

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

**WESTERN ZONE BENCH AT PUNE**

**ORIGINAL APPLICATION NO.37 OF 2020**

**Mr. Sayyed Mohammed Sabir Usman & Anr** ... **Applicants**

Versus

**Union of India & Ors** ... **Respondents**

**REPLY ON BEHALF OF RESPONDENT NO. 14**

**MAY IT PLEASE THE HON'BLE TRIBUNAL**

1. At the outset, the Statements and averments made in the Original application are not admitted by this Respondent No.14 and the same are denied in toto. The Original Application filed by the Applicant is not maintainable at all and is liable to be dismissed with costs. The Respondent No.14 in the present proceedings denies everything that is contrary what is stated therein and/or inconsistent therewith as if the same is set out in extenso and traversed. The Respondent No.14 submits that, nothing not expressly admitted herein ought to be taken as admitted by the Respondent No.14 or be deemed to have been admitted by the Respondent No.14 for want of specific traverse. The Respondent No.14 states that for the purpose of gravity, the Respondent No.14 is not denying each and every allegation, statement and contention of the Applicant which is ex-facia contrary to the contention of Respondent No.14 and its stand in the present case except to the extent that such allegation, statement or contention necessitate, cogent,

warrant or reply. The Respondent No.14 denies the contents of the Joint Committee Report of December 2021 and reserve the rights to file an additional Affidavit, to place on record the objections to the Joint Committee Report of December, 2021.

2. The Respondent No.14 submits that contrary to what is stated in the said Application, the Respondent No.14 has carried out stone crushing activities legally and with due authorizations and permissions of the Government and other concerned authorities. The Applicant has knowingly made false, incorrect, and misleading statements and averments, solely with the view to mislead this Hon'ble Tribunal and abuse the process of the court. The Applicant come before this Hon'ble Tribunal with unclean hands and the said Application is to be dismissed on this ground alone.
3. The Respondent No.14 was set up on 7<sup>th</sup> September 2010 as a Partnership Firm, for the purpose of selling limestone and sand. The Respondent No.14 submits that vide consolidated consent cum authorization dated 14<sup>th</sup> July 2011, the Respondent No.8 had permitted the present Respondent to commence its operations. The said consent was renewed from time to time and until 6<sup>th</sup> September 2016.
4. It is submitted that vide an Order/Letter dated 22<sup>nd</sup> July 2002 issued by the Office of Collector (Minerals Branch), Junagadh, the Respondent No.13 was granted a lease on the land bearing Survey No.9/5, situated at Village: Arithiya, Taluka: Kodinar, for excavation/mining. There was a proceeding pending against the Respondent No.11 for non-

receipt of clearance from the National Board for Wildlife and the operations have been stopped.

5. The Respondent No.14 submits that it is pertinent to note that, on 27<sup>th</sup> January, 1994, Respondent No.1 issued an Environmental Impact Assessment Notification S.O. 60 (E) dated 27<sup>th</sup> January, 1994 which stated that only the mining projects having a Lease Area of more than 5 hectares would require Environmental Clearance. It was clear that Respondent No.14 did not require any Environmental Clearance to operate the crusher.
6. The Respondent No.14 submits that the Ministry of Environment and Forests issued a Notification bearing No. S.O. 1533 dated 14<sup>th</sup> September, 2006 for imposing certain restrictions and prohibitions on *new* projects or activities, or on the expansion or modernization of existing projects or activities based on their potential environmental impacts. The stone crushing activities have not been mentioned in this notification as well.
7. The Respondent No.14 submits that the Range Forest Officer issued a distance certificate stating that the crusher of Respondent No.14 is 7 kilometres away from the Gir National Park, the Gir Wildlife Sanctuary, the Paniya Wildlife Sanctuary and Mitiyala Wildlife Sanctuary. The Respondent No.14 further submits that the Talhati to Arithiya Panchayat it indicated that the crusher is 7 kilometre from Arithiya Village.

8. The Respondent No.14 further submits that the Respondent No.8, inspected the crusher and *inter alia* pointed out certain deficiencies. The Respondent No.14 contested the said inspection and filed a detailed response dated 5<sup>th</sup> March 2021. It is further submitted that without hearing or giving any notice, the Respondent No.8 issued directions dated 6<sup>th</sup> May 2021, which were further amended by order dated 20<sup>th</sup> May 2021. The said directions were challenged before the Hon'ble High Court of Gujarat at Ahmedabad. The Hon'ble High Court vide its order dated 14<sup>th</sup> September 2021 was pleased to dispose off the petition by directing the Respondent No.8 to consider the submissions of the Respondent No.14 and pass an order on the grant of Consent. Copy of the consent and authorisation is annexed hereto and marked as **ANNEXURE – R-1**. Copy of the judgment of the Hon'ble High Court is annexed hereto and marked as **ANNEXURE – R-2**.
9. The Respondent No.14 submits that the Respondent No.1 issued a draft notification S.O. 3370 (E) on 25<sup>th</sup> October, 2016 and notified that area to an extent of up to 17.9 kilometers from the boundary of the Mitiyala Wildlife Sanctuary, 16.3 kilometers from the boundary of the Gir Wildlife Sanctuary and up to 14.98 kilometres from the a Wildlife Sanctuary of Gujarat, to be declared an as Eco-sensitive Zone. Hereto annexed and marked as **ANNEXURE – R-3** is a copy of the Draft notification S.O.3370(E) dated 25th October, 2016.
10. The Respondent No.14 submits that in Writ Petition (PIL) No.88 of 2017, the Hon'ble High Court of Gujarat has directed the Central

Government to submit a final report in respect of the final notification for Gir, Paniya and Mitiyala Wildlife Sanctuary by 4<sup>th</sup> September 2023.

Copy of the said order is annexed hereto and marked as ANNEXURE

- R-3.

