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

APPEAL No. 40 OF 2024

BETWEEN

NOBLE. M. PAIKADA **APPELLANT**

Versus

STATE ENVIRONMENT IMPACT ASSESSMENT

AUTHORITY, KERALA & ORS **RESPONDENTS**

ARGUMENT NOTE FILED BY THE COUNSEL FOR THE APPELLANT

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1. The NGT, in **OP No. 12/2011** had held the scope 'person aggrieved' in favour of the appellant herein. In **Appeal No. 14/2014**, the NGT (West Zone) Pune had held the scope of 'person aggrieved' in favour of the appellant herein. The Delhi High Court in *Prafulla Samanthra V Ministry of Environment and Forests 159 (2009) DLT 604* held that the expression '*person aggrieved*' has to be given a pan optic import and be understood to include persons who display interest in social and environment causes.

FORM-2 was not submitted by the Proponent.

2. Ground '**N**' in the appeal has not been specifically denied by the respondents. Office Memorandum dated **15.12.2021** issued by the MoEF&CC governs the field. No reference of Form-2 in Annexure A2, A3 or in the impugned EC. None of the respondents produced the Form-2 to disapprove the said contention in the appeal. Hence it is an admitted fact that Form-2 was not filed. EC is issued in violation of the OM dated 15.12.2021 without a Form-2 application.

District Survey Report

3. As per Annexure A11 (page 113 of the Appeal), a survey shall be carried out by the DEIAA and prepare a DSR for each mineral in the district separately. A Sub-divisional Committee comprising of Sub-Divisional Magistrate, Officers from Forest Department and Irrigation Department shall visit each site and make recommendation on suitability of the site or prohibition thereof. The DSR so prepared shall form the basis for the application for the EC. It is evident from Annexure A12 that there is no separate DSR for Granite building stone in Palakkad District. Therefore, the 2016 Notification itself was violated in Palakkad District.

4. The judgment of the Hon'ble Supreme Court in **2022(2) SCC 348** held that the role of the Sub-Divisional Committee in preparing DSR is important. **Their site visit and recording of their reasons for selecting the site is also mandatory.** Admittedly, this was not followed in the impugned EC. Only 2 members from SEAC inspected the site at the stage of appraisal. This cannot replace the site recommendation of the Sub-Divisional Committee as mandated by the Supreme Court.

Non-applicability of the Judgment in WP(C) No. 5209/2022 passed by the High Court of Kerala

5. It is a ***judgment in Personam***. There is no general direction to SEIAA or MoEF. The judgment applies only to Ananthu Sunil in Idukki District. The impugned EC is from Palakkad District. In Palakkad, even the 2016 Notification was not followed. Nowhere in Annexure A12 is it stated that the site of the 2nd respondent is recommended by the Sub-Divisional Committee with specific reasons. Therefore, the impugned EC vitiates

the statutory procedure as order by the Supreme Court in State of Bihar n Anr vs Pawan Kumar & Ors (**2025 KHC 6454**).

6. It is evident from Annexure A21 & A22 that even the High Court of Kerala is not following the old judgment as a general direction, but instead the High Court is staying the operation of EC if the DSR procedure is not strictly followed. SEIAA keeps silent about such orders.

EMP was prepared by an un-accredited consultant

7. In Annexure A2 (page 60) it is recorded that the RQP made presentation. The SEAC was not satisfied and therefore directed the project proponent to prepare a site specific EMP. In Annexure A3 no such site specific EMP was presented by an accredited consultant (page 64). Annexure A9 also is vague and incompetent to address the issues. EMP can be prepared only by an accredited consultant.
8. The 2nd respondent already submitted before this Tribunal that their presentation before the SEAC was done by RQP only. The grant of EC on the basis of Annexure A13 prepared by unaccredited consultants vitiates the process of Appraisal and grant of EC. Annexure A17 OM is admittedly violated in the impugned EC.

