

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
SOUTHERN ZONE AT CHENNAI
Appeal No. 80 of 2022**

1. **Anaithu Viyasaykalin Kanimavala,
Neervala, Sutrusooolal Padhukapu Iyakkam**
Registration No. 108/2021,
Represented by its President,
M.S. Thirumalai,
Door No.2/184, Chinna Kalamman Kovil Street,
Pisindi Village, Kariyapatti Taluk,
Virudhunagar District.
2. **Nenmeni Panchayat,**
Sattur Taluk, Virudhunagar District,
Represented by its President,
Mrs. S. Velammal,
W/o. Sakthivel,
Nenmeni, Sattur Taluk,
Virudhunagar District.

.....Appellants

/Versus/

1. **The Secretary**
Government of India,
Ministry of Environment, Forest and Climate Change,
Paryavaran Bhavan, CGO Complex, Lodhi Road,
New Delhi – 110003.
2. **The Secretary to Government,**
Department of Environment, Climate Change & Forest Department,
Government of Tamil Nadu, Fort George,
Chennai – 600009.
3. **The Member Secretary,**
State Level Environment Impact Assessment Authority,
Tamilnadu, Third Floor, Panagal Maligai,
No.1, Jeenis Road, Saidapet, Chennai- 600015.
4. **The Executive Engineer,**
PWD, WRO, MMD,
Tallakulam, Madurai – 625002.


18/01/2023
Member Secretary
STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY - TN
Panagal Maligai, No.1, Jeenis Road,
Saidapet, Chennai - 15

5. The District Collector,
Virudhunagar District,
Virudhunagar.

.....Respondents

COUNTER AFFIDAVIT FILED ON BEHALF OF SEIAA- Tamilnadu, THE
THIRD RESPONDENT

I, Deepak S. Bilgi, I.F.S., S/o Mr. Siddappa, aged about 43 years, working as Member Secretary, State Level Environment Impact Assessment Authority, Tamil Nadu (SEIAA-TN) having office at Third Floor, Panagal Building, Saidapet, Chennai - 600 015, solemnly affirm and sincerely state as follows:

1. I am filing this counter affidavit on behalf of the third Respondent/SEIAA-TN herein and as such I am well acquainted with the facts and the circumstances of the case from the records available in this office.
2. At the outset, I deny the averments and allegations stated in this appeal except those that are specifically admitted hereunder and put the applicant to strict proof of the same.
3. It is respectfully submitted that; the project proponent i.e. The Executive Engineer – PWD, WRO, MMD of Thallakulam, Madurai / Fourth Respondent, submitted their application of proposal for obtaining grant of Environment Clearance through Form-I, Pre-Feasibility report vide Online Proposal No. SIA/TN/MIN/271159/2022, submission dated 13.05.2022 for S.F.No.1095(P) of Nenmeni Village, Sattur Taluk, Virudhunagar District, Tamil Nadu.
4. It is respectfully submitted that; the proposal was placed in the 293rd SEAC Meeting held on 08.07.2022. The project proponent gave detailed presentation. The details of the project furnished by the proponent are available in the website (Parivesh). The SEAC noted the following:
 - a) The proponent, Executive Engineer, PWD/WRD, has applied for Environmental Clearance proposed Sand Quarry over an extent of 4.95.5 Ha in Vaipparu River located at S.F.No:S1095(P), Nenmeni Village, Sattur Taluk, Virudhunagar District, Tamilnadu.
 - b) The project/activity is covered under category “B2” of Item 1(a) “Mining of Mineral Projects” of the schedule to the EIA Notification, 2006.
 - c) As per mining plan, the lease period is 6 months & mining should not exceed 49550 cu.m. of sand. The ultimate depth 1 meter below bed level.

Based on the presentation & documents furnished by the PP, SEAC decided to carry out onsite inspection by the sub-committee constituted by SEAC to assess the present Environmental Condition.

