

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL SOUTHERN ZONE  
BENCH AT CHENNAI  
ORIGINAL APPLICATION NO 85 OF 2021**

**M/S PARISARA HITHARAKSHANA SAMIHI**

Rep by its Secretary K Ramesh,  
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..Applicant

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**2. STATE OF KARNATAKA**

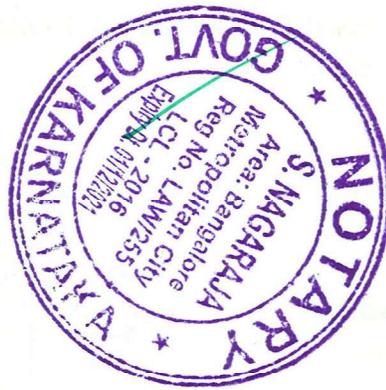
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**For PMI CONSTRUCTIONS PRIVATE LIMITED**

*M. Jayaram*  
Director

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For PMI CONSTRUCTIONS PRIVATE LIMITED

*M. Jayaramath*

Director

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**14. M/S GVV CONSTRUCTION**

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**16. M/S SVS ASSOCIATES**

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Mulbagal Taluk  
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**17. SRI T V SRINIVAS**

Chamarahalli village and post  
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Mulbagal Taluk  
Kolar - 563 129

**18. SRI S KUMAR**

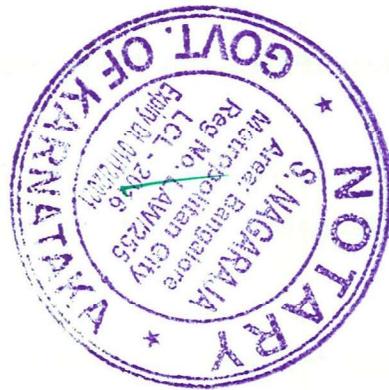
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**19. M/S P.M GRANITES EXPORT PVT LTD**

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**20. M/S PMU CONSTRUCTIONS**

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No of Corrections: Nil

For PMU CONSTRUCTIONS PRIVATE LIMITED

*M. Sagarath*  
Director

Bangalore -560041

**21. MANJULA BRAN TRADERS**

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**22. M/S UNITED INFRA CORP**

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**23. SRI VENKATESJWARA CRUSHERS**

Rep by its Proprietor  
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Kolar - 563 127

**24. M/S MILLENIUM CRUSHERS**

Rep by its Proprietor  
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Mulbagal Taluk  
Kolar - 563 127

...Respondents

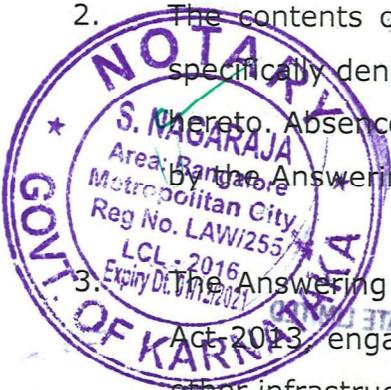
**COUNTER-AFFIDAVIT FILED ON BEHALF OF THE 20th RESPONDENT**

I, M JAGANATH, aged about 53 years, having office at 17, 38<sup>TH</sup> Cross, 8<sup>th</sup> Block, Jaya Nagar, Bangalore -560041, do hereby solemnly affirm and sincerely state as follows:

1. I am the Managing Director of Respondent No. 20 herein (hereinafter the "Answering Respondent") and as such well acquainted with the facts of the case and competent to swear to the present affidavit.

2. The contents of the Memorandum of Application filed by the Applicant are specifically denied except those, which are specifically and expressly admitted hereto. Absence of any specific denial shall not be deemed to be an admission by the Answering Respondent.

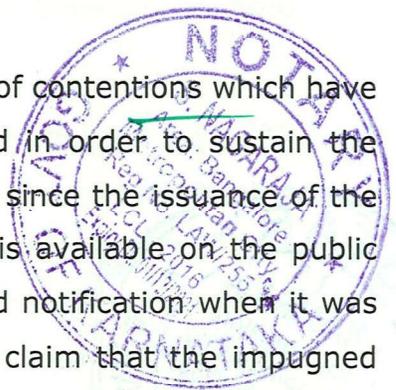
3. The Answering Respondent is a company incorporated under the Companies Act, 2013 engaged in the business of production and supply of granites and other infrastructure work.



