

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
SOUTHERN ZONE AT CHENNAI**

Appeal No. 48 of 2024

Thiru M. George Rajan

... Appellant

Versus

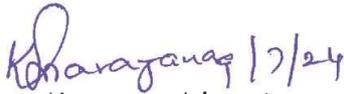
The Ministry of Environment, Forest and Climate Change, Rep. by its
Secretary and Others.

... Respondent(s)

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Dated at Chennai on this 19th day of July, 2024.



Dr.K.Surya Narayana, Advocate

SEIAA-TN

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
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... Respondent(s)

**COUNTER AFFIDAVIT FILED ON BEHALF OF SEIAA – TAMIL NADU,
THE 2nd RESPONDENT**

I, A.R. Rahul Nadh, I.A.S., aged 36 years working as Member Secretary, State Level Environment Impact Assessment Authority, Tamil Nadu (SEIAA-TN) having office at Third Floor, Panagal Maaligai, Saidapet, Chennai – 600015, solemnly affirm and sincerely state as follows:

1. I am filing this counter affidavit on behalf of the 2nd Respondent/SEIAA-TN herein and as such I am well acquainted with the facts and the circumstances of the case from the records available in this office.
2. I deny all the averments and allegations stated in this Appeal No.48 of 2024 except those that are specifically admitted hereunder and put the applicant to strict proof of the same.
3. It is respectfully submitted that the project proponent Thiru.M.George Rajan has applied for Environmental Clearance to State Level Environment Impact Assessment Authority – Tamil Nadu (SEIAA-TN) for the Proposed Rough Stone & Gravel quarry over an extent of 1.54.61 Ha at S.F.Nos. 721/2, 721/3A & 725/3B(P). of Mecode Village, Thiruvattar Taluk, Kanniyakumari District, Tamil Nadu vide online proposal No. SIA/TN/MIN/460565/2024, Dated: 01.02.2024 for the project/activity covered under Category “B2” of Item 1(a) “Mining of Minerals Projects” of the Schedule to the EIA Notification, 2006 as amended.



Member Secretary
STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY - TN
Panagal Maligai, No.1, Jeehis Road,
Saidapet, Chennai - 15

4. It is respectfully submitted that the **Decision Support System (DSS)**, is a web-GIS-based application that has been developed to provide qualitative and quantitative information with respect to forest areas. It uses different spatial layers for providing different information on different issues related to forest and wildlife areas. Geospatial data used in the DSS application includes state and district boundary layer protected areas, tiger reserves, tiger corridors, forest type map, biological richness, landscape integrity, hydrological layer, forest cover map time series layer, recorded forest area, and recorded forest administrative boundary.
5. It is respectfully submitted that based on the KML file uploaded by the proponent in the Parivesh Portal, with the aid of the **Decision Support System (DSS)** developed by MoEF&CC as stated above, it was ascertained that the proposed site is **5 Km “approximately”** from the Kanyakumari Wildlife Sanctuary – **Annexure I**.
6. It is respectfully submitted that **Watershed** is an any surface area from which runoff resulting from rainfall is collected and drained through a common point. The Proposed site is located at the top of a hill. Naturally, the precipitated water from the hilltop will drain in the nearby channel or river as the case may be. The natural terrain from the proposed site to the nearest channel, captured based on the KML file submitted by the proponent in Parivesh Portal, using Google Earth Pro is annexed – **(Annexure-II)**.
7. It is respectfully submitted that as per **Directorate General of Mines Safety** circular no. - DGMS (SOMA)/ (Tech) Cir No. 2 of 2003 Dt. 31/01/2003 – **Annexure III**, on the subject of Dangers due to blasting projectiles, all places within the radius of 500 m from the place of firing to be treated as danger zones which states that

“.... Under the existing provisions of the Metalliferous Mines Regulations, 1961, before a shot is charged, stemmed or fired the shot firer/blaster required, amongst other things to ensure that all persons within a radius of 300m from the place of firing (referred to hereinafter as danger Zone)



have taken proper shelter, apart from giving sufficient warning by efficient signals or other means approved by the manager over the entire zone...”

“... There had been, however, a number, of instances where flying fragments due to blasting had ejected not only within but also beyond the danger Zone, resulting into serious and even fatal accidents...”

“...In the interest of safety to treat all the places within a radius of 500 mt. of the place of firing as the danger zone, all persons who are required to remain within the danger zone at the time of blasting should take protection in substantially built shelter...”

