

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI**

O. A. No. 304 of 2019

IN THE MATTER OF:

M.HARIDASAN

...Applicant in the OA

Versus

STATE OF KERALA& ORS

...Respondents in OA

AND IN THE MATTER OF:

P.K. Biju @ Varghese P.K

...APPLICANT

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Applicant
Through:



**USHA NANDINI.V
BIJU P. RAMAN**

**ADVOCATES ON RECORD
57 LAWYERS 'CHAMBER
SUPREME COURT OF INDIA
NEW DELHI-1**

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AND IN THE MATTER OF:

P.K. Biju @ Varghese P.K

S/o. Kuriakose, aged 49 years

residing at Parakkal house,

Koranchira P.O., Palakkad – 678 684APPLICANT

OBJECTION TO THE O.A. No. 304/2019 FILED BY THE APPLICANT
/ RESPONDENT

It is most humbly submitted as follows:

1. The above O.A. is filed by the Applicant in respect of the functioning of a quarry in Palakkad District in the State of Kerala. It is not maintainable either in law or on facts. I deny the allegations therein as they are false.
2. That as per the letter which is now treated as the ground for *suo motu* registration of the above numbered case is filed against my proposed quarry. Actually the said quarry area is

lying vacant without any activity awaiting the license from the local authority and Mineral Concession from the Mining & Geology authorities.

3. In the meanwhile, the above complaint by way of an alleged mass petition had come to this Hon'ble Tribunal. In the said complaint several persons, who had not put any signature were made as signatories. Some of the persons who were no more at the time of filing of the complaint also were made as signatories. In other words, those signatures are forged signatures.
4. The above O.A. has been raised as a *suo motu* proceedings based on a complaint lodged before the Hon'ble Prime Minister of India. It was forwarded to this Hon'ble Tribunal and proceedings were begun thereon. The allegations were against the quarry proposed to be commissioned by me in 2.308 Hectares of land comprised in Survey No. 303/Part of Kizhakkencherry-II Village of Alathur Taluk.

5. This respondent was issued with a valid Letter of Intent dated 26/03/2017 thereto from the Department of Mining & Geology. It was after verifying the Revenue records, my title deeds as well as suitability of the location for conducting Granite Building Stone quarry. It is only a Small Scale activity of less than 5 Hectares. Therefore, at that time, this respondent had no option than to apply for environmental clearance through District Authority and DEIAA appointed as per EIA Notification dated 15/01/2016. It was processed and issued to me as per E.C. dated 29/11/2018. The signatories to the complainant did not opt to challenge the same.
6. This respondent had obtained a valid consent to operate from the State Pollution Control Board as per consent dated 19/12/2018. Likewise, he was issued with a valid Explosive License in Form LE-3 dated 13/11/2018.
7. There were some fortune seekers styled themselves as Environmentalists. This respondent did not heed to their

illegal demands for ransom. Thereby, due to their influence, the Panchayat Members who were behind them objected the issuance of Panchayat License. It was ended in litigation before Tribunal for Local Self Government Institutions, Thiruvananthapuram. Later it was allowed in favour of this respondent but he has not been issued with Mining Lease so far.

8. In the meanwhile, even by forging signature of various persons, the above referred to complaint was forwarded to the Hon'ble Prime Minister of India and later proceedings in O.A. No. 304/2019 were initiated.
9. Curiously, this is a general complaint. There is no specific allegations against anything that is happened in that area. There is no specific challenge as to the licenses and clearances including environmental clearance issued to me from the authorities concerned. In the absence of any such challenge, there cannot be a complaint in that format based on such allegations against my proposed quarry. This

respondent has not started my quarry yet because of these issues. In such a situation, an unfounded apprehension is the real cause allegedly put forward by the complainants.

10. It is understood that many of the signatories to the petition were not aware of the contents thereof. Moreover, some of such signatories were no more even as on the date of the said complaint which is dated 13/02/2019. That means the said complaint is a fabricated one without any specific allegation in respect of my proposed quarry. All the allegations levelled therein are without any actual or scientific basis. Those allegations are specifically dealt with hereunder.

