

BEFORE THE NATIONAL GREEN TRIBUNAL SOUTHERN ZONE AT
CHENNAI

Application No. 8 of 2017

IN THE MATTER OF:

S.Kannammal,
W/o. Balasubramaniam,
5/111, Ottanai Thottam,
Coolipalayam R.S
Avinashi Taluk,
Tiruppur District – 641 666.

...Applicant

-Vs-

1. The Government of India,
Ministry of Environment, Forests & Climate Change,
Indira Paryavaran Bhavan,
Jor Bag Road,
Aliganjh,
New Delhi – 110003.
2. The Chairman,
Tamil Nadu Pollution Control Board,
76, Mount Road,
Guindy,
Chennai – 600032.
3. The District Collector,
Tiruppur District.
4. The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
Tiruppur North,
II Floor, Kumaran Commercial Complex,
Tiruppur – 641601.
5. The Assistant Director,
Geology and Mining,
Tiruppur,
Tiruppur District.
6. M/s. Jagadeesan and Jeganathan Stone Quarry
Represented by its Proprietor
Jegadeesan,
S/o. Subramaniam,
S.F.No. 89/1, 89/2B1,
Agraharaperiyapalayam Village,
Avinashi Taluk,
Tiruppur District.

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7. M/s. Marappan Rukmani Rough Stone Quarry
 Represented by its Proprietor
 M.Balachandran,
 S/o. R.Marappan,
 S.F.No. 89/1, 89/2B1,
 Agraharaperiyapalaam Village,
 Avinashi Taluk,
 Tirrupur District.

... Respondents

OBJECTION OF THE 7TH RESPONDENT TO THE ACTION TAKEN
REPORT OF THE COMMITTEE

I, Rukhmani Marappan, Wife of Late. R. Marappan, aged about 70 Years, No.1/3A, Parapalayam, S-Periyapalayam Post, Tiruppur – 641 607, do hereby solemnly affirm and sincerely state as follows:-

1. I am the 7th Respondent in the above application and as such I am well acquainted with the facts and circumstances of the case. I am filing this Objection to the action taken report of the Committee filed on 25.03.2021, without prejudice to my right to question the action taken by the official respondents.
2. I state that pursuant to the order of this Hon'ble Tribunal, this respondent submitted the following objections to the Joint Inspection Report of the Committee before the Committee itself on 19.01.2021.
 - a) R. Marappan and Rukmani submitted an application dated 11.10.2000 to the District Collector Erode for grant of fresh Quarry Lease with respect to lands comprised in S.Nos. 86/1A, 89/3B both totally measuring 2.08 Acres, situated at A-Periyapalayam Village, Perundurai Taluk, Erode District (which later added to Avinashi Taluk, Tiruppur District).
 - b) The District Collector, Erode in his proceedings in Na.Ka.No.78688/X1/Minerals/2000 dated 12.04.2002 granted lease for a period 10 years commencing from 12.04.2002. Later, ourselves and the District Collector, Erode entered into an Agreement dated 12.01.2002 in Annexure.IV under Rule,19 & 22 of TNMMC Rule, 1959 and the same came to be registered as

Doc No.430/2002 before the Sub Registrar, Uthukuli. The Lessees' carried on Quarrying Operations in the aforesaid lands for the initial 5 years period, as it was restricted to 5 years by the competent authority.

- Neither the proceedings of the District Collector nor the Agreement imposed any condition with respect to leaving 7.5 meters safety distance from the boundary line or quantity of mineral to be quarried during the lease period.
- c) Later, R.Marappan and Rukmani submitted an application dated 05.03.2007 for grant of quarry lease. The Revenue Divisional Officer, Erode and the Assistant Director, Department of Geology and Mining, Erode inspected the quarry and on satisfaction of the quarrying operations during the earlier period was strictly as per the terms and conditions of the earlier grant, recommended to the District Collector, Erode for grant of quarry lease.
- d) Subsequently, the District Collector, Erode in **Na.Ka.No.12844/2007/X2** dated **09.07.2007** granted Quarry Lease for a further period of 5 years commencing from 09.07.2007 to 08.07.2012. Later, R.Marappan and Rukmani and the District Collector, Erode entered into an Agreement dated **09.07.2007** in Annexure.IV under Rule.19 & 22 of TNMMC Rule, 1959 and the same came to be registered as **Doc No.2475/2007** before the Sub Registrar, Uthukuli.
- Here again, neither the order of grant by the District Collector dated 09.07.2007 nor the Agreement dated 09.07.2007 impose any condition or special condition relating to either safety distance of 7.5 meters from the applied boundary or quantity of mineral to be quarried during the lease period.
 - Therefore, the allegations in the report that the lessee had not provided safety distance of 7.5 meters on all the four sides of the Quarry land when the Quarry was in operation and quarried excess quantum of minerals, is unsustainable.