11. The Respondent No.14 shall now deal seriatim with the various averments made in the Application. The Respondent No.14 submits that save and except what is specifically admitted herein, all the allegations made by the Applicant against Respondent No. 11 are denied:
  - a. With reference to Paragraph 1 and 2 of the Application, it is submitted that the contents of the same are formal in nature and merit no reply.
  - b. With reference to Paragraph 3 of the Application, the Respondent No.14 denies the contents thereof in totality. The Respondent No.14 repeats and reiterates what is stated hereinabove and deny all that is inconsistent and/or contrary thereto. The facts mentioned above clearly evince that Respondent No.14 has carried out the activities of the stone crusher legally and with applicable authorizations and permissions from the concerned authorities. The Respondent No.14 denies that the activities of Respondent No.14 have caused irreparable damage to wildlife, environment, and ecology. I deny that Respondent No.14 has violated any statutory provisions whatsoever.
  - c. With reference to Paragraph 4 to 6 of the Application, the Respondent No.14 deny denies contents thereof in totality. I state that the Applicant has made unsubstantiated and frivolous allegations, with a view to mislead and misguide this Hon'ble Tribunal and abuse the process of the Court.
  - d. With reference to Paragraph 7 of the Application, the Respondent No.14 denies the contents thereof. The said Application is preferred

on false and erroneous grounds. The said Application is a mala fide attempt to mislead this Hon'ble Tribunal and is an abuse of the process of the court.

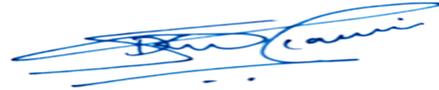
- e. With reference to Paragraph 8, the contents of the same in relation to the present Respondent, are denied in toto. The bloated numbers as described in Paragraph 8 (a) (12) are baseless and are shown to mislead this Hon'ble Tribunal. On the contrary, as mentioned above, Respondent No. 11 has constantly monitored that its operations are in compliance with the applicable laws. It is repeated, reiterated, and confirmed what is stated hereinabove and deny what is consistent and/or contrary thereto.
- f. With reference to Paragraph 9, the contents thereof are denied in totality. The Respondent No.14 repeats and reiterates what is stated hereinabove and denies all that is inconsistent and/or contrary thereto. It is submitted that the facts mentioned above clearly evince that Respondent No.14 has carried out the activities of the stone crusher legally and with applicable authorizations and permissions from the concerned authorities. It is denied that the activities of Respondent No.14 has caused irreparable damage to wildlife, environment, and ecology. It is submitted that Respondent No.14 has violated any statutory provisions whatsoever.
- g. With reference to Paragraph 10 and 11, the contents of the same are denied in toto. The contents of the same are not related to Respondent No.14 and are denied for want of knowledge.
- h. With reference to Paragraph 12, it is pertinent to note that the draft notification relied on by the Applicant, has not been notified as on date of filing of the present Reply. Without prejudice to the same, the Respondent No.14's activities do not run affront to the said draft notification.

- i. With reference to Paragraph 13 and 14, the Respondent No.14 denies all that is contrary and/or inconsistent with the records and what is stated herein. It is submitted that the facts mentioned above clearly evince that Respondent No. 14 has carried out mining activities legally and with applicable authorizations and permissions from the concerned authorities. It is denied that the activities of Respondent No.14 have caused irreparable damage to wildlife, environments and ecology. It is denied that Respondent No.14 has violated any statutory provisions whatsoever.
- j. With reference to Paragraph 15, the contents of the same are denied in toto. The facts mentioned above clearly evince that Respondent No. 14 has carried out the stone crusher legally and with applicable authorizations and permissions from the concerned authorities. It is denied that the activities of Respondent No. 14 have caused irreparable damage to wildlife, environment, and ecology. It is denied that Respondent No.14 has violated any statutory provisions whatsoever.
- k. With reference to Paragraphs 16 to 19, it is submitted that the contents of the same are formal in nature and merit no response. The Applicant is put to strict proof with respect to the contents thereof.
- l. With reference to Paragraph 20, the contents of the same of the denied in toto. This Application has been filed with view to the mislead this Hon'ble Tribunal. The Applicants have only made certain quarries as parties to the present application which shows the *mala-fide* and extortionist conduct of the Applicant.

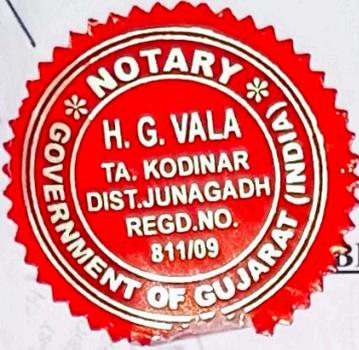
12. At present, Respondent No.14 has shut the operation of the crusher. In view thereof, I say that the said Application preferred by the Applicant is liable to be rejected with exemplary costs.

Date: 28<sup>TH</sup> August 2023

Place: Pune

A handwritten signature in blue ink, appearing to be 'S. S. Kanani', written in a cursive style.

**Advocate for the Respondent No. 14**



**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,  
WESTERN ZONE BENCH PUNE**

**AT PUNE**

**ORIGINAL APPLICATION No.37 OF 2020 (WZ)**

**Mr.SAYYED MOHAMMED SABIR USMAN**

**APPLICANT**

**V/S**

**UNION OF INDIA & OTHERS**

**RESPONDENTS**

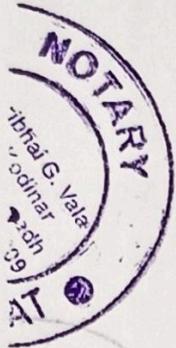
**AFFIDAVIT IN SUPPORT OF REPLY**

**MAY IT PLEASE THE HON'BLE TRIBUNAL**

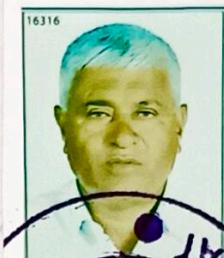


I, HAJABHAI HAMIRBHAI MORI, aged about adult years, Proprietor of the Respondent No.14, having office at C/o/Hajabhai Hamirbhai Mori, At Dedani Devli, Taluka Kodinar, District Gir Somnath, Gujarat, do hereby state on solemn affirmation as under: -

1. I say that I am the Proprietor of the Respondent No.14 and am authorized to file the present Affidavit. I say that I am aware of the facts and circumstances of the present case and hence am able to depose the same on oath.
2. I say that the Respondent No.14 herein has filed the reply to the Original Application. I say that the contents of the said Reply and the present affidavit are true and correct to the best of my knowledge, information, belief and the legal advice which I believe to be correct.