11. The signatories including the first signatory to the complaint are residing far away from the proposed quarry site. The said village is a normal village as other villages in the State of Kerala. The averments regarding farm animals, Poultry and Cows are incorrect. Every such destruction of animals is under regulations. Averments regarding presence of wild animals also is incorrect. The averment that establishment

of quarry or crusher would wither away rare species of animals and plants is without any foundation. All these aspects were taken care of by the Regulatory authorities concerned before issuing consent, clearances and licenses to this respondent.

12. The averment that the proposed quarry area is geographically steep downward is incorrect. The actual slope has been noted by the competent authority which had approved the mining plan and these aspects were taken care of by the competent expert appraisal committee as well.

13. The averments regarding phobia of flying rock and sound is unfounded. It is not clear how such an averment was made even when there was no blasting when the quarry was not begun. The allegations regarding incessant blasting, flying rock as well as dust are unfounded. The same was averred by ignoring the approved mine plan for the proposed quarry.

14. The averments regarding landslides and tremors also is incorrect. The averments regarding floods in Kerala is incorrect. The averment regarding landslides also is incorrect. The averment that stone quarries and crushers would increase intensity of soil erosion, landslides and tremors is incorrect and hence, denied. There is no residential building within 100 Meters distance from the proposed quarry site. The residence of Sri. Haridasan, the first signatory to the petition is located 2 Kilometers away from the proposed quarry site. The quarry lease has not been executed so far and the quarry activity has been commenced yet.
15. The averment that the proposed area is a focal area for irrigation and electricity project is incorrect. The allegation that it is a pivotal source of potable water to the entire area is also incorrect.
16. The averment that establishment of stone quarries and crushers at this place would inhibit source of water and it

would affect Hydroelectric Project is incorrect. Actually, this is a landslide prone area and no dam would be constructed and no Hydroelectric Project would be established. A dam is more detrimental to the flora and fauna if the complainant's case is correct regarding the presence of alleged rare species of wild animals. The said area has not been identified as ecologically sensitive zone. Either for the purpose of ESA Notification in connection with Western Ghats. That means, this is not a Ecologically Sensitive Area in any manner.

17. The averments regarding the location importance of Kizhakkancherry Village as per Gadgil Committee Report and Kasturirangan Committee Report is incorrect. That is in respect of Kizhakkancherry I Village and not in respect of Kizhakkancherry II Village. Suppressing this aspect, false submissions are made by the signatories to the complaint.
18. The proposed area is a normal area which has no significance even as per the Gadgil Committee Report as well as Kasturirangan Committee Report. All the averments contrary

to the above aspects made in the petition are denied as false. The allegation that the proposed quarry would harm the life of human beings and it would affect the flora and fauna is a false and unfounded averment.

19. That as per the judgment dated 25.10.2021 of the Hon'ble Supreme Court of India in C.A. No. 6284 of 2021 and connected cases, the matter was remanded for reconsideration with a direction to issue notice to the stake holders before proceedings further in that mater.
20. Actually, the Applicant herein was waiting for a notice from this Hon'ble Tribunal in the above matter. However, this Hon'ble Tribunal was pleased to proceed without further notice to anyone including the Applicant herein. Actually, the Applicant herein is entitled get a specific notice in this matter when the complaint in respect of Applicant's proposed quarry. So far the *de facto* complainant has taken steps to issue notice to this applicant or any person who would be affected by a decision in this case. There is every reason to

doubt that without the Applicant herein, proceedings are going on at the instance of some fortune seekers.

21. In the circumstance, it is just and necessary to place the Applicant's appearance recorded and to allow the Applicant herein to participate in the above proceedings as one of the respondents in the above case.

22. The applicant is the owner in possession of the land having an extent of 2.3087 hectares comprising survey no. 303/part of Kizhakkanchery II village of Alathur Taluk, Palakkad District.

