

BEFORE THE NATIONAL GREEN TRIBUNAL

SOUTHERN ZONAL BENCH AT CHENNAI

[Under Section 25 of the National Green Tribunal Act,2010]

Execution Application No.....1.....of 2023**in****O.A. NO.....1 5 5.....of 2020****BETWEEN**

Vijesh Kumar, aged 39 years, S/o. Vidhyadharan, Shailaja Bhavan,
Enthivila, Cheeranikikara P.O., Vembayam,
Thiruvananthapuram-695 615.

Email: vijeeshvembayam@gmail.comMob: 9633881806.....**Applicant/Applicant****VERSUS**

1. Union of India,

Ministry of Environment, Forest and Climate Change,

Rep. by its Secretary, Indira Paryavaran Bhavan,

Jorbagh Road, New Delhi-110 003.

Email: secy-moef@nic.in Phone No: 011-24695262... and others.....**Respondents/Respondents****MEMO FOR THE PRODUCTION OF THE JUDGMENT OF THE
HON'BLE HIGH COURT OF KERALA****Counsel for the Applicant****P.B.SAHASRANAMAN****&****S.SAI SATHYJIH****Advocates**

BEFORE THE NATIONAL GREEN TRIBUNAL

SOUTHERN ZONAL BENCH AT CHENNAI

[Under Section 25 of the National Green Tribunal Act,2010]

Execution Application No.....1.....of 2023**in****O.A. NO.....1 5 5.....of 2020****BETWEEN**Vijesh Kumar.....**Applicant/Applicant****VERSUS**Union of India and others.....**Respondents/Respondents****I N D E X**

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1	13-10-2024	Memo filed by counsel for the applicant	1 to 2
2	03-10-2024	Judgment of the Hon'ble High Court of Kerala in W.P.(C)No. 24112 of 2024 filed by Siby Joseph.	3 to 12

Certified that the above documents are true copies of their originals.

Dated this the 13th October, 2024.

Counsel for the Applicant

BEFORE THE NATIONAL GREEN TRIBUNAL

SOUTHERN ZONAL BENCH AT CHENNAI

[Under Section 25 of the National Green Tribunal Act,2010]

Execution Application No.....1.....of 2023

in

O.A. NO.....1 5 5.....of 2020

BETWEEN

Vijesh Kumar.....**Applicant/Applicant**

VERSUS

Union of India and others.....**Respondents/Respondents**

MEMO FILED BY COUNSEL FOR THE APPLICANT

1. It has come to the knowledge of this applicant that one Siby Joseph has filed a public interest litigation before the Hon'ble High Court of Kerala alleging that the Government of Kerala is not taking earnest effort to execute the order of this Hon'ble Tribunal and a C.B.I enquiry is to be conducted why it was not done.
2. The Hon'ble High Court of Kerala disposed of the said writ petition observing that that this Tribunal will take a take a decision upon such an application. The High Court also observed that this Hon'ble Tribunal will no doubt look into the issue and issue necessary directions for execution of its own order and recover the compensation expeditiously which will ensure to the benefit of the State. A true copy of the said judgment in

W.P.(C)No. 24112 of 2024 dated 3rd October, 2024 is produced herewith for information of this Hon'ble Tribunal.

Dated this the 13th day of October, 2024.

A handwritten signature in black ink, appearing to read 'S. M. M.', is written over a horizontal line. There are two small dots below the line.

Counsel for the Applicant

3



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2024:KER:75120

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR. NITIN JAMDAR

&

THE HONOURABLE MR. JUSTICE S.MANU

THURSDAY, THE 3RD DAY OF OCTOBER 2024 / 11TH ASWINA, 1946

WP(C) NO. 24112 OF 2024

PETITIONER/S:

SIBI JOSEPH
AGED 41 YEARS
SIBI JOSEPH, AGED 41 YEARS, SON OF K.S.JOSEPH,
KALLAMACKAL HOUSE, DHONI.P.O., PALAKKAD-678 009, PIN -
678009

BY ADVS.
P.B.SAHASRAMAN
T.S.HARIKUMAR
SANAND RAMAKRISHNAN

RESPONDENT/S:

- 1 STATE OF KERALA
REPRESENTED BY ITS PRINCIPAL CHIEF SECRETARY,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001, PIN
- 695001
- 2 THE DIRECTOR OF MINING AND GEOLOGY
PATTOM PALACE P.O. KESAVADASAPURAM,
THIRUVANANTHAPURAM., PIN - 695004
- 3 THE STATE ENVIRONMENT IMPACT ASSESSMENT AGENCY-KERALA
4TH FLOOR, K.S.R.T.C. BUS TERMINAL COMPLEX,

