

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

**IN**

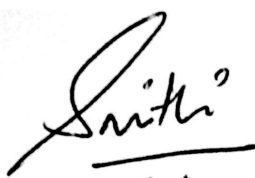
ORIGINAL APPLICATION No. 227 OF 2024 (SZ)

Applicant : Suo Motu

Versus

Respondent(s) : Mr. E.K. Kumaresan for the State of Kerala

**REPORT FILED BY THE ENVIRONMENTAL ENGINEER, LEGAL CELL, ERNAKULAM  
FOR AND ON BEHALF OF KERLA STATE POLLUTION CONTROL BOARD IN THE  
ORIGINAL APPLICATION No. 227 OF 2024**



Adv. Rema Smrithi.

ADDITIONAL STANDING COUNSEL FOR THE RESPONDENT: **R6**

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL**  
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**VOLUME-I**

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Dated this the 07<sup>th</sup> day of September 2024

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL**

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**ORIGINAL APPLICATION No. 227 OF 2024 (SZ)**

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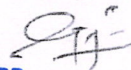
**REPORT FILED BY THE ENVIRONMENTAL ENGINEER, REGIONAL  
OFFICE, LEGAL CELL, ERNAKULAM FOR AND ON BEHALF OF THE  
RESPONDENT OF KERALA STATE POLLUTION CONTROL BOARD**

1. I, Sajeesh Joy, aged 48 years, S/o V. A. Joy, residing at Ernakulam, now working as the Environmental Engineer, Legal Cell, Regional Office, Kerala State Pollution Control Board, Ernakulam. I am competent to and duly authorized to represent Board. I know the facts and circumstances of the case. The factual submissions are true and correct to the best of my knowledge, information and belief.
2. This report is filed on the basis of the the Order dated 02/08/2024 of the Hon'ble Tribunal in which this respondent is directed to file a detailed report on several aspects. The report on the points related to this respondent Board is submitted as follows.

**(B) Whether the mining activities, involving blasting, are permissible in the Western Ghats region of Kerala? In case they are permissible, whether any special conditions are imposed for granting permission. In case quarrying has been banned in the hilly districts of the Western Ghats region, since when the ban was imposed?**

Based on the Direction issued by Ministry of Environment and Forests

**SAJEESH JOY**  
**ENVIRONMENTAL ENGINEER**  
**KERALA STATE POLLUTION CONTROL BOARD**  
**REGIONAL OFFICE**



vide F.No. 1-4/2012-RE (Pt.) dated 13/11/2013 under Section 5 of the Environment (Protection) Act, 1986 **Mining, quarrying and sand mining (new/expansion) is prohibited in ESA (Ecologically Sensitive Area) from date of issue of the MoEF directions except those cases which have been received by EACs/MoEF or SEACs/SEIAAs before the date of putting HL WG report on the website of the Ministry, i.e., 17/4/2013 and which are pending with EACs/MoEF or SEACs/SEIAAs.** Such projects will be dealt under the guidelines and rules applicable at the time of application before the respective EACs/MoEF or SEACs/SEIAAs. A copy of the document of MoEF and CC is marked and produced herewith as Annexure I .

Later Board issued Circular dated 09/09/2015 that Environmental Clearance shall be insisted for considering issuance of consent from the Board for all quarrying activities. A copy of the Circulars marked and produced herewith as Annexure II.

**(C) Whether permissions are being granted for the establishment of Thermal Power Projects or expansion of existing units after the year 2010. If yes, the number and capacity of the Thermal Power Plants established may be furnished.**

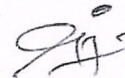
Consent to Establish for new Thermal Power Projects or expansion of existing units have not been granted after the year 2010.

**(D) What are all the regulations in place to prevent the high-rise structures and massive concrete buildings (exceeding 20,000 Sq. Meters) in the hill districts of Kerala?**

Board issues consent to operate Building and construction projects of 20,000 sq. m. area and above only after ensuring that the projects have Environmental Clearance as per the Environmental Impact Assessment (ESA) Notification, 2006.

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

Dated this the 07<sup>th</sup> day of September 2024



ENVIRONMENTAL ENGINEER

SAJEESH JOY  
ENVIRONMENTAL ENGINEER  
KERALA STATE POLLUTION CONTROL BOARD  
REGIONAL OFFICE



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

**IN**

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**VOLUME-II  
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Dated this the 07<sup>th</sup> day of September 2024

Adv.Remam Smrithi.

