

**IN THE NATIONAL GREEN TRIBUNAL SOUTHERN
BENCH AT CHENNAI**

ORIGINAL APPLICATION NO. 242/2020

In the Matter of

Aliyar kutty

-

Applicant

Verses

Union of India & others -

Respondents

REPLY FILED BY THE 7TH RESPONDENT

*M/S SHAIJAN C GEORGE & ASSOCIATES
ADVOCATES, 2ND FLOOR, EDASSERY BUILDING,
ERNAKULAM, COCHIN 682031*

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Dated this the 19th day of March 2021

Counsel for the 7th respondent.

**IN THE NATIONAL GREEN TRIBUNAL SOUTHERN BENCH AT
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REPLY FILED BY THE 7TH RESPONDENT

1. At the outset, the 7th respondent humbly submits that the Original Application has been filed by claiming falsehood against the 7th respondent. In the Original Application, the applicant falsely alleges that the answering respondent is setting up crusher unit and also causing illegal mining activity. All such ill-based and false allegations are denied in its entirety.
2. All the averments and allegations contained in the Original application are false and hence denied except those are specifically admitted hereunder. The applicant cannot be considered as a public spirited person. He is acting on behalf of some others, who had already approached the Hon'ble High Court of Kerala against the answering respondent by filing a writ petition W.P.(C). 15754/2020. It

For PRIME SANDS & AGGREGATES


Managing Partner

is due to the non-fulfilment of the intention of the petitioners therein, the applicant herein had filed the O.A. with ulterior motives.

3. The averments contained in para 1 and 2 are false and hence denied. It is not true to say that the answering respondent is setting up a crusher unit in Survey No. 88/22/30/40 and 88/22/30/49 of Edaman Village of Punaloor Taluk, Kollam District, Kerala. The answering respondent is intending to establish a unit for the manufacture of M sand and P sand, which is highly essential for the building construction as alternatives for the river sand. The Government of Kerala with an intention to make the State to be more entrepreneur friendly, had enacted a Law, the Kerala Micro Small and Medium Enterprise Facilitation Act, 2019. With an intention to establish a unit for the manufacture of M-Sand and P-Sand, the answering respondent had obtained license from the land owners of the property comprised in Sy. 88/22/30/49 and 88/22/30/40 of Edaman Village. A true copy of the license deed dated 20.3.2020 is produced herewith and marked as **Annexure R7(a)**. For the industry the 7th respondent intend to establish on the property with the above survey number, do not require the 'No Objection Certificate' from the Department of Forest.

4. The averments in Para 3 are false and hence denied. As stated in the preceding paragraph, the answering

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respondent had availed the facility provided under the Kerala Micro Small and Medium Enterprise Facilitation Act, 2019 and submitted the self-certification as provided under Sec. 5 of the said Act. By virtue of Sec. 5 of the Kerala Micro Small and Medium Enterprise Facilitation Act, 2019, any person who intends to start an enterprise other than those not included as 'Red Category' by the State Pollution Control Board, may furnish before the Nodal Agency a Self-Certification to start such enterprises in such form and in such manner as may be prescribed. On receipt of a self-certification completed in all respects, the Nodal Agency would issue an Acknowledgment Certificate, in the prescribed form to the person, who furnishes the self-certification. Likewise the Nodal Officer, General Manager, District Industrial Centre at Kollam had issued Acknowledgement Certificate dated 11.5.2020 to the answering respondent. A true copy of the acknowledgment certificate dated 11.5.2020 is produced herewith and marked as **Annexure R7(b)**. It is clearly noted in the acknowledgment certificate that the unit proposes to be established is a manufacturing unit for M-sand, P-sand and aggregates. The answering respondent had submitted the application for consent to establish the above said industry in the proposed site before the Kerala Pollution Control Board. The Kerala Pollution Control Board had accorded the consent vide Consent Order bearing number Consent No. PCB/IC/120/2020 dated 3.7.2020. A true copy of the Consent Order dated 3.7.2020 is produced herewith

For PRIME SANDS & AGGREGATES

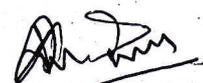


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and marked as **Annexure R7(c)**. In the consent order issued by the 6th respondent herein, the category of industry noted is 'Orange'. The raw material used is aggregates 20 mm and the product is M-sand. Annexure R7(c) is issued with specific conditions to be complied with by the answering respondent. The answering respondent undertakes the compliance of the conditions imposed as per Annexure R7(c). It is not true to say that the answering respondent is setting up a crusher unit at the border line of a forest. It is not a crusher unit. It is an M-sand & P-sand manufacturing unit. The process employed is totally different. The main process is the vertical shaft impact(VSI) and washing to manufacture sand. Hence the allegations contained in paragraph 3 are to be rejected completely.

5. The averments contained in para 4 are false and hence denied. The running of the proposed industry will not cause any adverse impact on the Kallada River. No effluent will be discharged to the River. As per the working scheme of the proposed unit, there will not be any effluent which is to be considered as waste or a polluting agent. The water used for the running of the industry will be recycled and used again without leaving any chance to act as a pollutant. All the contrary averments contained in para 4 are false and devoid of merit.
6. The averments contained in para 5 are false and hence denied. The averments are made with bad intentions to

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raise false allegations against reputed persons. The allegation that the Consent Order was issued by the 6th respondent in small span of time is ill-motivated. It is as per the provisions of the Kerala Micro Small and Medium Enterprise Facilitation Act, 2019, the process of issuing consent was routed through Single Window Clearance Scheme. So the allegations made in para 5 of the Original Application can only be considered as a wild allegation without due care and bonafide.

7. The allegations made in para 6 of the Original Application are false and hence denied. The answering respondent had never indulged in the activity of illegal mining. The applicant is falsely terming as the leveling and development of the land in order to make it suit to erect the required plant and the connected structures in the property. It is based on the false allegations and complaints, the 4th respondent happened to issue the communications recited by the applicant herein. But on examination of the property, it was convinced by the 4th respondent that no illegal mining of earth had been done by the answering respondent other than removal of small quantity of earth in order to facilitate the establishment of the required structure and the equipment in the property. All the contrary averments made by the applicant in the Original Application may be rejected.

For PRIME SANDS & AGGREGATES



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8. The prayers sought by the applicant are liable to be dismissed with cost.
9. A similar petition had been filed by a close associate of the applicant herein before the Hon'ble High Court in W.P.(C). 15754/2020. While disposing the above writ petition, the Hon'ble High Court had permitted the petitioners therein to submit a statutory appeal as per the provisions of the Kerala Micro Small and Medium Enterprise Facilitation Act, 2019. A true copy of the judgment in W.P.(C). 15754/2020 dated 19.8.2020 is produced herewith and marked as **Annexure R7(d)**. Pursuant to the above said judgment, the appellate authority had considered the appeal and evaluated the issue in its entirety and had rejected the appeal of the petitioners in W.P.(C). 15754/2020 on 23.10.2020. A true copy of the Order of the Appellate Authority dated 23.10.2020 is produced herewith and marked as **Annexure R7(e)**. The State Pollution Control board also had conducted hearing on the complaint and passed the order confirming the Consent vide Order dated 25.11.2020. A true copy of the minutes of the proceedings by the 4th respondent dated 25.11.2020 is produced and marked as **Annexure R7(f)**. The District Town Planner has also given the approval for the lay out and use of land in favour of the answering respondent. A true copy of the proceedings of the District Town Planner dated 13.01.2021 is produced and marked as **Annexure R7(g)**.

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10. As per the order of this Hon'ble Tribunal, the joint committee had conducted inspection on the property and had inquired into the matter. The answering respondent had given undertaking to carry out whatever the required implements and conditions to be carried out in order to avoid any anomaly as per the Law. The 7th respondent further undertakes before this Hon'ble Tribunal that they will not indulge into any illegal activity that would be hazardous to the environment and they are ready to carry out any further implementations to conduct the industry in accordance with the existing law and to have the facility of the newly enacted Kerala Micro Small and Medium Enterprise Facilitation Act, 2019.

In the above circumstances, it is humbly prayed that this Hon'ble Tribunal may be pleased to dismiss the Original Application filed by the applicant with cost.