On receipt of the sub committee report further deliberations will be done

5. It is respectfully submitted that; based on the above, The State Expert Appraisal Committee (SEAC) Tamilnadu constituted a sub-committee vide its Lr. No. SEAC/TN/9265SiteInspection/2022, dt.08.07.2022 to inspect and study the field condition for the proposal seeking EC for a sand quarry proposed at Nenmeni Village in SF No.1095(P) in Sattur Taluk, Viruthunagar District. As per the above letter the sub-committee visited the site on 13.07.2022.
6. It is respectfully submitted that; the proposal was placed in the 299th SEAC Meeting held on 23.07.2022. The details of the project furnished by the proponent are available in the website (Parivesh). The SEAC noted the following:
- The Proponent. Executive Engineer. PWD/WRD. has applied for Environmental Clearance proposed Sand quarry over an extent of 4.95.5 Ha in Vaipparu river located at S.F.No:S1095 (P). Nenmeni village. Sattur Taluk. Viruthunagar District, Tamil Nadu.
 - The project/activity is covered under category "B2" of Item 1(a) "Mining of Minerals Projects" of the schedule to the EIA Notification, 2006.
 - As per mining plan, the lease period is 6 months and the mining plan for the period of 6 months & mining quantity should not exceed 49550 cu.m. of sand. The ultimate depth 1 metres below bed level.
 - Earlier the proposal was placed in 293 SEAC meeting held on 08.07.2022. Based on presentation & documents furnished by the PP. SEAC decided to carry out onsite inspection by the Sub-Committee constituted by SEAC to assess the present Environmental Condition.

Based on the above, The State Expert Appraisal Committee (SEAC) Tamilnadu constituted a sub-committee vide its Lr.No.SEAC/TN/9265SiteInspection/2022. dt.08.07.2022 to inspect and study the field condition for the proposal seeking EC for a sand quarry proposed at Nenmeni village in SF No. S1095 (P) Sattur Taluk. Viruthunagar District. The Committee comprises of Thiru R. Thangapragasam member SEAC.

As per the above letter the sub-committee visited the site on 13.07.2022. The observations made in the field and recommendation derived on the basis of the field visit is as below:

Observations:

- Proposed sand quarry is located on the southern side of the Nenmeni Village in SF. No. 1095 (P) in the river bed of Vaippar. It is close to the left bank of Vaippar River.


 Member Secretary
 STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY - TN
 Panagal Maligal, No.1, Jeeris Road,
 Saidapet, Chennai - 15

- It is located on 2.5km downstream of Irukkangudi Reservoir on the upstream there is on gauging scale fixed of CPWD at 520m.
- On the downstream there is a causeway connecting Nenmeni and Vannimadai village at 645m and down below the causeway two in tank wells feedy the drinking water need of the village.
- The sand at the proposed site is replenished well and sand is deposited above the bed level.
- It was informed by the WRD officials that a temporary road with bio-degradable material will be formed along the banks of river to transport the sand to the yard.

Recommendations:

- The following recommendations of the Enforcement & Monitoring Guidelines for Sand Mining, 2020 of the MoEF&CC, Government of India (Annexure VIII Salient provision for sand mining in the state of Tamil Nadu) can be implemented.

"To monitor the groundwater level during sand quarrying operations, a network of existing wells may be established around the sand quarrying area and new piezometers must be installed at all sand quarry sites. Monitoring of Ground Water Quality in the vicinity (one Km radius from the sand quarrying site) shall be carried out once in two months".

- In this endeavour, Groundwater Wing of the Water Resources Department of the PWD may be engaged.
- As per Rule 36 of the Tamil Nadu Minor Mineral Concession Rules 1956, no sand quarry should be allowed within 500m radial distance from the location of any bridge, water supply system, infiltration well or pumping installation. Hence, EC is recommended to the Nenmeni sand quarry in SF No. 105(P) in the river bed of Vaippar river.

