

**BEFORE THE NATIONAL GREEN TRIBUNAL (SZ) AT CHENNAI**

**Application No 85/2021**

Between

M/s Parisara Hitharakshana Samithi ... Applicant

And

The Union of India

And others ... Respondents

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Place: Bengaluru

Dated: 17/11/2021

Advocate for Respondent No. 21

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Between

M/s Parisara Hitharakshana Samithi ... Applicant

And

The Union of India

And others ... Respondents

**Statement of Objections filed by the Respondent No. 21 to the application filed by the applicants under section 18(1) read with sections 14, 15 of the National Greens Tribunal Act of 2010.**

**REPLIES ON BEHALF OF RESPONDENT No.21**

1. The address for service of the respondents, for issuance of notice, summons, etc is above stated in as in the cause title, the respondents may also be served through their counsels Bhanuprakash V G, Avinash and Dheemanthika, No M 3, First Floor, Shalimar Galaxy, Seshadripuram Main Road, Seshadripuram, Bangalore – 560 020.

2. The address for service of the applicant, for issuance of notice, summons, etc is above stated in as in the cause title.

3. It is submitted that the application filed hereinabove by the applicant is not maintainable either in law or on facts. The application filed by the applicant herein, seeking various reliefs thereto is against

this respondent is also not maintainable. This respondent is unnecessarily arraigned these respondents as parties to the application filed by the applicant whilst their grievance lies only against the respondents 1 to 13. It is relevant to note that this respondent is a license holder, who has been granted the same after the respondents 2 to 12 have issued the leases and licenses same after due process of law.

4. That the applicant has concealed and suppressed material and relevant facts of the Case. The applicant is guilty of *suppressio veri* and *suggestio falsi*. The applicant has with malafide and dishonest intentions not only concealed material facts from this Hon'ble Tribunal but has also twisted and distorted the same to suit their conveniences and to mislead this Hon'ble Tribunal.

5. It is submitted that the state government had invited tenders for 52 blocks of M – Sand manufacturing units to be disposed through tender cum auction method. The copy of the tender cum auction notification was published in the official gazette on 02/12/2014. The copy of the said notification is produced hereto and marked as **Annexure R 1**. The said invitation was published in the gazette and news papers and the last date for submission of the tenders were on 31/01/2015. Subsequent to the submission the tenders and selecting the qualified tenders the same were notified vide order dated 14/05/2015. The copy of the said order passed by the government is produced hereto and marked as **Annexure R 2**.

6. It is submitted that this respondent had filed his tender for block No 7 in Survey No 199 measuring 10 acres of Devarayasamudra village, Mulbagal Taluk, Kolar District and had quoted 69% of the bid amount and was declared as the successful bidder. The sixth respondent subsequent to the declaration of this respondent had issued a provisional acceptance letter vide communication dated 19/05/2015. The copy of the said communication dated 19/05/2015 is produced hereto and marked as **Annexure R 3.** The twelfth respondent issued a notification in FORM - GL, thereby according sanction to this respondent for grant of quarry lease for quarrying building stone mineral for a period of 10 years over an extent of 10 acres of government gomal land in survey No 199 of Devarayasamudra village, Mulbagal Taluk, Kolar District. The copy of the notification dated 31/08/2015 is produced hereto and marked as **Annexure 4.** The State Level Environment Impact Assessment Authority- Karnataka vide communication dated 27/05/2016 had issued environment clearance certificate for quarrying building stone. The copy of the said environment clearance certificate dated 27/05/2016 is produced hereto and marked as **Annexure R 5.** It is further submitted that this respondent was issued the lease deed bearing No 1024, for a period of 10 years from 19/03/2020. The copy of the lease deed is produced hereto and marked as **Annexure R 6.**

7. It is submitted that the respondent No 22 had sought for a license for establishment of stone crusher over an area of 2 acres in survey No 199 of Devarayasamudra village, Avani Hobli, Mulbagal Taluk, Kolar District. This respondent subsequently applied for a stone crusher license

vide application dated 20/01/2020. The copy of the said application is produced hereto and marked as **Annexure R 7.**

