

# K. Ramsingh vs State Level Environment Impact ... on 31 January, 2022

**Bench: K Ramakrishnan, K. Satyagopal**

Item No.1:

BEFORE THE NATIONAL GREEN TRIBUNAL  
SOUTHERN ZONE, CHENNAI  
Original Application No. 104 of 2021 (SZ)  
(Through Video Conference)

IN THE MATTER OF:

K. Ram Singh

With

SEIAA and Ors.

...Applica

...Respondent

Date of hearing: 31.01.2022.

CORAM:

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

HON'BLE DR. SATYAGOPAL KORLAPATI, EXPERT MEMBER

For Appellant(s):

Mr. A. John Britto

For Respondent(s):

Ms. Sumathi for R1

Mr. Sai Sathya Jith for R2

Dr. D. Shanmuganathan for R3 and R4

Mr. Vijaymehanath for R5 and R6

Mr. Vijay Prasahanth for R7 and R8

ORDER

1. Judgment pronounced through Video Conference. Application is disposed of with directions vide separate Judgment. All pending interlocutory application(s), if any, also stands disposed of, in view of the disposal of the Application.

.....J.M. (Justice K. Ramakrishnan) .....E.M. (Dr. Satyagopal Korlapati) O.A. No. 104/2021(SZ) 31st January, 2022. (AM) BEFORE THE NATIONAL GREEN TRIBUNAL SOUTHERN ZONE, CHENNAI Original Application No. 104 of 2021 (SZ) (Through Video Conference) IN THE MATTER OF K. Ram Singh, S/o Mr. Kandasamy, No. 3-93, South Street, Theertharappapuram Post, Alangulam Taluk, Tenkasi District- 627 423 ....Applicant(s) Versus

1. State Environmental Impact Assessment Authority, Government of Tamil Nadu, Rep by its Member Secretary, 3rd Floor, Panagal Maaligai, No. 1, Jeenis Road, Saidapet Chennai - 600015
2. The Chairman, Tamil Nadu Pollution Control Board, No. 76, Mount Road, Guindy, Chennai- 600032
3. The Deputy Director, Department of Geology and Mining, Government of Tamil Nadu, Collectorate, Kokkirakulam, Tirunelveli- 627 009
4. The District Collector, No. 82, Railway Feeder Road, Tenkasi- 627 811
5. The Superintending Engineer, O/o The Superintending Engineer, TANGEDCO, Anna Building, Thiagaraya Nagar, Tirunelveli- 627 011
6. The Assistant Engineer, Distribution- TANGEDCO, Servaikkaranpatti, Kadayam, Tenkasi District- 627 415
7. Mr. N. Mohamed Mahaboob, Proprietor- AP Nadanoor Rough Stone, Jelly and Gravel Quarry, No. 8/142, Main Road, Pottal Pudur, Ambassamudram Taluk, Tenkasi District- 627 423
8. Mr. K. Sasikumar, S/o V. Kalangiam, Proprietor- AP Nadanoor Rough Stone, Jelly and Gravel Quarry, No. 9/303, Nainar Koil Street, Velappanaiyeripatti, Thippanampatti Village, Tenkasi District- 627 423 ... Respondent(s) For Applicant(s): Mr. A. John Britto For Respondent(s): Ms. Sumathi for R1 Mr. Sai Sathya Jith for R2 Dr. D. Shanmuganathan for R3 and R4 Mr. Vijaymehanath for R5 and R6 Mr. Vijay Prasahanth for R7 and R8 Judgment Reserved on: 17th January, 2022 Judgment Pronounced on: 31st January, 2022 CORAM:

HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER HON'BLE DR. SATYAGOPAL KORLAPATI, EXPERT MEMBER Whether the Judgement is allowed to be published on the Internet - Yes/No Whether the Judgement is to be published in the All India NGT Reporter - Yes/No JUDGMENT Delivered by Justice K. Ramakrishnan, Judicial Member.

1. The grievance in this application is regarding illegal operation of quarry and crushing units operated by respondent nos. 7 and 8 against environmental norms and without obtaining necessary permission from the authorities.

2. According to the Learned Counsel for the applicant, the applicant is a resident of Theertharappapuram Village, Madathur Panchayat. There are about 700 residents residing in the said village and it falls under Alangulam Taluk, Tenkasi District. The houses are situated about 315 meters from the village in Sy. No. 434/C, 434/4E, 434/4F, 434/4FG, 434/4H, 434/4I, 434/4J, 470/1, 2, 3, 472/1B, 472/1C, 433/1 and 433/2 in which a stone quarry is being run by respondent nos. 7 and 8 since several years. They were using explosive for mining beyond the permitted level, on account

of which many houses developed cracks. They were also feeling severe vibrations on account of the impact of explosion done by respondents 7 and 8 in respect of their quarry operations. The Gun powder used in explosion is likely to cause health hazards to the people in the locality.

3. On account of the operations of the rough stone, jelly and gravel quarry and crusher unit operated by respondent nos. 7 and 8, the perennial water level has gone down beyond 250 feet. At the time of getting permission for quarry, they have informed that they do not require huge quantity of water and High Tension electricity for the project. Though, they have sought High Tension electricity connection from the 5 & 6 respondents and the 5th & 6th respondents without even informing the land owners and without furnishing the approved plan (diagram) for fixation of electricity post, have erected post through AP Nadanoor, Murugandiyur and Theertharappapuram Villages at their wish and pleasure for the best reasons known to them.

4. Respondent nos. 7 and 8 have obtained necessary licenses from the authorities suppressing material facts. The distance from the villages and inhabitants disclosed by respondent no.

7 are not correct. They have also not provided the correct population of the villages for the purposes of obtaining No Objection and permission from the authorities. Lot of primary schools and other community water tank are situated within 400 meters from the quarry of respondents 7th & 8th. Temple is also situated within 100 meters from the quarry. The machineries used now are different from the machineries proposed at the time of obtaining license.

5. On account of use of Tipper Lorry to transport stones to crushing unit and to transport blue metals from crushing unit to the prospective buyers through the village roads causing huge dust pollution and they are also plying without necessary permits. This will cause health hazards to the people. Further on account of the air pollution, the people are suffering from lung diseases. Though representations were made to the authorities, no action was taken. So the applicant originally filed the application seeking interim as well as final reliefs:

#### INTERIM RELIEF:

For the reasons stated above, it is prayed that this Hon'ble Green Tribunal may be pleased to grant ad-interim injunction restraining the respondents 5 & 6 herein from giving electricity service connection to the 7th & 8th respondents quarry as well as crushing units situated at A.P.Nadanur Panchayat and Pottalpuhur Panchayat pending disposal of the above application and thus render justice.