- e) The concept of approved mining plan and Environmental Clearance came to be introduced by the Government of Tamil Nadu in G.O.Ms.No.79 Industries (MMC.1) Department dated 06.04.2015 by inserting Rule 41 & Rule 42 to the Tamil Nadu Minor Mineral Concession Rules, 1959, which came into effect only from 22.04.2015, the date of publication in the government gazette is long after the expiry of lease period. Therefore, the allegation made in the report that the lessee had quarried excess mineral, is also unsustainable.
- f) As pointed out earlier, when the order of grant of quarry lease dated 12.04.2002 and 09.07.2007 did not have any condition / special condition with respect to safety distance of 7.5 meters or permitted quantum of minerals to be quarried etc., quantification of excess minerals quarried in a lease expired quarry as early as on 08.07.2012 based on Pit-size alone, is unscientific and arbitrary.
- g) The Committee should have taken into account that the subject quarry was in operation for 10 years i.e. from 12.04.2002 to 08.07.2012 without any kind of complaint whatsoever. While that being so, the recommendations of the Committee after 8 years from the date of expiry of quarry lease for collection of Environmental Compensation by holding that the lessee committed violation, is unsustainable.
- h) The lessees' have operated the quarry only after obtaining necessary consent to operate from the Tamil Nadu Pollution Control Board. Moreover, putting up of fencing was also not a condition in the original grant.
- i) The quantification of the minerals extracted is also unsustainable, as the authority has not taken into account wastage, minerals used for formation of internal roads, safety bund created on all four sides of the boundary. The quantification of mineral such as gravel and roughstone could be possible only before extraction

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of mineral based on a scientifically carried out mining plan. Therefore, quantification of alleged quarrying of roughstone or gravel at this stage based on the size of the pit is highly improbable and unscientific.

- j) The Committee also went wrong in fixing the cost of minerals as per the existing Tamil Nadu Minor Mineral Concession Rules, 1959 for the year 2017-18 fixed by the Government of Tamil Nadu in its Government Order (Annexure - 31) in G.O.Ms.No.107 Industries Department dated 06.07.2017, for a quarry which was in operation from 12.04.2002 and expired on 08.07.2012.
- k) The Surface Plan and Section prepared by Taluk Surveyor and Village Administrative Officer on 26.02.2020 for a Survey made on 25.02.2020 and a quantification of mineral extracted, is also unsustainable as the same is not specified in the orders of grant of Quarry Lease dated 12.04.2002 and 09.07.2007.
- l) The principles laid down in the Order of the Hon'ble NGT, Principal Bench dated 25.03.2015 made in O.A.Nos.73 & 13 /2014, may not be applicable to the aforesaid Mining Lease, as the issue dealt with by the Hon'ble Tribunal relates to "*Rampant, illegal, unscientific and life threatening mining activity, particularly Rat hole mining is going on in the State of Meghalaya for years now. Truly, it was unregulated, uncontrolled and unchecked.*" While, R. Marappan and Rukmani had carried-on quarrying operation without any complaint whatsoever by strictly following the terms and conditions of the Lease.
- m) The proceedings of the District Collector, Tiruppur in Na.Ka.No.599/Minerals/2015 dated 12.10.2015 relating to Cancellation of Quarry Lease Agreement dated 10.10.2015 registered as Doc.No.3398/2015, in the office of the Sub-Registrar, Uthukuli also would show that this respondent has not violated any norms or terms and conditions after grant.



n) As recommended by the committee in its report submitted before the Hon'ble NGT, South Zone pursuant to its order dated 29.010.2020, we have already provided 5 feet permanent wire chain link fencing around the quarry.

3. I state that the Committee had not considered anyone of the aforementioned objections before filing the Action Taken Report before this Hon'ble Tribunal. The Committee which has been specifically directed by this Hon'ble Tribunal by its orders dated 13.01.2021 and 23.02.2021 to consider the objections filed by the quarry owner, has miserably failed in its duty to consider the same. The report filed by the Committee on 25.03.2021 is a mechanical one and without consideration of the legally sustainable objections filed by this respondent:

It is therefore prayed that this Hon'ble Tribunal may be pleased to set aside all further proceedings pursuant to the Joint Committee Report and pass such or other orders as this Hon'ble Tribunal may deem fit in the circumstances of the case and thus render justice.

Solemnly affirmed at Chennai,
on this the 18th day of June, 2021,
in my presence and contents of the,
affidavit explained to her in Tamil,
and she having been unacquainted,
with English and she understand the,
same and put her hand in Tamil.

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BEFORE ME


18/6/21

ADVOCATE, CHENNAI

AKSHAY KUMAR. A
No. 303, New Law Chambers
High Court, Chennai - 104.