Dated this the 19th day of March 2021.

For PRIME SANDS & AGGREGATES


Managing Partner

7th Respondent

T. Krishnakumar

Shaijan C George

Counsel for the 7th respondent

VERIFICATION

I, T. Krishnakumar, aged 53 years, S/o Thyagarajan . do hereby solemnly affirm and declare on this the 19th day of March 2021 that what are stated in paragraph 1 to 10 are true to the best of my knowledge, information and belief. For PRIME SANDS & AGGREGATES



Managing Partner

7th Respondent

T. Krishnakumar

Shaijan C George

Counsel for the 7th respondent



കേരളം കേരल KERALA

CG 185016

LICENSE DEED

THIS LICENSE DEED made and entered in to at Edamon on this the 20th day of March, 2020 BETWEEN 1. Shereif , Son of Shahul Hameed aged 52 residing at Jifana Manzil and 2. Sabeena, wife of Shereif, aged 48 residing at Jifana Manzil herein after referred to as the "LICENSORS" (Which expression shall mean and include their heirs and legal executors and administrators) On the one part and M/S Primes sands and Agragates, Ambiyil House Chemmantoor, Punalur represented by the Managing Partner, T. Krishnakumar herein after referred to as "LICENSEE" of the other part.

WHEREAS THE Licensors are having absolute right and possession over 4.26 Acres of land in Survey No. 88/22/30/49 and 88/22/30/40 in of Edamon Village by virtue of Sale Deed No. 990 of 2000 and 991 of 2000 of Punalur Sub - registry Office

AND WHEREAS the license requested to the licensors for permission to use 1H 53Are 63 Sqm of land out of the above total extent which is specifically shown in the sketch attached to this license deed for manufacturing M sand and P Sand and allied activities subject to the conditions herein after mentioned

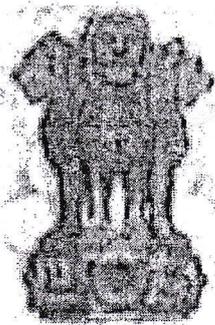
Handwritten signatures and stamps, including a circular stamp on the left and a large signature across the bottom. The signature appears to be 'A. 1834' and 'R. 2100'.

भारतीय गैर न्यायिक

एक सौ रुपये

Rs. 100

₹. 100



ONE HUNDRED RUPEES

भारत INDIA
INDIA NON JUDICIAL

കേരളം केरल KERALA

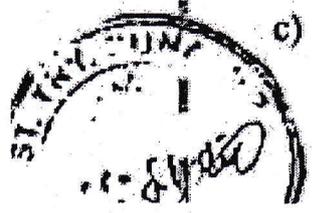
CG 185017

- 1 The License agreed to give a License fee of Rs.25000/- (Rs. Twenty Five Thousand Only) to the licensor per month, payable on or before the 2nd day of every month as License fee. The license period has to be calculated from 20/03/2020
- 2 The License hereby granted shall be for a period of ten years which is mutually revocable by the parties.

a) In the licensed premises the license shall - constructs work of permanent character by way of office building erecting machineries permanently attached to earth with the expenses borne by the licensee acting up on this license deed. The license shall not do any other activities except the manufacturing process as stated above

b) It is the duty of the licensee to maintain the rubber trees as such except the trees removed for the purpose of erecting the machinery and building and also for the road created to enter in to the license premises. The shall not cause any damage to the existing trees in the property.

c) The licensors are having absolute right to enter in to the property at any time and the exclusive possession of the property has not



Dr 18348. Rs 100/-
20/3/2020

been handed over to the licensee but the licensors shall not obstruct the smooth functioning of the manufacturing process carried out in the specified area in the sketch attached

- d) The licensors acting up on this license permitted the licensee to execute the works of permanent character at the expenses of the licensee
- e) This license is granted only for manufacturing of stands stated above and the licensee has absolutely no possession or any other right over the land except the permission granted above
- f) The licensors hereby grant permission to the licensee to obtain license from the Panchayat in the name of the licensee, to avail electrical connection from KSEB for the purpose of manufacturing process and to obtain all necessary permission for the concerned authorities for the smooth functioning the manufacturing process
- g) The licensee is permitted only to conduct the process in the area specifically shown in the sketch and the manufacturing process shall not cause any damage or hindrance for the enjoyment of the remaining property by the licensors without any trouble
- h) The license fee fixed above has to be given to the licensor on the data fixed above and if any default is made the licensors have the right to revoke the license granted disregarding the period fixed above for the license and the licensors are entitled to get 10% increase every three years on the existing license fee
- i) After revocation of the license the licensee is entitled to remove the machineries and the building constructed by the licensee.
- j) The licensors hereby cut and removed the trees in the area specified in the sketch for executing the works for the manufacturing process of the licensee
- k) The licensors reserves the right to obstruct if an thing done in the property against the terms of this permission and the licensee has absolutely no right to do an thing except with the permission of the licensors.

Dabens

Chun S

- i) The licensee shall not allow any strangers to enter into the property except the licensee and his employees.
- m) The licensee shall pay the electric charges and water charges based on the consumption by the licensee.
- n) The licensors have every right to inspect the property at any time by intimating the licensee.
- o) The licensee shall not do any illegal activities in the property or store any prohibited articles in the buildings to be constructed therein.
- p) The licensee shall pay and discharge regularly and in time all existing and future rates, assessments and taxes in respect of the process conducting in the licensed premises during the license period.
- q) The licensee shall not to assign, transfer, share or part with possession of the licensed premises or any part thereof to any person or persons.
- r) The both parties reserve the right to revoke the license after giving one month notice apart from the revocation terms mentioned above subject to the permission given to the licensee to execute the work of permanent character.

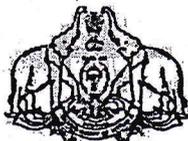
SIGNED AND DELIVERED BY THE

LICENSORS: Gilfin Sharief and Sabena Sharief - Sabena

LICENSEE: Abu Zay

In the presence of witnesses:

1. Gilfin Sharief
2. Roshin Thomas



**Government Of Kerala
Department of Industries & Commerce**

(issued under sub-section (3) of section 5 of the Kerala Micro Small Medium Enterprises Facilitation Act, 2019)

Acknowledgement Certificate

M/S M/s . *Prime Sands and Aggregates* has filed a Self Certification under the Kerala Micro Small Medium Enterprises Facilitation Rules, 2020 to set up a **Manufacturing** enterprise. The receipt of the Self Certification for the enterprise is hereby acknowledged with following details as contained in the self certification :

Acknowledgement Details	
Acknowledgment Number	KLMSME-1138/2020
Date of Acknowledgment	11-05-2020
Validity of Acknowledgment	10-05-2023
Name of the Enterprise	M/s . Prime Sands and Aggregates
Type of Organization	Partnership
Address for Communication	T B Junction, Ponnaya Bhavan, Punalur, Punalur, Kollam, Kerala-691305
Major Activity of Enterprise	Manufacturing
Product(s) to be Manufactured/Service(s) to be provided	Msand, psand, aggregates
Location of Manufacturing/Service Activity of Enterprise	88/22/30/44, 49, 40, Prime Sand and Aggregates, Edamon, Edamon, Edamon S.O, Kollam -691307
Survey Number	88/22/30
Estimated Project Cost	200 Lakhs

- 1. Subject to provisions of the Ordinance and these Rules, this Acknowledgement Certificate shall entitle the enterprise:**
 - a. Exemption from approval under the various enactments mentioned in the Act.
 - b. Exemption from inspection for the purpose of, or in connection with, any approval under various enactments mentioned in the Act.
 - c. It can be presented to any Competent Authority or Bank or Financial Institution as and when required who shall treat it as valid approval as defined in sub-section (c) of section 2 of the Act for all the purposes.
- 2. This Acknowledgement Certificate is issued, subject to following**

conditions:

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Annexure 7 (b) 6

- a. The provisions of the Kerala Micro Small Medium Enterprises Facilitation Act, 2019 and its applicability shall be limited to Acts mentioned in the Act and the activities mentioned in the Acknowledgement Certificate
- b. The Acknowledgement Certificate is valid for a period of three years from the date of issue.
- c. After the expiry of Acknowledgement Certificate, the enterprise shall have to obtain required approvals, for which no further intimation shall be provided.
- d. In case of willful submission of false information in Self Certification or suppression of material fact, or breach or contravention of any of the provisions in the Act & the rules, the Nodal Agency can revoke/cancel the Acknowledgement Certificate as per provisions of the Act and Rules.
- e. The Acknowledgement Certificate will become void, if the enterprise ceases to exist due to merger or division of enterprise or acquisition or amalgamation of the enterprises or if it ceases to be a Micro, Small or Medium enterprise as defined under the Act.