4



2

2024:KER:75120

**THIRUVANANTHAPURAM, REPRESENTED BY ITS SECRETARY., PIN
- 695001**

- 4 UNION OF INDIA
REPRESENTED BY ITS PRINCIPAL SECRETARY MINISTRY OF
ENVIRONMENT, FOREST AND CLIMATE CHANGE, PARIYAVARAN
BHAVAN, CGP COMPLEX, LODHI ROAD, NEW DELHI, PIN -
110033**
- 5 CENTRAL BUREAU OF INVESTIGATION
ANTI CORRUPTION BRANCH, KATHRIKADAVU, P.O.KALLOOR,
COCHIN. REPRESENTED BY ITS DIRECTOR., PIN - 682017**
- 6 THE PRINCIPAL SECRETARY
DEPARTMENT OF INDUSTRIES & COMMERCE, GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM - 695 001. *ADDL.
R6 IS SUO MOTU IMPLEADED AS PER ORDER DATED 06/09/2024
IN WP(C)**

**BY ADVS.
ADVOCATE GENERAL OFFICE KERALA
DIRECTOR GENERAL OF PROSECUTION(AG-10)
SHRI.P.NARAYANAN, SPL. G.P. TO DGP AND ADDL. P.P. ()
SHRI.SAJJU.S., SENIOR G.P.()**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
03.10.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**



NITIN JAMDAR, C.J.
&
S.MANU, J.

W.P.(C)No.24112 of 2024

Dated this the 3rd day of October, 2024

JUDGMENT

NITIN JAMDAR, C.J.

Heard learned Counsel for the Petitioner Sri.Sahasranaman and learned Special Government Pleader Sri.Jaffar Khan.

2. The Petitioner has filed this Public Interest Litigation with the following prayer:

i. To issue a writ, direction or order in the nature of mandamus or such other appropriate writ, direction or order commanding the 5th respondent to conduct an enquiry in the involvement of bureaucrats, Ministers, politicians, etc. in not taking effective steps recovering an amount the amounts due in O.A.No.155 of 2020 of the National Green Tribunal, Southern Zone, Chennai dated 28.09.2022 and in not determining and recovering the environmental loss suffered on account of the continuance of mining activities after 15.01.2016 (Ext.P1) without Environmental Clearance and to prosecute them in accordance with law;

3. This prayer is sought regarding an order passed by the National Green Tribunal in Original Application No.155 of 2020 by one Vijeesh Kumar against



the Union of India, State Environmental Impact Assessment Authority,

M/s.Covenant Stones Pvt.Ltd. and the Director of Mining and Geology. The National Green Tribunal has disposed of the original application issuing various directions, which includes a direction to pay compensation as under:

“The Tribunal accept the environmental compensation ₹41,46,50,509/- (Forty One Crores Forty Six Lakhs Fifty Thousand Five Hundred and Nine) assessed by the Joint Committee payable by the 3rd respondent and we direct the 3rd respondent to pay the amount in nine equal monthly instalments and any amount assessed by the statutory authorities before whom proceedings are pending and paid by the 3rd respondent shall be given credit to the compensation assessed by this Tribunal and the 3rd respondent is liable to pay only the balance amount towards the environmental compensation within the time directed by this Tribunal.”

4. After this order, M/s.Covenant Stones Pvt.Ltd. has filed a Special Civil Appeal No.41655/2022 in which notice is issued on 15 May 2023 and the Hon'ble Supreme Court has observed that as of now, they are not inclined to stay the impugned judgment.

5. The grievance of the Petitioner is that, though a direction is issued by the National Greens Tribunal to pay an amount of Rs.₹41,46,50,509/- (Forty One Crores Forty Six Lakhs Fifty Thousand Five Hundred and Nine) as environmental compensation by the said Covenant Stones Pvt.Ltd, which would enure to the benefit of the State of Kerala, no steps have been taken by the State of Kerala for the same for more than two years. According to the Petitioner, the State of Kerala is in need of funds for various purpose. There is no reason that



the State is not taking steps to get the order of the National Greens Tribunal enforced for recovery of the compensation.

6. The learned Special Government Pleader states that an execution application has already been made by the original applicant before the National Green Tribunal and notices have been issued by the National Green Tribunal. Therefore, independent proceedings in this court is not warranted.

7. Firstly, the Petitioner has not joined the said M/s.Covenant Stones Pvt.Ltd. as a party respondent in this petition. Secondly, an execution application is pending before the National Green Tribunal. Thirdly, an appeal filed against the order passed by the National Green Tribunal is pending before the Hon'ble Supreme Court.