23. That, for obtaining a quarrying lease as per the provisions of Kerala Minor Mineral Concession Rules 2015, the Applicant herein had approached the Mining & Geology Department for obtaining a Letter of Intent. It was issued on 26.03.2017 as prayed for.

24. It was for enabling the Applicant to obtain quarrying lease under the provisions of Kerala Minor Mineral Concession Rules 2015. Therefore the applicant has to produce Mining Plan and Environmental Clearance, Consent from the Pollution Control Board, Explosive license from the authorities concerned and D&O license from the local self Government authority concerned.

25. Since, Environment Clearance was made mandatory by virtue of Deepak Kumar's Case as well as Kerala Minor Mineral Concession Rules 2015, the Applicant herein was forced to obtain Environmental Clearance in 2.3087 hectares of land in the aforesaid survey number. That the Applicant obtained the Consent to Operate from the Kerala State Pollution Control Board for operating the proposed quarry.

26. The Applicant herein had obtained a Form-LE3 license under the Explosives Rules 2008 for stocking explosives in his magazine and using the same in a quarry covered vide the said Environmental Clearance.

27. Every such statutory clearance was issued by recognizing the statutory distance for running a quarry is 50 meters from any dwelling house and road. The 1st signatory to the complaint, alleging to be a resident nearby to my proposed quarry made a false complaint before the National Green Tribunal, Principal Bench, New Delhi by stating that the proposed quarry of the petitioner, if permitted, would cause nuisance to him as well as other nearby residents.
28. To the knowledge of this respondent, the said complaint was preferred by the 1st respondent through registered post before the National Green Tribunal, Principal Bench. By considering the alleged apprehension in the said complaint, this Hon'ble Tribunal, even without issuing a notice to me, *suo-motu* directed the District Magistrate, Palakkad and the Kerala State Pollution Control Board, to submit a report on the pollution mentioned in the said complaint. It was ordered as per the order dated 06/05/2019. Actually there was no

activity in the impugned area and therefore there was no requirement for such investigation.

29. Even without any notice to the Applicant herein, an inspection was conducted and the report dated 10/07/2019 was filed. It is learnt that as per the said report, it was submitted that there was no actual quarrying and the required distance of 50 meters is available for the proposed quarry area. However, as per the order dated 09/10/2019, this Hon'ble National Green Tribunal was pleased to find that the 50 meter distance criteria are not sufficient for a granite stone quarry.

30. As per the said order the State Pollution Control Board was directed to reconsider the distance criteria and the Central Pollution Control Board to share its views to the State Pollution Control Board in the light of the available expert studies on the issue. It was opined therein, without any basic data that the 50 meters was inadequate for quarrying.

31. In pursuance of the said order the said Kerala State Pollution Control Board as per the letter dated 24/10/2019 shared its views with the Central Pollution Control Board. From which it could be seen that there was no study report with the Central Pollution Control Board for fixing the distance criteria.

32. The Central Pollution Control Board.in compliance of the direction of this honourable Tribunal, convened a meeting on 20/11/2019 with the Deputy Chief Controller of Explosives, Directorate of Factories & Boilers. Thereafter, it submitted a report before this National Green Tribunal on 17/12/2019 stating that the prevailing distance criteria of 50 meters can be maintained from the nearby residence if the conditions laid down therein are scrupulously complied with by the project proponent.

33. Not being satisfied with the same, this Hon'ble Tribunal, passed an order on 28/02/2020 in O.A. No. 304 of 2019 stating that the distance criteria of 50 meters for stone quarry when blasts are involved is highly inadequate and can have deleterious effect on noise and air pollution, environment and public health.
34. Thereby this Hon'ble Tribunal directed the Central Pollution Control Board to examine and lay down more stringent conditions and appropriately longer distance within one month and to convey the same to State Boards. Compliance report of the same also was directed to be filed before the National Green Tribunal within time fixed for the next date of posting. Therefore, going by the said order, it can clearly be seen that the said distance criteria was revisited by this Hon'ble Tribunal and not by technically competent authorities for fixation of the same.
35. Actually the Applicant's quarry has not been started its operation so far. It was reported before this Tribunal as well.

