

BEFORE THE NATIONAL GREEN TRIBUNAL SOUTHERN ZONE, CHENNAI

Original Application No.69 of 2021

Tribunal on its own motion-Suo-Motu

Based on the News item in Dinamalar Newspaper, Chennai

Dated 05.02.2021, "Landslide in Uthiramerur

Stone Quarry: one killed"

.....Applicant

VS

1. The Chief Secretary to Govt. of Tamilnadu

Govt. Secretariat, Fort St.George,

Chennai, Tamilnadu-600 009.

2. The Secretary to Govt. of Tamilnadu.

Department of Environment and Forests,

Govt. Secretariat, Fort St.George,

Chennai. 9

3. The Principal Secretary to Govt. of Tamilnadu,

Industries Department,

Govt. Secretariat, Fort St.George,

Chennai.

4. Department of Geology and Mining,

Rep. by its Commissioner,

Alandur Road, Guindy Industrial Estate,

Guindy, Chennai 600 032.

5. The Chairman,

Tamilnadu Pollution Control Board,

No.76, Anna Salai, Guindy,

Chennai - 32

6. The District Collector,

Kancheepuram District,

First Floor, Collectorate,

Kancheepuram - 631 501

7. Uthiramerur Town Panchayat,

Rep. by its Executive Officer,

Periyannarasam Pettai Street,

Uthiramerur,

Kancheepuram- 603 406

8. Mr.Muthu

Aged 60 years,

Madhur Village,

Uthiramerur Panchayat union,

Kancheepuram- 603 406.

9. D.Sarathkumar,

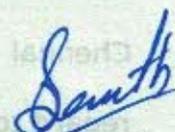
S/o. P.Devu,

No.5/265, Annai Therasa Street,

Prem Nagar, Pozhichalur,

Chennai - 600 074.

Sarathdev927@gmail.com



.....Respondents



**OBJECTIONS FILED BY THE 9TH RESPONDENT
TO THE REPORT OF 4TH AND 6TH RESPONDENTS**

I, D.Sarathkumar, Son of P.Dev, Hindu, aged about 27 years, residing at No.5/265, Annai Therasa Street, Prem Nagar, Pozhichalur, Chennai- 600-074, do hereby solemnly affirm and sincerely state as follows;

1. I am the 9th Respondent herein and I am well acquainted with the facts and circumstances of the case.
2. I submit that, this respondent had filed their preliminary objection on 23.08.2021 and by the order dated 24.08.2021, this Hon'ble Tribunal directed the official respondents to conduct a re-inspection in the leased-out area of this respondent and the official respondents had conducted inspection on 22.09.2021 and submitted their report dated 11.10.2021 and the same was received on 25.10.2021.
3. I humbly submit that, on 04.02.2021, a landslide had occurred in the above-mentioned quarry, inspite of there being no fault on my part, resulted in death of two persons and based on which, the Hon'ble National Green Tribunal South Zone on its Suo-Motu motion has registered an Original Application in OA No.69/2021 dated 17.02.2021 and this Respondent/Lessee of was not added as the Respondent at the time of admission.
6. I submit that, I had filed an Interlocutory Application under section 19 of the National Green Tribunal Act 2010 on 20.07.2021, to be impleaded in the O.A No.69 of 2021 as a Respondent. This Hon'ble National Green Tribunal by an order dated 23.07.2021 had allowed the I.A No.100 of 2021 in O.A.No.69 of 2021 and thus I was added as the 9th Respondent in O.A.No.69 of 2021.
7. I deny each and one of the allegations made in the Joint Committee report submitted before the Hon'ble National Green Tribunal Southern Zone, Chennai and the Respondents are put to strict proof of the same. With regard to para 3 of the report, this respondent submits that, the virtue of section 24(1) of the Central Act serves the purpose of surprise inspection



when there is an allegation regarding illicit mining being carried on and as such, the office of respondents never found fault with this respondent quarry, since the inception of lease and on the principal natural justice of i.e, *audi alteram partem*, this respondent has requested for the prior notice before inspection only to ascertain that the proper demarcation has to be done in my leased-out area with the other area before measuring the volume of the pit.

8. With regard to para 4 of the Report, this Respondent submits that, in the status report filed by the District Collector Kancheepuram in March 2021, in para 5, it has been stated that,

"5) The quarry has been granted extracting Roughstone boulders for manufacturing aggregates. As such terrain is predominantly a hard rock terrain with irregular joint and fracture pattern. The Footwall which had collapsed had weak zone beneath it which had lead to the collapse of all the material above it. Thus the incident itself is a natural accident owing to certain geological parameters like joints and fractures."