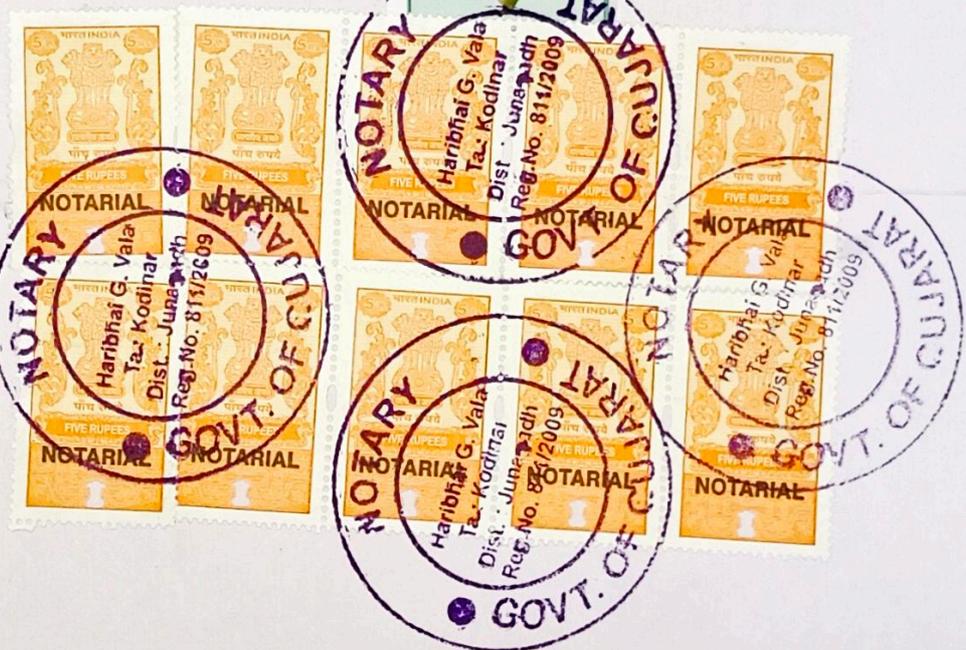


WHATEVER stated herein above is true and correct to the best of my knowledge and belief and for the same I have signed hereunder at Kodinar on 12<sup>th</sup> day of April, 2023.



Haribhai G. Vala

Affiant



SIGNED BEFORE ME  
Haribhai G. Vala  
HARIBHAI G. VALA  
Advocate & Notary  
KODINAR (GUJARAT)  
12 APR 2023

01  
Book No. ....  
Page No. 158  
Serial No. 2362  
Date.....

12 APR 2023



## GUJARAT POLLUTION CONTROL BOARD

PARYAVARAN BHAVAN

Sector-10-A, Gandhinagar-382 010

Phone : (079) 23226295

Fax : (079) 23232156

Website : www.gpcb.gov.in

### RPAD

In exercise of the power conferred under section-25 of the Water (Prevention and Control of Pollution) Act-1974, under section-21 of the Air (Prevention and Control of Pollution)-1981 and Authorization under rule 6(2) of the Hazardous and other Wastes (Management and Trans boundary movement) Rules, 2016 framed under the Environmental (Protection) Act-1986.

And whereas Board has received consolidated consent application No.109284 dated 17/06/2016 for the Renewal of Consolidated Consent and Authorization (CC & A) of his Board under the provisions/rules of the aforesaid Acts. Consents & Authorization are hereby granted as under:

### CONSENTS AND AUTHORISATION:

(Under the provisions /rules of the aforesaid environmental acts)

To,

M/S. Sai Baba Stone Crusher (ID -26045)

Survey No: 9/P,

Arithiya -362720

Tal - Kodinar,

Dist: Gir somnath.

1. Consent Order No. : AW- 81101 date of issue: 31/08/2016

1.1 The consents shall be valid up to 16/06/2021 for use of outlet for the discharge of trade effluent & emission due to operation of industrial plant for manufacture of the following items/products:

Sr. No.	Product	Capacity
1	Black Stone Crushed Metal	750 MT/Month

### SPECIFIC CONDITIONS:

- Unit shall not carry out any mining activity within premises.
- Unit shall procure raw material for stone crushing unit from the mine, which is having valid CCA of Board and EC.

### 2. CONDITIONS UNDER WATER ACT 1974

2.1 The water consumption and waste water generation shall be as under

	Water Consumption	Waste water generation
Industrial	500 Lit/Day	Nil
Domestic	500 Lit/Day	500 Lit/Day

- There shall be no generation of industrial effluent from the manufacturing Process and other ancillary industrial operations.
- Domestic effluent shall be disposed off through septic tank/soak pit system.

*CC Shuman*

*Clean Gujarat Green Gujarat*

ISO - 9001 - 2008 & ISO - 14001 - 2004 Certified Organisation



## GUJARAT POLLUTION CONTROL BOARD

PARYAVARAN BHAVAN

Sector-10-A, Gandhinagar-382 010

Phone : (079) 23226295

Fax : (079) 23232156

Website : www.gpcb.gov.in

### 5. TERMS AND CONDITIONS OF AUTHORISATION

- a) The applicant shall comply with the provisions of the Environment (Protection) Act - 1986 and the rules made there under.
- b) The authorization shall be produced for inspection at the request of an officer authorized by the Gujarat Pollution Control Board. The persons authorized shall not rent, lend, sell, and transfer of otherwise transport the hazardous wastes without obtaining prior permission of the Gujarat Pollution Control Board.
- c) Any unauthorized change in personnel, equipment or working conditions as mentioned in the authorization order by the persons authorized shall constitute a breach of this authorization.
- d) It is the duty of the authorized person to take prior permission of the Gujarat Pollution Control Board to close down the facility.
- e) An application for the renewal of an authorization shall be made as laid down in rule 5 (6) (ii).
- f) Industry shall have to manage waste oil, discarded containers etc as per Amended Rules-2003 and shall apply Authorization/submit details for all applicable waste as per Amended Rules-2003 with 15 days.
- g) Industry shall submit annual report within 15 days and sub squinty by 30<sup>th</sup> June every year.