Even without starting operation the defacto complainant herein would say his house was facing rifts due to blasting in the quarry. Actually, he is residing around 2 K.M away from the proposed quarry area.

36. As per Section 2 of the Mines and Minerals (Development and Regulation) Act, 1957 the Union has absorbed all the powers to legislate upon the mining activities. Only limited power is given to the federal states in India for making rules and it is only in respect of minor minerals. The power to legislate upon major minerals is always been retained with the Centre.

37. The MMDR Act is self- contained code with respect to the procedure and method of issuance of permission regarding the mining activities. The mines and mines safety conditions have been defined and regulated as per the provisions of the Mines Act and the Metalliferous Mines Regulations, 1961.

38. Therefore, as per the provisions of the MMDR Act the Parliament had provided provisions for compensation/ rehabilitation guidelines in the matter of protection without leaving the mining activities within the ambit of the Environment Protection Act, 1986. Even as per the provisions of the Environment Protection Act what is to be looked into for deciding upon the plausibility of an activity is that whether it would satisfy the conditions prescribed for sustainable development. As per the object and reasons of MMDR Act and the Mines Act 1952 it could be seen that without extracting minerals in a local way as far as possible the development of a nation would be stunted.
39. The Kerala Minor Mineral Concession Rule, 2015 fixes the distance for quarrying. When it is not challenged and unsettled, there cannot be interference there by way of lateral legislation through the third respondent. Therefore, the Rule 10 (f) of the Kerala Minor Mineral Concession Rule, 2015 prevails over the conditions fixed by the Pollution Control Board as per the basic principle that the rule will

prevail over guidelines and the special rule has to prevail over, the general or residuary law. As per section 15 of the MMDR Act, it is the prerogative of the State Government to fix the distance criteria on the basis of the circumstances in that State.

40. In the circumstance, it is just and necessary to record the Applicant herein as party respondent in the above Original Petition even though the applicant was not served with a notice for appearance after remanding the matter by the Hon'ble Apex Court as per the judgment dated 25/10/2021.

41. It is learnt that there are numerous studies by various N.I.I.Ts and Indian School of Mines, Dhanbad to measure the ground vibration that would be possible with various kinds of explosives. In none of these studies it has come out that the vibration due to blasting would cause for a tremor that may affect a civil structure that is located at a distance beyond 35-40 metres in any manner. Further the velocity of fly rock pieces out of blasting cannot support fly rock to

travel beyond 15 – 20 metres even in heavy blasting. There is no heavy blasting expected in the proposed quarry of this respondent.

42. The allegation regarding dust production is unfounded when the dust is not spread due to its heaviness when compared to dust created out of other industrial activities. Therefore, the said distance guidelines violate the fundamental rights guaranteed to the petitioner as per the Constitution of India directly.

43. The Central Pollution Control Board cannot make any regulation in respect of an area covered by MMDR Act, 1957 and Metalliferous Mines Regulations, 1961 or the Mines Act, 1952. Moreover, when the power to legislate upon minor minerals is solely within the power of the State executive-Government – as per the provisions of Section 15 and under Section 23 of the MMDR Act the Central Pollution Control Board cannot issue any order for fixing the distance to be followed for a quarry operation in a minor mineral sector.

44. The Honourable Apex Court as per various decisions has repeatedly held that the National Green Tribunal has no authority to legislate and it cannot go beyond the jurisdiction with it under Chapter III of the National Green Tribunal Act, 2020.
45. As per the Explosive Rules, 2008 it is made clear that the statutory distance for storing 150 kg explosives is 45 metres only from the nearby residence and civil structures. That means a blasting by 150 kg. Explosives at a time would not cause any impact beyond 45 metres. This aspect has been substantiated by the circumstance which would show there was no accident or breaking of windowpane either beyond 7.5 metres during the open cast blasting with 248 kg. Explosives in 3 seconds in Maradu flat demolition as per the direction of the honourable Supreme Court. It is worthwhile to mention that all those flats were located in coastal zone and the structures were erected on piles reaching into hard rock at the bottom.