8. In these circumstances, it would not be appropriate for us at this stage to initiate different proceedings. If the original applicant is not pursuing the execution application, then it is open to the Petitioner to apply to the Tribunal to implead himself in the execution application to seek execution of the order passed by the National Green Tribunal. However, it is for the National Green Tribunal to take a decision upon such an application. The National Green Tribunal will no doubt look into the issue and issue necessary directions for execution of its own order and recover the compensation expeditiously which will enure to the benefit of the State.



9. However, this exercise is subject to any order passed by the Hon'ble Supreme Court in the pending appeal.

10. The Public Interest Litigation is disposed of.

sd/

**NITIN JAMDAR
CHIEF JUSTICE**

sd/

**S.MANU
JUDGE**

jm/

**APPENDIX OF WP(C) 24112/2024****PETITIONER EXHIBITS**

- Exhibit.P.1.** TRUE COPY OF THE EIA NOTIFICATION AMENDMENT, S.O. 141(E), DATED 15-01-2016 ISSUED BY THE 4TH RESPONDENT
- Exhibit.P.2.** TRUE COPY OF THE JUDGMENT IN SHEFY JOSEPH VS MOEF IN O.A.NO. 244 OF 2017 DATED 27-05-2021 NATIONAL GREEN TRIBUNAL – SOUTHERN ZONAL BENCH
- Exhibit.P.3.** TRUE COPY OF THE JUDGMENT IN CIVIL APPEAL NO. 4643 OF 2021 DATED 16-08-2021
- Exhibit.P.4.** TRUE COPY OF THE INTERIM ORDER PASSED BY THIS HON'BLE COURT IN W.P.(C)NO. 13221 OF 2021, DATED 15-06-2022 OF THIS HON'BLE HIGH COURT
- Exhibit P 5** TRUE COPY OF THE ORDER IN SPECIAL LEAVE TO APPEAL (C) NO(S). 5563/2023 OF THE HON'BLE SUPREME COURT OF INDIA, DATED 24-03-2023
- Exhibit P.6.** TRUE COPY OF THE ORDER WP(C) NO. 13221 OF 2022, DATED 31-03-2023 OF THIS HON'BLE HIGH COURT
- Exhibit.P.7.** TRUE COPY OF THE JUDGMENT RENDERED IN O.A.NO. 124 OF 2021, BY THE NATIONAL GREEN TRIBUNAL, SOUTHERN ZONAL BENCH, CHENNAI DATED 20-12-2023
- Exhibit.P.8.** TRUE COPY OF THE JUDGMENT IN O.A.NO.155 OF 2020 OF THE NATIONAL GREEN TRIBUNAL, SOUTHERN ZONE, CHENNAI DATED 28-09-2022
- Exhibit.P.9.** TRUE COPY OF THE ORDER OF THE SUPREME COURT IN CIVIL APPEAL DIARY NO. 41655/2022, DATED 15-05-2023
- Exhibit.P.10** TRUE COPY OF THE EXECUTION APPLICATION NO...1...



**OF 2023 IN O.A.NO. 155 OF 2020 FILED BEFORE
THE N.G.T. SOUTHERN ZONAL BENCH, CHENNAI**

RESPONDENT ANNEXURES

- Annexure R2(a)** A true copy of judgment dated 05.06.2023 in Writ Petition (Civil) No. 17502 of 2023
- Annexure R2(b)** A true copy of order dated 02.08.2023 issued by the Senior Geologist, Thiruvananthapuram
- Annexure R2(d)** A true copy of the statutory requisition bearing No. 2024/13582/01 dated 15.05.2024 submitted by the Senior Geologist, Thiruvananthapuram
- Annexure R2(f)** A true copy of the statutory notice in Form 10 dated 16.11.2023
- Annexure R2(g)** A true copy of the interim order dated 12.04.2024 in Writ Petition (Civil) No. 6920 of 2024
- Annexure R2(h)** A true copy of order dated 15.05.2024 passed by the Hon'ble Supreme Court in Special Leave to Appeal (C) No. 5563/2023
- Annexure R2(c)** A true copy of the statutory requisition bearing No. 2023/14076/01 dated 15.09.2023 submitted by the Senior Geologist, Thiruvananthapuram
- Annexure R2(e)** A true copy of the statutory requisition bearing No. 2023/14788/01 dated 03.10.2023 submitted for and on behalf of the 2nd respondent

PETITIONER EXHIBITS

- Exhibit P.11** TRUE COPY OF THE JUDGMENT PASSED BY THE NATIONAL GREEN TRIBUNAL, SOUTHERN ZONAL BENCH, CHENNAI, IN APPEAL NO. 5 OF 2002 AND I.A.NO. 194 TO 196 OF 2022, DATED 11-09-2023



RESPONDENT ANNEXURES

Annexure R1(a)

**TRUE COPY OF THE STATUTORY NOTICE IN FORM 1
DATED 11-06-2024**