

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

SOUTHERN ZONE BENCH AT CHENNAI

EXECUTION APPLICATION NO. 6 OF 2023 (SZ)

IN

ORIGINAL APPLICATION NO. 75 OF 2021 (SZ)

IN THE MATTER OF:

ANOOP

...APPLICANT

VERSUS

STATE OF KERALA & ORS.

...RESPONDENTS

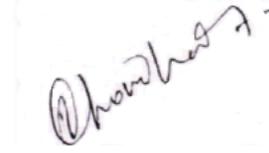
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Through



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Dated:- 20.09.2023

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RESPONSE TO THE ACTION TAKEN REPORT FILED BY RESPONDENT

NO. 1 DATED 05.09.2023:

1. That the Applicant has filed above titled Execution Application before this Hon'ble Tribunal under Section 25 of the National Green Tribunal Act, 2010 seeking execution of the order dated 25.01.2022 of this Hon'ble Tribunal in **Original Application No. 75 of 2021 (*Anoop v. State of Kerala & Ors.*)**. Vide judgment dated 25.01.2022 the Hon'ble Tribunal recorded the violations of Environmental Clearance conditions by Respondent No. 5 and passed direction with respect to the following:
 - a) Payment of environmental compensation of Rs. 1,58,00,000/- by Respondent No. 5.
 - b) The amount so deposited to be used for the betterment of environment and restoration of damage caused to the environment due to unscientific mining.
 - c) SEIAA – Kerala (Respondent No. 3) required to take action against Respondent No. 5 for violation of Environmental Clearance conditions.
 - d) No further license or lease to be granted for undertaking mining activity in the area.

2. That this Hon'ble Tribunal by order dated 16.08.2023 directed the SEIAA – Kerala (Respondent No. 3), State Pollution Control Board, District Collector Kannur (Respondent No. 4) and the Department of Mines and Geology to file a Report (Respondent No. 2) explaining how the compensation amount is utilized. Therefore, an Action Taken Report dated 05.09.2023 has been filed by Additional Secretary to the Government, Environment Department, the Respondent No. 1 herein. It is submitted that the Report has only stated about receiving of compensation amount from the Respondent No. 5. However, it is completely silent on other directions except that guidelines for utilizing environmental compensation is under preparation by SEAC. It is pertinent to point out the Applicant in the Execution Application itself had stated that compensation amount has been deposited, however, other directions like direction No. 17(ii), 17(iv) and 17(v) has not been complied.
3. That the Action Taken Report is required to be rejected as it is completely silent on the specific violation of direction No. 17(v) of judgment dated 25.01.2022 of this Hon'ble Tribunal. It is submitted that by direction No. 17(v) the Hon'ble Tribunal directed Respondent No. 2 to ensure that no lease for mining is allotted in the area. However, Respondent No. 2 granted mining lease in the area bearing Survey No. 74/1D which overlaps with the area where direction specific direction was passed by this Hon'ble Tribunal. Further, the SEIAA has also granted Environmental Clearance to:
 - a) Proposal No. SIA/KL/MIN/149209/2020 for stone quarrying over an area of 1.4336 hectares at Survey No. 74/1D pt and 74/608 pt of Kuttur village, Payyannur Taluk, Kannur district, Kerala was submitted by Mr. M. P. Lalu.
 - b) Proposal No. SIA/KL/MIN/269091/2022 for stone quarrying over an area of 2.1854 hectares at Survey No. 74/772, 74/151, 74/154, 74/152, 74/1D of Kuttur village, Payyannur Taluk, Kannur district, Kerala was submitted by M/s Megha Engineering and Infrastructure Ltd.

It is submitted that granting Environmental Clearance for projects falling in that area and more particularly in Survey No. 74/1D is in complete violation and disregard of direction No. 17(v) of judgment dated 25.01.2022 of this Hon'ble Tribunal.

4. That the final order dated 25.01.2022 required for the Respondents to follow certain directions directed by this Hon'ble Tribunal regarding the restoration efforts to be undertaken at the mining site. It is submitted that the Respondents have yet not complied with all the directions of this Hon'ble Tribunal mentioned in Para 17 of the final order dated 25.01.2022 and the Action Taken Report filed on 5.09.2023 is also silent on that aspect.
5. That for the convenience of this Hon'ble Tribunal, non-compliance of its directions in its order dated 25.01.2022 has been presented below in a tabular form alongside the directions:

Para No. of the order dated 25.01.2022	Directions issued	Compliance status as on filing of this Execution Application
17(ii)	<p>Respondent No. 5 to pay environmental compensation of Rs. 1,58,00,000/- to Respondent No. 2.</p> <p>This amount was to be deposited in Environment Benefit Fund and thereby Respondent No. 2 to carry out restoration work of the quarry.</p>	<p>The amount of compensation is deposited.</p> <p>Restoration has not been undertaken by Respondent No. 2 in the quarry area. The same has been substantiated in paragraph no. 10 of the present Execution Application.</p>
17(iii)	Respondent No. 4 was directed to initiate recovery process, in case of non-payment to Respondent No. 2, under the Revenue Recovery Act.	Complied.

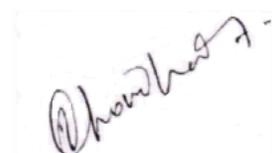
17(iv)	Respondent No. 3 to take appropriate action against Respondent No. 5 for violation of the Environmental Clearance conditions.	Respondent No. 3 has not taken action against the violation of Environmental Clearance conditions.
17(v)	Respondent No. 2 was directed to ensure that no lease for mining is allotted in the area, as the resources have been exhausted in that area.	The SEIAA has granted fresh Environmental Clearance in the same area.
17(vi)	The District Collector – Kannur District and the SEIAA – Kerala are directed to file their compliance report regarding the directions issued by this Tribunal in respect of recovery of the environmental compensation and utilization of the same and creation of Environment Benefit Fund within a period of 4 (Four) Months.	Compliance report has not been filed by the Respondent No. 3 and 4 within four months. The direction with respect to utilization is not complied.

6. That therefore, in light of the above, this Hon'ble Tribunal, may be pleased to consider the above submissions on behalf of the Applicant for further adjudication of the matter and direct the Respondents to file proper compliance report for the directions contained in para No. 17 of the judgment dated 25.01.2022.

Through



RITWICK DUTTA



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