8. It is submitted that the subsequent to the receipt of the said application seeking license of stone crusher, the licensing authority caused a joint inspection of the location as contemplated under sub section 2 of section 4 of the Karnataka Regulation of Stone Crushers Act, 2011. The authorities caused a joint inspection and filed a report dated 22/10/2020, thereby indicating that area in question was not coming within the restrictions placed in section 6 of the Karnataka Regulation of Stone Crushers Act, 2011. The copy of the joint inspection report dated ~~22/10/2020~~ is produced hereto and marked as **Annexure R 8.** The forest department vide communication dated 0/02/2021 inducted for considering the applied area for establishment of a stone crusher unit. The copy of the letter of the forest department dated 09/02/2021 is produced hereto and marked as **Annexure R 9.** The assistant commissioner vide communication dated 11/03/2020 also had directed the tashildar of Mulbagal Taluk, to send a report. the copy of the letter dated 11/03/2020 is produced hereto and marked as **Annexure R 10.** The Karnataka State Pollution Control Board, vide letter dated 02/07/2020 had given their recommendation for issuance of FORM - B1. The copy of the said letter dated 02/07/2020 is produced hereto and marked as **Annexure R 11.** The licensing authority in the meeting held on 22/03/2021, considered the joint inspection and other aspects and declared the applied area of the this respondent measuring 2 acres of Survey No 199 in Devrayasamudra village, Avani Hobli, Mulbagal Taluk,

Kolar district as a safer zone. The copy of the notification dated 15/04/2021 declaring the area as a safer zone is produced hereto and marked as **Annexure R 12**. It is submitted that the issuance of FORM C is pending.

9. It is submitted that the prayer of the applicant is to seek quashing of the notification produced at Annexure J to the writ application which had declared areas mentioned therein as safer zone, would not come for consideration for the case of this respondent since this respondent was first granted lease in the year 2008 and he has been conducting his quarrying activity by observing all the norms stipulated under the rules. The authorities have looked into all the aspects as contemplated under rule 8 of the section 6 of the Karnataka Minor Mineral Concession Rules, 1994 and subsequent amendments. That being the case, the applicant without assigning reasons as to why the said prayer of quashing the safer zone has to be considered. The applicant only states about the environmental issues but would not address any grounds to seek quashing of the said declaration of safer zone. On this ground also the writ application deserves to be dismissed.

10. It is submitted that the applicant also has not stated anything about this respondent either in the facts of the case nor in the grounds urged in support of their case, but would state in general about the issuance of the notification of safer zone. The first prayer is for calling of records pertaining to land bearing survey No 199 of devarayasamudra village/panchayat, mulbagal taluk, kolar district. However the land on

which this respondent has established is in survey No 64 of Yalagondanahalli village, Mulbagal Taluk, Kolar District, this land has not been called in question by the applicant at all. On this ground also the writ application deserves to be dismissed.

11. It is submitted that the stone crusher granted to this respondent is after observing all the norms, rules and obtaining the requisites as contemplated under the Karnataka Minor Mineral Concession Rules, 1994 and subsequent amendments. Hence there is no illegality in the process of granting the license. The reason for filing the above application is only to harass the respondents.

12. That, the applicant has approached this Hon'ble Tribunal with unclean hands having misrepresented the facts, concealed the truth and glorified imaginative fiction, to say the least, with ulterior intentions of dispossessing these respondents from their lawful lease and license areas.

13. It is submitted that the said writ application No 15798/2020 (GM MMS) was filed by the applicant before the Hon'ble High Court of Karnataka on 23/12/2020, whereas the above application has been filed before this Hon'ble Tribunal on 26/01/2021. The applicant has not disclosed the fact of filing a writ application before the Hon'ble High Court of Karnataka seeking the very same prayer. This amounts to suppression and not approaching this Hon'ble Tribunal with clean hands.

On this ground alone the above application deserves to be dismissed. The Hon'ble High Court of Karnataka vide order dated 10<sup>th</sup> August 2021 was pleased to dispose the writ application as not pressed. The copy of the order passed by the Hon'ble High Court is produced hereto and marked as **Annexure R 13.**

14. That the above application is devoid of any material particulars and has been filed merely to harass these respondents. Hence the application deserves to be dismissed in limine.

15. It is submitted that the above application has been filed with ulterior motives and malafide intentions to disentitle the respondents of their legal rights accrued due to the execution of lease and licenses. The present application has been filed without any just cause or ground. That the application being frivolous and vexation is liable to be dismissed.