Non-forming of Cluster

9. The reason for issuing Annexure A6 is stated by the 3rd respondent that a mine closure plan submitted by the 2nd respondent for the adjacent quarry. In fact, the adjacent quarry is functional even as per the list of quarries in the DSR prepared which is evident from page 17 of Annexure A15. The impact of the adjacent quarry on the water table is not at all considered while granting EC.

10. Annexure A16 judgment makes it evident that the 2nd respondent continued quarrying operations in the adjacent property with the benefit of Covid-19 extension. Quarry was operational even at the time of issuance of Annexure A5. The DSR 2016 itself records the quarry as functional. Therefore, the claim of a "mine closure plan" as the basis for issuing Annexure A6 is factually incorrect and misleading. The continued operation has been suppressed, resulting in a complete failure to assess cumulative environmental impact, particularly on the groundwater regime, thereby vitiating the appraisal process and the grant of Environmental Clearance. EMP should have been prepared for the entire area in the Cluster, instead of the applied area alone.

Impact on ground water level

11. The SEAC makes a specific observation in Annexure A3 (page 64) that the depth of the water table is just **2 meter to 4 meter** below ground level as per the details provided by the proponent. When the ground water table is so high the impact of earlier mining below the water level and the proposed mining ought to have been considered by the SEAC and should have stated reasons for recommendation. No documents produced by any Respondents to show as to what impact the mining will cause on the Ground Water !! and How it can be mitigated !!

12. Annexure A9 Report is conspicuously silent on the impact of mining on the groundwater table, despite the admitted position that the water table lies at a shallow depth. No hydrogeological assessment or impact analysis is seen undertaken or disclosed. Annexure A13 admits the fact that some native species of trees are also there. They protect ground water level. How many native trees to be cut? EC is silent on this.

13. Ground 'K' raised in the appeal has not been specifically denied by the respondents, and therefore stands admitted. This clearly establishes non-application of mind on the part of the SEAC and vitiates the recommendation for grant of Environmental Clearance.

Supreme Court Judgment is violated by SEAC

14. Appellant specifically raised Ground 'LL' that the SEAC has not recorded specific reasons in Annexure A3 and A4 while recommending for EC. This is an undisputed fact as evident from the pleadings. The Hon'ble Tribunal cannot ignore the non-compliance of the Supreme Court judgment. Therefore, the entire aspects raised in this appeal should be reconsidered by the SEAC after setting aside the impugned EC

Environmental and Cultural Sensitivity

15. The 1st respondent SEIAA has remained completely silent with respect to Annexure A1(a), which is a contemporaneous report highlighting the presence of megalithic and archaeological remains in and around Kuthanur Panchayat. The said document was specifically relied upon by the appellant in the appeal to demonstrate the environmental and cultural sensitivity of the project area and the statutory obligation on the project proponent to disclose such features within the study area. This silence, despite specific pleadings in the appeal and reiteration in the rejoinder, amounts to an admission of the facts stated therein. The failure of the SEIAA to consider such a vital aspect, which goes to the root of the appraisal process, clearly demonstrates non-application of mind and vitiates the decision-making process leading to the grant of Annexure A1 EC.

Conclusion

16. In light of the above, it is evident that the impugned EC is vitiated by fundamental procedural and substantive illegality. The appraisal process suffers from non-compliance with mandatory statutory requirements, including absence of a valid DSR, failure to submit Form-2, and reliance on documents prepared by unaccredited consultants. The SEAC has failed to conduct a proper appraisal or record reasons as required by law, in clear violation of binding precedents of the Hon'ble Supreme Court.

17. The impugned EC, having been granted on incomplete, misleading and unappraised material, cannot be sustained in law. It is therefore most respectfully submitted that this Hon'ble Tribunal may be pleased to set aside the impugned EC and direct reconsideration of the project strictly in accordance with a valid DSR and provisions of law and binding judicial precedents, after hearing the appellant.

Dated this the 29th day of April, 2026.



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Counsel for the Appellant.