

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
(SOUTHERN ZONE) AT CHENNAI

O.A. No. 7 of 2019

In the matter of:

J. Nageswara Rao

... Applicant

Versus

The State of Andra Pradesh and 4 others

... Respondents

**REPLY FILED BY THE RESPONDENTS 6 TO 40 ALONG WITH RESPONSE TO
THE JOINT COMMITTEE REPORTS**

The Respondents above named respectfully submit as follows:-

It is submitted that this Reply/Response is filed by the 6th Respondent for and on behalf of all Respondents, viz. R-6 to R-40 in O.A.No. 7 of 2019.

1. The above application has been filed by the Applicant alleging pollution by the Stone Crushing Units and Road Metal Quarries operating in S.Nos. 111 & 155/A1 Chinnapalakuru Village, Guntur District. Based on the allegations made in the Application this Hon'ble Tribunal was pleased to appoint a Joint Committee by order dated 27.03.2019 and directed the Committee to submit a report regarding the carrying capacity of the area, the Air Pollution measures and violation of conditions if any.

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2. The Committee, after considering the grievances of the applicant only and without providing any opportunity to the quarry owners submitted a report before this Hon'ble Tribunal in April/May 2019. Thereafter by order dated 15.05.2019, this Hon'ble Tribunal issued further directions to the Committee to carry out a study on the carrying capacity of the area.

3. The Committee submitted a further report dated 24.07.2019 wherein the Committee noted that all the units have complied with almost all the conditions of consent as well as the Environmental Clearances issued except regarding the aspect of wet drilling. The Committee noted as per the consent conditions, drills should be water-jacketed, but on the other hand the units informed the committee that the drills do not have provisions for water jacketing and therefore required a modification of the conditions to an alternative method for controlling dust emission at the time of drilling by covering the drill bits with wet gunny bags /gunny bags to attenuate dust emissions during drilling process.

4. Finally in para 3.0 the Committee observed that out of 44 stone quarries 10 quarries are not in operation and the remaining 34 quarries are operating at 10 to 15% of the production capacity due to lack of demand. In Para 3.0 (vi) the Committee has referred to the representation of the stone quarries that implementation of wet drilling of holes for blasting is not practiced in the State of Andhra Pradesh.

5. Subsequently, this Hon'ble Tribunal has passed an order dated 29.07.2019 directing the Committee to consider the question

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of assessing damage caused to the Environment and submit a report. The Committee made a further inspection of the quarries in September 2019 and submitted a further report in October 2019 to this Hon'ble Tribunal. In the said report the committee has clearly stated that as regards the carrying capacity it has been recommended to reduce the operation capacity to 30% of the consent capacity during the critical meteorological weather conditions. While doing the environmental damage assessment, the committee has stated in respect of air quality that after detailed studies it has been found that the air quality in the quarry area including the habitations area are within the standards prescribed and the damage to environment by air pollution is meagre. The committee also rejected all claims regarding damage to physical structures due to vibration. As regards environmental compensation, the committee has calculated the same on the basis of five points relating to alleged violation of consent' conditions. However, fixing 26.10.2018 as the base or first day of violation is incorrect and similarly fixing further dates for calculation as in 09.07.2019 and 30.09.2019 also without any supporting material and without notice or opportunity to the concerned quarry owners to explain the situation is incorrect. Therefore the calculation as regards environmental compensation is totally wrong in as much as the detailed explanation given by the quarry owners have not been considered by the committee or thereafter by the Board before making a demand for environmental compensation. When it is an admitted position that the capital cost of the business of quarrying itself is hardly ₹ 10 lakhs and the industry falls under the small category, fixing of environmental compensation at this magnitude is totally

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disproportionate and impractical apart from being in total violation of the principles of natural justice.

6. Pursuant to the above report, this Hon'ble Tribunal has passed further orders on 13.12.2019 directing the Pollution Control Board to submit a further report regarding the consequential action taken pursuant to the show cause notice issued in respect of levy of environmental compensation. While the observations in the aforesaid order was to take action in accordance with law, the Board in an unseemly hurry issued a notice dated 18.01.2020 levying huge amounts towards environmental compensation in respect of individual quarries by merely making a reference to the orders of this Hon'ble Tribunal and without making any independent exercise or affording an opportunity to the quarry owners before arriving at the quantum of compensation.