16. It is submitted that the applicant with the apprehension that this respondent has been carrying on crushing activity in the forest area of Devarayasamudra, thereby affecting the flora and fauna of the said region and also affecting water bodies, forest land, agricultural lands, religious monuments protected by the archaeological department and endangering the environment and ecology of the said region and in turn seriously contaminate air, water and create environment problems. Since there were serious allegations made by the applicant this Hon'ble

Tribunal vide order dated 23/03/2021 was pleased to appoint a joint committee comprising of

1. *The District Collector, Kolar District, State of Karnataka*
2. *The Deputy Conservator of Forest (DCF), Kolar District, State of Karnataka*
3. *The Director, Department of Mines and Geology or a senior officer from deputed from that office*
4. *A senior officer from Ministry of Environment, Forests and Climate Change (MoEF & CC) Regional office, Bangalore*
5. *A senior officer from Karnataka State Environment Impact Assessment Authority (KSEIAA)*
6. *A senior officer from Karnataka State Pollution Control Board (KSPCB) as deputed by the chairman were directed to inspect the area in question and submit a factual as well as action taken report if there is any violation found.*

17. It is submitted that in pursuance of the direction of this Hon'ble Tribunal, the joint committee has conducted a spot inspection and have filed their report, the conclusion of the said joint inspection is as under :

- a. The quarry leases were granted in the government gomala lands. The stone quarry leases and stone crushers were not falling in deemed forest areas.
- b. There are no reserve forest/protected forest around the quarry leases and stone crusher licenses. However, deemed forest is adjacent to the quarries situated in Devarayasamuda village.

- c. There are no public structures/monuments/river/lake/tank found within a distance of 200 meters. Hence, rule 6(2) of the Karnataka Minor Mineral Concession Rules has been complied.
- d. The rock formation is hard massive rocks suitable for building stone quarrying.
- e. Eight and two quarry leases were granted in sy no 199 of Devrayansamudra and Yalagondanahalli village respectively as per KMMCR, 1994 by the department of mines and geology.
- i. Quarry leases which were granted in Sy No 199 of Devrayasamudra five quarry leases were granted through tender-cum-auction method and remaining three leases were granted through non auction method as per rules.
  - ii. Out of above five quarry leases, three quarry lease holders have obtained environment clearance(E.C) from the competent and two quarry lease holders have not yet submitted E.C. to the department of mines and geology. The joint inspection reveals that all the above five quarry leases were not yet started quarry activities.
- f. There are no protected areas or monuments of archaeological importance in Devarayasamudra and Yelagondanahalli villages.
- g. There are no notified major tanks within a distance of 500 meters from the quarry leases and stone crusher licenses.

h. The stone crushers in the area are having valid license (FORM-C) along with consent for operations issued from KSPCB for operation and stone crushers were granted in patta lands. The lands were converted from agriculture to non-agriculture purpose. At the time of joint inspection, certain violations were observed for which Karnataka state pollution control board (KSPCB) issued show cause notice for non compliance of consent conditions and compliance is awaited.

i. As per environmental clearances issued to these quarries, all the lease holders are invariably required to submit their half yearly compliance report (HYCR) to the regional office of the ministry of environment, forest and climate change (MoEF & CC), Bangalore. However, based on perusal of records available in the office, it was noted that, no quarry lease holder has submitted HYCR's to the MoEF & CC Regional office, which is non-compliance.

Hence, the joint committee is of the opinion that the competent authorities shall direct the user agencies to submit the HYCR's as stipulated in the conditions of the environmental clearances to the concerned authorities.

18. It is submitted that the categorical finding of the joint committee is that the stone quarry and stone crushers are not falling within deemed forest areas. There are no reserve forest/protected forest around the quarry leases and crusher licenses, but only adjacent to deemed forest. The Hon'ble High Court of Karnataka in the matter of Dhanajaya V/s State of Karnataka in WP No 54476/2016, where under the Hon'ble court

has held that there is no concept of deemed forest. The copy of the said judgement is produced hereto and marked as **Annexure R 14.** Further the report of the committee also states that there are no public structures/monuments/river/lake/tank with a distance of 200 meters and that rule 6(2) of the Karnataka Minor Mineral Concession Rules have been complied with. That the rock formation is hard and massive and suitable for building stone quarrying. There are no protected areas or monuments of archaeological importance in both Devarayasamudra and Yelagondanahalli villages. There are no notified tanks within a distance of 500 meters from the stone quarry and stone crusher licenses. Moreover this respondent is having valid leases and license in FORM -C and consent for operations issued from the competent authorities.