For PMJ CONSTRUCTIONS PRIVATE LIMITED

M. Jaganath  
Director

4. The Applicant herein has filed the impugned application praying for, *inter alia*, an order to declare the Devarayasamudra Virshabhadri hill region, Devarayasamudra village, Mulbagal Taluk, Kolar District, Karnataka (hereinafter '**Subject Lands**') as an eco-sensitive region and to restrain Respondents 15 to 24 from carrying on any crushing and mining activities in the said area. Additionally, they have also sought an interim injunction for restraining the 7<sup>th</sup> Respondent from granting license to new stone crushers, m-sand quarries, and granite crushers in the said area based on the notification of the 5<sup>th</sup> Respondent No. MAS/CR/2451/12-13 dated 16.02.2013 (hereinafter '**impugned notification**').
5. At the outset, it is submitted that the present Application filed by the Applicant herein is completely vexatious, contrary to facts and law and is liable to be dismissed *in limine*. The Application, *ex facie* is *mala fide*, filed with the without any reasonable basis and with intention of interfering with the business of the Answering Respondent and other similarly placed entities by subjecting them to vexatious litigation.
6. Admittedly, the Applicant organization has been established only in the year 2020-21 and does not have any track record of espousing a public cause or propagating environmental protection and conservation. Even though quarrying operations have been carried out in the Subject Lands, in the last 6 years, by other industries, no objections have been raised until now. It is clear that the Applicant society is acting under certain oblique interests, to target specific industries from continuing/commencing (as in the case of the Answering Respondent) operations in the Subject Lands. Moreover, the Applicant has sought to challenge a notification issued way back in the year 2013, pursuant to which the 2<sup>nd</sup> Respondent had called for bids for quarrying operations, block-wise. As such the Applicant's bonafides are questionable and the present Application ought not to be entertained. The Answering Respondent seeks liberty to file an application for costs to be imposed on the Applicant for instituting this frivolous and vexatious litigation.
7. The Applicant has conveniently advanced a number of contentions which have been intentionally manipulated and misrepresented in order to sustain the present Application, after a lapse of almost 8 years since the issuance of the impugned notification. Additionally the notification is available on the public domain and there has been no objection to the said notification when it was issued. Therefore, the Applicant cannot incorrectly claim that the impugned notification was issued without notice to the public. The present Application is nothing short of a gross abuse of the process of law and deserves to be dismissed *in limine*.



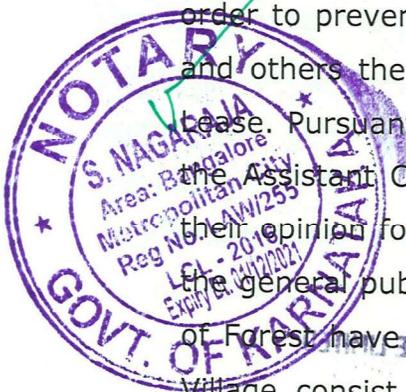
For PMI CONSTRUCTIONS PRIVATE LIMITED

M. Sogannath  
Director

8. As elaborated in the forthcoming paragraphs, the activities pertaining to mining and quarrying have been undertaken in the Subject Lands for over a period of 4 years and the impugned notification was passed way back in February 2013. After waiting for a period of over 7 years without any reasonable justification, the Applicant has now approached the Hon'ble Tribunal without any justification as to the cause for delay. It is pertinent to note that the Applicant initially has also filed a Public Interest Litigation W.P No. 15798 of 2020, in the Hon'ble High Court of Karnataka on the very same subject matter, which was subsequently withdrawn and hence dismissed, on 10.08.21. Prima facie, it appears that the Applicant is indulging in forum shopping, in order to somehow restrain the quarry operations in the Subject Lands.

#### FACTS IN BRIEF

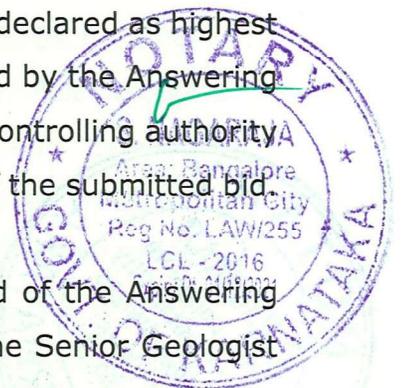
9. Before dealing with the specific averments raised in the present Application, the Answering Respondent is setting out a brief factual background pertaining to the Subject Lands and the lease obtained based on the impugned notification, which form the subject matter of the present Application.
10. The Subject Land, as per the revenue records is a *Gomal* land comprising of boulders and stones and is not an eco-sensitive area as contended by the Applicant. The barren lands are suitable for no other purpose, leave alone agriculture. There is no projection of any presence of wildlife in the Subject Lands and it is best suitable for purposes of commercial activities like mining, which in turn will contribute to the State Exchequer. Also the district of Kolar is driven by drought and there were proposals to bring in water from river Krishna for drinking purposes. This Respondent submits that the Government of Karnataka issued a Notification on 22.4.2019 making the Gomal lands for grant of quarry leases. The copy of the Notification dated 22.04.1999 is produced herewith as **ANNEXURE R1**.
11. That this Respondent submits that the Subject Land has building stone. In order to prevent the illegal conduct of quarrying operations by the villagers and others the Government of Karnataka has decided to grant the Quarry lease. Pursuant thereto, the Director of Mines and Geology wrote a letter to the Assistant Commissioner and the Deputy Conservator of Forest, seeking their opinion for making various blocks available for grant of quarry lease to the general public. The Assistant Commissioner and the Deputy Conservator of Forest have submitted a report that the Sy.No.199 of Devarayasamudra Village consist of boulders and stones suitable for grant of quarry lease. Likewise, the Deputy Conservator of Forest has also granted the no objection



for grant of quarry lease inter alia stating the schedule property is not a forest land.