### 6. General Conditions:

- 6.1 The waste generator shall be totally responsible for i.e. collection, storage, encapsulation, incineration treatment, transportation and ultimate disposal) of the wastes generated.
- 6.2 Records of waste generation, its management and annual return shall be submitted to Gujarat Pollution Control Board in Form – 4 by 31st January of every year.
- 6.3 In case of any accident, details of the same shall be submitted in Form - 5 to Gujarat Pollution Control Board.
- 6.4 As per "Public Liability Insurance Act - 91 "company shall get Insurance Policy, if applicable.
- 6.5 Empty drums and containers of toxic and hazards material shall be treated as per guideline published for "Management & Handling of discarded containers". Records of the same shall be maintained and forwarded to Gujarat Pollution Control Board regularly.
- 6.6 In no case any kind of hazardous waste shall be imported without prior approval of appropriate authority.

*Q. Suman*

*Clean Gujarat Green Gujarat*

ISO - 9001 - 2008 & ISO - 14001 - 2004 Certified Organisation

- 6.7 In case of transport of hazardous wastes to a facility for (i.e. treatment, storage and disposal) existing in a State other than the State where hazardous wastes are generated, the occupier shall obtain 'No Objection Certificate' from the State Pollution Control Board or Committee of the concerned State or Union territory Administration where the facility exists.
- 6.8 Unit shall take all concrete measures to show tangible results in waste generation, reduction, avoidance, reuse and recycle. Action taken in this regards shall be submitted within three months and also along with Form-4.
- 6.9 Industry shall have to display the relevant information with regard to hazardous waste as indicated in the Courts Order in W.P. No.657 of 1995-dated 14th October-2003.
- 6.10 Industry shall have to display on-line data outside the main factory gate with regard to quantity and nature of hazardous chemicals being handled in the plant, including waste water and air emissions and solid hazardous wastes generated within factory premise.

For and on behalf of  
GUJARAT POLLUTION CONTROL BOARD

(CHIRAG BHIMANI)  
UNIT HEAD

NO: GPCB/ ID- 26045/CCA/JNG- 272/ 368631

6/9/16

ISSUED TO:

M/S. Sai Baba Stone Crusher (ID -26045)

Survey No: 9/P,

Arithiya -362720

Tal - Kodinar,

Dist: Gir somnath.

Copy to: The Regional Officer, G.P.C.Board, Junagadh For information & Sampling.

3. CONDITIONS UNDER THE AIR ~~120~~ ACT.

- 3.1 There shall be no used of fuel hence there shall be no flue gas emission.
- 3.2 There shall be no process gas emission from the manufacturing process as well as any other ancillary process.
- 3.3 The concentration of the following parameters in the ambient air within the premises of the industry shall not exceed the limits specified hereunder.

PARAMETERS	PERMISSIBLE LIMIT	
	Annual	24 Hrs Average
Particulate Matter-10 (PM <sub>10</sub> )	60 Microgram/M <sup>3</sup>	100 Microgram/M <sup>3</sup>
Particulate Matter- 2.5 (PM <sub>2.5</sub> )	40 Microgram/M <sup>3</sup>	60 Microgram/M <sup>3</sup>
SO <sub>2</sub>	50 Microgram/M <sup>3</sup>	80 Microgram/M <sup>3</sup>
NO <sub>x</sub>	40Microgram/M <sup>3</sup>	80 Microgram/M <sup>3</sup>

- 3.4 The concentration of Suspended Particulate Matter in ambient air at a distance of 3 to 10 meters from crusher/quarry shall not exceed **600 microgram/M<sup>3</sup>**.
- 3.5 The applicant shall install & operate following measures so that the emission of particulate matter shall not exceed the concentration mentioned at 3.3 & 3.4 above.
  - a) Water Spraying System at every source.
  - b) Hood for screening classifier & crusher, cover to conveyor belts.
  - c) Construction of wind breaking walls.
  - d) Construction of Metal led Road within premises.
  - e) Regular Cleaning & Wetting at Ground within Premises.
  - f) Dust Suppression System.
  - g) Green Belt of 10-meter width all along the periphery.



- 3.6 The consent to operate the industrial plant shall lapse at any time if the concentration in the ambient air is not within the tolerance limits specified in the condition no. 3.3 & 3.4
- 3.7 The consent granted shall lapse at any time if any parameters or any condition of this Consent orders are not complied with.
- 3.8 The Industry shall take adequate measures for control of noise levels from its own Sources within the premises so as to maintain ambient air quality standards in respect of Noise to less than 75dB (a) during day time and 70 dB (A) during night time. Daytime is reckoned in between 6 a.m. and 10 p.m. and nighttime is reckoned between 10 p.m. and 6 a.m.

4. **HAZARDOUS AND OTHER WASTES (MANAGEMENT AND TRANSBOUNDARY MOVEMENT) RULES, 2016.**

- 4.1 There shall be no generation of industrial waste water & Hazardous waste from manufacturing process and other ancillary operations as per your undertaking.

*(Handwritten signature)*

## ANNEXURE-R-2

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 9948 of 2021

=====

SAI BABA STONE CRUSHER THROUGH PARTNER MANOJ KUMAR  
HAJABHAI MORI

Versus

GUJARAT POLLUTION CONTROL BOARD

=====

Appearance:

MR DHAVAL D VYAS(3225) for the Petitioner(s) No. 1

CHINTAN H DAVE(7193) for the Respondent(s) No. 1

DS AFF.NOT FILED (N)(11) for the Respondent(s) No. 2,3

=====

CORAM:HONOURABLE MR. JUSTICE J.B.PARDIWALA

and

HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI

Date : 14/09/2021

ORAL ORDER

(PER : HONOURABLE MR. JUSTICE J.B.PARDIWALA)

1. By this writ application under Article 226 of the Constitution of India, the writ applicant has prayed for the following reliefs:

*"A. The Hon'ble Court may be pleased to issue writ of certiorari and /or any other appropriate writ, direction and order to quash and set aside the orders dated 06.05.2021 as amended on 20.05.2021 passed by the Environment Engineer, Gujarat Pollution Control Board, Gandhinagar with further and consequential proceedings initiated thereon.*