ADDITIONAL STANDING COUNSEL FOR THE RESPONDENT

F. No. 1-4/2012 – RE (Pt.)  
Government of India  
Ministry of Environment and Forests

Paryavaran Bhavan,  
CGO Complex, Lodhi Road,  
New Delhi – 110003

Dated: 13.11.2013

**Sub: Directions under Section 5 of the Environment (Protection) Act, 1986**

WHEREAS, Western Ghats is an important geological landform on the fringe of the west coast of India. It is the origin of Godavari, Krishna, Cauvery and a number of other rivers. It extends over a distance of approximately 1500 km and traverses through Six States viz. Gujarat, Maharashtra, Goa, Karnataka, Kerala and Tamil Nadu;

2. And whereas, Western Ghats is a global biodiversity hotspot and a treasure trove of biological diversity. Western Ghats harbour many endemic species of flowering plants, endemic fishes, amphibians, reptiles, birds, mammals and invertebrates. It is also important center of evolution of economically important domesticated plant species such as pepper, cardamom, cinnamom, mango and jackfruit. Western Ghats has many unique habitats which are home to a variety of endemic species of flora and fauna such as Myristica swamps, the flat-topped lateritic plateaus, the Sholas and wetland and riverine ecosystems. UNESCO has included certain identified parts of Western Ghats in the UNESCO World Natural Heritage List because Western Ghats is a Centre of origin of many species as also home for rich endemic biodiversity and hence a cradle for biological evolution;

3. And whereas, the Ministry of Environment and Forests (MoEF) had constituted a High Level Working Group (HLWG) under the Chairmanship of Dr. K. Kasturirangan, Member (Science), Planning Commission vide office order dated 17.8.2012 to study the preservation of the ecology, environmental integrity and holistic development of the Western Ghats in view of their rich and unique biodiversity;

4. And whereas, the HLWG submitted its report to the MoEF on 15<sup>th</sup> April 2013 and it was thereafter put in public domain by hosting on the website of the Ministry, and also disseminated to all stakeholders including the six State Governments of Western Ghat region for their feedback and comments. All stakeholders were also invited to offer their views on the HLWG report. Thereafter, on completion of a transparent process, the Ministry has accepted the HLWG report "in principle" with certain stipulations;



*SJ*  
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ENVIRONMENTAL ENGINEER  
KERALA STATE POLLUTION CONTROL BOARD  
REGIONAL OFFICE  
GANDHI NAGAR, KOCHI-682020

5. And whereas, HLWG noted that approximately 60 per cent of the Western Ghats region is under cultural landscape i.e. it has human dominated land use of settlements, agriculture and plantations (other than forest plantations) and around 40 per cent of the land area is under natural landscape. Of the natural landscape, the biologically rich areas, with some measure of contiguity are roughly 37 per cent of the Western Ghats which is 59,940 km<sup>2</sup>. HLWG identified this 37% of natural landscape having high biological richness, low forest fragmentation, low population density and containing Protected Areas (PAs), World Heritage Sites (WHSS) and Tiger and Elephant corridors as an Ecologically Sensitive Area (ESA);

6. And whereas the list of State-wise, District-wise and Taluk-wise villages in ESA identified by the HLWG is at Annexure - A;

7. And whereas, because of unprecedented threats to natural landscape of Western Ghats region by development projects and urban growth, the Working Group has recommended a non-tolerance policy with respect to highly interventionist and environmentally damaging activities like mining or polluting industries. HLWG has highlighted the need for urgent action for protection of biologically rich, diverse and natural landscape of Western Ghats;

8. And whereas, keeping in view the above, immediate action is required to be taken by the Central Government in public interest in light of Rule 4(5) and Rule 5(4) of the Environment (Protection) Rules, 1986 as amended from time to time to preserve the environmental integrity of the Western Ghats;

9. Now therefore, in exercise of powers conferred under Section 5 of Environment (Protection) Act, 1986, the following directions are hereby issued:

The following category of new and/or expansion projects/activities shall be prohibited in ESA from date of issue of these directions except those cases which have been received by EACs/MoEF or SEACs/SEIAAs before the date of putting HLWG report on the website of the Ministry, i.e., 17.4.2013 and which are pending with EACs/MoEF or SEACs/SEIAAs. Such projects will be dealt under the guidelines and rules applicable at the time of application before the respective EACs/MoEF or SEACs/SEIAAs. Apart from such cases, no pending case or any fresh case shall be considered by the EACs/MoEF or SEACs/SEIAAs from the date of issue of these directions.

- (a) Mining, quarrying and sand mining
- (b) Thermal Power Plants
- (c) Building and construction projects of 20,000 sq. m. area and above
- (d) Township and area development projects with an area of 50 ha and above and /or with built up area of 1,50,000 sq.m. and above
- (e) Red category of industries\*



*SAJES*

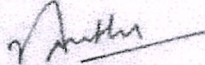
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(\* The CPCB list of red category industries would be the minimum list. Industries not included in the CPCB list but mentioned in the Red Category list of the SPCB of the concerned Western Ghat State shall also be categorized as Red category for that State.)

10. These directions will come into force with immediate effect and remain in force till further orders. In case of any violation, appropriate legal action under the Environment (Protection) Act, 1986 shall be taken.