The proposal was again been placed in 299th SEAC meeting held on 23.07.2022. Based on the recommendations of the sub-committee and documents furnished by the project proponent, SEAC decided to recommend the proposal for the grant of Environmental Clearance subject to the normal conditions stipulated by MOEF&CC, in addition to the following specific conditions:

- I. The prior Environmental Clearance granted for this mining project shall be valid for the project life including production value as laid down in the mining plan approved and renewed by competent authority, from time to time, subject to a maximum of thirty years, whichever is earlier.


Member Secretary
 STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY - TN
 Panagal Madurai, No. 1, Jeerini Road,
 Saidapet, Chennai - 15

- II. As per the MoEF&CC Office Memorandum F.No.22-65/2017-IA.III dated:30.09.2020 and 20.10.2020 the proponent shall adhere the EMP as committed.
- III. The proponent shall fix flag posts at boundaries for the proposed mining area covering an extent of 4.95.5 Ha. There should be no deviation/ violation with respect to the area demarcated for quarrying.
- IV. The depth of sand quarrying shall be restricted to 1 meter from the theoretical bed level.
- V. The project proponent shall monitor the groundwater level during sand quarrying operations, a network of existing wells may be established around the sand quarrying area and new piezometers must be installed at all sand quarry sites. Monitoring of Ground Water Quality in the vicinity (one Km radius from the sand quarrying site) shall be carried out once in two months by engaging Groundwater Wing of the Water Resources Department.
- VI. An interdisciplinary team consisting of hydrogeologists, soil scientists. PWD engineers, TWAD Board engineers, and officials may be formed. It can conduct a scientific study to decide the distance or a range of distance that should be maintained between a sand quarry and infiltration and collection wells.
- VII. To prevent dust pollution, suitable working methodology needs to be adopted taking wind direction into consideration.
- VIII. At no cost the impact of sand mining should interfere with the habitation and cultivation in the nearby area along the river bed.
- IX. The mining area must be demarcated leaving at least 50m from the river embankment on either side.
- X. Contouring of the river bed has to be taken to ascertain the relative levels of sand in the river and also to suggest the depth of sand mining.
- XI. To ensure safety measures along the boundary of the quarry site, security guards are to be engaged during the entire period of mining operation.
- XII. Wherever irrigation channels take off from the river within the boundary of the mining project, the mining operation should not affect the flow of water in the Irrigation channels.
- XIII. The entire sand mining operation should be as per the guidelines for sustainable sand mining issued in 2016 by the MOEF & CC, GOI. New Delhi.


Member Secretary
 STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY - TN
 Panagal Maligai, No. 1, Jeerla Road,
 Saidapet, Chennai - 15

- XIV. If the agricultural activities (or) thick greeneries are being carried out around all the sand mining projects, the mining operation should not affect the greeneries (or) agricultural activities as well as it should not lead to depletion of water in the open wells located nearby.
- XV. The approach road and loading of the sand in the vehicles, movement of the vehicle should be planned and implemented in such a way that there is no noise and dust pollution in the nearby habitation. We recommend that PWD should maintain at least a safe distance of 300m from the habitations while planning the approach road and the loading operation. Wherever necessary and near the habitation in particular dust suppression measures to be adopted. While the loaded vehicle moves on the road that should be fully covered with tarpaulin.
- XVI. The pathway used by all machineries should be properly constructed and maintained by the PWD in order to avoid pollution.
- XVII. The mining operation should be above the ground water table.
- XVIII. Adequate statutory manpower to be deployed for complying with the provisions to use heavy machineries as per Mines Safety Regulations (MCDR. 2017 & MMR. 1961).
- XIX. The Proponent shall provide Provision of bio-toilet to be ensured and confirmed.
- XX. During the sand mining work, appropriate progressive mine closure activities must be implemented to restore the river bed to its original status for ensuring the free flow.
7. It is respectfully submitted that; the proposal was placed in the 544th SEIAA Meeting held on 25.08.2022. After detailed discussion, the authority accepts the recommendations of SEAC and decided to grant Environmental Clearance subject to the conditions as recommended by SEAC in addition to the following condition.
- I. The Project Proponent shall follow in Sustainable Sand Mining Management Guidelines, 2016 and Enforcement and Monitoring Guidelines for Sand Mining, MoEF&CC, 2020.
 - II. The Proponent shall ensure the biodiversity, the natural ecosystem, the soil micro flora, fauna and soil seed banks are maintained.
 - III. The project proponent should not disturb the native flora & fauna.
 - IV. The proponent shall ensure that the activities should in no way result in disturbance to forest and trees in vicinity.