#### RELIEF SOUGHT :

For the reasons stated above, it is humbly prayed that this Hon'ble Green Tribunal may be pleased to

- (i) direct the 1s to 4 respondents to take action against the 7h & 8h respondents for violation of conditions prescribed in the license issued to respondents in RC No.M1/44736/2016 dated 12.12.2017 and RC No. M1/ 34173/2016 dated 17.08.2017 to the 7th &8h respondents respectively
- (ii) further direct the respondents 7 and 8 to restore the well and the environment pollution free and
- iii) 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.

6. As per order dated 19.05.2021 when this application came up for admission, this Tribunal raised the objection since none of the reliefs claimed in the original application as filed earlier can be granted under Section 14 and 15 of the National Green Tribunal Act, 2010, the counsel for applicant sought for permission to file application to amend the reliefs in tune with the provisions of the National Green Tribunal Act, 2010. Accordingly the matter was adjourned for that purpose.

7. The matter was taken up on 15.06.2021 and the applicant filed I.A. No. 87 of 2021 to amend the original application deleting the original prayers made in the application and seeking following relief:

- (i) Direct the 1st to 4th respondents to take action against the 7th and 8th respondents for violation of conditions prescribed in the license issued to respondents in RC No. M1/44736/2016 dated 12.12.2017 and RC No. M1/34173/2016 dated 17.08.2017 to the 7th and 8th respondents respectively.
- (ii) Further direct the respondents 7 and 8 to restore the well and the environment pollution free and
- (iii) 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.

8. As per order dated 15.06.2021, after allowing the I.A. No. 87 of 2021, this Tribunal had admitted the matter and issued notice to the respondents. The Tribunal also appointed a Joint Committee consists of (1) the District Collector, Thenkasi District or a Senior Officer not below the rank of Assistant Collector or Sub Divisional Magistrate as deputed by the District Collector, (2) A Senior Geologist from the office of the Deputy Director of Geology and Mining Department, Tirunelveli, (3) a Senior Office from the Tamil Nadu State Environment Impact Assessment Authority and (4) a Senior Officer from the Tamil Nadu Pollution Control Board as deputed by its Chairman to inspect the area in question and submit a factual as well as action taken report if there is any violation found with the following Terms of Reference:

i. Whether the quarry and other alleged units run by respondents 7 and 8 in the disputed area are having all necessary clearances and permission?

ii. Whether there was any violation committed by the respondents 7 and 8 in operating the quarry against the conditions imposed iii. Whether the unit of respondents 7 and 8 are having all necessary pollution control mechanisms which are sufficient to abate the nuisance due to pollution likely to be caused? iv. Whether respondents 7 and 8 have committed any excess mining, and if so, what is the extent of excess mining done and its impact on environment and assess the damage caused to the environment as well as the environmental compensation apart from the penalty and royalty to be realised from them under the respective mining laws? v. Whether on account of the excess mining any depletion to the groundwater has been caused in that area?

vi. Whether any high density explosives were used by the 7th and 8th respondent for blasting against the permission granted and is there any damage caused to any of the neighbouring houses on account of the same apart from any sound pollution being caused vii. The committee is also directed to assess the damage caused to the neighbouring property owners on account of the unauthorised explosion and vibration caused on account of operating the units of the respondents 7 and 8.

9. The Geology and the Mining Department was designated as the Nodal agency for coordination and providing necessary logistic for this purpose.

10. 4th respondent filed counter affidavit in the form of application contending that on the basis of the orders of the tribunal, the joint Committee was formed with the following officers formed as cited by the Coram vide Tenkasi District Collector proceeding No. M1/19934/2021 dated 16.07.2021:

i. The Revenue Divisional Officer/Sub Divisional Magistrate.

Thenkasi.

ii. The Deputy Director, Geology and Mining, Tiruneiveli. iii. The Assistant Geologist, Office of the Assistant Director, Geology and Mining, Tiruneiveli.

iv. The Assistant Engineer, Tamil Nadu State Environment Impact Assessment Authority (TNSEIAA), Chennai.

v. The District Environmental Engineer, Tamil Nadu Pollution Control Board, Tirunelveli.

11. The Joint Committee inspected the area in question as per guidelines issued by the Coram on 20.07.2021. The Committee offered their interim remarks, wherein they have mentioned that a

quarrying lease has been granted to 7th respondent, Thiru. N. Mohamed Mahaboob for quarrying rough stone over an extent of 3.74.20 ha of patta lands in SF. No. 434/C, 434/4E, 434/4F, 434/4FG, 434/4H, 434/4I, 434/4J, 470/1, 470/2, 470/3, 472/1B, 472/1C of A.P Nadanoor Village, Alangulam Taluk, Tenkasi district for a period of 5 years vide District Collector proceedings No. M1/44736/2016 dated 20.03.2018. The lease period is valid from 16.04.2018 to 15.04.2023. He obtained Environmental Clearance from District Environment Impact Assessment Authority, Collectorate, Tirunelveli vide Lr. No. DEIAA-TNV/TN/49133/2017 dated 22.02.2018.

12. The quarrying lease has been granted to 8th respondent for quarrying rough stone over an extent of 1.99.0 ha of Patta lands in SF. No. 433/1 and 433/2 of AP Nadanoor Village, Alangulam Taluk, Tenkasi District for a period of 5 years vide District Collector s proceedings No. M1/34173/2016 dated 20.03.2018 for a period valid from 17.04.2018 to 16.04.2023. He had obtained Environmental Clearance from the District Environment Impact Assessment Authority, Collectorate, Tirunelveli vide Lr. No. DEIAA-TNV/TN/34960/2017 dated 22.02.2018. The following conditions were also imposed while granting the Environmental Clearance:

13. It is further contended in the counter affidavit that the ground water resistivity test to assess the ground water level and quality of ground water, blasting seismograph test to measure the vibration due to blasting in the quarries, ambient air quality/ambient noise level survey through NABL accredited lab will have to be conducted and the quarry sites in question will have to be measured with total station survey to assess the volume of pit measurements which require further more time.

The quarrying operations of respondents 7 and 8 had been stopped from 16.07.2021. They sought four weeks time for filing the Joint Committee report.

14. Respondent nos. 5 and 6 filed their counter affidavit contending that respondents 7 and 8 have submitted an application seeking High Tension electricity service connection along with documents necessary for grant of service connection as per the Tamil Nadu Electricity Distribution Code and under Section 43 of the Electricity Act, 2003 for effecting the High Tension service connection.