12. Thereafter, in the year 2013, the impugned Notification was issued by the 2<sup>nd</sup> Respondent declaring 36-13 Acres of the Subject Lands as "Safer Zone" for Masonry units/stone crushers. The impugned notification has been issued only after conducting due verification and upon approval by the Department of Revenue, Forestry, Mines and Geology. Further the declaration of the Subject Lands as a safer zone was done by the appropriate authorities in accordance with Section 9(2) (a) of the Karnataka Regulations of Sand Crushers Act, 2011.
13. Subsequent thereto, the 2<sup>nd</sup> Respondent in exercise of power conferred under Rule-31(A) of the Karnataka Minor Mineral Concession Rules, 1994 (hereinafter '**KMMC Rules**'), issued a Notification making various blocks of land available for grant of quarry lease to the general public to participate in the e-auction conducted through e-portals of the Government. Accordingly 10 blocks were put up for auction. The copy of the Notifications issued are produced herewith as annexed herewith as **ANNEXURE -R2**.
14. The Answering Respondent had decided to establish a m-sand manufacturing unit in the Subject Lands. Accordingly, the Answering Respondent in due consideration of the Mines and Minerals Regulation and Development Act, 1957 (hereinafter '**MMRD Act**') and the KMMC Rules, submitted a pre-qualification bid under Rule-31C of the KMMC Rules. Consequently, the pre-qualification bid submitted by the Answering Respondent was found to be eligible for participating in the 2<sup>nd</sup> round of price bidding as provided under Rule-31(4) of the KMMC Rules. Further, the Answering Respondent participated in the 2<sup>nd</sup> round of bidding and offered a price greater than the base price, thus making being eligible for participating in the live bid conducted by the 5<sup>th</sup> Respondent for Block No 9 situated at Mulbagal Taluk in all measuring around 10 acres.
15. In the live bid, the Answering Respondent quoted a price 110.5% above the base rate and in light of Rule 31(c) of the KMMC Rules was declared as highest bidder. After such declaration, the bid documents submitted by the Answering Respondent were sent to the 2<sup>nd</sup> Respondent, which is the controlling authority under Rule-31(I) of the KMMC Rules for the confirmation of the submitted bid.
16. The 2<sup>nd</sup> Respondent on 14.5.2015 duly confirmed the bid of the Answering Respondent, further permitting the 5<sup>th</sup> Respondent and the Senior Geologist to grant the Quarry Lease in respect of Block No 9. Further, after receiving the confirmation from the 2<sup>nd</sup> Respondent, a provisional Letter of Acceptance 19.5.2015, formally accepting the bid of the Answering Respondent granting of quarry lease over an extent of 10.00 acres of Government Goaml Land of

  
Director



the land bearing Survey No 199 of Devarayasamudra Village, Mulbagal taluk of Kolar Distract (hereinafter '**schedule property**') was issued, calling upon the Answering Respondent to pay 50% of the security deposit for execution of the lease deed. A copy of the letter dated 19.5.2015 is produced herewith as **ANNEXURE-R3**

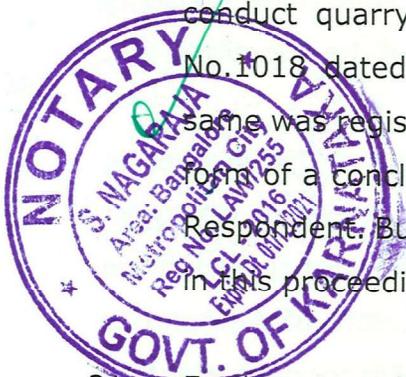
17. In furtherance of the same, the Answering Respondent paid the security deposit for issuance of the Notification. The Senior Geologist after receiving the Order, issued a Notification on 31.8.2015 notifying the grant of quarry lease in respect of Block No.9 called upon the Answering Respondent to obtain the approval of quarry plan and the environment clearance required for executing the lease deed. A copy of the Notification dated 31.8.2015 in prescribed form granting the quarry lease in favour of the Answering Respondent is produced herewith as **ANNEXURE-R4**