46. Those guidelines were passed without any authority thereto and without keeping in its mind of the NGT that it is only a statutory Tribunal creature without any power for a constitutional revision or legislative power.
47. Actually the complaint lodged by the 1st respondent neither claims for compensation nor an appeal filed in accordance with the provisions of the National Green Tribunal Act. It was a complaint in respect of my proposed quarry and not in respect of any general issue. The NGT was not vested with any power to issue a direction to legislate or to put any specific condition through other instrumentalities of the State than by adjudicating on the claim or on the validity of an instrument in an appeal. That means the issuance of direction to the Kerala State Pollution Control Board and Central Pollution Control Board, as mentioned above, by the NGT was done without any authority thereto.

48. In the given case the defacto complainant had no complaint in respect of 50-meter distance. This point was taken up suo motu by the NGT without any authority there to as the procedure of the NGT is governed by the principles of Code of Civil Procedure, 1908 only.
49. In several decisions of the NGT itself, it has been held that there cannot be any uniformity in respect of regulations regarding mining due to the diversity of minerals and locations across India. Therefore, a direction to pass uniform guidelines is without jurisdiction there too. The geographical and ecological situations provide for difference kinds of environmental decisions and situations. In case of such a direction it must be backed by proper data and objective applicant of mind.
50. It is worthwhile to mention that from the 1967 Concession Rules, there is no difference to distance criteria as per rule 10 (f) for 2015 concession rules the minor minerals are directly affecting the day to day life of the people of a state

unlike in the case of major mineral that are been used for industrial operations therefore the winning of mineral minerals always would be a small scale activity unlike in the case of major minerals.

51. It has to be presumed that the 1st respondent had approached the National Green Tribunal to ventilate his grievances against the quarry of the petitioner. In such an event, the elementary principles of natural justice demands issuance of notice to the petitioner. So far I am not given any notice in this matter.

52. A perusal of the report of the Central Pollution Control Board will show that the factors which the Board has considered are even contrary to the statutory prescriptions regarding distance. Distance has been prescribed in the KMMC Rules and the same has been prescribed after taking into account the relevant and material facts. The Tribunal has no authority to annul the said prescription made by way of subordinate legislation. The said report filed by the Central

Pollution Control Board was without conducting any study of the issue but the report was filed before the National Green Tribunal, only to satisfy the intention of the Tribunal in fixation of the distance rule. Instead of a study only a tabulation of distance conditions of various states was done thereto and that too was incorrect especially regarding the distance criteria fixed in Kerala.

53. The quarries for Mining Buildings Rules in the State of Kerala had been operating under the provisions of Kerala Minor Mineral Concession Rules, 1967. The distance from the nearby residence and other institutions are regulated by the Department of Mining & Geology in Kerala by incorporating the same in the Kerala Minor Mineral Concession Rules, 1967/2015. As per Rule 10(f) of the Kerala Minor Mineral Concession Rules, 2015, the distance criteria fixed for quarrying from the nearby residence is 50 meters as far as quarrying permits are concerned and Rule 29, Rule 40(i)second proviso fixed 50 meter prohibited distance from quarry to nearby residence as far as quarrying leases are

concerned. When the subordinate legislation fixes distance criteria as 50 meters for carrying out quarrying operations from the nearby residence, there was no justification to refix it as 200 meters.

54. It is learnt that the defacto or anyone else has not challenged the validity of the Environmental Clearance secured by me in accordance with law and it has become final. Therefrom it could be seen that the attempt of the Defacto complainant was an arm-twisting for extortion. Thereby the proceedings before the NGT at the instance of the *de facto* complainant was gross abuse of law and it should not have been entertained. The allegation, if any with respect to the distance or otherwise, which may have impact on the E.C granted to the petitioner could have been decided only with notice and by giving an opportunity to the petitioner for being heard.