15. 7th respondent made the payment on 25.08.2020. Pursuant to the payment made the service connection was effected to the 7th respondent on 04.01.2021 in HT service no. 366. As far as 8th respondent was concerned, based on his application dated 05.02.2020, a detailed estimate was prepared for effecting the supply from 11KV HT Power by erecting a 11 KV HT line from AP Nadanoor to Theerthrapapuram by tapping at Alwarkurichi 11 KV feeder. The detailed estimate was approved b the Chief Engineer/Distribution, Tirunelveli on 23.09.2020. As per the approval the line is to be erected for a length of 5.3 km with the help of 107 poles. The applicant Mr. Sasikumar had made payment of Rs. 13,14,880/- towards HT service connection on 06.10.2020. On receipt of the payment the TANGEDCO took up the erection work and had laid 93 poles out of the 107 poles. When the erection work entered AP Nadanoor, TANGEDCO faced serious objections and 4 poles erected in the said village were damaged and TANGEDCO lodged a complaint on 19.01.2021 before the Alwarkurichi police station and the same is pending investigation.

16. During enquiry, the persons who damaged the poles came forward to pay the amount for two poles and for other two poles the amount is yet to be paid. One Mr. R. Saravanaraj, filed O.S. No. 190 of 2020 seeking for a bare injunction restraining the TANGEDCO from erecting any towers in his property. Due to various objections and repeated agitations by the villagers for erection of the poles, the erection work was suspended and a peace meeting was convened on 22.02.2021 at the office of the 4th respondent. Based on the said meeting, TANGEDCO again took up the erection work during March, 2021 and on 11.03.2021, the work was again disturbed/objected by the villagers and hence, the entire work was stopped on 11.03.2021. Since then no work was taken up by TANGEDCO to effect electricity supply to the 8th respondent herein.

17. As the villagers were agitating for the work, 4th respondent directed TANGEDCO to submit a report and based on the direction, TANGEDCO submitted a report to the 4th respondent on 25.03.2021. By the said report, it was intimated to the 4th respondent that work has been stopped from 11.03.2021.

18. Due to non-completion of the erection work, TANGEDCO is facing financial loss and material loss. TANGEDCO is contemplating to submit the proposal under Section 10 and 16 of the Indian Telegraph Act, 1885 to the 4th respondent seeking permission to enter upon the properties to complete the work and effect the electricity supply to the 8th respondent. As on date there is no electricity connection given to 8th respondent herein. While so, the present application was filed by the applicant against the respondents 7 and 8 and based on the directions issued by the Tribunal, Joint Committee inspected the quarry site on 20.07.2021 and they submitted its report before this Tribunal.

19. By letter dated 20.10.2021 issued by the 2nd respondent seeking to disconnect the power supply effected to 7th respondent and based on the said letter, the service connection was disconnected on 20.10.2021 and as such there is no power supply to the 7th respondent as well. There were no violations of any rules and regulations in erection of poles and the TANGEDCO has not acted in any manner damaging the environment as well. They submitted that they will abide any conditions imposed by the Tribunal. They prayed for accepting their contentions and dismiss the application and pass such further orders as the Tribunal may deem fit in the circumstances of the case.

20. 7th respondent has filed objection to the original application contending that application is not maintainable. He is the joint owner of the patta land Sy. No. 434/C, 434/4E, 434/4F, 434/4FG, 434/4H, 434/4I, 434/4J, 470/1, 470/2, 470/3, 472/1B, 472/1C, for an extent of 3.74.5 ha of land in A.P Nadanoor Village, Alangulam Taluk, Tenkasi district and the same is classified as joint patta and stands jointly registered in the name of Mr. N. Mohamed Mahaboob and M.K. Madhangopalraja and they obtained consent for joint pattadar, M.K. Madhangopalraja to carry out quarrying operations in the said patta land and also surface right over the quarry lease. They had obtained Environmental Clearance from the District Environment Impact Assessment Authority (DEIAA), Tirunelveli vide Lr. No. DEIAA-TNV/TN/49133/2017 dated 22.02.2018. They also obtained all necessary licenses from the authorities.

21. District Collector by way of proceedings R.C. No. M1/44736/2016 dated 20.03.2018 has granted a quarry lease valid from 16.04.2018 to 15.04.2023 for quarrying 5,24,423 m<sup>3</sup> of rough stone and 23.031 m<sup>3</sup> of gravel. Based on the above said Environmental Clearance, they obtained consent to operate for the leased quarry.

22. The applicant, in the Original Application filed, originally prayed for direction to respondent nos. 3 and 4 to cancel the licence R.C. No. M1/44736/2016 dated 12.12.2017 and RC No. M1/34173/2016 dated 17.08.2017 to the 7th and 8th respondents respectively and direct the respondents 5 and 6 not to give electricity connection to 7th and 8th respondent units.

23. When the matter came up before this Tribunal for admission, this Tribunal pointed out that none of the reliefs claimed as in the originally filed application can be granted under Section 14 and 15 of the National Green Tribunal Act, 2010, on request of the Learned Counsel for the applicant, this Tribunal directed the applicant to take steps to amend the prayers in such a way to bring within the ambit of Section 14 and 15 of the National Green Tribunal Act, 2010. Thereafter, the applicant had filed I.A. No. 87 of 2021 for amendment of the prayer and this Tribunal allowed I.A. No. 87 of 2021 by order dated 15.06.2021 and on that basis the following prayers have been substituted:

i. Direct the 1st to 4th respondents to take action against the 7th and 8th respondents for violations of conditions prescribed in the license issued to respondents in RC No. M1/44736/2016 dated 12.12.2017 and RC No. M1/34173/2016 dated 17.08.2017 to the 7th and 8th respondents respectively.

ii. Further direct the respondents 7 and 8 to restore the well and the environment pollution free and iii. 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.

24. The applicant had filed the above application with an ulterior motive to defame the respondent. Further, the applicant was working as a watchman in his quarry and the main grievance of the applicant is not concerned about the environment but to defame his business concern. The applicant had now joined as a watchman in another person's land. The E.B lines was laid on the road and the land owners who had instructed the applicant to file a case, is clearly evident from the recitals of the application filed by the applicant. They have extracted Para 5 of the application regarding their grievance in respect of laying of electric line. The grievance of the applicant is with regard to erection of electric post which passes through the applicant's benefactors land and the applicant is now working for the benefactor's land he is not concerned with the environment.

25. The representation submitted by one Mr. Saravanaraj to the District Collector, Tenkasi on 09.12.2020 will go to show that the main dispute of the applicant is on the erection of electric posts and the main prayer of the applicant before amendment would go to show that the applicant's interest is on erection of electric post and not an environmental issue.

26. The Tribunal by order dated 15.06.2021 had directed the Joint Committee and individual respondents to submit reports and independent responses by 28.07.2021. They have not filed their



individual responses and nor the Joint Committee report was filed before the Tribunal till 25.08.2021 and since the report was not filed as per the orders of this Tribunal, the Registry of this Tribunal had adjourned the matter to 23.09.2021 and till today neither the Joint Committee report nor the individual responses were filed.