This certificate is valid for a period of three years from the date of issue. Dated on this the 11th day of May, 2020



KLMSME-1138/2020

Issued By,
General Manager, DIC,
District Industries Center,
Kollam, Kerala.

This is a system generated Certificate which requires no signature.

15

FILE NO. :PCB/KO/NOC/120/2020

Date of issue :03/07/2020



KERALA STATE POLLUTION CONTROL BOARD

CONSENT TO ESTABLISH

ISSUED UNDER

Section 25 of Water (Prevention & Control of Pollution) Act, 1974

Section 21 of the Air (Prevention & Control of Pollution) Act, 1981

and

Environment (Protection) Act, 1986

As per Application No. :13286805

Dated:03-07-2020

TO

M/s PRIME SANDS AND AGGREGATES

PRIME SANDS AND AGGERGATES

EDAMON P.O.

KOLLAM - 691307

Consent No. :PCB/KO/ICE/120/2020

Valid Upto :02/07/2025

1. GENERAL

1.1. This integrated consent is granted subject to the power of the Board to withdraw consent, review and make variation in or revoke all or any of the conditions as the Board deems fit.

1	VALIDITY	02/07/2025
2	Name and Address of the establishment	PRIME SANDS AND AGGREGATES PRIME SANDS AND AGGERGATES EDAMON PO 691307
3	Communication	Telephone :9946444749-04752963817 Fax :0475-2963817 E-mail:psapunalur@gmail.com
4	Occupier Details	T KRISHNA KUMAR PONNAYA BHAVAN , TB JUNCTION PUNALUR PO VALAKODU
5	Local Body	PANCHAYAT
6	Survey Number	88/22/30/40, 88/22/30/49
7	Village	EDAMON
8	Taluk	PUNALUR
9	District	Kollam
10	Capital Investment(Rs in Lakhs)	47.00
11	Scale	Small
12	Category	ORANGE
13	Annual fee(Rs)	Rs.9100/-
	Total Fee remitted(Rs)	Rs.45500/-
14	RAW MATERIAL	PRODUCTS
	AGGREGATES 20MM @780 Metric Tonnes/day	M SAND @780 Metric Tonnes/day
15	Total Power Required (HP)	323.5 HP (VSI Machine - 250 HP, Auxiliaries- 73.5 HP)

2. CONDITIONS AS PER

The Water(Prevention and Control of Pollution)Act, 1974

2.1 In case of generation of trade effluent from the industry, effluent treatment system consisting of treatment units having adequate capacity established as per the proposal submitted along with the application shall be made functional before commissioning. Additional facilities required, if any, to achieve the standards laid down by the Board u/s 17(1) (g) of the Water Act shall also be made along with.

2.2 Water Consumption : 10 KLD

2.3 Effluent Generation : NIL

2.4 The characteristics of effluent after treatment shall confirm to the following tolerance limits:

SL.NO.	Characteristics	Unit	Tolerance Limit	
			Sewage	Trade Effluent

2.5 Mode of disposal of treated effluent : NA

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**3. CONDITIONS AS PER
The Air(Prevention and Control of Pollution)Act, 1981**

3.1 Adequate air pollution control measures shall be provided before commissioning of the industry. Additional facilities required, if any, to achieve the standards laid down by the Board shall also be made along with.

Stack No.	Sources of Emission	Emission Rate(Nm3/Hr)	Stack Height above		Control Equipment
			Ground Level	Roof Level	

3.2 Emission characteristics shall not exceed the following:

Sl.No.	Parameter	Limiting Standards (mg/Nm3)

**4. CONDITIONS AS PER
The Environment (Protection) Act, 1986.**

- 4.1 The construction activities shall be carried out strictly in compliance with the provisions of the Noise Pollution (Regulation and Control)Rules 2000.
- 4.2 Used lead acid batteries shall be disposed of as per the Batteries (Management and Handling) Rules, 2001
- 4.3 Hazardous waste generated, if any, shall be handled as per the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016.
- 4.4 e-waste shall be disposed off safely as per the E-Waste (Management) Rules, 2016.

5. SPECIFIC CONDITIONS

- 5.1. The unit shall be established as shown in the site location drawing attached. No change/alteration shall be done without the prior approval of the Board.
- 5.2. This consent is granted subject to the power of the Board to review and make variations in all or any of the conditions as per section 21 of the Air (Prevention & Control) of Pollution Act 1981 and section 25 of the Water (Prevention & Control) of Pollution Act 1974.
- 5.3. This consent unless withdrawn earlier and subject to condition no. 5.2 shall be valid for five years from the date of issue. At the end of validity period if the construction is in progress the same shall be renewed. If the construction is yet to be started, the applicant shall apply afresh for Consent to Establish.
- 5.4. The applicant shall comply with the instructions that the Board may issue from time to time regarding prevention and control of air, water, land and sound pollution.
- 5.5. Any change in particulars furnished and / or in the identity of the occupier / shall be intimated to the Board forthwith.
- 5.6. The date of commissioning of the unit shall be intimated, at least one month in advance, to the District Office of the Board at Kollam.
- 5.7. Consent to Operate shall be obtained before commissioning the unit under the Water (Prevention and Control of Pollution) Act, the Air (Prevention and Control of Pollution) Act and the relevant Rules under Environment (Protection) Act. For this, application shall be submitted three month in advance.

- 5.8. A name board shall be put up near the main entrance of the project area. It shall display the name of the project and consent details.
- 5.9. The following control measures shall be provided before commissioning the industry in order to prevent and control air pollution.
 - a. The unit shall be enclosed in building of 40 cm thick solid wall with suitable roofing and false roofing as well as dust extraction, water impingement and settling facility.
 - b. Dust suppression system with water sprays and sprinklers provided at the dusts spreading areas.
 - c. Roads inside the unit premises shall be tarred/concreted.
 - d. Facility for regular cleaning and wetting of the ground shall be provided.
 - e. Trees of suitable species should be planted to develop a green belt within and along the boundary of the premises
- 5.10. There shall not be any fugitive emission from the premises.
- 5.11. All operations likely to produce dust or noise shall be carried out within suitably enclosed area so as to limit the dust and noise to within permissible limits.
- 5.12. The sound level measured at 1 m outside the boundary of the premises shall not exceed 55 dB(A) or the limits prescribed for the adjoining area.
- 5.13. The suspended particulate matter at the boundary of the premises shall not exceed the limits specified as per the National Ambient Air quality standards applicable to the adjoining area. Water spraying/wetting arrangements shall be provided to avoid dust spreading.
- 5.14. During construction phase, the building materials shall be transported with proper cover or after wetting to prevent spreading of dust during transportation. Water sprinkling shall also be arranged to suppress spreading of dust outside the premises.
- 5.15. The solid waste generated shall be properly collected and disposed without causing any environmental pollution.
- 5.16. Sanitary facilities shall be provided to the construction workers.
- 5.17. The building where machineries are installed shall be constructed at a minimum distance of 105m from the nearby residences, public buildings and establishments excluding other industries.
- 5.18. If on lease, the lease agreement shall be renewed periodically, failing which the consent will become invalid automatically.
- 5.19. This consent is issued based on the affidavit dated 03.07.2020 and is liable to be revoked, if any information is found to be false on verification.