*B. Pending hearing and final disposal of the petition, Hon'ble Court be pleased to stay the implementation, operation and execution of the order dated 06.05.2021 as amended on 20.05.2021 passed by the Environment Engineer, Gujarat Pollution Control Board, Gandhinagar with further and consequential proceedings initiated thereon.*

*C. To pass such other and further order/s necessary in the interest of justice."*

2. On 16.07.2021, this Bench passed the following order:

*"1. We have heard Mr. Dhaval Vyas, the learned counsel appearing for the writ-applicant.*

*2. The subject matter of challenge in the present writ-application is the Order of Closure of unit under Section-33(A) of the Water (Prevention and Control of Pollution) Act, 1974 dated 06.05.2021, which was to take effect from 30.06.2021. It appears that thereafter, a corrigendum came to be issued clarifying that the Closure Order dated 06.05.2021 referred to above should be considered as one passed under Section-31(A) of the Air (Prevention of Control of Pollution) Act, 1981 and the other conditions of the earlier order dated 06.05.2021 would remain unchanged.*

*3. Prima-faice, we were not inclined to entertain this writ application on the ground that the impugned order can be challenged before the National Green Tribunal under the provisions of National Green Tribunal Act, 2010. However, according to the learned counsel whether the writ-applicant can challenge the same before the tribunal or not is debatable in view of the decision of the Supreme Court in the case of **Tamilnadu Pollution Control Board Vs. Sterlite Industries (India) Limited & Others reported in (2019) 19 SCC 479.***

*In the aforesaid decision, the Supreme Court has drawn a fine distinction between Section-33(A) of the Water Act and Section-31A of the Air Act. Prima-facie, it appears that the Supreme Court has taken the view that the order issuing directions under the Water Act is appealable to the National Green Tribunal, but not those under the Air Act.*

*4. We reserve the liberty for the respondents to argue on the issue of maintainability of the writ-application*

*5. One of the arguments of Mr. Vyas is that the impugned order came to be passed without affording any adequate opportunity of hearing. In this regard, Mr. Vyas drew the attention of this Court to Page-27 of the Paper-book, Annexure-F. This appears to be a show-cause notice, however, according to Mr. Vyas, he has something to argue in this regard and the show-cause notice at Page-27 should not be construed as if an opportunity of hearing given to his client.*

*6. Let **Notice be issued** to the respondents, returnable on **30.07.2021.***

*Direct service is permitted.*

*Over and above direct service, we permit the writ-applicant to serve the notice even by way of an E-mail.*

*On the returnable date, notify this matter on top of the board. This Court would appreciate if by the next date of hearing, the respondents would be ready with the reply so that the matter can be heard finally and disposed of."*

3. We first take notice of the impugned order of closure passed by the GPCB under Section 33A of the Water (Prevention and Control of Pollution) Act, 1974. The same reads thus:

*"CLOSURE DIRECTION UNDER SECTION 33-A OF THE WATER (PREVENTION AND CONTROL OF POLLUTION) ACT, 1974 [HEREINAFTER REFERRED TO AS THE WATER ACT] AS AMENDED FROM TIME TO TIME*

*WHEREAS, you M/s. Saibaba Stone Crusher are having plant for the stone crusher and black trap mining at Survey No.:9/P, Vill.:Arithiya, Tal: Kodinar, Dist.: Gir Somnath.*

*AND WHEREAS, you have started black trap mining without obtaining prior permission of the Gujarat Pollution Control Board under the Air Act – 1981 and the Water Act – 1974 at above mentioned site.*

*AND WHEREAS, you are required to submit an application in the prescribed form to obtain the consent of the Board. However, you have failed to apply for the same, which is a punishable offence with imprisonment for a period up to six years and also fine under Section 37 of the Air Act – 1981 and also under Section 44 of the Water Act – 1974.*

*AND WHEREAS, during the inspection of your industrial plant on 02/02/2021 under Section 23 of the Water Act by the authorized officer of the Board, it has been noticed that:*

- 1. Unit has carried out mining without obtaining Environmental Clearance.*
- 2. Unit has not obtained CCA of the board.*
- 3. Unit has not submitted reply of the written remarks given during inspection.*

*UNDER THE CIRCUMSTANCES, I M.V. PATEL, Environment Engineer of Gujarat Pollution Control Board is directed to issue the directions under Section 33-A of the Water (Prevention and Control of Pollution) Act – 1974 as under:*

- 1. To prohibit forthwith industrial activities at aforesaid location.*
- 2. To close the operation of your unit activity on the above mentioned site.*
- 3. To direct the concerned authority to stop Virtual Account cum royalty pass and supply of electricity & water.*

*This order will be **effect on 30/06/2021**.*

*If the above direction is not complied, you are liable for prosecution under Section 41(2) of the Water (Prevention and Control of Pollution) Act – 1974 which provides punishment with imprisonment for a term not less than one year and six months and may extent to six years and with fine."*

4. Thus, it appears that the impugned order came to be passed on three grounds: first, the unit of the writ applicant is alleged to have been undertaking mining activities without obtaining environmental clearance; secondly, the unit has not obtained CCA of the Board and thirdly, the unit failed to offer its reply to the written remarks of the Officer during the inspection.

5. We have heard Mr. Dhaval Vyas, the learned counsel appearing for the writ applicant and Mr. Chintan Dave, the learned counsel appearing for the GPCB.