18. The Answering Respondent further submitted the quarry plan for approval, on 28.10.2015 to the Senior Geologist who is the competent authority for approval of quarry plan. The Senior Geologist on 06.11.2015 approved the quarry plan permitting the Answering Respondent to conduct quarrying operations in terms of quarry plan. A copy of the letter dated 21.11.2015 seeking approval of quarry plan and the approval of quarry plan dated 25.11.2015 are produced herewith as **ANNEXURE-R5**

19. Simultaneously an application to the 12<sup>th</sup> Respondent for grant of environmental clearance for conduct of quarrying operations in the schedule property was made by the Answering Respondent. The 12<sup>th</sup> Respondent on the basis of the recommendation made by the State Expert Appraisal Committee granted the environmental clearance for conducting the quarrying operations. A copy of the environment clearance dated 5.3.2016 bearing No. SEIAA/1589/MIN/2015 is produced herewith as **ANNEXURE-R6**

20. On 29.8.2016, the Quarry Lease Deed QL No.1018 was executed by the Senior Geologist Mines and geology-Kolar authorizing the Answering Respondent to conduct quarrying operations in the schedule property. A copy of the QL No.1018 dated 29.8.2016 is produced herewith as **ANNEXURE-R7** and the same was registered before the jurisdictional registrar thereby, it partakes the form of a concluded contract between the 2<sup>nd</sup> Respondent and the Answering Respondent. But Senior Geologist Mines and geology-Kolar was not made party in this proceeding.

21. Further, in order to establish a m-sand manufacturing unit in the portion of block No.9, an application in prescribed form was made to the to the District Licensing Authority to enable the Answering Respondent to establish a m-sand

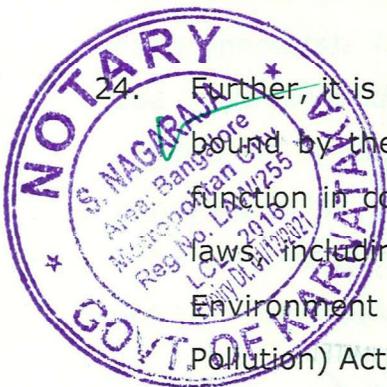


manufacturing unit in the portion of the schedule property. It is submitted that the application for grant of the blasting license is still pending consideration with the District Stone Crusher Licensing & Regulation Authority, the 7<sup>th</sup> Respondent herein. A copy of the Application is annexed herewith **as ANNEXURE 8**. Since no quarrying operations can be legally conducted without the grant of blasting license, the Answering Respondent had made an application on 18.10.2016 requesting the grant of the explosive license for carrying out explosive activities to remove the building stone from the schedule property. However, the Deputy Commissioner has not granted any license and thus the Answering Respondent has been writing letters to the Deputy Commissioner, requesting him to grant the blasting permission to use the explosives to conduct the quarrying operations. Copies of the letters written by this Respondent are produced herewith together **as ANNEXURE-9**

22. Even after repeated correspondences, the Answering Respondent submits that the Deputy Commissioner has not granted the license, therefore no quarrying activity could not be conducted by the Answering Respondent. Further the 7<sup>th</sup> Respondent is required to consider and pass an order and for certain extraneous considerations has not yet granted the license therefore preventing the Answering Respondent from conducting quarrying operations and also establishing the m-sand manufacturing unit. It is pertinent to note that the quarry license was granted way back in the year 2016 and a number of m-sand manufacturing units have already been established and they have commenced the manufacturing processes pursuant to the licenses granted by the 7<sup>th</sup> Respondent.

23. The Applicant who claims to be an environment protection body has never raised any objection in the last 6 years and for the first time in 2021 at the instance of certain vested interests, has filed the current Application. It is also pertinent to note that on the very same factual and legal grounds, the Applicant has also filed a Public Interest Litigation in the Hon'ble High Court of Karnataka in WP No. 15798 of 2020. Copy of Writ Petition No 15798/2020 is herewith produced **as ANNEXURE-10**. Further the Answering Respondent has filed detailed statement of objections to the Wit Petition (PIL) before the Hon'ble High Court of Karnataka. Copy of statement of objections is herewith produced **as ANNEXURE-11**

24. Further, it is submitted that the m-sand unit of the Answering Respondent is bound by the conditions of the Environmental Clearance and would strictly function in compliance with rules and regulations issued under all applicable laws, including laws relating to the protection of the Environment such as Environment (Protection) Act, 1986, Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981. It



is submitted that the Answering Respondent shall function in compliance with all prescribed and applicable statutory norms and standards as prescribed by the Government and thus the baseless allegations of pollution, destruction of mountain, obstruction of flow of rain water, adverse effect on agricultural activities, disturbance to environmental system, wildlife are based on assumption and presumptions and have repeated without any merit by the Applicant. The Applicant has merely made bald and fabricated allegations without advancing an iota of relevant evidence on how the activities of the Answering Respondent will adversely affect the environment.

