

**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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Place: New Delhi
Date: 28.02.2024

Through:



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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 – 678 684

... APPLICANT

**OBJECTION TO THE REPORT DATED 02/03/2023 OF THE
JOINT COMMITTEE**

This respondent humbly submits as follows on the reliability of the report dated

1. It is most humbly submitted that the above study report suffers basic infirmities and whereby its root is incorrect. There are several errors in readings and findings relied on the said report. Even in the light of such basic scientific procedural defects, as per the findings therein, it could be seen that the distance of 50 meters is more than enough and sufficient for the particular category of limited and controlled

Open Cast Blasting practice in the State of Kerala. The bore hole is only 32mm and with a depth of 3-4 feet. The maximum holes at a stretch may not exceed 10-20. The maximum charge is 1250-2500 gms. The explosion is regulated by NONEL technology as well. Therefore, it cannot be compared with wagon drilling method adopted in other locations of India.

2. 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 tremor 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.

3. Across India the quarrying is being conducted by keeping the 50 metres as a standard distance. The clause 164 (1B) (a) of Metalliferous 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.

4. It is submitted that in Kerala there are around 677 quarries at present. They are located across the entire State in various locations. Out of which 130 quarries are permitted to operate within 1 hectare and the 547 are permitted to operate in land above 1 hectare. 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.

5. 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.
6. 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.
7. 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.

8. 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.
9. 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.

10. It is most humbly submitted that this Principal Bench of this Hon'ble Court should have sent this matter for the consideration of the Southern Bench as it alone has the jurisdiction this matter.
11. 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
12. The following aspects are placed based on the said report to submit that the distance criteria at 50 meters is justified.

a) 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.

b) 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.

c) 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.

d) 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 daytime) 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 is 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 it is just and necessary to hold that the distance fixed at 50 meters is more than enough in respect of granite building stone quarries in

Kerala when this Hon'ble Tribunal intends to invoke any power to direct for re fixing the distance criteria.

APPLICANT

Place: New Delhi
Date: 28.02.2024

Through:



**USHA NANDINI.V
BIJU P. RAMAN
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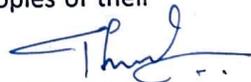
P.K. Biju @ Varghese P.K

...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 report of the Joint Committee 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.

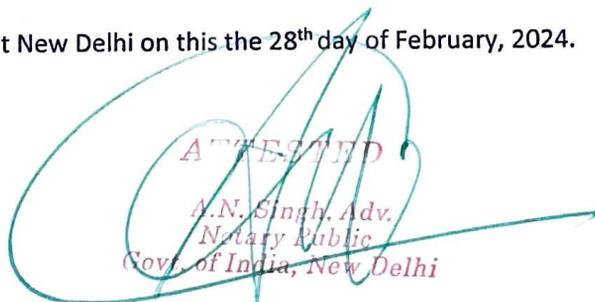

DEPONENT

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.




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


DEPONENT

20 FEB 2024