DATE :03/07/2020

SIMI P

Digitally signed by SIMI P
Date: 2020.07.03 16:38:08
+05'30'

SIGNATURE & SEAL OF ISSUING AUTHORITY
ENVIRONMENTAL ENGINEER, DISTRICT
OFFICE, KOLLAM



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To

T. KRISHNA KUMAR
PONNAYA BHAVAN,
T.B. JUNCTION
PUNALUR P.O.
VALAKODU - 691305

1. This digitally signed document is legally valid as per the Information Technology Act 2000
2. For verifying this document please go to krocmms.nic.in and search using date of issue/name of the unit/Application Number in "Consent Granted Applications" link in the home page of the Board's Online Consent Management and Monitoring System.

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Annexure R7 (2)(6)

SITE PLAN FOR PRIME SANDS & AGGREGATES PUNALUR EDAMON KOLLAM



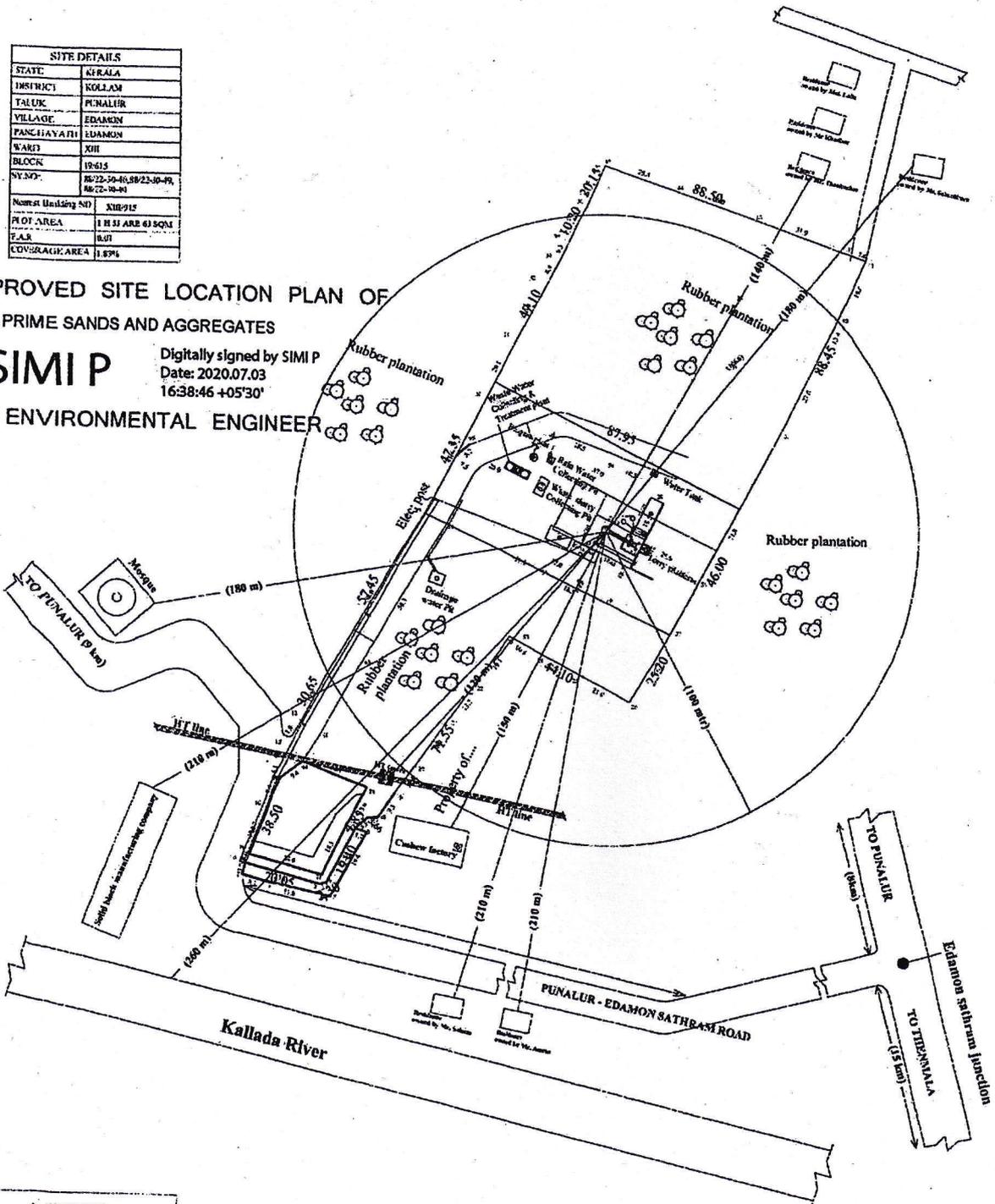
SITE DETAILS	
STATE	KERALA
DISTRICT	KOLLAM
TALUK	PUNALUR
VILLAGE	EDAMON
PANCHAYATH	EDAMON
WARD	XIII
BLOCK	19-615
SY.NO.	86/22-29-46,88/23-30-49, 88/22-30-41
Nearest Housing NO	XIII-915
PLOT AREA	1 H 51 ARR 63 SQM
T.A.S	0.07
COVERAGE AREA	1.87%

APPROVED SITE LOCATION PLAN OF
M/S. PRIME SANDS AND AGGREGATES

SIMI P

Digitally signed by SIMI P
Date: 2020.07.03
1638:46 +05'30'

ENVIRONMENTAL ENGINEER



APPLICANT
 Mr. T. KRISHNAKUMAR
 AMINJIL (II)
 CHELIMANTOOR PO
 PUNALUR
 KOILAYAM-686544

MOR—

Signature: *[Handwritten Signature]*

AMEL K. ALEX
 Regd. Civil Engineer - A
 Reg. No. E-229412EA-388844
 Dept. of Urban Affairs
 Govt. of Kerala