25. Further the conduct of such quarrying operations by removing the boulders and stones for manufacture of m-sand will be an environmental friendly exercise. The manufacture of m-sand will contribute to reducing the demand for ordinary river sand, which has been over exploited already. Therefore, removal of stone for manufacture of m-sand will only ease this situation. It is also submitted that the Applicant has made significant investments, for establishing a m-sand unit in the Subject Land, and any unwarranted restriction would hamper fundamental rights of trade and profession of the Answering Respondent.
26. In light of the above submissions, where the Answering Respondent is in compliance with the applicable statutes, the impugned Application is premature and ought to be dismissed *in limine*.
27. Without prejudice to the above contentions, the para wise response of the Answering Respondent to the contentions of the Applicant are as under:

#### **DETAILED OBJECTIONS: PARAGRAPH-WISE REPLY**

1. With respect to **Paragraph 1**, the contents pertain to registration details of the Applicant and warrants no specific traverse.
2. With respect to **Paragraph 2**, it is submitted though the object and purpose of constitution of the Applicant Society has been to protect the environment and ecology of the Subject Lands, the same is merely a blank statement which is existing on paper. It is submitted that the Applicant has conveniently to add weightage to the Application, painted a very different picture of the Subject Lands in an attempt to misguide and mislead the Hon'ble Tribunal by distorting and misrepresenting material facts. The real truth behind the statements made is wholly different from what has been portrayed by the Applicant, and the Applicant is put to strict proof of the same.



For PMI CONSTRUCTIONS PRIVATE LIMITED  
M. Jagannath  
Director

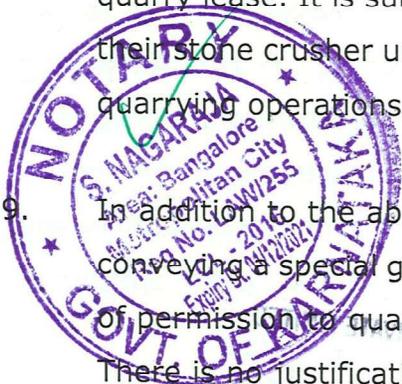
3. In light of the above, the averment made by the Applicant that the region is famous for its bio-diversity is false as the entire area is a Gomal land consisting merely of boulders and stones. The land is not suitable for any other purposes leave alone agriculture. Further, it is pertinent to note that the district of Kolar is drought ridden and there were proposals to bring in water from river Krishna for drinking purposes. In the last few decades, a number of residents from the said region, have been forced to migrate to cities like Bangalore in search of employment. Alternatively, the grant of quarrying licenses will help in generating additional employment opportunities for the local population, in the Subject Lands.
4. The averment that the villages under the foothills are dependent on the rain water flowing from the Subject Lands is made without any basis and is not relevant to the present application. It is submitted that the quarrying activities are not proposed to be undertaken near the water sources and thus will not in any manner prevent the source of water from flowing to the lakes and the entire claim is untenable and devoid of any merit.
5. With respect to **Paragraph 3**, it is reiterated that the Subject Lands as indicated by the revenue records is a Gomal land consisting of boulders and stones. There is no evidence of any wildlife as sought to be projected by the Applicant. The Applicant has not submitted any document to prove that a number of animals like a) Indian Leopard b) Sloth Bear c) Back Buck d) Slender Loris e) Indian Rock Python f) Pangolin g) Rusty Spotted Cat h) Leopard Cat i) Indian Soft Shell Turtle j) Bengal Monitor Lizard k) Vultures l) Peregrine falcon m) Spotted Deer n) Wild Board o) Porcupine q) Black Naped Hare r) Kolar Leaf Nosed Bat s) Gray Mongoose t) Indian Jackal u) Asian Palm Civet and v) Bonnet macaque; reptiles like a) Common Indian Cobra b) Russell's Viper c) Common Krait d) Saw Scaled Viper e) Bamboo Pit Viper f) Green Vine Snake g) Indian Rat Snake h) Common Kukri i) Russell's Kukri k) Common Sand Boa l) Common Wolf Snake m) Barred Wolf Snake n) Chickened Keel Back o) Green Keel Back p) Bronze Back Tree Snake q) Common Trinket r) Common Cat Snake & s) Banded Racer are dwelling in the Subject Lands and the Applicant is put to strict proof of the same. Further, the core operational activities of the Answering Respondent do not hamper or cause any adverse effect to the environment and it is submitted that the functioning of the Answering Respondent is closely monitored under the applicable statutory norms and standards as prescribed under the various statutes. Thus the averment of the Applicant that permission granted for conduct of any commercial activity will disturb the eco-sensitive and extinction of the rare of the rarest species is frivolous and devoid of any merit.