55. Further the anticipated loss alleging that there would be detrimental impact on the environment did not give him a

cause of action for the proceedings before the NGT. CPCB had overlooked the changes due to the development of Science and Technology in the blasting operations which provide for controlled blasting with precision now when compared to the conventional blasting.

56. When the decision with respect to the distance for the functioning of a quarry is the prerogative of the State Governments so far as the Minor Mineral is concerned the State Government should have made its stand clear that the 50 meters was fixed by taking into consideration of various aspects. Further when the petitioner has been given with valid environmental clearance and it remains unchallenged a right has been vested with him to start the quarry with a distance of 50 metres from the nearby residence.

57. The jurisdiction to entertain a complaint for forming a legislative measure is not with the National Green Tribunal. There is no executive function vested with the National Green Tribunal as per the National Green Tribunal Act, 2010.

Chapter III of the National Green Tribunal Act does not empower the National Green Tribunal to issue intervene a statutory distance fixed by the competent authority.

58. The quarries in Kerala had been functioning under the Kerala Minor Mineral Concession Rules, 1967. The distance from the nearby residence and other institutions were originally regulated by the department of Mining & Geology in Kerala so far as the Minor Mineral is concerned. Till 2020, there is no accident/pollution due to 50 meters distance condition either from a quarry due to flying rocks etc. A mere comparison of this aspect with road accidents or accidents in construction sites or industrial sites, it could be seen that the comparatively safe one is the quarry activity with respect to the rate of accidents and death as well as pollution. The allegation that the quarrying causes tremour that would affect the buildings within 50 metres also is unsustainable. The presence of drilling holes which was made 40 – 50 years in a continuously worked quarry makes it clear that the tremor related allegations are unfounded.

Had it been otherwise the top of the rock with such drilling holes would have been fallen immediately.

59. Across India the quarrying is being conducted by keeping the 50 metres as a standard distance. The clause 164 (1B) (a) of Metaliferous Mine Regulations 1961 it could be seen that there could be blasting even within 50 metres from that of a building to the blasting point. The relevant rule is extracted below for easy reference as follows: -

(1-B) (a) In the case of an opencast working, where any permanent building or structure of permanent nature, not belonging to the owner, lies within the danger zone, the aggregate maximum charge in all the holes fired at one time shall not exceed two kilograms unless permitted in writing by the Chief Inspector of the Regional Inspector and subject to such conditions as he may specify therein:

Provided that if blasting is done with delay detonators or other means and that there is a delay of at least half a second between successive shots fired, a maximum charge of two kilograms can be used in each hole;

Provided further that if the shortest distance from the place of firing to any part of such building or structure is less than 50 metres irrespective of the amount of the charge, no blasting shall be done except with the permission in writing of the Chief Inspector or the Regional Inspector and subject to such conditions as he may specify therein.

60. In Kerala there are around 543 quarries are only permitted at present. They are located across the entire State on various locations. Out of which 130 quarries are permitted to operate within 1 hectare and the others are permitted to operate in land above 1 hectare, it is learnt. This is a state

where the Land Reforms legislation limited the extent of holding to 15 acres unless it is exempted. Further a quarry site is not exempted as well as per the latest position of law.

61. As per Section 2 of the Mines and Minerals (Development and Regulation) Act, 1957 the Union has absorbed all the powers to legislate upon the mining activities. Only limited power is given to the federal states in India for making rules and it is only in respect of minor minerals. The power to legislate upon major minerals is always been retained with the Centre.

62. The MMDR Act is self- contained code with respect to the procedure and method of issuance of permission regarding the mining activities. The mines and mines safety conditions have been defined and regulated as per the provisions of the Mines Act and the Metalliferous Mines Regulations, 1961.