ALEX ASSOCIATES
 BUILDERS & DEVELOPERS
 Office: 22/23, 24/25, 26/27, 28/29, 30/31, 32/33, 34/35, 36/37, 38/39, 40/41, 42/43, 44/45, 46/47, 48/49, 50/51, 52/53, 54/55, 56/57, 58/59, 60/61, 62/63, 64/65, 66/67, 68/69, 70/71, 72/73, 74/75, 76/77, 78/79, 80/81, 82/83, 84/85, 86/87, 88/89, 90/91, 92/93, 94/95, 96/97, 98/99, 100/101, 102/103, 104/105, 106/107, 108/109, 110/111, 112/113, 114/115, 116/117, 118/119, 120/121, 122/123, 124/125, 126/127, 128/129, 130/131, 132/133, 134/135, 136/137, 138/139, 140/141, 142/143, 144/145, 146/147, 148/149, 150/151, 152/153, 154/155, 156/157, 158/159, 160/161, 162/163, 164/165, 166/167, 168/169, 170/171, 172/173, 174/175, 176/177, 178/179, 180/181, 182/183, 184/185, 186/187, 188/189, 190/191, 192/193, 194/195, 196/197, 198/199, 200/201, 202/203, 204/205, 206/207, 208/209, 210/211, 212/213, 214/215, 216/217, 218/219, 220/221, 222/223, 224/225, 226/227, 228/229, 230/231, 232/233, 234/235, 236/237, 238/239, 240/241, 242/243, 244/245, 246/247, 248/249, 250/251, 252/253, 254/255, 256/257, 258/259, 260/261, 262/263, 264/265, 266/267, 268/269, 270/271, 272/273, 274/275, 276/277, 278/279, 280/281, 282/283, 284/285, 286/287, 288/289, 290/291, 292/293, 294/295, 296/297, 298/299, 300/301, 302/303, 304/305, 306/307, 308/309, 310/311, 312/313, 314/315, 316/317, 318/319, 320/321, 322/323, 324/325, 326/327, 328/329, 330/331, 332/333, 334/335, 336/337, 338/339, 340/341, 342/343, 344/345, 346/347, 348/349, 350/351, 352/353, 354/355, 356/357, 358/359, 360/361, 362/363, 364/365, 366/367, 368/369, 370/371, 372/373, 374/375, 376/377, 378/379, 380/381, 382/383, 384/385, 386/387, 388/389, 390/391, 392/393, 394/395, 396/397, 398/399, 400/401, 402/403, 404/405, 406/407, 408/409, 410/411, 412/413, 414/415, 416/417, 418/419, 420/421, 422/423, 424/425, 426/427, 428/429, 430/431, 432/433, 434/435, 436/437, 438/439, 440/441, 442/443, 444/445, 446/447, 448/449, 450/451, 452/453, 454/455, 456/457, 458/459, 460/461, 462/463, 464/465, 466/467, 468/469, 470/471, 472/473, 474/475, 476/477, 478/479, 480/481, 482/483, 484/485, 486/487, 488/489, 490/491, 492/493, 494/495, 496/497, 498/499, 500/501, 502/503, 504/505, 506/507, 508/509, 510/511, 512/513, 514/515, 516/517, 518/519, 520/521, 522/523, 524/525, 526/527, 528/529, 530/531, 532/533, 534/535, 536/537, 538/539, 540/541, 542/543, 544/545, 546/547, 548/549, 550/551, 552/553, 554/555, 556/557, 558/559, 560/561, 562/563, 564/565, 566/567, 568/569, 570/571, 572/573, 574/575, 576/577, 578/579, 580/581, 582/583, 584/585, 586/587, 588/589, 590/591, 592/593, 594/595, 596/597, 598/599, 600/601, 602/603, 604/605, 606/607, 608/609, 610/611, 612/613, 614/615, 616/617, 618/619, 620/621, 622/623, 624/625, 626/627, 628/629, 630/631, 632/633, 634/635, 636/637, 638/639, 640/641, 642/643, 644/645, 646/647, 648/649, 650/651, 652/653, 654/655, 656/657, 658/659, 660/661, 662/663, 664/665, 666/667, 668/669, 670/671, 672/673, 674/675, 676/677, 678/679, 680/681, 682/683, 684/685, 686/687, 688/689, 690/691, 692/693, 694/695, 696/697, 698/699, 700/701, 702/703, 704/705, 706/707, 708/709, 710/711, 712/713, 714/715, 716/717, 718/719, 720/721, 722/723, 724/725, 726/727, 728/729, 730/731, 732/733, 734/735, 736/737, 738/739, 740/741, 742/743, 744/745, 746/747, 748/749, 750/751, 752/753, 754/755, 756/757, 758/759, 760/761, 762/763, 764/765, 766/767, 768/769, 770/771, 772/773, 774/775, 776/777, 778/779, 780/781, 782/783, 784/785, 786/787, 788/789, 790/791, 792/793, 794/795, 796/797, 798/799, 800/801, 802/803, 804/805, 806/807, 808/809, 810/811, 812/813, 814/815, 816/817, 818/819, 820/821, 822/823, 824/825, 826/827, 828/829, 830/831, 832/833, 834/835, 836/837, 838/839, 840/841, 842/843, 844/845, 846/847, 848/849, 850/851, 852/853, 854/855, 856/857, 858/859, 860/861, 862/863, 864/865, 866/867, 868/869, 870/871, 872/873, 874/875, 876/877, 878/879, 880/881, 882/883, 884/885, 886/887, 888/889, 890/891, 892/893, 894/895, 896/897, 898/899, 900/901, 902/903, 904/905, 906/907, 908/909, 910/911, 912/913, 914/915, 916/917, 918/919, 920/921, 922/923, 924/925, 926/927, 928/929, 930/931, 932/933, 934/935, 936/937, 938/939, 940/941, 942/943, 944/945, 946/947, 948/949, 950/951, 952/953, 954/955, 956/957, 958/959, 960/961, 962/963, 964/965, 966/967, 968/969, 970/971, 972/973, 974/975, 976/977, 978/979, 980/981, 982/983, 984/985, 986/987, 988/989, 990/991, 992/993, 994/995, 996/997, 998/999, 1000/1001

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

WEDNESDAY, THE 19TH DAY OF AUGUST 2020 / 28TH SRAVANA, 1942

WP(C).No.15754 OF 2020(T)

PETITIONERS:

- 1 S.E.SANJAY KHAN, AGED 40 YEARS,
S/O.EDAMON ISMAIL, RESIDING AT SANJAY MANZIL,
THEVARKUNNU, EDAMON VILLAGE, EDAMON P.O.,
PUNALUR TALUK, KOLLAM DISTRICT, PIN - 691 307.
- 2 JEREESH S. AGED 43 YEARS, S/O.SAINUDEEN,
RESIDING AT JEREESH MANZIL, THEVARKUNNU,
EDAMAN VILLAGE, EDAMON P.O., PUNALLOOR TALUK,
KOLLAM DISTRICT, PIN- 691 307.

BY ADVS.
SRI.J.R.PREM NAVAZ
SHRI.SUMEEN S.

RESPONDENTS:

- 1 STATE OF KERALA, REPRESENTED BY ITS SECRETARY TO LOCAL
SELF GOVERNMENT DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695 001.
- 2 T.KRISHNAKYMAR, AGED 52 YEARS,
THE MANAGING PARTNER OF M/S.PRIME SANDS AND AGGREGATES,
EDAMON P.O., PUNALUR TALUK,
KOLLAM DISTRICT, PIN - 691 307.
- 3 THE DISTRICT COLLECTOR, KOLLAM,
OFFICE AT CIVIL STATION, KOLLAM COLLECTORATE,
KOLLAM, PIN - 691 013.
- 4 THE REVENUE DIVISIONAL OFFICER, RDO OFFICE PUNALUR,
KOLLAM DISTRICT, PIN - 691 305.
- 5 THE GENERAL MANAGER, DISTRICT INDUSTRIES CENTER, OFFICE
AT SWAMY OIL MILL ROAD, ASRAMAM,
KOLLAM, PIN - 691 001.

6 THE KERALA STATE POLLUTION CONTROL BOARD,
HEAD OFFICE AT PATTOM, PATTOM P.O.,
THIRUVANANTHAPURAM DISTRICT, PIN - 695 004
REPRESENTED BY ITS CHAIRMAN.

BY ADVS.
SRI.SAIGI JACOB PALATTY, SR.GOV'T.PLEADER,
SRI.T.NAVEEN, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 19.08.2020, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

ALEXANDER THOMAS, J.

W.P(C). No. 15754 of 2020

Dated this the 19th day of August, 2020

JUDGMENT

The prayers in the above Writ Petition (Civil) are follows:

- (i) *a writ of mandamus or any other appropriate writ, order or direction to the 3rd respondent to consider Exhibit-P4 representation and dispose of the same after providing an opportunity of hearing within the timeframe fixed by this Hon'ble Court.*
- (ii) *Such other reliefs as this Hon'ble Court deems fit to grant in the nature of this case."*

2. Heard Sri.J.R.Prem Navaz, learned counsel appearing for the petitioners, Sri. Saigi Jacob Palatty, learned Senior Government Pleader appearing for R1, R3 to 5 and Sri. T.Naveen, learned Standing Counsel for the Kerala State Pollution Control Board appearing for R6. In the nature of the orders proposed to be passed in this Writ Petition notice to contesting respondent No.2 will stand dispensed with.

3. The case of the petitioners is that the contesting respondent No.2 has secured Ext.P1 statutory acknowledgement certificate dated 11-05-2020 issued by the 5th respondent General Manager, District Industries Centre, in relation to the proposed establishment of the crusher unit by suppressing vital and crucial factual aspects and that

contesting respondent No.2 had thus obtained Ext.P1 without obtaining No Objection Certificate (NOC) from the Forest Department for setting up of the crusher unit. Further, it is alleged that on the basis of Ext.P1 acknowledgement certificate so unlawfully obtained by the 2nd respondent, he has also obtained Ext.P3 statutory consent dated 03-07-2020 issued by the Environment Engineer of the District Office of the Kerala Pollution Control Board, Kollam, in regard to the establishment of the said crusher unit.

4. The learned counsel for the petitioners point out that though the petitioners had earlier filed Ext.P5 representation dated 27-07-2020 before the 3rd respondent District Collector for ventilating their grievances in relation as against Exts.P1 & P3. The petitioners have now been advised that, they may have to file a representation before the 5th respondent General Manager, District Industries Centre in regard to their grievances as against Ext.P1 and also to file a representation before the competent authority of the State Pollution Control Board in regard to their grievances as against Ext.P3 consent. Further, it is submitted by the learned counsel for the petitioners that the petitioners would immediately file such separate representations both before the 5th respondent General Manager,

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Annexure R7(d)(5)

W.P(C). No. 15754 of 2020

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District Industries Centre and before the competent authority of the State Pollution Control Board as aforesaid and that this Court may direct the said authorities concerned to consider those grievances and to take decisions thereon, after hearing both sides.