7. Even as the quarry owners requested the authorities to follow the procedure contemplated by law which is what this Hon'ble Tribunal has ordered, the Board proceeded to issue a further order dated 18.08. 2020 by which they directed all the quarries to stop production.

8. In the meantime the committee in pursuance of the orders dated 20.01.2020 passed by this Hon'ble Tribunal submitted a detailed report on the compliance of the quarries to the directions issued by the Board. Most importantly, in the above report, in para No.3 the committee has observed that the mine owners have met the committee and apprised the committee on the issue relating to wet drilling and also demonstrated the wet cloth covered drilling

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method. The committee has stated that it is of the opinion that the scientific assessment of the efficiency of the method is needed and if the indigenous technique is found efficient, it may save not only air pollution but also save several kilolitres of water. The committee has taken into account the fact that the present methodology adopted by the mining owners is as approved in the mining plan approved by the AP Department of Mines and Geology. The Committee has also referred to the detailed representation made in this regard on 15.02.2020 by the Guntur District Quarry and Stone Crushers Owners Welfare Association to the Board to permit wet cloth covered drilling as an alternate to wet drilling condition mentioned in the CFO. Even in respect of reduced production during winter months, the committee has observed that all the mines have reduced the production by more than 30%. The committee has also made general observations and submissions as regards the above issues in the concluding paragraphs of the report.

9. Therefore, the committee has clearly found that remarkable progress in achieving compliance by the quarries was evident as per the records for over the last six months and the stone quarry operators were regularly reporting to the APPCB. Under the circumstances, the Board instead of considering the report of the joint committee in its proper perspective, has merely taken only the recommendation regarding imposition of environmental compensation as a solitary issue and without affording any opportunity to the mine owners has directed payment of compensation by merely reproducing the orders of this Hon'ble Tribunal when especially this Tribunal had only recommended action to be taken in accordance with law. It is humbly submitted that any

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action in accordance with law would mean observance of the principles of natural justice is mandatory particularly in view of the fact that none of the mine owners were parties before this Hon'ble Tribunal at the point when the joint committee reports were made available before this Hon'ble Tribunal and also at the point when subsequent directions were given to the authorities to take action in accordance with law. Under such circumstances, it is incumbent on the part of the authorities to afford each of the mine owner a complete and reasonable opportunity to explain themselves as to the demand for compensation made, the basis on which the demand is made and in the circumstances under which the mine owners become liable to pay the same. Once such an opportunity was provided it was open to the mine owners to place all the materials available in their possession in order to either completely exempt themselves from the demand for compensation or reduce the quantum of compensation to the maximum extent possible so that the industries can survive. Instead of doing that, the Board has chosen to adopt an extreme measure of imposition of compensation and issuing orders to stop production which would completely ruin the industry. The Board appears to have listened only to the applicant's repeated complaints to the Board by citing orders of this Tribunal instead of following the procedure established by law.

10. The Board has subsequently filed a further report before this Hon'ble Tribunal dated 20.08.2020 in which the Board has stated that in respect of details of action taken against the stone quarry is the Board has imposed the total environmental compensation of 5,28,70,000/- on the quarries based on the recommendations of the Joint Committee. Importantly nothing is mentioned in the action

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taken report as to any independent assessment of the quantum of compensation or the procedure adopted in respect of the same by listening to the grievances of the mine owners by affording reasonable opportunity of being heard to all parties. Therefore, the orders imposing compensation are ex facie bad and it is therefore incumbent on the board to afford reasonable opportunity to all the parties concerned before arriving at any decision regarding imposition of environmental compensation or issuing orders for stopping production. It is submitted that this practice adopted by the Board in one case has been strongly deprecated by the Hon'ble Supreme Court.