27. The quarrying operations had been stopped by 16.07.2021 and the 7th respondent had not been issued with the transport pass thereon. Till the date of issuance of transport permit to this respondent, the officials of Mining Department never found any fault with respondent's activity and all of a sudden the official had stopped issuing transport pass to the 7th respondent. There is no violation committed by him in respect of operation of quarry and no illegal quarrying had been conducted by him.

28. Due to Corona pandemic situation and Government mandated lockdown had disrupted the business chain and had led to closure of manufacturing facilities and had already caused loss of lakhs of rupees to 7th respondent. Years of heavy investment in quarrying machineries are indebted in bank loans and massive damage was caused due to COVID pandemic and it had already caused huge loss to this Respondent and due to non-operation of quarry, this respondent has been suffering from financial stress, repayment of EMI for bank loans and even the employees are jobless.

29. During the pendency of the proceedings, due to fanciful demands made by the applicant and his owner, they are not able to carry out with business and caused great hardship to them. He had also mentioned that he may be permitted to file detailed counter to the reports of the official respondent, independent response and Joint Committee report filed. He prayed for passing appropriate orders, accepting their contentions. They prayed for dismissal of the application.

30. 8th respondent filed counter contending that he is the co-owner of the property in patta land in S.F. No. 433/1 having an extent of 1.32.5 ha and he is owner of the property in patta land in S.F. No. 433/2 having an extent of 0.66.5 ha and obtained permission for quarrying operation for a total extent of 1.99.0 ha in A.P Nadanoor Village, Alangulam Taluk, Tenkasi District. They also obtained pathway lease hold rights over the adjacent survey no. 439/2, 438/6, 438/7, 438/8, 437/7 from 01.11.2016 to 31.10.2032. He obtained Environmental Clearance from the District Environmental Impact Assessment Authority, Tirunelveli vide Lr. No. DEIAA/TNV/TN/34960/2017 dated 22.02.2018.

31. The District Collector, Tirunelveli by his proceedings in Rc. No. M1/34173/2016 dated 20.03.2018 had granted quarry lease permission from 17.04.2018 to 16.04.2023 for quarrying 3,31,000 cbm of rough stone and 30,0672 cbm of gravel. On the basis of the Environmental Clearance, he had obtained consent to operate for the lease quarry from the Tamil Nadu Pollution Control Board vide proceedings no. F.3032TNV/RS/DEE/TNPCB/TNV/A/2020 dated 30.08.2020 and proceedings no. F.3032TNV/RS/DEE/TNPCB/TNV/W/2020 dated 30.08.2020 and the same is valid till 31.03.2023. He also reiterated the contentions raised by 7th respondent in his counter regarding the earlier prayers made by the applicant and the subsequent amendment allowed as per order in I.A. No. 87 of 2021, the nature of subsequent prayer made and also the concern of the applicant is regarding laying of line and not in respect of environment.

32. He also reiterated the contentions raised by the 7th respondent regarding the allegations made as to how he had obtained bank loans for the purpose of establishment of the quarry and the difficulties faced by them due to pandemic and lockdown situation mandated by the Government. He also contended the financial constraint faced by him and the jobless situation of the employees, employed by them. He also reiterated the same grievances raised by the 7th respondent regarding the non-filing of the report by the Joint Committee as well as independent response by the respondents. He also prayed leave of this Tribunal for filing additional statement after the Joint Committee report and independent response by the official respondent were filed and prayed for dismissal of the application.

33. The Joint Committee has filed report dated nil, e-filed on 22.10.2021 along with various annexure which reads as follows:

"JOINT INSPECTION REPORT OF COMMITTEE FORMED PURSUANT TO THE ORDER OF HON'BLE NATIONAL GREEN TRIBUNAL SOUTHERN ZONE CHENNAI IN O.A.NO. 104 OF 2021 DATED. 15.06.2021 It is submitted that Thiru. K.Ramsingh, Theertharappapuram Village, Tenkasi District, has filed an Original Application No. 104 of 2021 (SZ) and IA.No. 87 of 2021 (SZ) before the Hon'ble National Green Tribunal, Southern Zone, Chennai levelling certain complaints against the functioning of roughstone quarries by 7th respondent Mohamed Mahaboob and 8th respondent Sasikumar and with a prayer to i. Direct the 1st to 4th respondents to take action against the 7th and 8th respondents for violation of conditions prescribed in the licence issued to respondent in Rc. No. M1/44736/2016, dated. 12.12.2017 and Rc.No. M1/34173/2016, dated. 17.08.2017 to the 7 and 8 respondents respectively ii. Direct the respondents 7th and 8th to restore the wells and environment pollution free.

2. It is further submitted that the Hon'ble National Green Tribunal, Chennai (SZ) in para 14 of the order dated 15.06.2021 directed the committee to discuss following points i Whether the quarry and other alleged units run by respondents 7 and 8 in the disputed area are having all necessary clearances and permission?

ii. Whether there was any violation committed by the respondents 7 and 8 in operating the quarry against the conditions imposed. iii. Whether the unit of respondents 7 and 8 are having all necessary pollution control mechanisms which are sufficient to abate the nuisance due to pollution likely to be caused.

iv. Whether respondents 7 and 8 have committed any excess mining, and if so what is the extent of excess mining done and its impact on environment and assess the damage caused to the environment as well as the environmental compensation apart from the penalty and royalty to be realised from them under the respective mining laws.

v. Whether on account of the excess mining any depletion to the groundwater has been caused in that area vi. Whether any high density explosives were used by the 7th and 8 respondent for blasting against the permission granted and is there any damage caused to any of the neighbouring houses on account of the same apart from any sound pollution being caused.

vii. The committee is also directed to assess the damage caused to the neighbouring property owners on account of the unauthorised explosion and vibration caused on account of operating the units of the respondents 7 and 8.

3. As instructed by the Hon'ble National Green Tribunal, Southern Zone, Chennai(SZ) in its order dated 15.06.2021 in Original Application No. 104 of 2021(SZ) & LA. No. 87 of 2021(SZ) "a joint committee was constituted with the following officers in Collector Proceedings in M1/19934/2021, dated. 16.07.2021.

1. The Revenue Divisional Officer, Tenkasi.

2. The Deputy Director, Geology and Mining, Tirunelveli.

3. The Assistant Geologist office of Deputy Director, Geology and Mining, Tirunelveli

4. The Assistant Engineer, Tamil Nadu State Level Environment Impact Assessment Authority (TNSEIAA).

5. The District Environmental Engineer, Tamil Nadu Pollution Control Board, Tirunelveli.

4. The committee members inspected the quarry site on 20.07.2021 and required test relating to Geo Physical Resistivity Survey, Ground Water Level, Ground Water Quality, Ambient Air Quality and Ambient Noise Level through National Accreditation Board for Testing and Calibration Laboratories (NABL) were conducted and got the quarry sites in question measured with taluk survey team and total station survey to assess the volume of pit measurements. The results of the report was examined with reference to the norms prescribed and actual value recorded in the quarry sites are discussed.