5. Without getting into the merits of the controversy in any manner, the following directions and orders are passed:

- (i) *The petitioners may file a requisite representation in regard to the grievances as against the issuance of Ext.P1 acknowledgement certificate, before the 5th respondent General Manager, District Industries Centre, without any further delay, at any rate, within one week from the date of issuance of a certified copy of this judgment.*
- (ii) *If such representation is so filed, the 5th respondent will take up the said representation for consideration, without any further delay and may afford reasonable opportunity of being heard to the petitioners and the 2nd respondent through their authorised representatives or counsel if any, and then may ascertain the correctness of the abovesaid allegations of the petitioners relating to the alleged suppression of the facts said to have been made by the 2nd respondent before the issuance of*

Ext.P1 and also the allegations of the petitioners regarding the non-issuance of NOC from the Forest Department prior to securing Ext.P1 etc, and various other aspects that may be canvassed by both sides and then may take appropriate decision so as to pass orders on said representation, without any further delay, at any rate, within a period of one month from the date of production of a certified copy of this judgment. A copy of the proceedings so issued by the 5th respondent General Manager, District Industries Centre, should be given to both the petitioners as well as the 2nd respondent.

- (iii) *The petitioners may produce a copy of the proceedings so issued by the 5th respondent before the Environment Engineer of the District office of the Kerala State Pollution Control Board, who has issued Ext.P3 consent and thereafter, the said Environmental Engineer of the Kerala State Pollution Control Board will take up for consideration the representation filed by the petitioners as aforesaid and may afford reasonable opportunity of being heard to the petitioners as well as the 2nd respondent through their authorised representative or counsel*

if any, and after duly adverting to various aspects of the matter may take a considered decision so as to pass orders on said representation filed by the petitioners, without much delay, preferably within a period of three weeks from the date on which the petitioners produce a copy of the proceedings issued by the 5th respondent as aforesaid.

6. The petitioner will produce a certified copy of this judgment along with a copy of the memorandum of the W.P(C) with all the Exhibits before the 5th respondent General Manager, District Industries Centre, Kollam as well as the Environmental Engineer of the Kollam District Office of the 6th respondent Kerala State Pollution Control Board, for necessary information and further action.

7. The Registry will forward a certified copy of this judgment to R2, at the cost of the petitioners.

With these observations and directions the above Writ Petition (Civil) will stand finally disposed of.

Sd/-

**ALEXANDER THOMAS,
JUDGE**

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Annexure R4 (d)(e)

W.P(C). No. 15754 of 2020

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APPENDIX

PETITIONER'S/S EXHIBITS:

- EXHIBIT P1 THE TRUE COPY OF THE CERTIFICATE ISSUED BY THE 5TH RESPONDENT TO THE 2ND RESPONDENT.
- EXHIBIT P2 THE TRUE COPY OF THE SITE PLAN PREPARED AND ATTACHED ALONG WITH THE APPLICATION SUBMITTED BY THE 2ND RESPONDENT BEFORE THE 6TH RESPONDENT.
- EXHIBIT P3 THE TRUE COPY OF THE CONSENT TO ESTABLISH THE CRUSHER UNIT ISSUED FROM THE OFFICE OF THE 6TH RESPONDENT.
- EXHIBIT P4 THE TRUE COPY OF THE WP(C) NO.13829 OF 2020, ALONG WITH EXHIBITS FILED BY THE 2ND RESPONDENT BEFORE THIS HON'BLE COURT.
- EXHIBIT P5 THE TRUE COPY OF THE REPRESENTATION FILED BY THE 2ND PETITIONER AND IS PENDING BEFORE THE 3RD RESPONDENT.

RESPONDENT'S/S EXHIBITS: NIL

Procedures by the General Manager, District Industrial Centre, Kollam**(Present: Helen Jerome)****DICKLM/836/2020-K13****Dated: 23/10/2020**

Sub: Industry - Kerala MSME Facilitation Act 2019 - M/s Prime Sands and Aggregates - Permission for the project - the compliance of the Judgement of the Hon'ble High Court of Kerala.

Ref:

1. Kerala MSME Facilitation Act, 2019.
2. Acknowledgment Certificate No. KLMSME-1138/2020 dated 11.5.2020 obtained by M/s Prime Sands and Aggregates.
3. Judgment dated 19.08.2020 in W.P. (C) No. 15754/2020(T).
4. Application dated 24.09.2020 made Sri. S.E. Sanjay Khan and Sri. Jerish.
5. Consent to Establishment No. PCB/KO/NOC/120/2020 dated 3.7.2020 of PCB/KO/NOC/12/2020 by Pollution Control Board.
6. Letter dated 29.09.2020 issued to several offices from this office.
7. MSMED Act 2006 wide notification dated 16.06.2006.
8. Notification by MSME Ministry dated 16.01.2009.
9. Report given by Pollution Control Board no PCB/KO/NOC/120/2020 dated 09.10.2020.
10. Reports T2 4489 & T-2/4970/20 from Thenmala Grama Panchayath dated 01.10.2020 & 20.10.2020 respectively.
11. Report of District Town planner TCPKLM/350/2020-C dated 13.10.2020
12. Report of Punalur Tahsildar no A5-3923/20 of 12.10.2020, & 22.10.2020
13. Report of Punalur District Forest Officer PC2-3329/20 dated 06.10.2020.
14. Minutes of the meeting held on 13.10.2020 between the complainants and representatives of the project.
15. Letter of Hon'ble District Collector DCKLM/7269/2020/L12 dated 22.07.2020
16. Letter of RDO, Punalur No: B-3456/20 dated 23/07/2020
17. Letter of Divisional Forest Officer numbered PC2- 3329/20 dated 23.10.2020.

As per the Kerala MSME Facilitation Act 2019 K- swift online system under the Department of Industries which give Permission to enterprises has come into force on 7.12.19. Accordingly for the manufacturing- service enterprises which are not included in the Red category by the Pollution Control Board are required to obtain the required licenses within six months of obtaining a certificate as per the existing 6 rules and regulations in the State under para 10 (2) and to obtain a self- certification valid for three years subject to compliance with the relevant laws and regulations.

Mr. Krishnakumar, Managing Partner of the Company, has obtained the Certificate of Acknowledgment as per reference (2) and commenced the initial activities for setting up of M-sand, P-sand & Aggregates Manufacturing unit under the name of M/s prime sands and aggregates 1.7075 hectares of land included in survey number Rsy 88/22/30/44 in Idamon Village in Punalur taluk. Sri. Sanjay Khan, Sri. Jerish have filed a petition with WP(C) No.15754/2020(T) in the Hon'ble Kerala High Court seeking revocation of the permits issued to the institution citing various violations.

After considering the petition the Honourable Court under reference (3), (4) as directed by the General Manager of the District Industrial Centre to submit the relevant application to the complainant and instructed the General Manager to examine the basis of the complaint and take a clear decision within one month. The complainants have filed the application under reference (4) as directed by the court. Written reports were sought from various offices on the subject and heard the arguments of the complainants and the entrepreneurs at the District Industrial Centre on 13.10.20. The complainants Sanjay Khan and Jerish were represented by Advocate Sri. T. Najeem and Advocate Sri A Nizar, Smt Beena M have represented the respondent and had submitted their arguments for the respondent Krishnakumar.

Advocate Sri. T Najeem appearing for the complaints objected to the commencement of the said unit and demanded that the institution to cancel the certificate of acknowledgement obtained under MSME Facilitation Act and raised the following points;

1. Enterprise did not procure NOC from the forest Department and hence illegal.
2. Operation of the institution does not come under the purview of 1st schedule of Industries (Development and Regulation) Act 1951 which is able to obtain the Acknowledgment Certificate under the MSME Facilitation Act section 2 (h) & Section 7 of the MSME Development Act 2006.