8. It is respectfully submitted that the proposal was placed in the 455th Meeting of SEAC held on 27.03.2024. Based on the presentation made and documents submitted by the project proponent, SEAC noted the following
- i. Earlier application No. SIA/TN/MIN/408095/2022 dt: 26.11.2022 (File No. 9615/2022) was appraised vide 363rd SEAC meeting held on 14.03.2023. Based on the presentation and documents furnished by the project proponent, SEAC noted that the proposed quarry site is completely covered with green vegetation with rich biodiversity and also there is a CSI Church situated at 220m and also a Valiyattumugam Issaki Amman Temple within 300m radial distance of the proposed quarry site. Further, the TNMMCR, 1959 Rule No. 36 (1-A) (a) states that “no lease shall be granted for quarrying stone within 300m from any inhabited site”. In view of the above, SEAC has decided not to recommend the proposal for the grant of Environmental Clearance.
 - ii. Now, the Proponent has resubmitted the same proposal by revising lease area along with all necessary supporting documents in order to obtain Environmental Clearance.



Member Secretary

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During the presentation, the SEAC had observed the following:

- a) The proposed site is at a distance of approximately 5km from Kanniyakumari Wildlife Sanctuary.
- b) The proposed quarry site is located in an ecologically sensitive area of Western Ghats and is surrounded by thick vegetation with rich biodiversity.
- c) Further, the proposed mine lease area is in the top of a hill which appears to be a watershed which will in turn have implications on the contribution of surface runoff.
- d) There is a public road located at a distance of 140 m from the foothill of the proposed mine lease area which falls within 500 m danger zone as stipulated by the DGMS for the blasting operations and it could possibly pose a threat to the vehicles plying on the Highway.
- e) Bharat Petroleum bunk is located at a distance of 200m from the proposed quarry site.
- f) Also, there is a CSI Church situated at 320m and Valiyattumugam Issaki Amman Temple at 300m from the proposed quarry site.
- g) The quarrying operation will cause depletion of fertile topsoil which will lead to environmental degradation to flora and fauna in and around the area.

Based on the documents and presentation made by the proponent, SEAC after detailed discussions decided not to recommend this project proposal considering all the above factors.

9. It is respectfully submitted that subsequently, the subject was placed before the Authority (SEIAA-TN) in its 714th meeting held on 24.04.2024. Considering the sensitivity of the area, the Authority, after detailed discussions, decided to accept the decision of SEAC and decided to request Member Secretary, SEIAA-Tn to grant rejection letter to proponent as per the SEAC minutes. Further, Authority decided to close and record this proposal.



10. It is respectfully submitted that subsequently the rejection letter has been granted and uploaded in the PARIVESH portal vide EC Identification No. EC24C0108TN5501484N dated 10.05.2024.

Therefore, it is humbly prayed that this Hon'ble Tribunal may be pleased to record and pass orders as this Hon'ble Tribunal may deem to fit and proper in light of the facts and circumstances of this case and thus render justice.