This respondent submits that, the District Collector Kancheepuram in his report dated 22.07.2021 contradicts the earlier Report by extracting the notice of the Deputy Director of Mines Safety, Directorate General of Mines Safety, Chennai and quarrying was done as per the regulations of Metalliferous Mines Regulations,1961 and the authorities never found any violation till the date of accident.

9. I submit that, the entire inspection was done behind my back on 23.04.2021 and there is absolutely no notice that was served to this respondent for the inspection conducted on said date and the entire inspection has been done in my absence and report has been filed without issuing notice to me, which goes to the foundation of entire allegation against me and moreover, this Respondent was impleaded by this Hon'ble Tribunal by an order dated 23.07.2021 and this itself prove that the inspection was done in my absence. I submit that, even on the day of

reinspection, i.e., 22.09.2021, this respondent had shown the boundaries of the lease hold area and the official respondents without considering all those aspects, stood on the same report which had filed earlier before this Tribunal.

10. This respondent submits that, proper demarcation has not been done in my leased-out area with the other area before measuring the volume of the pit and no proper pit measurement was conducted during the inspection of quarry site and this respondent had reiterated all these facts during the inspection dated 22.09.2021 and the official respondents had utterly failed to consider the same.

11. I submit that, this Respondent had perused the report dated 16.07.2021 and 11.10.2021, with the mist of repetition, I submit that, it was wrongly stated in the Joint Committee report that the quarry has been inspected in my presence, which is factually wrong and no notice was given to me and the Joint Committee never issued any notice to me on the date of inspection and the said inspection was done behind my back and even in the photograph annexed as Annexure-I proves that, this respondent was not present at the time of inspection dated 23.04.2021 and the said photographs annexed in the report clearly shows that this respondent was not present and the 4th and 6th respondents once again failed to consider those factual aspects and the pit measurements were wrong and boundaries are not identified properly and with the earlier report, 4th and 6th Respondents.

12. With regard to para 6 of the report, this respondent submits that the report filed by the 4th and 6th Respondents is a mechanical one, without considering the geographical reserves and scientific method of measuring the quarry pit and I most humbly submit that, the volume of measurement as mentioned in the report is false and incorrect without considering the total geological resources and earth removal and this respondent submits that, only if 900 lorry loads quarried per day, then only the quantum of mineral mentioned by committee would be arrived and there is no



possibility for quarrying such a quantum of minerals as reported by the Joint Committee and transporting such a huge quantity is humanly impossible. This respondent submits that, the quarry was operating in accordance with the terms of the licenses granted by the District Collector, the Tamilnadu Pollution Control Board and by the Mining plan approved by the Department of Geology and Mining and even assuming such operations had been carried on, the mineral could not have been transported without necessary transport permit, which itself issued by the respondents authorities and such that, there is an apparent error in the calculation of quantum removed and this respondent, re-assures that he has never quarried anything illegally in the leased out and non-leased out areas and had always quarried in allocated area.

13. With regard to para 7 of the report, this respondent submits that,

- i. the required safety distance was provided and no quarrying was done in government Poramboke land and adjacent patta land as stated in the report and no mining has been done than the permitted level and safety distance and lease deed conditions were strictly followed till date of accident.
- ii. This respondent submits that, the boundary pillars have been erected and maintained all along the leased-out area as per Tamilnadu Minor Mineral Concession Rules, 1959.
- iii. This respondent submits that, the quarrying operations were done as per the approved mining plan, with the semi-mechanized mining of width and height of 5.0m and quarrying operations were done in systematic manner following all safety measures of labourers and workers.
- iv. This respondent denies the allegation stated in para 8 (iv) of the report and the same is false and factually incorrect. The ground water monitoring and air quality surveys has been done as per Tamilnadu Minor Mineral Concession Rules, 1959 and as per EC

conditions and green belt development around the quarry is also well maintained.

v. This respondent denies the allegations in para 8 (v) of the report and submits that the quantum and depth of minerals measured in the is exfacie factually wrong and highly erroneous, since the quarry operation was not been carried out to the depth of 62 metres in a span of 2 and half years and the depth measurement as quoted by the official Respondents shows that, an apparent error has been committed by the authorities and the area was inspected without considering the total geological resources including earth and sand.