3. There is a difference of project land area about 40 cents between the MSME acknowledgement application form and the property lease agreement.
4. The distance information given in the site plan submitted to the Pollution Control Board is incorrect. In addition the site plan does not show the source of water required for the unit. The project is a drought prone area dependent on drinking water supply in the panchayat.
5. According to the site plan submitted to the pollution Control Board the minimum distance to the nearest house is 150 metres. However there are several houses within the radius of 105 metres in the project area.
6. The natural fresh water source in the project area is filled with soil.
7. Soil collected (about 20 loads) from the site is dumped near the River below without obtaining permission from the geology Department.
8. As Thenmala Grama Panchayat is included in Economic Sensitive Zone- I by Biodiversity Board, no industrial unit in orange category shall be operated in the area. Moreover the unit is proposed to establish very near to the protected forest where senthuruny trees are ever seen in the world.
9. Edaman Pappanoor PWD road is only 5 metres in width whereas the 7.5 metre width is required for such projects.
10. Address of owner is different in applications submitted to various offices after self-declaration for obtaining acknowledgement certificate ulterior motives are suspected. It is learned that the project is a dangerous industrial unit that falls under the orange category. On the basis of the above facts the counsel for the complainants urged that the unit shall not be given permit for operation and that the acknowledgement shall be revoked and concluded the argument after submitting different documents as related to the issue. Then the General Manager has invited to complainants to submit anything further. The complainants informed that Thevarkunnu is a place of historical significance and if the above institution is functioning there it will cause scarcity of drinking water in the area and the sewage and drainage system of the unit would adversely affect the environment. A copy of the RTI received stating that permission had not been obtained from the Geology Department to do extraction on the hill was also produced.

Advocate Nizar and M Beena who appeared for the respondent Prime Sands & Aggregates respondent has raised that the unit has obtained MSME Acknowledgement Certificate in accordance with all rules and regulations and arguments of the complainants are factually incorrect. They have pointed out the following issues:

1. The complaints are not persons residing within the specified distance required for PCB approval of the enterprise but are acting with the sole intention of shutting down the industry.
2. The site plan presented by the entrepreneur has been approved by the PCB.
3. PCB has given permission only after examining the documents provided by the owners. The PCB site plan is certified as verified and inspected. It will be given only subject to the required inspection.

4. Section 10 of the MSME Facilitation Act provides exemption for 3 years for obtaining permits under 6 laws. According to this no building permit or licence is required from the Panchayath.
5. They informed that the clearance of KSPCB was received by the establishment on 03.07.2020. At the time of receiving the PCB clearances there were no houses within the stipulated 105 metre range. The complainants have installed the shed using sheet only after KSPCB issued the required consent for the unit. The shed itself is not suit for residence.
6. The levelling of the land for the construction of the building for the project has been found to be legal by the RDO. The allegation that the Hill was demolished for the purpose of the unit is baseless. The permission of the Department of Mining and Geology is not required as the soil is not being transported elsewhere.
7. The NOC is not required from the forest Department as the area is not included in the notification regarding the protected forest area. They also argued that project land is not subject to any particular ecological fragile or buffer zone. However the DFO has conducted site inspection. The unit has applied to the local self-Government for a building permit. There for the advocate on behalf of the entrepreneur sought permission to start the unit in compliance with all the provisions of Kerala MSME Facilitation Act.

Further Mr Krishna Kumar the Managing Partner of the firm was then given the opportunity to state his part. He submitted that the proposed unit is not a crusher. Water required for the unit will be used under recycling. Water brought in a tanker is used to wash sand and produce M-sand & P- sand and the left over slurry is used for the purpose of making bricks or road. Mostly it is planned to transport to Tamil Nadu.

KSPCB has twice inspected the site and found that there are no houses or places of worship or other institutions within a radius of about 130 metres from the project building. It was informed that the soil obtained during the land levelling process was stored in and around the compound for further. The forest land project is across the Kallada River beyond the various plots of land and it is located at a distance of about 250 metre from the project land. The road to the project area is approximately more than 7.5 metre wide. Letter from PWD Assistant Engineer has been submitted in this regard and approval has been obtained from the Department of factories and boilers for the project. He said that none of the information had been deliberately put on hold to obtain the necessary permits for the project and that the land had been made available under license deed and registered lease.

The complainants objected the project blindly due to misunderstanding or malicious intent. He also complained of physical assault in its name. Project has complied with all the rules prior to the commencement of establishment. The respondents conclude his submission

requesting assistance from the Department of industries for setting up the unit as state an investment friendly.

Based on the issues raised in the complaint of the arguments and the information available from the various offices concerned as well as the information received from this office and from the visit on 15.08.2020 it was announced the following facts:

1. The definition MSME in Section (7) of MSME Act 2006 it has been amended as per reference (8), notification which includes all enterprises making value added products with plant & machinery and the subject unit fall under this Act. As per the above provisions belongs to MSME category and entitled to get Acknowledgement Certificate under Kerala MSME Act 2019. Therefore the MSME Acknowledgement Certificate UDYAM Registration with UDYAM-KL-06-0000622 number obtained by the institution is legally valid.
2. There is a difference of 1.7075 hectare in the area of land marked for the project as per the MSME Acknowledgment Certificate and the land as per the lease agreement by the firm. But due to this difference there is no legal impediment for the operation of the industry. There is no factual difference in information and the operations.
3. Pollution Control Board has examined the complainants contention that the site plan submitted by the firm was incorrect in connection with distance of concerned enterprise as per reference (9) of Board.
4. According to the report received from Thenmala Panchayat about the objection due to the existence of a dwelling house (TP XIII/943) within 30 metres from the project, it is seen that the application was submitted to the Grama Panchayat on 06.08.2020 after No. PCB/KO/NOC/120/2020 dated 03.07.2020. The Grama Panchayat reference number 10 report shows that the building number has been allotted on 11.09.2020. Therefore it is clear that the said building has come into existence after came into existence after the issuance of consent by the Pollution Control Board.
5. It is learned from the District Collectors and Punalur RDO referred as (15) & 916), no violation of law was detected on the inspection conducted based on the allegation that the soil was illegally transported by levelling the hill in the project location.
6. Though the complainants alleged that the project are belongs to the buffer zone and ecologically fragile which under the restriction of Biodiversity Board or like, no authentic documents were produced by the complainant. They have produced only copy of the publication by the Biodiversity Board. Moreover that, it is reported that the project land does not include in ESA/EFL category vide their reports by Punnalur Tahasildar and Punnalur DFO referred as (12) & (17) respectively.

7. The complainants did not produce any document to substantiate their claim that NOC from the forest department is required for the project to commence. As per reference (B) & (17) Punalur DFO has reported that the proposed building for the project is being constructed at a distance of 250 meters from the nearby river and that there is 130 meters distance to the river from the boundary of the project plot. Hence it is ascertained that there is no requirement to get NOC from the forest department to commence the project.
8. On verification of the complaint that the entrepreneur had not obtained prior permit from the concerned department. It is observed that the projects obtaining acknowledgement as per Kerala MSME Facilitation Act, 2019 has requisition for 3 years to get the permits in accordance with six Acts, as provided under paragraph 10(2). But the project has to comply all the applicable terms as part of the commencement. Moreover that, the terms which are not exempted by the Act shall be obtained by the project. But as per the provisions of Kerala MSME Facilitation Act, 2019, there is no requirement to obtain permit from other departments for obtaining acknowledgment.
9. The District Board constituted under Section 4 of Kerala Industrial Single Window Clearance Board and Industrial Township Area Development Act is appointed as the Nodal Agency to implement Kerala MSME Facilitation Act. In case any industry had violated any terms or conditions in the self certification to obtain K-SWIFT Acknowledgment, the SWCB can issue notice to the industry and considering reply if any, it can impose fine not exceeding Rs. 5 lakhs upon the industry and prosecute the responsible persons. It is not convinced that any of the terms of the Act or self-certification been violated by the industry which is the subject of the complaint. Therefore, the claim of the complaints to revoke the acknowledgement will not stand.
10. On considering the complaint as per reference 4 and the hearing as per reference 14 and the objections raised therein and in the light of the deliberation made above, it is realised that there is no substance in the allegations raised by the complainants.