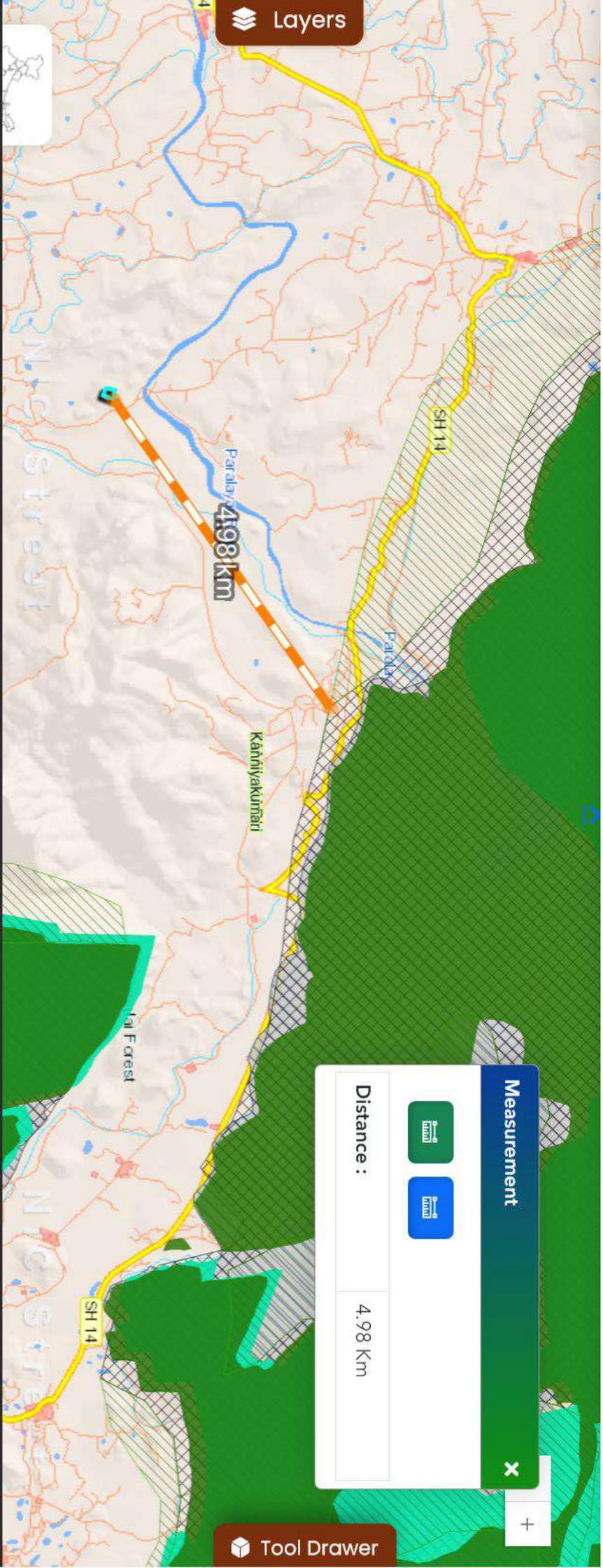


Member Secretary
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Panagal Maligai, No.1, Jeevitha Road,
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Solemnly affirmed in Chennai
On this the 19th day of July 2024
And signed his name in my presence

Before me,

Advocate, Chennai



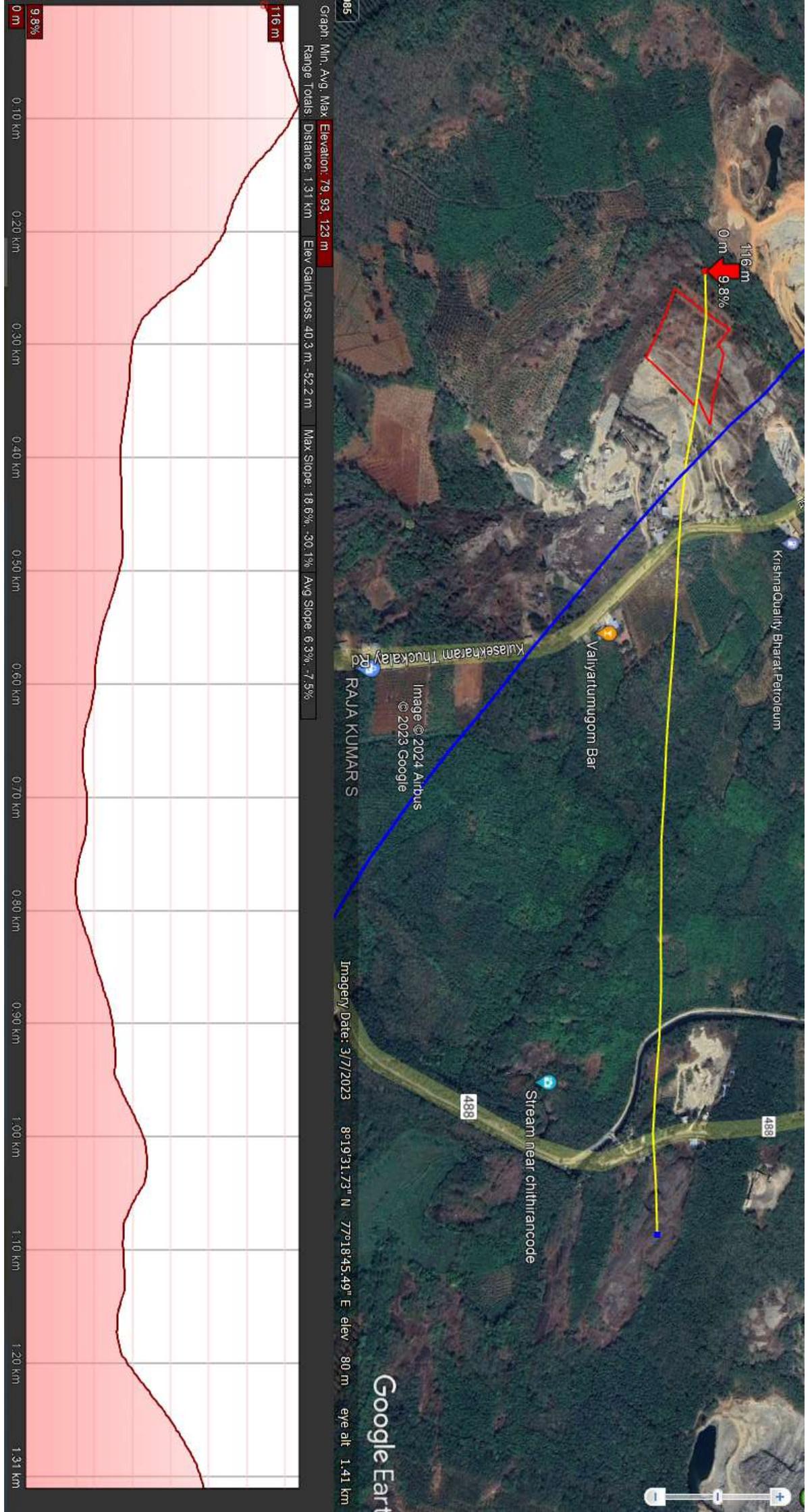
Disclaimer : Result from the KYA module of Parivesh 2.0 is based on information submitted by user and number of business and decision rules which are dynamic in nature. Therefore the output generated from the module is only for tentative guidance purposes and cannot be used in any court of law or other proceedings. The module is not liable for any claim on applicability of various clearances on any project / activity and/or permission for various clearances. Further, Ministry does not take any responsibility for the output, express or implied, regarding the accuracy, adequacy, or completeness of any information from the KYA module. The Ministry, under no circumstance, shall have any liability to you for any loss or damage of any kind incurred as a result of the use of the KYA module or reliance on its output. The use and reliance on output from KYA/ KYAA module is solely at your cost and risk.

