

BEFORE THE NATIONAL GREEN TRIBUNAL

SOUTHERN ZONE, CHENNAI

Original Application No211 of 2021 (SZ)

In the matter of:

P.Palaniappan, Salem District .

... Applicant(s)

Versus

MOEF & CC, Rep. By its
Under Secretary,
New Delhi and Ors.

...Respondent(s)

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Through

Dr. D. Shanmuganathan

Standing Counsel of Tamil Nadu

National Green Tribunal

Southern Zone, Chennai

DATE: 19.09.2024

**BEFORE THE HONOURABLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI**

in

O.A.No.211 of 2021 (SZ)

IN THE MATTER OF:

P. Palaniappan

.....Applicant(s)

Vs

Union of India and Others

...Respondent(s)

**Additional Affidavit Filed by the Sub-Divisional Magistrate /
Revenue Divisional Officer, Salem.**

September, 2024

Additional Affidavit on O.A No.211 of 2021 (SZ) filed by the Revenue Divisional Officer, Salem before the Hon'ble National Green Tribunal, Southern Zone, Chennai.

With regard to the O.A.No.211 of 2021(SZ) filed by Thiru.Palaniappan, the Hon'ble National Green Tribunal, Southern Zone, Chennai in its order dated 27.08.2024, instructed the Revenue Divisional Officer, Salem to file an additional affidavit on the following points;

i) Why the cost of mineral was not included for the transportation of minerals within the leased area.

ii) Details of Penalty within the lease area.

It is submitted that, based on the report of the Joint Committee report constituted by the Hon'ble Nation Green Tribunal (SZ), Chennai on the illegal quarrying operations within the lease hold area and also in the non-lease hold area carried out by the Respondents, the quantity of mineral removed were ascertained and the report on the same was filed before the Hon'ble Nation Green Tribunal (SZ), Chennai on 16.03.2022.

It is submitted that, in pursuance to this an FIR No.756/2021 dated 31.12.2021, FIR Nos.316/2022 and 317/2022 dated 03.06.2022 filed against the Respondents 12th, 13th and 14th viz.,

Tmt.K.Neela, Thiru.T.Kasiviswanathan and Thiru.K.Selvakumar respectively, in Ammapet Police Station for indulging illegal quarrying and transportation of minerals outside the leased out area in Government Poramboke lands as per G.O.Ms.No.170 Industries Department dated 05.08.2020.

It is submitted that, penal action was initiated against the Respondents after affording due opportunity of hearing for the act of illegal quarrying and transportation of minerals without valid transport permit within the lease hold area, by excluding the cost of mineral, as per Section 21(5) of Mines and Mineral (Development and Regulation) Amendment Act 2021 and Rule 36(A) of Tamil Nadu Mineral Concession Rules, 1959.

i) Reply to Query No. 1:

It is further submitted, in the Tamil Nadu Mineral Concession Rules, 1959, Rule 36(A) is read as;

"whenever any person contravenes the provisions of (Sub-sections (1) and (1-A) of Section 4) of the Act in any land, enhanced seignorage fee upto a maximum of fifteen times the normal rate subject to a minimum of (Twenty four thousand rupee) shall be charged and recovered from that person by the District Collector or the District Forest Officer, as the case may be, or in the alternative, he shall be liable to be punished as provided in sub-section (1) of Section 21 of the Act."

It is also submitted that, in Mines and Mineral (Development and Regulation) Amendment Act 2021, under Section 21, Sub-section (5) is read as;

"whenever any person raises, without any lawful authority, any mineral from any land the State Government may recover from such person the mineral so raised, or where such mineral has already been disposed of, the price thereof, and made also recover from such person, rent, royalty or tax, as the case may be, for the period during which the land was occupied by such person without any lawful authority)".

"(Explanation - On and from the date of commencement of the Mines and Minerals causing to raise or transport any mineral without any lawful authority" occurring in this section, shall mean raising, transporting or causing raise or transport any mineral by a person without prospecting licence, mining lease or composite licence or in contravention of the rules made under section 23 C)."

In this respect, it is submitted that, as per Section 21(5) of Mines and Minerals (Development and Regulation) Amendment Act 2021, on and from the date of commencement of the Act (i.e., 28.03.2021) penalty for illegal mining within a lease granted area does not attract cost of mineral as penalty. Therefore, the cost of mineral was not imposed on quantity of mineral quarried within the lease hold area.

ii) Reply to Query No. 2:

It is submitted that, the details of penalty levied within the lease granted area is as follows;

Sl. No	Name of the lessee	S.F.No, Extent (in Hects.), Classification	Excess quantum of Minerals quarried and transported without transport permit with in leased area		Penalty levied		Total (in Rs.)
			Rough stone (In cu.m)	Top soil (In cu.m)	Rough stone (@59 per cu.m) (Rs.)	Top soil (@33 per cu.m) (Rs.)	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	Tvl. Sri Parasakthi Crusher Private Limited- R11	243/1(Part) - 1.37.0 Hects Patta land	79,325	-	46,80,175	0	46,80,175
2.	Tmt.K.Neela-R-12	199/1(P)- 1.00.0 Hects. Govt. Poramboke land	36,604	5,786	21,59,636	1,90,938	23,50,574
3.	Thiru.T.Kasiviswanathan - R-13	219 (Part) 2.00.0 Hects. Govt. Poramboke land	86,889	6,111	51,26,451	2,01,663	53,28,114
4.	Thiru.Selvakumar-R14	199/1 (Part)- 3.00.0 Hects. Govt. Poramboke land	1,45,566	10,896	85,88,394	3,59,568	89,47,962
5	Thiru.B.Gokulnath -R 15	241/14 (Part)- 1.00.0 Hects Govt. Poramboke land	492	491	29,028	16,203	45,231
			3,48,876	23,284	2,05,83,684	7,68,372	2,13,52,056

Therefore, it is most respectfully prayed that, this Hon'ble Tribunal may be pleased to accept the same and to issue suitable orders as this Hon'ble Court deem fit and thus render justice.


 Revenue Divisional Officer,
 Salem.