6. We straight way go to page 215 of the paper book. The document at page 215 is the inspection report dated 20.02.2021. The same reads thus:

*“The unit possess valid CCA of the Board vide AW-81101 valid up to 16/06/2021 for production of Black Stone Crushed (Metal) @750 MT/Month. The unit have 3 Nos. of Crushers attached to 2 Nos. vibrating screens covered with GI Sheets. During observation it is observed that, Crusher No.2 arranged to feed Crusher No.1 attached with one covered vibrating screen and which have 7 partially covered conveyer belts. Brick walled well type arrangement is provided as dust collection dome which is not covered on top. Crusher No.3 is attached to one vibrating screen covered with GI Sheets but conveyer belts (3 Nos.) are not covered with GI Sheets and dust collection dome not provided. During inspection, one existing (mined) black trap mine is observed in the premise of the unit. The mine is excavated and the pit formed due to mining activity is filled with water (water logged mine pit). During inspection, mining activity is not going on. As informed by person contacted, the mine lease is issued to Hajabhai Hamirbhai Mori, (Area – 00.40.47 Ha). Unit has not obtained Environment clearance for the said mine from competent authority. One water sample is collected from water logged mine pit of Black Trap Mine issued to Hajabhai Hamirbhai Mori which is situated in the premise of Saibaba Stone Crusher.”*

7. Thus, the following emerges from the aforesaid:

(1) On the date of the inspection, the unit possessed a valid

CCA of the Board. The Validity period of the CCA was to expire on 16.06.2021. This CCA was granted for production of Black Stone Crush (Metal).

(2) The Unit has three crushers attached to two vibrating screens covered with the GI Sheets. However, the problem cropped up at a point of time when the Officer noticed that adjacent to the unit, there was a (mine) black trap mine. The Officer further noticed that on account of excavation of the mine, a pit had been formed which was filled with water. This part of the mine was in the form of a lease issued to one Hajabhai Hamirbhai Mori. Having noticed this, the Officer realized that the mine could be said to be illegal in the absence of any environment clearance. However, prima facie it appears that the Officer mistook the stone crushing unit and the mine as a part of one particular unit.

(3) It is sought to be clarified by Mr. Vyas that his client has nothing to do with the mine. The mine is in the form of a lease assigned to one Hajabhai Hamirbhai Mori.

8. So far as the mining part is concerned, we make it very clear that it shall be open for the Board to ensure that no mining activities are undertaken at the place where the unit is situated. The mining activities may be permitted provided Hajabhai is able to procure a valid environmental clearance in accordance with law. Therefore, it shall be open for the Board to take appropriate steps in that regard in accordance with law.

9. So far as the CCA is concerned, the validity period has

expired on 16.06.2021, but as pointed out by Mr. Vyas his client has already applied for renewal of the same. The renewal application is pending as on date before the competent authority of the Board. Let an appropriate decision in that regard be taken at the earliest in accordance with law.

10. So far as the third ground is concerned, it is not of much significance. The same is with regard to failure to offer explanation to the inspection report.

11. To cut short the controversy, if ultimately a fresh CCA is issued then it shall be open for the writ applicant to continue to operate his unit, however, for any reason if the CCA is not issued then it shall be open for the writ applicant to take up the matter in that regard before the appropriate forum in accordance with law. However, we clarify and make it clear that in view of the aforesaid, the impugned order of closure is not sustainable. The same is hereby quashed and set aside subject to the above.

12. The writ application is accordingly disposed of.

13. It is clarified that even pending the renewal application of CCA, it is open for the writ applicant to run his Stone Crushing Unit.

**(J. B. PARDIWALA, J)**

**(VAIBHAVI D. NANAVATI,J)**



NEHA

**उपाबंध- VIII**

पारिस्थितिक संवेदी जोन मानीटरी समिति - की गई कार्रवाई की रिपोर्ट का रूप विधान

1. बैठकों की संख्या और तारीख ।
2. बैठकों का कार्यवृत्त : कृपया मुख्य उल्लेखनीय बिंदुओं का वर्णन करें । बैठक के कार्यवृत्त को एक पृथक अनुबंध में उपाबंध करें ।
3. आंचलिक महायोजना की तैयारी की प्रास्थिति जिसके अंतर्गत पर्यटन महायोजना ।
4. भू-अभिलेख में सदृश्य त्रुटियों के सुधार के लिए कार्यवाही किए गए मामलों का सारांश ।
5. पर्यावरण समाघात निर्धारण अधिसूचना, 2006 के अधीन आने वाली क्रियाकलापों की संविज्ञा के मामलों का सारांश । ब्यौरों को पृथक् उपाबंध के रूप में संलग्न किया जा सकेगा।
6. पर्यावरण समाघात निर्धारण अधिसूचना, 2006 के अधीन न आने वाली क्रियाकलापों की संविज्ञा के मामलों का सारांश । ब्यौरों को पृथक् उपाबंध के रूप में संलग्न किया जा सकेगा।
7. पर्यावरण ( संरक्षण ) अधिनियम, 1986 की धारा 19 के अधीन दर्ज की गई शिकायतों का सारांश ।
8. कोई अन्य महत्वपूर्ण विषय ।

**MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE****NOTIFICATION**

New Delhi, the 25th October, 2016

**S.O. 3370(E).**—The following draft of the notification, which the Central Government proposes to issue in exercise of the powers conferred by sub-section (1), read with clause (v) and clause (xiv) of sub-section (2) and sub-section (3) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986) is hereby published, as required under sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, for the information of the public likely to be affected thereby; and notice is hereby given that the said draft notification shall be taken into consideration on or after the expiry of a period of sixty days from the date on which copies of the Gazette containing this notification are made available to the Public;

Any person interested in making any objections or suggestions on the proposals contained in the draft notification may forward the same in writing, for consideration of the Central Government within the period so specified to the Secretary, Ministry of Environment, Forest and Climate Change, Indira Paryavaran Bhawan, Jorbagh Road, Aliganj, New Delhi-110 003, or send it to the e-mail address of the Ministry at: - [esz-mef@nic.in](mailto:esz-mef@nic.in)

**Draft Notification**

WHEREAS, the Gir National Park, the Gir Wildlife Sanctuary, the Paniya Wildlife Sanctuary and the Mitiyala Wildlife Sanctuary are situated in Junagarh and Amreli District of Gujarat (hereinafter referred to as Gir Protected Area);

AND WHEREAS, the GIR Protected Area is the home for the Asiatic Lions [*Panthera leo persica*] and is the core area supporting the Asiatic Lion Population;

AND WHEREAS, the GIR Protected Area cover a total area of 1469.99 square kilometre (Gir National Park-258.71 square kilometre; Gir Wildlife Sanctuary -1153.42 square kilometre; Paniya Wildlife Sanctuary-39.64 square kilometre and Mitiyala Wildlife Sanctuary-18.22 square kilometre);