 Member Secretary
 STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY - TN
 Panagal Maligal, No.1, Jeppia Road,
 Saidapet, Chennai - 15

- V. The proponent shall ensure that the operations shall not result in loss of soil biological properties and nutrients.
- VI. The activity should not result in Co2 release and temperature rise and add to micro climate alterations.
- VII. The river area restoration protocols should be strictly adhered with appropriate sand soil rehabilitation measures to ensure ecological stability of the area maintain flow of river.
- VIII. The proponent shall ensure that the activity does not disturb the movement of grazing animals and free ranging wildlife.
- IX. The proponent shall ensure that the activity does not disturb the biodiversity, the flora & fauna in the ecosystem.
- X. The proponent shall ensure that the activity does not disturb the water bodies and natural flow of surface and ground water. nor cause any pollution, to water sources in the area.
- XI. The proponent shall ensure that the activities undertaken should not result in carbon emission, and temperature rise, in the area.
- XII. The proponent shall ensure that the area is ecologically restored to conserve the ecosystems and ensure flow of goods and services.
- XIII. The proponent shall ensure that the activities shall not disturb the agro biodiversity and agro farms all agriculture activities in the village around.
- XIV. The proponent shall ensure that the activity shall not result in invasion by invasive alien species.
- XV. The proponent shall ensure that activity shall not deplete the indigenous soil seed bank and disturb the mycorrhizal fungi, soil organism, soil community nor result in eutrophication of soils and water.
- XVI. The proponent shall ensure that all mitigation measures listed in the EIA/EMP are taken to protect the biodiversity and natural resources in the area.

- XVII. The proponent shall ensure that the activities should not impact the water bodies/wells in the neighbouring open wells and bore wells nor impact the water table and levels.
- XXVIII. The proponent shall ensure that the activities should not disturb the resident and migratory birds.
- XIX. The proponent shall ensure that the activities should not disturb the river flow, nor affect the Odai, Water bodies, Dams in the vicinity.
- XX. The proponent shall ensure that the activities should not disturb the vegetation and wildlife in the adjoin reserve forests and areas around.
- XXI. The proponent should ensure that there is no disturbance to the agriculture plantations, social forestry plantations, waste lands and reserve forests. There should be no impact on the land, water, soil and biological environment and other natural resources due to the mining activities.
- XXII. Activities and operations should not deteriorate the physical, chemical biological constituents of the river eco system and the water quality should not be affected.
- XXIII. All efforts should be taken for eco restoration and maintain of the river and the river embankment for sustainable management of the river eco system.
- XXIV. Activities should not pollute the water in the river by garbage and dumping of wasted and the Riparian vegetation should not be affected waste water should not be released into the river.
- XXV. Activities should not affect the human health in the area, particularly causing pandemics and disease.
- XXVI. There should be no disturbance to the river ecosystem due to any irrational human use during the sand mining activities.
- XXVII. There should be no disturbance to the food habitants and food web and food chain.
- XXVIII. Perennial sprinkling arrangement shall be in place on the haulage road for fugitive dust suppression. Fugitive emission measurements should be carried out during the mining operation at regular


 Member Secretary

STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY - TN
 Panagal Maligai, No.1, Jeeris Road,
 Saidapet, Chennai - 16

intervals and submit the consolidated report to TNPCB once in six months.