For PMI CONSTRUCTIONS PRIVATE LIMITED

*M. Jagannath*  
Director

6. With respect to **Paragraph 4**, the averment is devoid of any merit as the quarry lease granted to the Answering Respondent is far away from the location of the tanks and lakes located in the Subject Lands. As substantiated above, the functioning of the Answering Respondent does not in any way affect or interfere with the water source of the villages and the averment is false and the Applicant is put to strict proof of the same. Further, the Subject Lands is not a single rock hill as averred by the Applicant. The Applicant has not advanced any report/document to establish the so called ecological significance of the Subject Lands as repeatedly mentioned by them without any merit.
7. With respect to **Paragraph 5**, the averment that Hanumanhalli and Bodipande are the habitats for Leaf Mouth Bats and Schneider's Leaf Nosed Bat, which are rare species facing extinction is frivolous and the Applicant is put to strict proof of the same. The Applicant has submitted no such report presented/submitted by any governmental authority indicating the presence of Leaf Mouth Bats in the Subject Lands. The Subject Lands merely consists of boulders and stones and by no extent of imagination can it be assumed that such rare species survive in boulders and stone. There are no protected monuments of archaeological importance in or around quarry lease area.
8. With respect to **Paragraph 6**, the averment that the Applicant received authentic information from a reliable source that the Subject Lands is proposed to be given for granite quarry and m-sand extraction to mining companies is misleading and frivolous and the Applicant is put to strict proof of the same. The Respondent submits that Govt of Karnataka issued a Circular on 22.04.1999 making the Gomal lands for grant of Quarry leases subject to certain conditions. The 6th Respondent had made available the Subject Lands for establishing m-sand manufacturing units in the year 2014 itself. At that point in time, no such claim was advanced by the members of the Applicant society or by any other persons. The 6<sup>th</sup> Respondent, after considering the reports submitted by the Revenue Officials, Forest Officials and in due compliance of law, issued the impugned Notification, notifying the grant of quarry lease. It is submitted that a number of people have already established their stone crusher units in accordance with the lease granted and commenced quarrying operations and therefore the said claim is wholly untenable in law.
9. In addition to the above, the averment that the Village Gram Panchayat after conveying a special general body meeting passed a resolution against the grant of permission to quarry, mine, crush or extract granite and m-sand is wrong. There is no justification for some of the villagers to protest in as much as the establishment of the stone crusher unit and quarrying activities will generate



M. Jaganmoh  
Director

huge employment opportunities to the general public and it will prevent migration of workers from Kolar to Bangalore.

10. Further, the contention of the Applicant that the Moraji Desai Residential School is situated within 400 meters of the radius of the Subject Lands is misleading and false and the Applicant is put to strict proof of the same. It is submitted that the Moraji Desai Residential School is about far away from the quarry lease area granted to the Answering Respondent and no activities undertaken by the Answering Respondent will have any impact on the education or environment of the students. The claims made by the Applicant are repetitive in nature and are merely an attempt to snowball random points to add weightage to their contentions, which is not serving any real purpose.
11. With respect to **Paragraph 7**, the averments that the people in the surrounding area and villages have been holding peaceful protests and demonstration against grant of permission for mining and quarrying operations in the Subject Lands is misleading and false and the Applicant is put to strict proof of the same. Additionally, before the impugned notification was issued, reports submitted by the senior functionaries of the State were sought for and duly examined. Thereafter the 5th Respondent representing the 2nd Respondent issued the impugned notification in 2013.
12. Correspondingly, with due adherence to the provisions of the law, the 5th Respondent conducted an e-auction for granting of lease for quarrying and mining in the presence of general public. It is pertinent to note that at the time of conduct of e-auction by the Senior Geologist, no representation alleging any adverse effect on water on the grant of quarry leases was made by any person, leave alone the members of the Applicant society.
13. After over a period of more than 5 years from the grant of quarry lease, the Applicant has approached this Hon'ble Tribunal making false and baseless allegations. It is submitted that the 2nd Respondent has taken a conscious decision in light of the prevailing laws to grant the quarry lease which in turn will provide huge employment opportunities to a large number of people.
14. With respect to **Paragraph 8**, it is submitted that the Subject Lands does not fall under Category A under the Environmental Assessment Rules, 2006 as it is not a declared forest area and thus, falls under Category B. It is submitted that the Answering Respondent in light of the Environmental Assessment Rules, 2006 made an application to the 12th Respondent for grant of environmental clearance for conduct of quarrying operations in the schedule property. The 12th Respondent on the basis of the recommendations made by the State Expert

For P.M. CONSULTANTS PRIVATE LIMITED  
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Director

Appraisal Committee granted the environmental clearance for conducting the quarrying operations.