AND WHEREAS, Gir National park is surrounded on all the sides by the Gir Wildlife Sanctuary and Paniya Wildlife Sanctuary is adjacent and surrounded by Gir Wildlife Sanctuary on three sides. Mitiyala Wildlife Sanctuary is situated at a distance of 8 Kilometres north east of Gir Wildlife Sanctuary;

AND WHEREAS, the Gir Sanctuary and National Park and Paniya Sanctuary are the single largest compact tract of forests in Saurashtra region of Gujarat;

AND WHEREAS, Natural Habitats and important Corridors present in the GIR Protected Area constitute very wide range of biodiversity and many endangered, rare and threatened species of flora and fauna;

AND WHEREAS, Nearly half of the area in Gir forests is occupied by Dry Deciduous Teak Forest. Dry deciduous scrub forests include babul, khair, babarkhair, bili, khakhara, timru, gorad, hermo, bordi, ingor etc and Dry savannah forests consist of large grassy open blanks with very sparse and poor scrub type vegetation where Shaniyar, Jinjavo and Moshti are some of the good quality palatable grasses growing in these areas;

AND WHEREAS, in Gir Coastal Zone Area, there are 14 possible riverine corridors and one non river corridor from Park and Sanctuaries to Coastal areas of Saurashtra peninsula that support natural landscape features and help to guide animal movement;

AND WHEREAS, Forest Areas outside Gir Protected Area, declared as reserve forests, protected forests, unclassified forests are important wildlife habitats or wildlife corridors;

AND WHEREAS, Non Forest Lands Adjoining the Gir Protected Area provides important habitat for the lion and associate wildlife;

AND WHEREAS, Paniya Shetrunjay Hill Zone and the Banks of the River Shetrunji, the Reserve forest as well as Protected forest patches act as important corridors for the Asiatic Lion;

AND WHEREAS, the Hilly undulating Forests and Grass Land from Mitiyala Sanctuary to Hippavadli and Shetrunji Hills is used by animals as effective corridors;

AND WHEREAS, The Gir - Girnar Corridor of hilly undulating terrain between Gir and Girnar Pass is used by lions;

AND WHEREAS, it is necessary to conserve and protect the area to the extent and boundaries of which is specified in paragraph 1 of this notification around the Park and Sanctuaries as Eco-sensitive Zone from ecological and environmental point of view and to prohibit industries or class of industries and their operations and processes in the said Eco-sensitive Zone;

NOW THEREFORE, in exercise of the powers conferred by sub-section (1) read with clause (v) and clause (xiv) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986) and sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government hereby notifies an area to an extent of up to 17.9 kilometers from the boundary of the Mitiyala Wildlife Sanctuary, 16.3 Km from the boundary of the Gir Wildlife Sanctuary and up to 14.98 km from the Paniya Wildlife Sanctuary of Gujarat, as Eco-sensitive Zone (hereinafter referred to as the Eco Sensitive Zone), details of which are as under, namely:-

#### 1. Extent and Boundaries of Eco-sensitive Zone

(1) The Area of Eco-sensitive Zone is 3328.8139 Sq Km. It covers forest areas, riverine corridors, raised lands corridors and revenue areas around the Gir Wildlife Sanctuary, Gir National Park, Paniya Wildlife Sanctuary and Mitiyala Wildlife Sanctuary Region are located between latitude 20° 41' North to 21° 35' North and longitude 70° 15' East to 71° 35' East; falling in Junagadh, Gir-Somnath and Amreli districts of Gujarat State. It also include 291 villages situated in Junagadh, Visavadar, Mendarada, Maliya(Hatina), Talala, Kodinar, Una, Gir Gadhdha, Jafarabad, Khambha, Savarkundala and Dhari taluka of the above three districts. The details of the area are:

Area	Square Kilometre
Riverine corridors	333.0000
Adjoining 258 villages of Gir, Paniya and Mitiyala PAs	2279.6652
33 Villages with raised lands between Gir PA and Girnar PA (Visavadar, Junagadh & Mendarada Taluka)	212.0803
Notified Reserve Forest /Protected Forest /U.C.F. around Gir PA	504.0684

TABLE

S.No.	Activity	Remarks
(1)	(2)	(3)
<b>Prohibited Activities</b>		
1.	Commercial Mining, As per sub-activities described below.	(a) All new and existing (minor and major minerals), stone quarrying and crushing units are prohibited with immediate effect except for the domestic needs of bona fide local residents. (b) The mining operations shall be carried out in accordance with the order of the Hon'ble Supreme Court dated 04.08.2006 in the matter of T.N. Godavarman Thirumulpad Vs. UOI in W.P.(C) No.202 of 1995 and dated 21.04.2014 in the matter of Goa Foundation Vs. UOI in W.P.(C) No.435 of 2012.
1.1	Limestone Mining.	Regulation will not prohibit the digging of earth for construction or repair of house for manufacture of country tiles or bricks for housing for local personal consumption.
1.2	Blacktrap quarry.	Regulation will not prohibit the digging of earth for construction or repair of house for manufacture of country tiles or bricks for housing for local personal consumption.
1.3	Building limestone (quarry).	Regulation will not prohibit the digging of earth for construction or repair of house for manufacture of country tiles or bricks for housing for local personal consumption.
1.4	Sand mining including gravel and kankar.	Commercial mining will be prohibited. Regulation will not prohibit the digging of earth for construction or repair of house for manufacture of country tiles or bricks for housing for local personal consumption.
1.5	Soil, soft murum, hard murum.	Commercial mining will be prohibited. Regulation will not prohibit the digging of earth for construction or repair of house for manufacture of country tiles or bricks for housing for local personal consumption.
1.6	Crushing plant units.	No mining and crushing shall be allowed within the Eco-sensitive Zone and no major changes in landscape shall be allowed that affects the hydrology and ecology of the region.
2.	Setting of saw mills.	No new or expansion of existing saw mills shall be permitted with in the Eco-sensitive Zone
3.	Setting of industries causing pollution (Water, Air, Soil, Noise, etc.).	All polluting industries will be prohibited. No new or expansion of polluting industries in the Eco-sensitive zone shall be permitted. Agro-based small scale industries, will be regulated as per applicable laws.
4	Use of polythene bags.	In select tourist areas such as Sasan, Ambardi, Chikalkuba and Tulsishyam, use of Polythene bags by shopkeepers should be strictly banned. In other areas of the Eco-sensitive Zone, it may be regulated as per the applicable laws.