Scale ➡ ➡ 1:72224 ➡ ➡ Coordinates ➡ 8.3763, 77.2675

Measurement ✕

Distance : 4.98 Km

Tool Drawer +



No. DGMS (SOMA)/ (Tech) Cir No. 2 of 2003 Dt. 31/01/2003.

To

All Owners, Agents and Managers of Mines

Subject.: Dangers due to blasting projectiles.

Accidents due to project files ejecting from blasting had been a major source of accident in both below ground and opencast workings.-Under the existing provisions of Coal Mines Regulations, 1957 and the Metalliferous Mines Regulations, 1961, before a shot is charged, stemmed of fired the shotfirer/blaster required, amongst other things to ensure that all persons within a radius of 300m from the place of firing (referred to hereinafter as danger Zone) have taken proper shelter, apart from giving sufficient warning by efficient signals or other means approved by the manager over the entire zone. There had been, however, a number, of instances where flying fragments due to blasting had ejected not only within but also beyond the danger Zone, resulting into serious and even fatal accidents.

This Directorate from time to time had drawn the attention of all concerned about the dangers from flying projectiles through issue of DGMS Circulars Viz. Circular Tech. 15/1977 and 8/1982, Recently however, another fatal accident occurred due to same reason.

Enquiry into the accident revealed that in an open cast coal mine, overburden had been kept dumped against the free face of OB bench, 12 No. first row of holes were left uncharged because of spontaneous heating in the seam below, 17 holes of 150 mm 6.5 mt. Depth drilled in 7 mt. x 5 mt. Pattern (spacing & burden) charged with 75 kg./ hole and 42 holes of 6.5 m depth 250 mm dia drilled in 6 mt. x 6 mt. pattern charged with 130 kg /hole were blasted. The projectiles ejected due to blasting travelled for a distance of about 412 m in the reverse direction away from the free face and hit a mechanical supervisor. The enquiry further revealed that the deceased had taken proper shelter in a blasting shelter shelter but had come out of the shelter immediately on hearing to the sound of blast and was subsequently hit by the projectiles.

Over years there had been refinement of blasting practices as well as development in explosives and accessories, whereby it is possible to control the throw and prevent ejection of flying fragments within a safe distance, with relative ease. There is, therefore, no reason why such type of accident should continue to occur.

The matter is brought to your attention so that following corrective measures are taken in case similar conditions exists in any mine under your control.

- (1) In the interest of safety to treat all the places within a radius of 500 mt. of the place of firing as the danger zone, all persons who are required to remain within the danger zone at the time of blasting should take protection in substantially built shelter.

- (2) Formilate a code of practice for controlled blasting Technique with milli-second delay detanators / electric shock tubes/ cord relays or use of sequential blasting machines or by adequately muffling of holes including precautions to be taken during blasting operation until all clear signal given by blaster.
- (3) Training of persons and their helpers engaged in such blasting operation

Director General of Mines Safety.