63. Therefore, as per the provisions of the MMDR Act the Parliament had provided provisions for compensation/ rehabilitation guidelines in the matter of protection without leaving the mining activities within the ambit of the Environment Protection Act, 1986. Even as per the provisions of the Environment Protection Act what is to be looked into for deciding upon the plausibility of an activity is that whether it would satisfy the conditions prescribed for sustainable development. As per the object and reasons of MMDR Act and the Mines Act 1952 it could be seen that without extracting minerals in a local way as far as possible the development of a nation would be stunted.

64. The Minor Mineral Concession Rule, 2015 fixes the distance for quarrying. When it is not challenged and unsettled, there cannot be interference there by way of lateral legislation through the third respondent. Therefore the Rule 10 (f) of the Kerala Minor Mineral Concession Rule, 2015 prevails over the conditions fixed by the Pollution Control Board as per the basic principle that the rule will prevail over guidelines and

the special rule has to prevail over, the general or residuary law.

65. In the circumstance, it is just and necessary to record the Applicant herein as party respondent in the above Original Petition even though the applicant was not served with a notice for appearance after remanding the matter by the Hon'ble Apex Court as per the judgment dated 25/10/2021.
66. It is most humbly submitted that this Principal Bench of this honourable Court should have sent this matter for the consideration of the Southern Bench as it alone has the jurisdiction this matter.
67. The committee appointed as per the order dated 09/12/2021 examined the following factors to determine the safe distance of Blasting from the residential areas.
 - a) Blast vibration in PPV
 - b) Air overpressure/ Air blast
 - c) Fly rock
 - d) Noise pollution
 - e) Dust pollution

68. The following aspects are placed based on the said report to submit that the distance criteria at 50 meters is justified.

Blast vibration in PPV:

In page no. 34, of the Joint Committee Report, it is clearly mentioned that the dominant excitation frequencies of ground vibration were obtained ranging from 25 to 125 Hz. The minimum frequency of recorded vibration data was 14.2 Hz.

As per the DGMS circular no. 1997, the permissible peak particle velocity (PPV) for the frequency range of 8-25 Hz is to be maintained below 10mm/sec and for the frequency greater than 25 Hz, the permissible peak particle velocity is to be maintained below 15mm/sec.

As per the Joint Committee Report, all the PPVs were below 10mm/sec at a distance of 50m (refer: Table no 5 in page no 33).

There is no approved national standards for human response index. The human response due to vibration will vary person to person. The DGMS, the highest authority for Mine Safety has fixed the safe level of Peak Particle Velocity (PPV) for Blast Induced Vibrations to 10mm/sec and hence, only this DGMS standards should be considered for fixing the safe distance.

Hence, it is very clear that by considering the permissible PPV to 10mm/sec as per DGMS standards, any blasting beyond a distance of 50m from the houses or structures are safe.

Air overpressure/ Air blast:

The threshold level of air overpressure (AOP) is 134 dB(L) as per USBM standard and as per CPCB standard, it is 140 dB.

The Air overpressure data recorded are in the range of 91.48dB(L) to 128.6dB(L) within a distance of 50-500m as per the joint committee report in page no. 34.

All the recorded values of Air overpressure are within the safe level. (refer: table no 5 of page 33).

Hence, it is clear that blasting beyond a distance of 50m from the houses or structures are safe in respect to Air overpressure.

Fly rock:

As per the Joint Committee Report, the fly rock ejections were less than 25 m from the blast zone. (refer: page no. 35)

Hence, it is clear that Blast blasting beyond a distance of 50m from the houses or structures are safe.

Noise pollution

As per clause 7 (1) of 'The Noise Pollution (Regulation and Control) rules, 2000' the permissible limit or standards for the Ambient Noise for the different zones (during day-time) are as follows:

Industrial area – 75 dB (A)

Commercial area – 65 dB (A)

Residential area – 55 dB (A)

Silent zone – 50 dB (A)

The noise pollution created by Blasting Operation shall be for a short duration of less than 1 second.

