BEFORE THE NATIONAL GREEN TRIBUNAL (SZ), CHENNAI
MEMORANDUM OF APPEAL

(Under Section 18(1) read with Section 16 of the National Green Tribunal Act, 2010)

APPEAL No. 40 OF 2024

BETWEEN

NOBLE M PAIKADA ..... **APPELLANT**

Versus

STATE ENVIRONMENT IMPACT
ASSESSMENT AUTHORITY & ORS .....**RESPONDENTS**

REJOINDER AGAINST THE REPLY STATEMENT FILED BY THE 1ST RESPONDENT

HARISH VASUDEVAN (H-253) [K/779/2013]
RAJAN VISHNURAJ (R-1268) [K/653/2010]

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

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I, Noble M Paikada, aged 60 years, S/o Mani Paikada, residing at Paikada House, Manakadavu P.O, Alakkode, Kannur district - 670 571, do hereby solemnly affirm and state as follows:

1. I am the appellant in the memorandum of appeal and as such I am conversant with the facts of the case.

2. In this Appeal, the 1st Respondent has filed a reply statement on 20.07.2024. Averments in the said Reply Statement is not fully true and hence this rejoinder. All the averments in the said reply statement which was specifically admitted hereunder are stoutly denied.

3. It is pertinent to note that in paragraph 2, sub paragraph 7 the 1st respondent clearly stated that SEIAA has not issued EC in Block No.12 Re-Sy No. 651/8 Kuthanur 1 Village, Alathur Taluk. The appellant did not have a case that SEIAA has issued an EC in Re Sy No.651/8 of Kuthanur 1 Village. The appellant clueless as to from where the 1st respondent has obtained such an information. The 1st respondent has not denied the fact that the 2nd respondent has been carrying out mining operations in Block No.12 Re Sy No. 651/8 in Kuthanur 1 Village, Alathur Taluk and has encroached into the nearby areas by violating the conditions of earlier lease.

4. In paragraph 8 the first respondent did not specifically deny the fact that the 2nd respondent has not uploaded the documents relating to the grant of Annexure A1 EC in the 1st respondent's website. The averments in paragraph 8 cannot be seen in the impugned EC the consideration of the project and the noting of shortcomings is nowhere reflected in Annexure A1 EC. It is a well settled law that the order cannot be supplemented with the affidavit and any order should speak for itself.

5. All the averments in paragraph 10 are new set of facts which is not reflected in the impugned EC, which are deliberately hidden from the public this gives a suspicion about the first respondent as to why they have not recorded the facts narrated in sub paragraph 10 in the impugned EC. There is not even a single line in the impugned EC or in Annexure A3 minutes that why the SEAC is recommended for the grant of EC. It is to be noted that the first respondent did not specifically deny the allegation that the committee did not have a detailed scrutiny of the project documents and earlier reports in the said meeting. There is

nowhere a claim in EC that an appraisal in detail was done by the SEAC for recommending this project for EC.

6. In sub para 11 the 1st respondent states that it is not necessary to state each document in a minutes of the meeting. This alone would show that the first respondent is having total ignorance about the EIA process, EIA Notification and the judgment of the Hon'ble Apex Court, which is taken as (LL) in the appeal. Application of mind of SEAC is nowhere reflected in the EC, and decision making process and the first respondent did not specifically reject any of those averments in the appeal.

7. In sub para 12 and 13 the 1st respondent falsely states that the "**statement of the District Geologist clarifies that there is no cluster situation exists in the proposed mine lease area"**. This is an utter false statement made by the 1st respondent that reminds the proverb 'more loyal than the king'. Annexure A6 certificate did not state that there is no cluster situation. It is not even a cluster certificate. Annexure A6 only shows there is no quarry operation within 500 meter radius from the applied area. That doesn't mean that "**there was no mining lease or licenses issued on or after 15.01.2016".** The 1st respondent admits that there is a cluster area which is about 4.5582 hectare. The 1st respondent also admits that the some total of the proposed area including the abandoned quarry area is about 4.5582 hectare. But Annexure A8 application is only 4.6262 hectares and Annexure A9 PFR is also for an area of 2.6262 hectares. The argument of the 1st respondent since the cluster area is less than 5 hectares. The appraisal with the submitted documents with EMP is enough. This reveals the false understanding of law and process by the 1st respondent. As per EIA Notification Appendix-

XI the application, mining plan, and all the documents shall be prepared for the entire cluster area, here it is 4.5582 hectare.

8. All the averments in sub para 14 of para 2 are not fully true and hence denied. It is admitted by the 1st respondent that there was no form II in the appraisal and therefore the judgment of the Hon'ble Tribunal, Annexure A10 office memorandum and the judgment of the Apex Court is admittedly violated in this case. Since Annexure A1 is issued without considering Form II on that ground the appeal has to be allowed.

9. All the averments in sub para 15, 16, 17, 18, 19 and 20 of para 2 are stoutly denied. Annexure A10 OM is relevant because OA No.186/2016 is a case governing the entire mining projects of less than 5 hectares. The 1st respondent admitted that Annexure A12 DSR is not one prepared based on Annexure A11 notification dated 25.07.2018. Annexure A12 alone was considered while granting the impugned EC and therefore it is without power or authority. Judgment in WPC No. 5209/2022 has absolutely no relevance in the facts of the present appeal and hence such averments are denied. The 1st respondent shall be prosecuted for misguiding this Hon'ble Tribunal by showing a judgment which is relevant only for Idukki District presented as one relevant for the whole Kerala. There is no permission to use the existing DSR of Palakkad District in violation of Annexure A11 notification.

10. All the averments in sub para 20, 21 and 22 of para 2 are stoutly denied. There is nowhere in EIA Notification the RQPs to empower to prepare EMP for the project. The EIA process cannot be done at the whims and fancies of the 1st respondent they miserably failed to show the statutory

provision enabling them to entertain the environmental management plan and biodiversity report prepared by non-accredited consultants. This alone is sufficient to understand the incapability of the 1st respondent to understand EIA Notification and the collusion of the 1st respondent with quarry owners in granting environmental clearances in violation of the law. Infact, the 1st respondent and the State of Kerala is colluding with quarry owners in Kerala to sabotage environmental regulations and both acts as brothers in challenging the orders of National Green Tribunal when the Hon'ble Tribunal insists for minimum distance criteria or any other environmental criteria.

11. On the above-mentioned arguments, the statement of the 1st respondent is to be rejected and appeal is to be allowed.

Therefore, it is most humbly requested and prayed that, having regard to the above mentioned and other grounds that may be urged at the time of hearing, this Hon'ble Tribunal may be pleased to accept this rejoinder and allow this appeal, in the interest of justice.

All the facts stated above are true to the best of my knowledge, belief & information.

Dated this the 28th day of August, 2024

DEPONENT

Solemnly affirmed and signed before me by the deponent whom I know on this the 28th day of August, 2024 in my office at Ernakulam.

Harish Vasudevan
ADVOCATE

VERIFICATION

I, Noble M Paikada, aged 60 years, S/o Mani Paikada, residing at Paikada House, Manakadavu P.O, Alakkode, Kannur district - 670 571, do hereby verifies that the contents of the above paragraphs 1 to 11 are true to the best of my knowledge and I have not suppressed any material facts.

SIGNATURE OF THE APPELLANT

DATE : 28.08.2024
PLACE : Ernakulam