

Filed on: 05.09.2024

**BEFORE THE HON'BLE 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. 88 OF 2017**

**BETWEEN**

GEORGE ISAAC .....**APPELLANT**

*Versus*

MINISTRY OF ENVIRONMENT, FOREST AND  
CLIMATE CHANGE & ORS .....**RESPONDENTS**

**OBJECTION FILED AGAINST THE REPORT FILED BY THE SENIOR  
ENVIRONMENT ENGINEER DATED 17.05.2024**



**HARISH VASUDEVAN**

Advocates

**Amicus Advocates**

II Floor, Chundanal Monarch, K.K Padmanabhan Road, Kochi-18

Email: [legalfriend@gmail.com](mailto:legalfriend@gmail.com) / [amicusadvocates@gmail.com](mailto:amicusadvocates@gmail.com)

Mobile No: +91-9447755896

**BEFORE THE HON'BLE 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. 88 OF 2017**

**BETWEEN**

GEORGE ISAAC .....**APPELLANT**

*Versus*

MINISTRY OF ENVIRONMENT, FOREST AND  
CLIMATE CHANGE & ORS .....**RESPONDENTS**

**INDEX**

SL NO.	PARTICULARS	PAGE NOS
1.	OBJECTION FILED BY THE APPELLANT AGAINST THE REPORT SUBMITTED BY THE SENIOR ENVIRONMENTAL ENGINEER DATED 17.05.2024	1 - 6

Date: 04.08.2024

Place: Kochi



**HARISH VASUDEVAN**  
COUNSEL FOR THE APPELLANT

**BEFORE THE HON'BLE 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. 88 OF 2017**

**BETWEEN**

GEORGE ISAAC .....**APPELLANT**

*Versus*

MINISTRY OF ENVIRONMENT, FOREST AND  
CLIMATE CHANGE & ORS .....**RESPONDENTS**

**OBJECTION FILED AGAINST THE REPORT FILED BY THE SENIOR  
ENVIRONMENT ENGINEER DATED 17.05.2024**

I, George Isaac, aged 73 years, S/o Isaac, residing at Chennakkattu Kalangamara, Kadayiruppu P.O, Kolanchery, Ernakulam, Kerala – 682311, do hereby solemnly affirm and sincerely state as follows:

1. I am appellant in the above-mentioned case and I am conversant with the facts and circumstances of the present case. I am competent to affirm this affidavit.
2. That, this Hon'ble Tribunal vide its order dated 30.11.2023 in Appeal No.88/2017 that the Kerala Pollution Control Board shall comply with the directions of this Hon'ble NGT vide judgment dated



26.10.2021 in Appeal No.88/2017. Based on the said order, it is seen that a report was filed by the 5th respondent on 12.02.2024, a copy of which was not available to the appellant herein and was not served to the appellant also. Thereafter, on 17.05.2024 a report was filed by the 5th respondent explaining the method of calculation for environmental compensation, along with a copy of the notice issued on 07.02.2024 to the project proponent. It is stated that the total environmental compensation is calculated as Rs.2,86,60,000/-. The appellant has strong objection in the said calculation as it is illegal and hence filing this objection.

3. The 5th respondent has done the implementation of the directions of Hon'ble NGT in a non-transparent and arbitrary manner. It is pertinent to note that the entire process of levying such compensation is done in a secret manner without taking the appellant into consideration. It was evident that only because of the appeal filed by this appellant, the illegality committed by the 6th respondent was revealed and the 5th respondent was forced to take action against the illegal mining, which otherwise was aided by all the official respondents.
4. The calculation made by the 5th respondent is in a perverse manner and with absolute arbitrariness. The entire process of calculation is based on the drama written by none other than the violator. The 5th respondent started counting the number of days from



