Board, Tirunelveli pursuant to the inspection held on 05.09.2019. In all fairness, the appellant should have filed the subsequent consent orders granted



by the Tamil Nadu Pollution Control Board. For all these reasons, it is very clear that the appellant has not come forward with the correct facts.

24. I respectfully submit that Environmental Clearance given to this respondent does not suffer from any illegality or irregularity or perversity or any infirmity in law. No case is made out for interference with the Environmental Clearance given by the 1st respondent SEIAA. The Appeal is completely devoid of merits and liable to be dismissed.

25. In the above circumstances, this respondent respectfully submits that all the allegations made in the appeal under reply are absolutely false, frivolous, unsubstantiated, vexatious and not maintainable in law. No case is made out for any relief in the appeal as well as for passing interim orders.

For the above reasons, it is respectfully prayed that this Hon'ble Tribunal may be pleased to dismiss the above appeal with exemplary costs and thus render justice.

S. Rajendran

Solemnly affirmed at Chennai
on this the ~~14~~¹⁴ day of December 2021
and signed his name in
my presence.

BEFORE ME

ADVOCATE : CHENNAI

Mr. L. V. (Rasig)
Ms 218/2020
33, Old Chamber
High Court Building
Chennai

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

APPEAL NO.58 OF 2021

Prince **...Appellant**

**Members Secretary,
State Level Environment Impact
Assessment Authority, Tamil Nadu
and 2 others.** **...Respondents**

REPLY BY THE 3RD RESPONDENT

**M/s. V. SANJEEVI &
K. MUTHUKUMARASAMY**

**COUNSEL FOR THE 3RD
Respondent**

Cell Nos. 94440 18188 / 98401 12307