15. With respect to **Paragraph 9**, it is submitted that the Subject Lands does not fall under Category A and the submissions made above are reiterated.
16. With respect to **Paragraph 10**, as substantiated above the Subject Lands is not an eco-sensitive area and does not qualify the pre-requisite conditions to be declared as a protected area under the Wild Life Protection Act, 1972. None of the detailed representations made under the Environment Protection Act 1986 to the Ministry of Forest and Environment for declaration of the Subject Lands have been made available by the Applicant and the Applicant is put to strict proof of the same.
17. Further, it is submitted that the M-sand unit of the Answering Respondent would strictly function in compliance with rules and regulations issued under all applicable laws, including laws relating to the protection of the Environment such as Environment (Protection) Act, 1986, Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981. It is reiterated repeatedly that the Answering Respondent shall function in compliance with all prescribed and applicable statutory norms and standards as prescribed by the Government and thus the baseless allegations of pollution, destruction of mountain, obstruction of flow of rain water, adverse effect on agricultural activities, disturbance to environmental system are based on assumption and presumptions and have repeated without any merit by the Applicant.
18. With respect to **Paragraph 11**, it is submitted that the reliance placed on the decision of the Supreme Court in *T.N.Godavarman Thirumalpad v. Union of India* (1997) 2 SCC 267 is misleading in nature. In the cited decision, the Supreme Court has made observations pertaining to mining and quarrying activities in cases of forest lands, which is not the situation in the present application. The decision is not applicable to the lands classified as 'Gomal' lands and therefore the Applicant is trying to mislead this Hon'ble Court and is incorrect. It is submitted that the Subject Lands per Government records is a dry barren land consisting of boulders and stones. The schedule property granted to the Answering Respondent is neither a forest land nor a protected forest.
19. With respect to **Paragraph 12**, the submissions made above on how the Subject Lands is not an eco-sensitive area are reiterated. The declaration of the Subject Lands as a safer zone was done in compliance with Section 9 of the Karnataka Regulations of Sand Crushers Act, 2011 by the Thasildar,

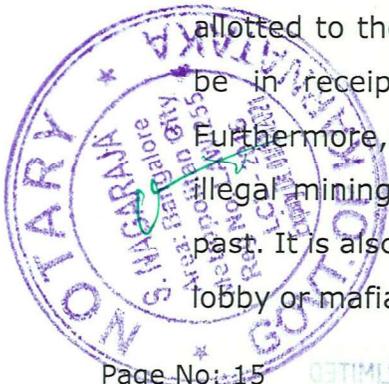


For PMJ CONSTRUCTIONS PRIVATE LIMITED

M. Srinivas  
Director

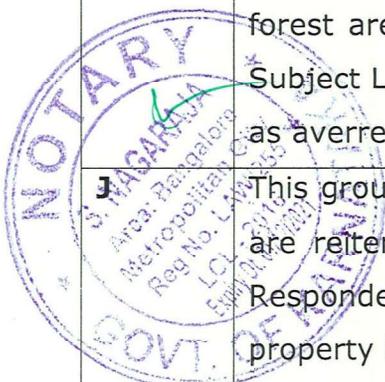
Environment Officer, Senior Geologist and the Range Forest Officer after conducting due inspections to ascertain whether the Subject Lands is suitable for declaration as safer zone. The reports were placed before the District Licensing Authority comprising of Forest officials, Revenue officials and officials of the Department of Mines and Geology. Only after perusal of the report and by observing the due process of law, has the Subject Lands been declared as a safer zone. Thus, the allegations of the Applicant are denied as they are devoid of any merit.

20. Additionally, as submitted above, before inviting the tender under Rule-31A of the KMMC Rules, the 2<sup>nd</sup> Respondent had conducted detailed enquiries pertaining to the same. The Assistant Commissioner and the Deputy Conservator of Forests had submitted a report inter alia stating that the area proposed to be notified for grant of quarry lease consists of boulders and stones and not is suitable for any other purpose. Only after thread bare inspection of the Subject Lands, the impugned notification was issued under Rule-31A of the KMMC Rules.
21. With respect to **Paragraph 12**, it is submitted that the impugned notification has been issued in compliance with all statutory requirements and is valid. As iterated above, before issuing the impugned notification under Rule-31A of the DMMC Rules, reports were sought from Senior functionaries of the State. The Assistant Commissioner, Deputy Conservator of Forest submitted a report stating that the Subject Lands consists of boulders and stones. Only thereafter the notification was issued. Additionally the notification is available on the public domain and none of the environmentalists questioned the notification when it was issued. The Applicant is therefore incorrect in stating that the impugned notification was issued without notice to the public.
22. With respect to **Paragraph 13**, it is reiterated that the impugned notification has been issued in compliance with all statutory requirements and is valid. The Answering Respondent is not privy to the detailed process, however the facts establish that the appropriate authorities have complied with the letter of law. Further the statement that the entire bureaucratic machinery is acting at the instance of the Granite and Mining Mafia and there is threat of life is absolutely false and baseless. The entire bidding process was conducted in a transparent manner and then the leasing rights in respect of the schedule property were allotted to the Answering Respondent. Furthermore, the State Exchequer will be in receipt of royalty for every stone mined in the Subject Lands. Furthermore, the grant of such lease and licenses would keep a check on the illegal mining activities which were undertaken in the Subject Lands, in the past. It is also pertinent to note that the Answering Respondent is not a granite lobby or mafia and such statements, are on the face of it, defamatory in nature.