13.09.2007 solely based on the circular dated 13.06.2007 produced as Annexure R5(a). This stand is illegal, aiding the polluter which is against the judgment in this Appeal. The judgment clearly stated that the running of quarry unit without obtaining a prior consent was illegal. The water act was enacted in 1974 and the Air Act was enacted in 1981 and the provisions of both the enactments are in force since 1981, which are equally applicable to the quarry unit of the 6th respondent also. Annexure R5(a) Circular is only a reiteration of the legal duty cast upon the 6th respondent, issued as a reminder to several other circulars/notifications issued in this regard. It is a well settled law that a circular issued under the environmental laws are only clarificatory in nature, which will have retrospective effect from the date of commencement of the statutory provision. Here the provisions of the Water Act came into force in 1972 and that the Air Act into force in the year 1981. The stand taken by the 5th respondent that the violation will be calculated only from 13.09.2007 has no legal backing and therefore it cannot be applied at all instead the 5th respondent ought to have calculated the counting from the date on which the Water Act was notified in the official gazette. The statutory duty to follow the provisions of Air Act and Water Act by the 6th respondent started at least from the year 1981. Therefore the calculation has to be done afresh from the year 1981.



5. It is a joint attempt by the 5th and 6th respondents that the counting of illegal mining stopped at 20.07.2015 the date on which the District Geologist has issued a stop memo. Even after the stop memo the quarry was functioning as per their own reports, after obtaining a stay order from the Hon'ble High Court. Therefore a total number of days of violation is not 2866 days but more than 12400 days.
6. The scale factor calculated for the industry in question is taken as 0.5 by the 5th respondent this is nothing but to help the 6th respondent to obtain undue financial gain. The quarry unit of the 6th respondent is one of the biggest quarry unit in the State till 2007. It is not a micro/small scale industry which is having a total investment of less 5 crores. It is a medium scale industry for which the S factor should be one therefore the entire calculation has to be done again based on the above mentioned factors. However, upon a hearing arranged by the 5th respondent so as to illegally help the 6th respondent a hearing was conducted on 16.02.2024 without intimating to the same to the appellant and the number of days were reduced from 2866 to 1881, deducting the non working days holidays, sundays etc. There was a high level conspiracy behind the meeting conducted by the Chairperson of the Board on 16.02.2024 and the interference of the Chairperson through such a meeting and Annexure R5(c) direction was totally unwarranted in the



interference upon the proceedings of this Tribunal. In the said hearing, a decision was taken to reduce the number of days to 1881 and dilute the earlier compensation from Rs.2,86,60,000/- to Rs.1,88,10,000/-.

7. The entire process is not authorised by law and against the basic principle of calculating the compensation and to sabotage the directions of this Hon'ble Tribunal and to help the 6th respondent in making undue financial gain.
8. On the above mentioned grounds the report filed by the 5th respondent shall be rejected to the extent that it assumes the environment compensation only to Rs.1,88,10,000/-. After submitting report on 12.02.2024 before this Hon'ble Tribunal the Chairperson KSPCB has colluded with the violator and upon receiving a request from the same violator as evident from Annexure R5(d) prepared Annexure R5(e) minutes only for the purpose of reducing the actual compensation and manipulating the entire process of implementation of the directions of this Hon'ble Tribunal. It is evident from Annexure R5(e) that the only logic used by the Chief Environmental Engineer head office to start the calculation from 2007, is the ignorance of law. Even the school going children of our country know the principle of law that ignorance of law is not an excuse. Only by following ignorance of law as an excuse the violator was exempted from paying the



compensation till 2007. This is *per se* perverse, illegal, to aid the violator and to sabotage the directions of this Hon'ble Tribunal.

9. Considering the above mentioned facts this Hon'ble Tribunal may be pleased to direct the 5th respondent to recalculate the entire process of assessment and in force the actual environmental compensation and obtain the same from the 6th respondent.



**COUNSEL FOR THE APPELLANT**



**SIGNATURE OF APPELLANT**

#### **VERIFICATION**

I, George Isaac, aged 73 years, S/o Isaac, Chennakkattu Kalangamara, Kadayiruppu P.O, Kolanchery, Ernakulam, Kerala – 682311, the appellant herein, do hereby verify that the contents of the above paragraphs No. 1 to 9, are true to the best of my knowledge and that I have not suppressed any material fact.



**SIGNATURE OF APPELLANT**

Date: 04.08.2024

Place: Kochi