19. It is submitted that the applicant also has not stated anything about this respondent either in the facts of the case nor in the grounds urged in support of their case, but would state in general about the issuance of the notification of safer zone. The first prayer is for restraining the seventh respondent from granting new stone crusher, M Sand quarries and granite crushers in Devarayasamudra virushabhadri hill region, Devarayasamudra village, Mulbagal Taluk, Kolar District, Karnataka as eco-sensitive region. However the lands of survey No 199 and survey No 758 of devarayasamudra village, mulbagal taluk, kolar district (even though this land in survey No 64 yalagondanahalli village, mubagal taluk, kolar district has not been called in question) is in the notification, where under it is declared as a safer zone. On this ground also the application deserves to be dismissed. The quarry leases have

been granted to these respondents way back in the year 2008 onwards and that they have even been renewals of the said leases and licenses and there are no complaints as against this respondent for polluting the atmosphere are any other environmental related issues. Hence on this ground also the application deserves to be dismissed.

20. It is submitted that Hon'ble High Court of Karnataka in the matter of Obayya Poojary V/s State of Karnataka had directed the, State Government to formulate 'The Karnataka Regulation of Stone Crushers Act' and rules for systematic and scientific operation of stone crushers. The act and rules mandates for declaration of Safer Zones for setting up and operation of stone crushers and there are certain distance criteria for declaration of safer zone. Thus, in exercise of powers conferred under the act and rules, Respondent No.7 declared a total extent of 36.13 acres in various survey numbers of Devarayasamudra as the 'Safer Zone' for stone crushers as Annexure-J. It is submitted that Sy.No.199 of Devarayasamudra was declared as safer zone during 2013 and there are no allegations of environment degradation till this application being filed. Hence, the allegation of the applicants that declaration of safer zone in Sy.No.199 is incorrect.

21. It is submitted that the crusher license granted to this respondent is after observing all the norms, rules and obtaining the requisites as contemplated under the Karnataka Regulation of Stone Crushers Act, 2011. Hence there is no illegality in the process of granting the license and leases under the Karnataka Minor Mineral Concession Rules, 1994

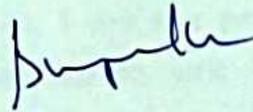
and amended rules thereafter. The reason/s for filing the above application is only to harass this respondent.

22. All other averments which are traversed in the application are denied as false, and respondents crave leave of the Hon'ble Tribunal to adduce further material at the time of hearing the matter.

**WHEREFORE**, it is most humbly prayed that this Hon'ble Tribunal be pleased to dismiss the above application, in the interest of justice and equity.

**Place : Bengaluru**

**Date : 17/11/2021**



**Advocate For Respondent No 21**



**BEFORE THE NATIONAL GREEN TRIBUNAL (SZ) AT CHENNAI****Application No 85/2021**

Between

M/s Parisara Hitharakshana Samithi

... Applicant

And

The Union of India

And others

... Respondents

**VERIFYING AFFIDAVIT**

I K Sreerama S/o Venkatarayappa, Aged about 50 years, Residing at No Ashwini Layout, Near Deccan Hospital, Chintamani - 563 125, states on oath and solemnly affirms as under:

1. I am the respondent No 22, I am the proprietor of M/s Manjula Barn Traders, in the above stated writ petition. I am conversant with the facts of the case. I am competent to swear to this affidavit.

2. I state that the statements made in paragraphs 1 to of the statement of objections accompanying this affidavit are true to the best of my knowledge and belief.

3. Annexure - R 1 to R are the Photostat copies of the original.

Bangalore

Date: 5/10/2021

Identified by me.

*[Signature]*  
Advocate

No of Corrections



*[Signature]*  
DEPONENT

**SWORN TO BEFORE ME**

*[Signature]* 15/11/2021  
**C. VENKATAPATHY**  
ADOCATE & NOTARY

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