As per the study report on page 36, it is mentioned that the maximum noise recorded during operation in 50m was 74.49 dB(A) at Palakkad which is less than the permissible limits for an industrial area.

In the Joint Committee Report, it is also mentioned that there are some external influences like public roads, traffic and public places also contributed in the recorded values of noise. Hence, only mining activity cannot be blamed for the noise levels.

Some of the noise levels of our day-to-day activities are given in the below table.

Sl. No.	Source of noise	Noise levels	source
1.	Public Transport bus	80-85 dB(A)	Decibel hearing.com
2.	Lorries/ Truck	88 – 96 dB(A)	National Academics science and engineering website
3.	Car horn	110 dB(A)	Defense health agency- Department of Defence
4.	Train	72-88 dB(A)	The times of India website

5.	Train siren	110-140 dB(A)	Miami power wheels.com
6.	Domestic Flour mills	80-97 dB(A)	International journal of Environment

In the above circumstance, it is most humbly submitted that the distance fixed at 50 meters is more than enough in respect of granite building stone quarries. There is no bona fides in the said complaint. So long as Licenses and Clearances given to this Project proponent remain valid, the above complaint is not maintainable either in law or on facts. It is worthwhile to note that so far there is no dispute in respect of the proposed quarry. Therefore, jurisdiction of this Hon'ble Tribunal is not attracted for want of pleadings required for invoking provisions of NGT Act. Therefore, the powers of this Hon'ble Tribunal may not be invoked in this case.

Therefore, it is most humbly prayed that the above complaint
may be dismissed.

AND FOR WHICH ACT OF KINDNESS THE APPLICANT AS
IN DUTY BOUND SHALL EVER PRAY.

Through:



USHA NANDINI.V
BIJU P. RAMAN
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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
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P.K. Biju @ Varghese P.K ...APPLICANT/Respondent

AFFIDAVIT

I , P.K.Biju@ Varghese P.K, aged 50 years, S/o kuriakose, residing at Parakkal House, Koranchira P.O., Palakkad - 678 684, Kerala State presently at New Delhi do hereby solemnly affirm and state as under:

1. That I am one of the Respondents in the aforesaid Original Application. I am conversant with the facts of the case and am competent to swear to this affidavit.
2. That the contents stated in the Accompanying Objection to the OA are true and correct to the best of my knowledge and belief and nothing material has been concealed thereof. I have not filed any other similar application before this Hon'ble Tribunal.
3. That the annexures appended to the above objection are true copies of their respective originals.

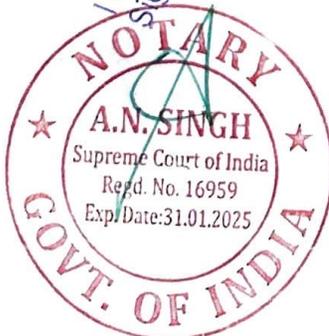

DEPONENT

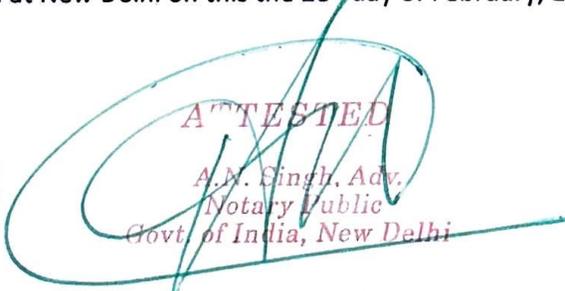
VERIFICATION:

I the above named deponent, do hereby verify that the contents of the above affidavit are true and correct. No part of it is false and nothing material has been concealed there from.

Verified at New Delhi on this the 28th day of February, 2024.


DEPONENT




A N SINGH
A.N. Singh, Adv.
Notary Public
Govt. of India, New Delhi

28 FEB 2024

Identify the deponent who has signed/put his/her name in my presence