	that all necessary compliances in form of mitigation measures have been undertaken to ensure that there is adverse effect to the environment.
<b>D</b>	Though this ground pertains to the functionaries of the State and warrants no response, without any prejudice, it is submitted that the Answering Respondent would strictly function in compliance with rules and regulations issued under all applicable laws, including laws relating to the protection of the Environment such as Environment (Protection) Act, 1986, Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981. As substantiated above, the activities of the Answering Respondent will not in any manner prevent the source of water from flowing to the lakes and the entire claim is untenable and devoid of any merit. Further the Subject Lands is drought ridden and has been examined thoroughly by the functionaries of the State prior to the issuance of the impugned notification and the grant of lease to the Answering Respondent.
<b>E</b>	Without any prejudice, this Ground pertains to the functionaries of the State and warrants no response from the Answering Respondent.
<b>F</b>	Without any prejudice, this Ground pertains to the functionaries of the State and warrants no response from the Answering Respondent.
<b>G</b>	Without any prejudice, this Ground pertains to the functionaries of the State and warrants no response from the Answering Respondent.
<b>H</b>	Without any prejudice, this Ground pertains to the functionaries of the State and warrants no response from the Answering Respondent. However, it is submitted that the proposed mining activities will only contribute to generating additional employment opportunities for the residents who have been previously displaced on account of a number of factors, majorly unemployment.
<b>I</b>	Without any prejudice, this Ground pertains to the functionaries of the State and warrants no response from the Answering Respondent. It is however submitted that, the 12 <sup>th</sup> Respondent has duly granted the necessary environmental clearance for conduct of the quarrying operations to the Answering Respondent. As substantiated above, by no extent of imagination can the Subject Lands be construed to a forest area. Thus for the purposes of environmental clearance, the Subject Lands will squarely fall under Category B and not Category A as averred by the Applicant. Hence this ground is baseless.
<b>J</b>	This ground is devoid of any merit and the contentions made above are reiterated. For the record, it is submitted that the Answering Respondent is no mining mafia and has obtained lease of the schedule property by participating in competitive bidding and in compliance of



For PMI CONSTRUCTIONS PRIVATE LIMITED

*M. Jagannath*  
Director

	all laws. Hence this ground is incorrect. Additionally, the Answering Respondent has also obtained the necessary environmental clearance from the 12 <sup>th</sup> Respondent.
<b>K</b>	As substantiated above, it is submitted that the Answering Respondent in due adherence to the Environment Protection Act, 1972; the Environment Assessment Rules, 2006; the State Environment Impact Assessment Rules had made an application to the 12 <sup>th</sup> Respondent for grant of environmental clearance for conduct of quarrying operations in the Schedule property. The 12 <sup>th</sup> Respondent on the basis of the recommendations made by the State Expert Appraisal Committee had duly granted the environmental clearance for conducting the quarrying operations. Hence this ground is devoid of any merit.

It is therefore, humbly prayed that this Hon'ble Tribunal may dismiss the Application with costs, and pass such order/orders as this Tribunal may deem fit and proper in the facts and circumstances of the case and thus render justice.

Solemnly affirmed at Bangalore on this 27<sup>th</sup>  
Day of August 2021 and signed  
His name in my presence.

For PMI CONSTRUCTIONS PRIVATE LIMITED

*M. Jagannath*

**BEFORE ME**

**ADVOCATE,**

No. OF CORRECTIONS Two



**SWORN TO BEFORE ME**

*S. Nagaraja* 27/08/21  
**S. NAGARAJA, B.A., LL.B.**  
**ADVOCATE & NOTARY PUBLIC**  
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BANGALORE - 560 050.

**BEFORE THE NATIONAL GREEN TRIBUNAL**

**SOUTHERN ZONE, CHENNAI**

**O.A No. 85 of 2021**

M/s. Parisara  
Hitharakshana  
Samithi

..Applicant

Versus

Union of India  
& Others

..Respondents

**COUNTER FILED**

**BY RESPONDENT NO. 20**

M/s. Rahul Balaji

Vishnu Mohan

Janani Shankar

Simran Srinivasan

**COUNSEL FOR RESPONDENT NO.20**