5. The 7th respondent has been granted quarry permission to quarry Rough stone, Jelly & Gravel over an extent of 3.74.5 hectares of patta lands in SF. Nos. 434/4C, 434/4E, 434/4F, 434/4G, 434/4H, 434/4I, 434/4J, 470/1, 471/2, 471/3, 472/1B & 472/1C of A.P.Nadanoor Village, Alangulam Taluk, Tenkasi District for a period of 5 years vide District Collector Proceedings No. M1/44736/2016, dated. 20.03.2018. The lease deed was executed on 16.04.2018 and the lease period is valid from 16.04.2018 to 15.04.2023. The District Level Environment Impact Assessment Authority, Tirunelveli issued Environmental Clearance in letter No.

DEIAA-TNV/TN/49133/2017, dated. 22.02.2018 for a quantity of 5,24,423 com of Rough stone and for a quantity of 23,031 com of Gravel. The Tamil Nadu Pollution Control Board issued consent to operate quarry in the subject area vide proceedings No. F.3238TNV/RS/DEE/TNPCB/TNV/W/2021, dated. 07.08.2021 under Water (P&CP) Act, 1974 and vide proceedings No. F.3238TNV/ RS/DEE/TNPCB/INV/A/2021, dated. 07.08.2021 Under Air(P&CP) Act,1981 for quarrying a quantity of 5,24,423 com of Roughstone & Jelly and for a quantity of 23,031 com of Gravels subject to the conditions as stated therein valid up to 31/03/2023.

6. The 8th respondent has been granted quarry permission to quarry Rough stone, Jelly & Gravel over an extent of 1.99.0 hec of patta lands in SF. Nos. 433/1 & 433/2 of A.P.Nadanoor Village, Alangulam Taluk, Tirunelveli District (Currently Tenkasi District) for a period of 5 years vide District Collector Proceedings No. M1/34173/2016, dated. 20.03.2018. The lease was executed on 17.04.2018 and the lease period is valid from 17.04.2018 to 16.04.2023. The District Level Environment Impact Assessment Authority, Tirunelveli issued Environmental Clearance in letter No. DEIAATNV/TN/349 60/2017, dated. 22.02.2018 for a quantity of 3,31,000 chm of Rough stone and for a quantity of 30,672 com of Gravel. The Tamil Nadu Pollution Control Board issued consent to operate quarry in the subject area vide proceedings No. F.3032TNV/ RS/DEE/TNPCB/TNV/W/2020, dated. 30.08.2020 Under Water (P&CP) Act, 1974 and vide proceedings No. F.3032TNV/RS/ DEE/TNPCB/TNV/A/2020, dated. 30.08.2020 Under Air(P&CP) Act,1981 for a quantity of 3,31,000 com of Rough stone & jelly and for a quantity of 30,672 cbm of Gravel subject to the conditions as stated therein valid Up to 31/03/2023.

7. The District Level Environmental Impact Assessment Authority granted permission to quarry at a depth of 52 meters to both respondents as against the Ground Water Level is of 55 meters. The 7th respondent has quarried to a depth of 23 meters in two completed spells for the period from 2004 to 2009 and from 2011 to 2016 and the present lease for the period from 2018 to 2023 where as the 8th respondents has quarried to a depth of 22 meters in the present lease area for the period from 2018 to 2023.

8. As regards mining operation, the 7th respondent was issued transport permit for a quantity of 1,98,6485 cbm in two completed spells for the period from 2004 to 2009 and from 2011 to 2016 and the present lease period from 2018 to 2023. As per total station survey the quantity excavated comes to 2,04,704 com of which quantity of 6008 cbm was dumped around the lease area. During taluk survey, it is found that volume of the pit works out to 2,04,377 com of which quantity of 7,844 was dumped. The actual quantity transported comes to 1,98,496 cbm and the excess quantity of 11 cbm lies within the acceptable limit.

9. In respect of 8 respondent, transport permit was issued for a quantity of 1,12,349 cbm in the current lease period. According to the total station survey the quantity

excavated comes to 1,85,242 cbm of which quantity of 75,701 com dumped. During taluk survey if is found that, the volume of the pit works out to 1,86,590 cbm of which 75,768 com dumped. The transport quantity works out to 1,10,822 cbm which is not exceed the permit issued quantity of 1,12,349 com.

10. There is no habitation within 300mirs from the quarry lease areas. No building cracks, property damage and agriculture field damages are notice due to blasting. No fly rocks or shattering of rocks has been observed as the pit walls acts itself as a barrier. The lease areas are fenced with 5 feet height and also fixed the sign board with lease particulars.

11. Both the respondents have not used high density explosives as the blasting is carried out by licensed outsource blaster only. Further, they operate the quarry using Jack Hammer Drilling and Special Gelatin Stick of 25mm x 200mm /125gms. The bench height and slope is not maintained as per MMR 1961.

12. Both the quarries satisfy the standard prescribed by Pollution Control Board during Ambient Air Quality Survey test conducted in four locations in the quarry site and the Ambient Noise Level also lies within the standard for residential area of all four locations in the quarry site boundary.

13. In respect of Ground Water Quality in both quarries, it is noticed that the quality in all the parameters are within the acceptable limit of the drinking water standards were as the Total Dissolved Solids (IDS) exceeds the acceptable quality of 500 mg/L and within the permissible limit of 2000 mg/L.

14. In order to access the Ground Vibration, the Peak Particle Velocity test (PPV) was conducted in the quarry site belongs to the 7th respondent and the Ground Vibration result is only 1.19mm/s as per DGMS maximum permissible limit of PPV is 5mm/s and the peak particle velocity test was conducted in the quarry site belongs to the 8th respondent and the Ground Vibration result is only 0.94mm/s as per DGMS maximum permissible limit of PPV is 5mm/s.

16. Conclusion of Committee:

i. The respondents have obtained the necessary clearance and permissions. ii. The mining operations are carried out within the permitted area. iii. The quarry depth is within the permissible depth and above the water table level.

iv. No high density blasting was done. There were no damages to the property of the neighbours.

v. Bench height and slope is not maintained as per MMR 1961.

17. The respondents may be instructed to adopt the following procedure

1. The internal roads are to be graded to avoid dust pollution during vehicle movement,
2. The unit has to take steps to allocate 2.5% of the annual turnover and utilize towards CSR activity.
3. The unit has to furnish report on the health check up of the labourers employed.
4. The unit shall continue to develop green belt in the premises and maintain it."