11. This issues with the approval of the Competent Authority.

  
**Dr. Amit Love**  
Deputy Director

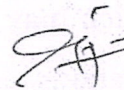
To

1. State Environment Impact Assessment Authority, Gujarat,
2. State Environment Impact Assessment Authority, Maharashtra,
3. State Environment Impact Assessment Authority, Goa,
4. State Environment Impact Assessment Authority, Karnataka,
5. State Environment Impact Assessment Authority, Kerala
6. State Environment Impact Assessment Authority, Tamil Nadu
7. State Expert Appraisal Committee, Gujarat,
8. State Expert Appraisal Committee, Maharashtra
9. State Expert Appraisal Committee, Goa
10. State Expert Appraisal Committee, Karnataka
11. State Expert Appraisal Committee, Kerala
12. State Expert Appraisal Committee, Tamil Nadu
13. All Sectoral Expert Appraisal Committees, Ministry of Environment and Forest
14. Member Secretary, Central Pollution Control Board
15. Member Secretary, State Pollution Control Board of Gujarat/Maharashtra/Goa/  
Karnataka/Kerala/Tamil Nadu

Copy to:-

1. PS to MoS (I/C) E&F
2. PPS to Secretary (E&F)
3. PPS to AS (HP)
4. PS to JS (AT)/Adv (GVS)
5. Concerned Regional Offices of the Ministry dealing with the States of Gujarat, Maharashtra, Goa, Karnataka, Kerala and Tamil Nadu





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REGIONAL OFFICE  
GANDHI NAGAR, KOCHI-682020

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REGIONAL OFFICE  
GANDHI NAGAR, KOCHI-682020

3



**KERALA STATE POLLUTION CONTROL BOARD**  
കേരള സംസ്ഥാന മലിനീകരണ നിയന്ത്രണ ബോർഡ്

Pattom P.O., Thiruvananthapuram - 695 004  
പട്ടം പി.ഒ., തിരുവനന്തപുരം - 695 004

PCB/HO/TAC/GoM/953/2014

Date: 09/09/2015

**CIRCULAR**

Sub:- Consent of the Board for quarrying activity - reg.

Ref:- 1. This office letter of even no. dated 22.04.2015

2. Judgment dated 13.01.2015 of the NGT, Chennai in OA. No. 123 of 2014 and MA. No. 419 of 2014 and relates cases.

3. Judgment dated 15.07.2015 of the Hon'ble High Court of Kerala in WA No. 1514 of 2015 in WP(C) No. 7781/2015

4. Judgment dated 07.08.2015 of the NGT, Chennai in OA. No. 400 of 2013

(The copies of judgments under reference (2) (3) & (4) are available in Board's website).

As per the above judgments, Environmental Clearance has to be obtained for all quarrying activity.

The National Green Tribunal has in page 84 of the judgment under reference (2) stated that 'Hon'ble Supreme Court in the case of Deepak Kumar (supra) has clearly directed that the miners possessed of mining area of less than 5 hectares cannot operate without taking environmental clearance. This could unexceptionally apply to new units, but, in our considered view, would also apply to existing mine lease holders as well; except that they would have to be given time to comply with the requirements of law'.

The judgment of the Hon'ble High Court holds that - 'valid permit' means permit which may entail a permit holder to carry on mining operation and mining operations can only be carried out along with Environmental Clearance. Those permit holders who does not have Environmental Clearance cannot be said to have valid permit on the relevant date.

Vide reference (4) the NGT has banned all illegal quarrying activity in ESA areas in Palakkad District.



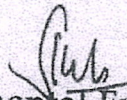
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The permits & leases for quarrying are issued from Mining & Geology and Revenue Department. The letter of indent of Mining and Geology is relied by the Board for issuing consent from the Board. This has been insisted vide reference (1), based on the communication received from Mining & Geology subsequent to the framing of the Kerala Minor Mineral Concession Rules, 2015.

The consent issued to quarries by the Board is under Water Act and Air Act only and hence so far the Board is not insisting on Environmental Clearance for issue of consent. In the background of the above three judgments, to safeguard the interest of environment in general and to ensure that the judgement of the Hon'ble Supreme Court which is the law of the land and is binding on all concerned, as a matter of abundant caution the undersigned hereby issue direction to the effect that environmental clearance shall be insisted for considering issuance of consent from the Board for all quarrying activities.

Sd/-  
**CHAIRMAN**

Approved for issue

  
**Environmental Engineer - 1**

To

1. The Chief Environmental Engineer  
Regional Office, EKM

The Senior Environmental Engineer  
Regional Office, TVM/ KKD

The Senior Environmental Engineer  
District Office, Palakkad

The Environmental Engineer  
District Office, TVM / KLM / PTA / KTYM / ALPY / IDK / EKM 1, 2  
(Perumbavoor) & 3 (ESC) / TSR / KKD / MLPM / WYND / KNR / KSGD

2. All Technical Officers in Head Office
3. To IT Cell (for uploading the circular in Board's website)
4. CA to Chairman
5. CA to Member Secretary