11. In the foregoing circumstances it is only just and necessary that the Board is directed to keep all orders in abeyance and afford reasonable opportunity of hearing and allow the quarry owners to place all the materials on record to show that difference as against the imposition of environmental compensation in the manner known to law and decide the matter afresh. Even assuming compensation is to be levied it has to be based on necessary materials on record and the quarry owners have the right to demonstrate that the quantum of compensation has been calculated wrongly and seek to reduce the quantum if the levy of compensation is finally justified. This can be done only before the authorities as all the records can be looked into and it is not proper for the Board to initiate action on its own by merely citing orders of this Hon'ble Tribunal whereas this Hon'ble Tribunal has only directed them to take action in accordance with law

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12. Under these circumstances faced with exorbitant demands from the Board without affording any opportunity to the mine owners, the mine owners who are also not parties were originally to the present application had no other option except to approach the Hon'ble High Court of Andhra Pradesh in order to seek quashing of the above demands on the ground of violation of principles of natural justice. The Hon'ble High Court initially granted interim orders of stay and finally disposed of writ petitions on 25.01.2021, 28.01.201 & 29.01.2021 by directing the Petitioners to approach this Hon'ble Tribunal in order to seek further reliefs. While doing so the Hon'ble High Court also granted protection for a further period of four weeks in order to enable the petitioners to approach the Hon'ble Tribunal.

13. Accordingly the Petitioners approached this Hon'ble Tribunal with the impleading application along with the prayer for interim protection. This Hon'ble Tribunal by its order dated 19.02.2021 was pleased to direct impleadment of Respondents 17 to 40 and taking notice of the orders of the Hon'ble High Court granted interim protection to the quarry owners from any further coercive action by the authorities. The said interim orders are still in force.

14. It is submitted that as on date, considering the recommendations and the observations of the committee in the report dated July 2020 it is clear that all the quarries are in full compliance of the directions and conditions given/imposed by the board from time to time. However, in respect of alleged past violations, the Board ought to have afforded a reasonable opportunity to the mine owners in order to explain their stand and

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challenge the methodology and the quantum of compensation as per law.

15. It is submitted that this Hon'ble Tribunal formed O.A.No.179 of 2016 filed by one Panulapatti Krishna Rao is also with respect to the same issue and therefore tagged the case to O.A.No. 7 of 2019 for further hearing.

16. The quarry owners had brought to the notice of the Board by their representation dated 04.02.2020, 11.02.2020 and 09.6.2020 that the Joint Committee was satisfied with compliance of conditions prescribed by the Board and other conditions imposed in the work order and all directions issued from time to time including compliance with all Air Emission Norms. They particularly stated that the order levying Environment Compensation dated 18.01.2020 were issued without hearing the affected quarries and considering the fact that the affected quarry owners are approaching the Hon'ble Tribunal for impleadment in that case coupled with paralysis of work due to Covid 19 locked down imposed by the Government, the Authorities must defer any further action. However, in spite of these representations and without hearing the authorities the Board proceeded to issue a further order on 18.08.2020 directing the quarries to stop production. It is under these circumstances, the quarry owners approach the Hon'ble High Court with Writ Petitions challenging the afore said orders on the ground of violation of principles of natural justice.

17. In so far as the allegations made in the application are concerned, it is submitted that the allegations are totally false and

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the same are adequately addressed by the findings in the Joint Committee report itself. The Applicant is a busy body who operates with the sole intention of indulging in extortion and blackmailing of persons in business for unfair gain. It is because of constant complaints and pressure exerted on the authorities, the Board chooses to impose Environmental Compensation without affording even an opportunity to the quarry owners.

It is therefore prayed that this Hon'ble Tribunal may be pleased to dismiss O.A. No. 7 of 2019 along with O.A. No. 179 of 2016 and thus render justice.

VERIFICATION

I, Singu Ramesh Babu, son of Sitaramaiah, aged 54 years, do hereby solemnly affirm and verify that the contents of the above Reply are true and correct to my knowledge. No part of it is false and nothing material has been concealed there from.

Verified on this day of 18th June 2021 at Guntur.

ATTESTED

B. U. V. Venkateswara Rao
 B. UMA VENKATA NAGESWARA RAO
 ADVOCATE & NOTARY
 GOVT. OF ANDHRA PRADESH INDIA
 9/3 PANDAHIPURAM, GUNTUR-522 062
 Commission on Date: 25-12-2021

18/6/2021

DEPONENT

For S.R. INFRA PROJECTS
S. Ramesh Babu
 PROPRIETOR