34. The case was taken up on 23.09.2021 and this Tribunal had considered the report submitted by the 2nd respondent-Tamil Nadu Pollution Control Board signed by the officer on 22.09.2021 filed on 23.09.2021 which was extracted in Para 2 of the order reads as follows:

35. The case was adjourned for the purpose of obtaining the independent responses of the respondents.

36. 7th respondent filed reply, e-filed on 25.11.2021 contending that they had filed the preliminary objection dated 22.09.2021 and the same was taken into file on 23.09.2021. The conclusion of the Joint Committee was that the 7th respondent had followed all the rules and the procedures in the quarrying operation and had not committed any violation. The extract of conclusion of the Joint Committee is given below:

"Conclusion of the Committee:

i. The respondents have obtained the necessary clearance and permissions, ii. The mining operations are carried out within the permitted area. iii. The quarry depth is within the permissible depth and above the water table level.

iv. No high-density blasting was done. There were no damages to the property of the neighbours.

v. Bench height and stop is not maintained as per MMR, 1961."

37. With regard to Para 17 of the Joint Committee report, the procedure were suitably followed in the quarry area and following things were done by them:

I. The internal road is graded and thereby dust pollution during vehicle movement is avoided by water sprinklers and truck mounted sprinklers.

II. This respondent had taken all steps to allocate funds for CSR activity.

III. Since quarry is not in operation, this respondent could not able to maintain the health check-up and the same will be followed and records will be maintained in future course. IV. Sufficient green belt was maintained in and around the quarrying area. Steps have been taken to improve the same.

38. Because of the pendency of the case, the quarrying operations had been stopped on 16.07.2021 and the Department of Mining and Geology has not issued the transport pass thereon for the past 133 days from 16.07.2021 to till date i.e. 26.11.2021. Corona pandemic situation and Government mandated lockdown had already disrupted the business chain, which had led to closure of manufacturing facilities and had already caused loss of lakhs of rupees to 7th respondent. So, they prayed for dismissal of the application.

39. 8th respondent also filed more or less same reply, raising same contentions raised by the 7th respondent and prayed for dismissal of application.

40. The applicant filed objection to the Joint Committee to the extent that the Joint Committee failed to see the internal roads within the quarry area and its bad condition causing air and dust pollution on account of non maintenance of the same. Respondent nos. 7 and 8 have not made any provisions to control the dust pollution. Joint Committee also failed to note that no amount was allotted towards CSR activities and they have not disclosed their annual turnover with intention to escape from allocating 2.5 per cent of annual turnover towards CSR activity and he wanted these things to be enquired upon by the Joint Committee for which purpose the same will have to be remitted to the Joint Committee.

41. The applicant filed rejoinder to the counter filed by Respondent nos. 5 and 6 denying the allegations made by them in the counter statement regarding applications made by respondents 7 and 8 and the proceedings initiated by them. He also reiterated the allegations made in Para 10 related to third parties and that was not related to the applicant. The entire erection of poles is only for the benefit of private individuals i.e. respondents 7 and 8 and it was not intended for public interest.

42. The respondent 5 and 6 are now invoking section 10 and 16 of the Indian Telegraphic Act, 1885 not in public interest but for protecting private interest by providing electricity connection and that was intended to provide high tension electricity to private persons. They also denied that allegations that the licenses have been granted to respondents 7 and 8. They falsely stated that no high tension electricity is required. In fact they require high tension electricity power for running the quarry business. They obtained the licenses by suppressing the material facts. They also produced certain documents obtained through Right to Information Act, 2005.

43. The applicant also filed rejoinder to the counter filed by respondents 7 and 8. He denied the allegation made in the counter statement filed by respondent nos. 7 and 8. He admitted that he was working as a watchman in the 7th respondent quarry and developed many health problems including T.B. 7th respondent did not give any medical facility to the applicant. He had no intention to defame the 7th respondent's business concern. His grievance is not only with regard to erection

of poles through agricultural lands, but also with regard to pollution caused by the 7th and 8th respondent during their quarry operation. Even without power supply, the respondent quarry had already taken more than the permitted level. If the electricity connection is given, the entire hamlets in and around quarrying areas would be largely affected and they have mentioned in the application that at the time of seeking license for quarry, respondents 7 and 8 have clearly stated that no high tension electricity power is required for running the quarry business. The license issued is based on the fact that no H.T power is required for running the business. They have suppressed these facts and applied for H.T. power connection for running the quarry business.

44. The 7th respondent filed further reply statement on the basis of the rejoinder filed by the applicant. The 7th respondent had followed the procedure suitably in the quarry area as follows:

(i) The medical facility and accident care insurance policy had been provided to the working labourers and employees (The photographs for the same is annexed herewith- Annexure-I.

(ii) The internal road is graded and water sprinklers is done by using lorries, hereby dust pollution during vehicle movement is avoided. (The photographs for the same is annexed herein with Annexure-II.

(iii) This respondent had taken all steps to allocate funds for CSR activity.

(iv) The green belt was well maintained in the quarrying area Annexure-

III.

(v) It is submitted that the quarry activities were carried within the permitted level and there is no illegal transmission of stones and gravel and the allegation of applicant is baseless and the applicant is put to the strict proof of the same.

45. They have reiterated the grievance raised by them in the original counter filed by them.

46. 8th respondent also filed the similar further counter to the objections raised by the applicant in his rejoinder and he had also mentioned about the steps taken by him in Para 4 of the reply filed by him to the rejoinder filed by the applicant which reads as follows:

i. The medical facility and accident care insurance policy had been provided to the working labourers and employees (The photographs for the same is annexed herewith- Annexure-I. ii. The internal road is graded and water sprinklers is done by using lorries, hereby dust pollution during vehicle movement is avoided. (The photographs for the same is annexed herein with Annexure-II.

iii. This respondent had taken all steps to allocate funds for CSR activity.



iv. The green belt was well maintained in the quarrying area Annexure-III.

v. It is submitted that the quarry activities were carried within the permitted level and there is no illegal transmission of stones and gravel and the allegation of applicant is baseless and the applicant is put to the strict proof of the same.

47. He also reiterated the same grievance raised by him in the original counter filed by him.

48. 1st respondent filed the counter affidavit contending that they have reiterated the necessity for obtaining prior Environmental Clearance for quarrying projects and also explained the procedure provided under EIA Notification, 2006 for these purposes. They have further contended that the project proponent Thiru. N. Mohamed Mahaboob, Tirunelveli District submitted an application to SEIAA, Tamil Nadu on 16.10.2015 seeking Environmental Clearance for quarrying of rough stone and gravel over an extent of 3.92.0 ha at S.F. No. 434/4C, 434/4E, 434/4F, 434/4FG, 434/4J, 454/1C, 470/1, 471/2, 472/IB & 472/1C at Anantha Perumal Village, Alangulam Taluk, Tirunelveli District.