vi. The allegations in para 8 (vi, vii, vii) of the report, regarding that, *"quantum of 74,205 cum of gravel and 14,07,888 cum of roughstone had been quarried from the area granted under lease in SF Nos.325/4, 109/1A1 and 109/1A2 and the allegation that, the lessee has encroached and indulged illegal quarrying operation in the adjacent non lease government poramboke in SF Nos. 322(p) over an extent of 0.63.26 hec and illegally transported 15,815 cum of gravel and 1,62,835 cum of rough stone and that the lessee has also encroached and indulged illegal quarrying operation in the adjacent non lease Government poramboke in SF Nos.325/5 over an extent of 0.29.0 hec and illegally transported to the tune of 7250 cum of gravel and 1,53,839 cum of roughstone is without any basis, factually incorrect, unsustainable and in any event unscientific for a simple reason that, the 4th and 6th respondents in their reports, allegedly by themselves admits that, this respondent just quarried 0.6m above the approved depth as per the mining plan and the such huge quantum cannot be arrayed from 0.6m depth and the Committee should have taken into the account that the adjacent quarry was in operation from 2015 and the total volume of adjacent quarry is wrongly measured as if it was mined by this respondent and the*



quantification of the minerals extracted is unsustainable, as the Authority has not taken into the account that, the quantification of the minerals such as gravel and rough stone could be possible only before the extraction of mineral, based on a scientifically carried out mining plan. Therefore, the quantification of the alleged quarrying of roughstone or gravel based on the size of the pit is highly improbable and unscientific and this respondent has not encroached upon the above said survey numbers and had not indulged in any illegal quarrying.

vii. With regard to the allegations in Para 8 (ix), this respondent submits that, the transport permit is obtained from the department of Geology and Mining, only after due process of verification by the authorities and there is no violation whatsoever regarding the same and the officials haven't found fault with this respondent until the above said Original application taken as suo-motu by the Hon'ble Tribunal and if there is any violation or illegal quarry operation or transportation of minerals, the authorities ought to have not permitted the same and transport permit ought have not obtained and ought to have stopped the quarry operations by then.

viii. This respondent denies the allegation in Para 8 (x) and submits that, the quantum derived for dumping of gravel is erroneous and gravel which is used for future refiling is dumped in the area belong to this respondent occupation and not in the lands as mentioned in the impugned order.

14.I most humbly submit that, the volume of measurement by the authorities and assessment of environmental compensation of Rs.86,75,000/- for such volume, shows that an apparent error has been committed by the Joint Committee during inspection, without considering the total geological resources which has been approved in the mining plan, moreover there is an old quarry situated adjacent to my quarrying area and the Joint

Committee as it evident from the report has measured those areas and has arrived at the conclusion without verifying the factual aspects.

15. With regard to para 9, this respondent submits that, the allegation regarding quarrying and transportation of 17,04,532 cu.m of rough stone of gravel is without any basis, factually incorrect, unsustainable and in any event unscientific. The Authority has not taken into the account that, the quantification of the minerals such as gravel and roughstone could be possible only before the extraction of mineral, based on a scientifically carried out mining plan. Therefore, the quantification of the alleged quarrying of roughstone or gravel based on the size of the pit is highly improbable and unscientific. this respondent states that, the sanctioned quarry operations was carried on under the monitoring of officials and any said illegal quarrying is impossible even assuming such operations had been carried on, the mineral could not have been transported without necessary transport permit, which itself issued by the respondent authorities and no case has been registered by the official respondents before filing of the above said original application before the Hon'ble Tribunal and this respondent has not quarried such huge quantity cannot be quarried and it is humanly impossible and the official respondents ought to have considered all these factual aspects.

16. I submit that, the entire inspection on 24.08.2021 was done behind my back and there is absolutely no notice that was served to this Respondent and the entire inspection has been done in my absence and report has been filed without issuing notice to me, which goes to the foundation of entire allegation against me and moreover, this Respondent was impleaded by this Hon'ble Tribunal by an order dated 23.07.2021 and this itself prove that the inspection was not done in my presence. I submit that, even on reinspection, this respondent had shown the boundaries of the leased-out area to the official respondents and the official respondents failed to consider the same and stood the same depending on the old report submitted by them and this respondent strongly states that proper

demarcation has not been done in my leased-out area with the other area before measuring the volume of the pit. I have not quarried outside my area, contemporaneous there no complaints against me in this regard.