- (f) Senior Town Planner of the area - Member;
- (g) A representative of the Department of Forest and Environment, Government of Gujarat - Member;
- (h) One expert in the area of ecology and environment to be nominated by the Ministry of Environment, Forest & Climate Change, Government of India - Member;
- (i) Collector of the concerned district - Member;
- (j) District Development Officer of the concerned district - Member;
- (k) Deputy Conservator of Forests, concerned Division - Member;
- (l) Member of State Biodiversity Board-Member;
- (m) Chief Conservator of Forests, Wildlife Circle, Junagadh - Member Secretary.

#### Terms of Reference

- (2) The tenure of the Monitoring committee is for three years;
  - (3) The Monitoring Committee shall monitor the compliance of the provisions of this notification.
  - (4) The activities that are covered in the Schedule to the notification of the Government of India in the erstwhile Ministry of Environment and Forests number S.O. 1533 (E), dated the 14<sup>th</sup> September, 2006, and are falling in the Eco-sensitive Zone, except for the prohibited activities as specified in the Table under paragraph 4 thereof, shall be scrutinized by the Monitoring Committee based on the actual site-specific conditions and referred to the Central Government in the Ministry of Environment, Forest and Climate Change for prior environmental clearances under the provisions of the said notification.
  - (5) The activities that are not covered in the Schedule to the notification of the Government of India in the erstwhile Ministry of Environment and Forests number S.O. 1533 (E), dated the 14<sup>th</sup> September, 2006 and are falling in the Eco-sensitive Zone, except for the prohibited activities as specified in the Table under paragraph 4 thereof, shall be scrutinized by the Monitoring Committee based on the actual site-specific conditions and referred to the concerned regulatory authorities.
  - (6) The Member Secretary of the Monitoring Committee or the concerned Deputy Commissioner(s) shall be competent to file complaints under section 19 of the Environment (Protection) Act, 1986 against any person who contravenes the provisions of this notification.
  - (7) The Monitoring Committee may invite representatives or experts from concerned Departments, representatives from Industry Associations or concerned stakeholders to assist in its deliberations depending on the requirements on issue to issue basis.
  - (8) The Monitoring Committee shall submit the annual action taken report of its activities as on 31<sup>st</sup> March of every year by 30<sup>th</sup> June of that year to the Chief Wildlife Warden in the state as per pro-forma given at **Annexure VIII**
  - (9) The Central Government in the Ministry of Environment, Forest and Climate Change may give such directions, as it deems fit, to the Monitoring Committee for effective discharge of its functions.
6. The Central Government and State Government may specify additional measures, if any, for giving effect to provisions of this notification.
7. The provisions of this notification shall be subject to the orders, if any, passed, or to be passed, by the Hon'ble Supreme Court of India or the High Court or National Green Tribunal.

[F. No. 25/32/2016-ESZ-RE]

Dr. T. CHANDINI, Scientist 'G'



**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/WRIT PETITION (PIL) NO. 88 of 2017**

=====

BIREN RAMESHCHANDRA PADHYA  
Versus  
UNION OF INDIA & 3 other(s)

=====

## Appearance:

ABHISST K THAKER(7010) for the Applicant(s) No. 1  
MS.M.L.SHAH, LD. GOVERNMENT PLEADER with MR.KRUTIK PARIKH,  
AGP for the Opponent(s) No. 2,3,4  
MR DEVANG VYAS(2794) for the Opponent(s) No. 1  
MR. PARTH H BHATT(6381) for the Opponent(s) No. 1

=====

CORAM:**HONOURABLE THE ACTING CHIEF JUSTICE MR.  
JUSTICE A.J.DESAI**  
and  
**HONOURABLE MR. JUSTICE BIREN VAISHNAV**

Date : 03/07/2023

**ORAL ORDER**

**(PER : HONOURABLE THE ACTING CHIEF JUSTICE MR. JUSTICE  
A.J.DESAI)**

1. Heard Mr.Abhisst Thaker learned advocate for the petitioner and Ms.M.L.Shah learned Government Pleader for the respondent - State Authorities.
2. By two different orders dated 19.04.2017 and 25.04.2019, the coordinate bench has directed the respondent authorities not to issue final

notification. Continuing the said relief in operation, we further pass the following order:

- I. It would be open for the State Authorities to forward fresh proposals for earmarking proposed Eco-Sensitive Zone of Gir, Paniya & Mitiyala Wildlife Sanctuary in view of the decision of the Hon'ble Apex Court in case of ***T.N. Godavarman Thirumulpad v. Union of India and Others*** reported in ***(2022) 10 SCC 544***.
3. The State shall submit the report from the Central Government before this Court.
4. To be listed on 04.09.2023.



(A.J.DESAI, ACJ)

(BIREN VAISHNAV, J)

ANKIT SHAH

VAKALATNAMABEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL, WESTERNZONE BENCH, PUNE, AT PUNE

ORIGINAL APPLICATION NO. 37 OF 2020 (WZ)

MR. SAYYED MOHAMMED SABIR USMAN

APPLICANTS

Versus

UNION OF INDIA &amp; OTHERS

RESPONDENTS

I, HADABHAZ MORI, the PROPRIETOR of the above named RESPONDENT No. 13 do hereby appoint, SAURABH KULKARNI \_\_\_\_\_, Advocate to act, appear, plead and compromise for me in the above matter.

In witness where of I have set my hand to this writing.

This 12<sup>th</sup> day of APRIL 2023.

Accepted



Advocate

Email: sdkadvo cate@gmail.com


Signature

**SAURABH D. KULKARNI**  
ADVOCATE

420, SHANIWAR PETH,  
NEAR AHILYA DEVI SCHOOL,  
NEXT TO SUDARSHAN HALL, PUNE-411030.  
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