49. The project proponent had not furnished the additional details called for vide SEIAA letter dated 24.11.2015 and 30.03.2016. The Hon ble Supreme Court vide its order dated 27.02.2012 in I.A. NO. 12-13 of 2011 in SLP (C) No. 19628-19629 of 2009 titled Deepak Kumar vs. State of Haryana & Ors. has inter alia ordered that leases of minor mineral including their renewal for an area less than 5 ha shall be granted by the State/Union Territory only after getting Environmental Clearance from the Competent Authority. The proposal was placed in the 76th SEAC meeting held on 01.07.2016 and the Committee has recommended on receipt of additional details.

50. The National Green Tribunal, Principal Bench, New Delhi in Original Application No. 34 of 2016 by its order dated 04.05.2016 has given directions inter alia that:

"all the mines owners which of them have not submitted the application as on 31st March, 2016 to SEIAA, DEIAA and DEAC, shall be shut down forthwith and will not be permitted to carry on any mining activity in any manner whatsoever".

"The applications which are deficient and where the applicants have not submitted all requisite documents, such applicants are hereby granted last opportunity of 1 week (one week) to submit the documents. In the event they fail to submit such document and make applications complete and errorless in all respects then after the stated period of 1 week they shall also be liable to be shutdown without any further notice. If they comply with this direction, they would be also to the advantage up to 31st May, 2016."

51. The above order was communicated to the respective Deputy Director/Assistant Director, Department of Geology and Mining and was addressed vide this office letter No. SEIAA-TN/01940/2016 dated 26.09.2016 to re-examine the proposals seeking Environmental Clearance for the existing quarries considering the above Hon ble National Green Tribunal order with an

intimation to the proponent. Subsequently, Ministry of Environment, Forest and Climate Change (MoEF&CC) Notification S. O. 804(E) dated 14.03.2017 has stated that the cases of violations will be dealt strictly as per the procedure specified in the following manner:

"In case the project or activities requiring prior Environmental Clearance under EIA Notification 2006 from the concerned Regulatory Authority are brought for Environmental Clearance after starting the construction work, or have undertaken expansion, modernization and change in product-mix without prior EC, these projects shall be treated as cases of violations and in such cases, even Category B projects which are granted Environmental Clearance by the SEIAA constituted under Sub-Section (3) Section 3 of the Environment (Protection) Act, 1986 shall be appraised for grant of Environment Clearance only by the Expert Appraisal Committee and Environmental Clearance will be granted at the Central Level."

52. The National Green Tribunal, Principal Bench, New Delhi in its order dated 18.04.2017 in M.A. No. 260 of 2017 in O.A. No. 123 of 2017 had directed "the State Government again to expedite the compliance to the law as expeditiously as possible and to ensure that no mining activity is permitted to be carried on without obtaining prior EC." The project proponent was addressed vide Letter No. SEIAA-

TN/F.NO.4373/2016/2016/NGT dated 11.05.2017 informing that "your application for seeking Environmental Clearance could not be processed at SEIAA-TN and you are requested to submit the proposal to MoEF&CC for Environmental Clearance it is informed that the application filed in this office is closed and recorded" (As stated in para 11 and 12).

53. The Proposal was placed before 256th meeting of SEIAA, Tamil Nadu held on 05.12.2017. the Authority discussed in detail and noted that the project proponent has not furnished the additional details called vide this office letter dated 30.03.2016. The proposal was placed in the 76th SEAC meeting held on 01.07.2016 and the mine lease is also expired on 18.11.2016. The Authority decided to close and record the application submitted by Thiru. N. Mohamed Mahaboob seeking Environmental Clearance for the proposed rough stone and quarry located at S.F. No. 434/C, 434/4E, 434/4F, 434/4FG, 434/4H, 434/4I, 434/4J, 470/1, 470/2, 470/3, 472/1B, 472/1C of A.P Nadanoor Village, Alangulam Taluk, Tenkasi District. The same was communicated to project proponent vide letter no. SEIAA-TN/F.No. 4373/2015 dated 05.12.2017.

54. The 8th respondent (Thiru. S. SasiKumar) has not applied to SEIAA-Tamil Nadu for seeking Environmental Clearance for quarrying of rough stone, jelly and gravel in S.F. Nos. 433/1 and 433/2 of A.P. Nadanur Village, Alangulam Taluk, Tirunelveli District.

55. The National Green Tribunal, Southern Zone, Chennai has appointed a Joint Committee to inspect the area in question and submit a factual as well as action taken report, if there is any violation found. The Joint Committee members inspected the project site and submitted the Joint Committee inspection report to the Hon ble National Green Tribunal, Southern Zone, Chennai on 24.09.2021. They prayed for accepting their contentions and passing appropriate orders.

56. 7th respondent has filed rejoinder to the counter filed by the 1st respondent in the form of counter affidavit contending that he obtained Environmental Clearance from District Environment Impact Assessment Authority, Tirunelveli vide Lr. No. DEIAA/TNV/TN/49133/2017 dated 22.02.2018 and obtained necessary licenses from the authorities.

57. The above said quarry was subjected to quarry for two spells with adjoining patta lands and the then District Collector, Tirunelveli had granted permission by proceedings of District Collector, Tirunelveli in R.C. No. M2/39856/2003 dated 05.01.2004 for Survey Nos. S.F. Nos. 445/1A, IC, 2C, 470/1, 471/2, 471/3, 472/1B and 472/1C for lease period from 19.01.2004 to 18.01.2009 and by proceedings of the District Collector, Tirunelveli by way of proceedings in R.C. No. M1/61043/2009 dated 09.09.2011 for lease period from 19.11.2011 to 18.11.2016.

58. Respondent had obtained necessary permissions from the competent authorities from time to time adhering to EIA Notification, 2006. He had also applied for the Environmental Clearance from State Level Environmental Impact Assessment Authority, Tamil Nadu for the then quarried S.F. No. 434/C, 434/4E, 434/4J, 445/1A, 445/1C, 470/1, 471/2, 471/3, 472/1B and 472/1C of A.P Nadanoor Village, Alangulam Taluk, Tenkasi District. Based upon the said application, SEIAA, Tamil Nadu by way of Lr. No. SEIAA-TN/4373/2015 dated 24.11.2015 had asked for additional particulars and thereupon, the Assistant Director of Geology and Mining Tirunelveli had addressed to the Chairman, SEIAA, Tamil Nadu for the Environmental Clearance by way of R.C. No. m1/46495/2015 dated 05.02.2016.