17. With the mist of repetition, this respondent submits that, only if 900 lorry loads quarried per day, then only the quantum of mineral mentioned by committee would be arrived and there is no possibility for quarrying such a quantum of minerals as reported by the Joint Committee or as per the second report filed by the official respondents and transporting such a huge quantity is impossible, as transport passes issued only for the permitted quantity to transport from the quarry area and this respondent has not contravened the section 4 (1) and (1A) of Mines and Minerals (Development and Regulation) Act, 1957.

18. I submit that, this respondent has not quarried outside the leased-out area, contemporaneous there no complaints against me in this regard till the date of accident and till the Hon'ble National Green Tribunal has taken the matter as Suo-Motu and all of the sudden, the authorities who were issued a transport permit after verifying the leased-out area in-person earlier, now finding fault with this respondent and it is not mention that, if any violations were found earlier, the authorities ought have not issued the transport permit for transporting the minerals and the authorities issued the passes after scrutinizing the lease deed conditions and the said allegations in para 15 of the report dated 11.10.2021 is false and incorrect.

19. I most humbly submit that, this volume of measurement as mentioned in the impugned order is false and incorrect without considering the total geological resources and earth removal and this respondent submits that, only if 900 lorry loads quarried per day, then only the quantum of mineral mentioned by committee would be arrived and there is no possibility for quarrying such a quantum of minerals as reported by the Joint Committee and transporting such a huge quantity is humanly impossible. This respondent submits that, the quarry was operating in accordance with the terms of the licenses granted by the District Collector, the Tamilnadu

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Pollution Control Board and by the Mining plan approved by the Department of Geology and Mining and even assuming such operations had been carried on, the mineral could not have been transported without necessary transport permit, which itself issued by the respondent authorities and such that, there is an apparent error in the calculation of quantum removed and this respondent, re-assures that he has never quarried anything illegally in the leased out and non-leased out areas and had always quarried in allocated area and is a Law-abiding citizen and no complaints or case has been registered on this respondent before filing of this Original Application, which itself proves that, the quarrying operation has been done as per the conditions, rules and regulations and hereby denies the allegations in para 16 of the report dated 11.10.2021.

20. This respondent submits that, as against the order of the District Collector Kancheepuram in proceedings ROC.No.79/Q3/2018, this respondent had filed the appeal before the Director of Geology and Mining and the same is pending before the said authority.

21. I submit that, it is evidently seen that the adjacent old quarry has also been measured, which was operational till 3 years before and in-order to explain all these factual aspects and to prove the uprightness of this respondent, I had preferred an appeal against the order of the District Collector dated 28.09.2021 and same is pending for final order and till the final order is passed the matter comes under purview of sub-judice and this respondent most humbly request this Hon'ble Tribunal to reject the report filed by the 4th and 6th respondents as report dated 11.10.2021 and pleased to dispose the above said application and prejudice would be caused if there is no dismissal of the said reports and pass such further or any other orders that may be deem, fit and proper according to the circumstances of the case and thus render justice.

Solemnly affirmed at Chennai

On this 13th day of November 2021

In my presence.

BEFORE ME,

ADVOCATE, CHENNAI

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

SUO-MOTU

...APPLICANT

VS

THE CHIEF SECRETARY TO
GOVERNMENT AND 8 OTHERS.

....RESPONDENTS

OBJECTION

FILED BY 9TH RESPONDENT

**M/S.S.V.BANUPRIYA
N.NAJUMUNISHA
A.S.SHANMUGA RAJAN
COUNSEL FOR 9TH RESPONDENT
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Shanmuga Rajan <advshan3373@gmail.com>

OA 69 of 2021 Objections of the 9th Respondent to the report filed by 4th and 6th Respondent

1 message

Shanmuga Rajan <advshan3373@gmail.com>

Mon, Nov 15, 2021 at 8:00 PM

To: forsec@tn.gov.in, indsec@tn.gov.in, geomine@nic.in, geomine@tn.nic.in, tnpcc-chn@gov.in, collrkpm@nic.in, tputreo@gmail.com, tputreo@yahoo.co.in, cs@tn.gov.in

Cc: saisathyajith@gmail.com, dshanmuganathan@outlook.com

Sir/Madam,

The above referred matter coming up for hearing on 17.11.2021 before the Hon'ble National Green Tribunal Southern zone Chennai.

Kindly acknowledge the copy of objection filed by 9th Respondent to the report of 4th and 6th Respondent.

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A.S.SHANMUGA RAJAN

Legum Baccalaureate,

CHENNAI.

**OA 69 of 2021 9R objections to the report of 4th and 6th Respondent.pdf**

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