

P.Palaniappan vs Ministry Of Environment Forest And ... on 30 September, 2021

Bench: K Ramakrishnan, K. Satyagopal

Item No.05:

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI

Original Application No. 211 of 2021 (SZ)

(Through Video Conference)

IN THE MATTER OF:

P. Palaniappan, Salem District

...Applicant(s)

Versus

MoEF&CC and Ors.

...Respondent(s)

Date of hearing: 30.09.2021.

CORAM:

HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER

HON'BLE MR. Dr. K. SATYAGOPAL, EXPERT MEMBER

For Applicant(s):

Mr. K.S. Karthik Raja

For Respondent(s):

Dr. Shanmughanathan for R3, R7, R8 and R10

Mr. Sai Sathya Jith for R4 and R9

ORDER

1. The grievance in this application is regarding the pollution caused on account of conducting of quarrying and crusher operation by respondents 11 to 15 in Masinaichenpatti Village, Salem District. There are hillocks in that area known as Puthuran, Karadu and Thombali Karadu. There are agricultural land situated around the hillock and nearly 5000 people are depending upon the income from the agricultural.

2. According to the applicant on account of the operation of the units of respondents 11 to 15 heavy pollution is being caused that affect the yield of the agricultural products in the neighbouring agricultural land. It is also alleged in the application that they are violating the conditions imposed in the environment clearance and other permissions granted. Heavy explosives than the permissible one are being used and they are having wider drilling holes for the purpose of using explosives than

the permitted levels which results in huge vibration and noise pollution affecting the health of the people. Further there is no proper pollution control mechanism provided to curb the dust that is likely to be emitted during their operations which result in deposit of dust in the neighbouring agricultural fields affecting the productivity of the crops, thereby reducing the income of the agriculturist in the locality.

3. It is also alleged that some of the units are not even having necessary permissions and clearances and they are continuing their illegal activity. They are residential houses, anganwadi etc are situated near the quarry and the health of the people including children studying in the anganwadi are likely to be affected on account of the operation of the units as they have not provided necessary dust control mechanism which results in heavy air pollution in that area apart from noise pollution being caused due to use of heavy explosives using un- permitted machines. This also affected the ground water level in that area also. They are doing excess mining without leaving necessary safety distance from the boundary as well. Though complaints were made to the authorities, no action has been taken that prompted the applicant to file this application seeking following reliefs:

(i) Direct the respondents 1 to 10 to take appropriate action against the respondents 11 to 15 for the illegal quarry/crusher operations done by them in gross violation to the conditions imposed in the relevant licenses, consent orders and clearances.

(ii) Direct the respondents 1 to 10 to assess the damage caused by the respondents 11 to 15 to the environment more particularly in Masinaichenpatti village and recover the compensation for the same from the respondents 11 to 15.

(iii) Direct the respondents 1 to 10 to cancel the licenses, consent order and clearances granted in favour of the respondents 11 to 15.

(iv) Direct the respondents 11 to 15 to close down the quarry/crusher units on account of the serious environmental degradation caused by them.

(v) And pass such further or other orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case and thus render justice.

4. On going through the allegations, we are satisfied that there arise a substantial question of environment which requires interference of this tribunal. So the matter is admitted.

5. Issue notice to respondents by Registered post with acknowledgment due and also by e-mail and Dasti, if possible and produce proof of service by filing proof affidavit as per Rules.

6. The applicant is also directed to serve copy of the application to the standing counsel appearing for the official respondents within a week, so as to enable them to get instruction and file their independent response to avoid delay. The applicant is also directed to produce necessary requisite along with postal cover and postal stamp before this Tribunal within a week to issue notice to all the respondents through Tribunal to ensure service on them and proceed against them in their absence,

if they did not appear in accordance with law.

7. In the meantime, in order to ascertain the genuineness of the allegations made in the applications including the alleged violations, we feel it appropriate to appoint a joint committee consists of (1) a Senior Officer from MoEF&CC, Integrated Regional office, Chennai, (2) a Senior Scientist from Central Pollution Control Board, Integrated Regional office, Chennai, (3) a Senior Officer from State Level Environment Impact Assessment Authority, Chennai, (4) District Environmental Engineer of the concerned of Tamil Nadu Pollution Control Board and (5) Assistant Director, Mining and Geology Department, Salem District to inspect the unit in question and submit a factual as well as action taken report, if there is any violation found.

8. The Committee is directed to ascertain as to whether (1) respondents 11 to 15 are having proper environment clearance and other permissions required under the environmental laws, (2) if they are having, which they have committed any violation of the conditions imposed, (3) whether the pollution Control mechanism provided are sufficient to curb the air and noise pollution, if not what is the further remedial measures to be taken to mitigate the situation (4) whether respondents 11 to 15 are using explosives other than the permissible one and also doing drilling than the permitted limit thereby causing heavy noise pollution and vibration in that area (5) whether on account of their operation, the ground water level in that area is affected (6) due to the alleged dust pollution whether any damage has been caused to the nearby agricultural fields, (7) on account of the violations whether any environment damage has been caused and if so, assess the environmental damage and also assess environmental compensation apart from suggesting remedial measures for restoring the damage caused to environment and (8) whether any excess mining has been done other than in the permitted area and also within the mining area but in prohibited area such as in safer zone and buffer zone to be provided as per the mining lease, if so what is quantity of excess/illegal mining and assess the value of the same as mentioned in Common Cause Case to be recovered from persons responsible for the same.

9. The Assistant Director, Mining and Geology Department, Salem District will be the nodal agency for coordination and also for providing necessary logistics for this purpose.

10. The applicant is directed to submit complete set papers to the members of the Committee within a week, so as to enable them to comply with the direction without delay.

11. The Committee is directed to submit the report to this Tribunal on or before 11.11.2021 by e-filing in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF along with necessary hard copies to be produced as per rules.

12. The Registry is directed to communicate this order to the members of the Committee as well as official respondents by e-mail immediately, so as to enable them to file their report and also make their appearance and file independent response without delay.

13. For appearance of parties, filing independent response and also for consideration of report, post on 11.11.2021.

.....J.M. (Justice K. Ramakrishnan)E.M. (Shri Dr. K.
Satyagopal) O.A. No.211/2021 (SZ), 30th September, 2021, AM