- XXIX. The Proponent shall ensure that the Noise level is monitored during mining operation at the project site for all the machineries deployed and adequate noise level reduction measures undertaken accordingly. The report on the periodic monitoring shall be submitted to TNPCB once in 6 months.
- XXX. Proper barriers to reduce noise level and dust pollution should be established by providing greenbelt along the boundary of the quarrying site and suitable working methodology to be adopted by considering the wind direction.
- XXXI. Ground water quality monitoring should be conducted once in every six months and the report should be submitted to TNPCB.
- XXXII. The proponent shall ensure that the transportation of the quarried materials shall not cause any hindrance to the Village people/Existing Village Road and shall take adequate safety precautionary measures while the vehicles are passing through the schools / hospital. The Project Proponent shall ensure that the road may not be damaged due to transportation of the quarried sand; and transport of sand will be as per IRC Guidelines with respect to complying with traffic congestion and density.
- XXXIII. The Project Proponent shall comply with the provisions of the Mines Act, 1952, MMR 1961 and Mines Rules 1955 for ensuring safety, health and welfare of the people working in the mines and the surrounding habitants.
- XXXIV. The project proponent shall ensure that the provisions of the MMRD, 1956, the MCDR 2017 and Tamilnadu Minor Mineral Concession Rules 1959 are complied by carrying out the quarrying operations in a skilful, scientific and systematic manner keeping in view proper safety of the labour, structure and the public and public works located in that vicinity of the quarrying area and in a manner to preserve the environment and ecology of the area.
- XXXV. The quarrying activity shall be stopped if the entire quantity indicated in the Mining plan is quarried even before the expiry of the quarry lease period and the same shall be informed to the District AD/DD (Geology and Mining) District Environmental Engineer

(TNPCCB) and the Director of Mines Safety (DMS), Chennai Region by the proponent without fail.

XXXVI. The Project Proponent shall abide by the annual production scheduled specified in the approved mining plan and if any deviation is observed, it will render the Project Proponent liable for legal action in accordance with Environment and Mining Laws.

XXXVII. Prior clearance from Forestry & Wild Life including clearance from committee of the National Board for Wildlife as applicable shall be obtained before starting the quarrying operation, if the project site attracts the NBWL clearance, as per the existing law from time to time.

XXXVIII. All the conditions imposed by the Assistant/Deputy Director, Geology & Mining, concerned District in the mining plan approval letter and the Precise area communication letter issued by concerned District Collector should be strictly followed.

XXXIX. The Project proponent shall install a Display Board at the entrance of the mining lease area/abutting the public Road, about the project information as shown in this minute.

8. It is respectfully submitted that; After detailed report and recommendation of the authority for the grant of Environmental Clearance (EC), SEIAA-TN issued EC to the project proponent through their Letter Vide Lr. No. SEIAA-TN/F.No.9265/EC/1(a)/5226/2022, dated:25.08.2022.


25/08/2022

Member Secretary
STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY - TN
Panagal Mallai, No.1, Jeannie Road,
Saidapet, Chennai - 15

It is therefore humbly prayed that this Hon'ble National Green Tribunal Court, South Zone, may be pleased to record the above-mentioned facts and pass appropriate orders as this Hon'ble NGT(SZ) may deem fit and proper in this case and thus render justice.


Member Secretary
STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY - TN
Panagal Maligai, No.1, Jeemie Road,
Saidapet, Chennai - 15

FOR THIRD RESPONDENT
Member Secretary, SEIAA-TN

Solemnly affirmed at Chennai
On this 12th day of January 2023
& Signed his name in my presence.

}


Assistant Environmental Engineer
State Level Environment Impact Assessment Authority-Tamilnadu
Third Floor, Panagal Maligai
Saidapet, Chennai – 600 015

BEFORE ME
Attested Officer