In the circumstances, in compliance of the judgment of the Hon'ble High Court of Kerala in W.P.(C). No. 15754/2020, it is ordered accordingly.

ORDER

In the above circumstances, the complaint of Sri. S Sanjay Khan, Sri. Jerish S regarding the launch of the Prime sand and aggregates project on the land comprised in Survey No.Rsy 88/22/30/40, 88/22/30/49 in Edamon Village, Punalur Taluk, are found to be non-existent in the light of the available documents and the existing documents examined.

M/s Prime sands and aggregates can operate on the basis of which it has obtained the MSME Acknowledgement Certificate No.KLMSME-1138/2020 dated 11.05.2020, subject to the provisions of MSME Facilitation Act 2019 and other applicable laws.

The judgment dated 19.08.2020 in WP(C) No. 15754/2020 petition of the Hon'ble Kerala High Court is hereby complied with.

Recipient

1. Sri. Sanjay Khan, S/o Idaman Ismail
Sanjay Manzil, Thevarkunnu
Idamon P.O, Punalur.
2. Sri. Jerish S, S/o Sainudheen
Jerish Manzil, Thevarkunnu
Idamon P.O, Punalur.

The proceeding of the hearing held on 25-11-20 at the District Office Kollam of Pollution Control Board in accordance with the judgment of Hon'ble Court in the matter of M/s Prime Sands and Aggregates

(Present Smt. Simi P., Environmental Engineer)

The name of the persons participated in the hearing is shown below:

1. Advocate Najim T. (Advocate of petitioner)
2. Sri. Krishnakumar, (Occupier of the institution)
3. Sri. Jerish (petitioner)
5. Sri. Sanjay Ghan (petitioner)
4. Sri. Vipin Vaidyan (Assistant Engineer, District Office, Kollam)
6. Smt. Aparna U.R. (Asst. Engineer, District office, Kollam)

On 25-11-2020 at 2 p.m. the hearing commenced at District office of the Pollution Control Board in the presence of the Environmental Engineer, Kerala State Pollution Control Board. The participants in the hearing have submitted their version as follows:

1. Adv. Najeem T. (Adv. for the petitioner)

The distance shown in the site plan which is produced for the consent for the unit is wrong. The distance towards the house of Jerish is only 93 meters. In the report given by the RDO to Dist. Collector the distance towards the house is shown as 100 meters.

A water source situated at a distance of 10 meters from the waste pit shown in the site plan has been filled by sand. This water source used to reach the Kallada River. So there is chance to get the river polluted. Water source required for the working of the unit is not seen in the site plan. There is chance to have water scarcity due to the working of the said unit.

The distance towards the forest and Kallada river are shown in the site plan erroneously. There is an Anganavady at 120 meter away and a Madrasa at 150 meter away from the unit. The working of the unit would affect the health of the kids.

2. Sri. Krishnakumar (The occupier of the Institution)

In the site plan produced to obtain consent from the Pollution Control Board the distance of 140 meters is shown towards the nearest house which is the officials of the Board had measured and ascertained on 25-9-2020. While visiting the site it is seen that there is 118 meters distance towards the nearest house from the spot of the installation of the machinery. Therefore there is at least 105 meters will be available from the proposed spot of installation of the machinery towards the nearest house.

The waste water generated from the unit will be recycled and reused. The slurry generated from ETP will be used for the production of cement bricks and hence no waste is discharged.

3. Sri. Jerrish, Sri. Sanjay Khan (Petitioners)

It is informed that the distance noted in the site plan given along with the consent of the unit is totally wrong. And distance towards the house of Jerrish is only 100 meter and RDO has given report to the Dist. Collector accordingly.

Decision:

It is seen in the report submitted to the Dist. Collector by RDO that the distance towards the nearest house from the spot from where the sand is removed is 100 meters. As per the parameter of the Board the shortest distance for a sand manufacturing unit is 105 meters from the spot where machine is erected towards the wall of the nearest house. As per the report of the Board officer who conducted the inspection the sufficient distance was available at the time of the inspection. It is seen that a building has been established within 105 meters after the consent is given. But the existing law of the board does not allow making it applicable the distance rule for the newly established building. At the time of granting consent there were distances of more than 105 meters towards the nearest house of Sri. Thankachan and Jerish. But after the completion of the construction and at the time of installation of machinery if it is seen that there is no stipulated distance the consent for working cannot be considered. The establishment shall keep required distance from the houses of Thankkachan and Jerish. The petitioner can approach other governmental institutions or authorities for the redressal of any grievance in the matter concerning other subjects.

Taking the decision accordingly the meeting had concluded at 3.30PM.

Sd/-

Environmental Engineer

File No. TCPKLM/447/2020/e

Proceeding of District Planning Officer.

Local Self Government - Planning

Sub: Order - Office of Local Self Government Planning - Kollam - approving to construct Sand Crusher Unit, Group- I Category by retaining the existing Smoke House (18.00 sq.mtr) in 153.63 Ares of land comprising in Resurvey No. 88/22-30-49 (48.58 Ares), 88/22-30-40 (25.10 Ares) 88/22-30-40 (79.95 Ares) - in Thenmala Grama Panchayat.

- Ref:
1. Letter No. T2/3038/2020 of Secretary, Thenmala Grama Panchayat dated 7.10.2020.
 2. Letter No. TCPKLM/372/2020-C dated 18.11.2020.
 3. Application by Sri. Krishnakumar dated nil.

Order No. TCPKLM/447/2020/C dated 13.01.2021.

On the basis of the examination of the application submitted by Sri. Krishnakumar, Prime Send Aggregate, Edaman, it is ordered the approval of the construction of Sand Crusher coming under 'Group -I' - (plant area (311.25 sq. Mtr), classifier (18.00 sq. Mtr), Electric room (GF-42.30 sq.mtr), FF-42.30 sq.mtr), slurry tank (60.00 sq.mtr), office (24.75 sq.mtr), weigh bridge (40.50 sq.mtr), Toilet block (15.76 sq.mtr) - Total 554.86 sq.mtr by retaining the existing Smoke House in the plot to an extent of 153.63 Ares comprised in Resurvey No. 88/22-30-49 (48.58 Ares), 88/22-30-40 (25.10 Ares), 88/22-30-40 (79.95 Are) in accordance with the following conditions.

CONDITIONS

1. The Secretary shall ascertain by examining the concerned documents regarding the ownership of the property. Survey number, extent, measurements, boundaries, right of ownership, right of constructions as per the Rule 9(2) of the KPBP 2019. Further he has to ascertain that there is no

the Rule 9(2) of the KPBR 2019. Further he has to ascertain that there is no 'puramboke' land is included in the proposed plot and construction is being carried out by following the Kerala Conservation of Paddy Land and Wetland Act, 2008. Moreover, the Secretary shall ascertain that there is no illegal construction in the sand plot.

2. Solid-liquid waste treatment system and provision for recycling and using of the waste water generated out of products shall be employed.
3. NOC shall be obtained from the concerned Department if there is requirement of cutting and filling.
4. Approval shall be obtained from the Director of the Department of Fire and Rescue Services or from the Officer authorised by him as per rule 5(4) of the KPBR).
5. The Secretary shall ascertain that there shall not be any environmental issues or problems from noise, air and water pollution or any related impacts and that the implements to avoid traffic congestion.
6. The Secretary shall ascertain that road access having width of 7.00 meter has been provided to the plot as well as to the site as per the Rule 28(1) (Table 8).
7. If the earth cutting exceeds the depth of 1.50 meter, the conditions stipulated under Rule 10 shall be complied with.
8. The construction shall be in accordance with the KPBR 2019 and the allied amendments and the other applicable laws.

This order is not to commence the construction. The commencement of the construction shall be begun after obtaining the permit for

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Annexure R-7(g)(3)

construction/development from the respective Local Self Government Institution.

Approved layout plans No. 1/2021 is sent along with this.

Digitally sd/-
Shary MV, TTPKLM,
O/o TP, TPKLM

Incl: Plan 1set

Sri. Krishnakumar
Ambiyil, (Prime Sand Aggregates, Idamon)
Chemmannur P.O.,
Punalur, Kollam.

Copy to: - Secretary, Thenmala Grama Panchayat.