59. As per notification and as clarified by the Ministry of Environment and Forests in their notification in S.O. No. 141(E) dated 15.01.2016, the Government of India had issued guidelines for grant of Environmental Clearance in respect of mining leases of minor mineral. It is clearly indicated in the said notification that mining projects with mining lease area equal to 5 ha upto less than 25 ha have been categorised as B2 category. As per Para 3(A) sub-Para (C) point (iv) of the said notification, the B2 category projects pertaining to mining of minor mineral of lease area less than or equal to 5 ha shall require environmental clearance from DEIAA and the DEIAA shall base its decision on the recommendations of DEAC as constituted.

60. Item no. 4 of the Appendix-XI of the said notification envisages that the Environmental Clearance shall be granted to the individual project proponent as well as individual lease holder cluster on use of same Environment Impact Assessment or Environment Management Plan for application of Environment Clearance. It is further submitted that a schematic representation of requirement on Environmental Clearance of Minor Mineral including cluster situation is described in Appendix-XI (8) of the said notification which envisages that DEIAA is the Competent Authority for grant of Environmental Clearance proposal of minor minerals mining on the basis of individual mining lease for Ha. 0.00 to 5.00 ha. As per the existing rules and guidelines the respondent had obtained Environmental Clearance from the District Environment Impact Assessment Authority, Tirunelveli vide Lr. No. DEIAA/TNV/TN/49133/2017 dated 22.02.2018.

61. They obtained all the necessary permissions and other clearances for the purpose of conducting the operations and he prayed for dismissal of the application.

62. 8th respondent also filed reply to the counter filed by the 1st respondent. He had reiterated the contentions raised by the 7th respondent in their reply to the counter submitted by 1st respondent regarding the issuance of notification by MoEF&CC as S.O. No. 141(E) dated 15.01.2016 and the procedure provided therein. He had further submitted that it is on that basis, he obtained Environmental Clearance from District Environment Impact Assessment Authority vide No. DEIAA/TNV/TN/34960/2017 dated 22.02.2018 and obtained all other necessary permissions for conducting quarrying operations. So, he prayed for dismissal of the application.

63. Heard the Learned Counsel for the applicant, Learned Counsel for the respondents including the project proponent and official respondents.

64. Learned Counsel for the applicant argued that the observations made by the Joint Committee and the Pollution Control Board that they are having all necessary permission and no excess quarrying was done is not correct. Though, it was mentioned in the Joint Committee report that there are certain violations, they have not taken any action in this regard and not even suggested any Environmental Compensation.

65. The reply submitted by SEIAA will go to show that the 8th respondent had not submitted application for Environmental Clearance with them and the application for Environmental Clearance submitted by the 7th respondent earlier during 2015 was closed in view of the subsequent notification issued by the MoEF&CC in this regard. These aspects have not been properly considered by the Joint Committee. The observation made by them that there was no impact due to explosion etc., is not correct.

66. On the other hand, Learned Counsel appearing for the State Department and SEIAA submitted that DEIAA had granted the Environmental Clearance on the basis of the notification issued by the MoEF&CC on 05.01.2016 and DEIAA had granted the Environmental Clearance prior to the decision of the National Green Tribunal, Principal Bench, New Delhi in O.A. No. 186 of 2016 directing MoEF&CC to revisit the investment of power of Environmental Clearance to DEIAA and subsequently to that extent that the notification was suspended in another proceedings and that order was passed on 13.09.2018 and prior to that DEIAA in this case had already granted Environmental Clearance. Only thereafter, the 2019 notification was issued by MoEF&CC thereby all applications pending with DEIAA were taken over by SEIAA and SEIAA was granting the Environmental Clearance for B1 and B2 categories of mining activities.

67. Learned Counsel appearing for the TANGEDCO submitted that since the application for drawing line to 8th respondent was objected by the local people, they stopped the work and they decided to move the District Magistrate under Section 10 and 16 of the Indian Telegraphic Act, 1885 and after getting necessary directions, they will proceed with the work.

68. The Learned Counsel appearing for the respondents 7 and 8 submitted that for the purpose of their quarrying operation, they have obtained all necessary permissions including Environmental Clearance and they have not committed any violation and no excess mining was done and as such there is no merit in the application submitted by the applicant.

69. Further, it will be seen from the allegations made in the applications and the prayers claimed in the Original Application filed, their grievance was regarding drawing of the electric lines through their properties and not in respect of any environmental issue that shows that the application has been filed with malafide intention to harass them. They also contended that the applicant was original working as watchman in their unit and when his engagement was terminated, he joined another person's concern and at the instant of the present employer that he had filed this application to harass the respondent. There is no bonafide in this application, so they prayed for dismissal of the application.

70. We have considered the pleadings, documents produced and also the written submissions submitted by the counsel.

71. The points that arise for consideration are:

- i. Whether respondents 7 and 8 are conducting the quarrying operations without obtaining Environmental Clearance and permissions required under the environmental laws?
- ii. Whether any excessive mining was conducted by them, if so, what is the quantity of excessive mining done?
- iii. Whether respondents 7 and 8 have committed any violation of environmental laws in carrying on their quarrying operations and if so, what is the nature of action to be taken including imposing of penalty and Environmental Compensation?
- iv. What are the directions, if any, to be issued in this case?
- v. Relief and Costs.

Points

72. The applicant has filed the present application alleging that respondents 7 and 8 were conducting their quarrying operations and crushing unit alleging that they have conducting the same without obtaining necessary Environmental Clearance and other permissions and also alleged that respondents have obtained the licenses for conducting quarrying on the premise that they do not require any high tension electricity and subsequently they have applied for high tension electricity supply for their units and the Electricity Department is taking steps to draw lines through property of the applicant and others which are agricultural lands and the operation of the respondents 7 and 8 are causing air and noise pollution. Originally, they sought the following reliefs:

## INTERIM RELIEF:

For the reasons stated above, it is prayed that this Hon'ble Green Tribunal may be pleased to grant ad-interim injunction restraining the respondents 5 & 6 herein from giving electricity service connection to the 7h & 8th respondents quarry as well as crushing units situated at A.P.Nadanur Panchayat and Pottalpudhur Panchayat pending disposal of the above application and thus render justice.

## RELIEF SOUGHT :

For the reasons stated above, it is humbly prayed that this Hon'ble Green Tribunal may be pleased to

(i) direct the 1s to 4 respondents to take action against the 7h & 8h respondents for violation of conditions prescribed in the license issued to respondents in RC No.M1/44736/2016 dated 12.12.2017 and RC No. M1/ 34173/2016 dated 17.08.2017 to the 7th & 8h respondents respectively

(ii) further direct the respondents 7 and 8 to restore the well and the environment pollution free and

iii) 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.

73. Since this Tribunal observed that the relief claimed in the application will not fall under Section 14 and 15 of the National Green Tribunal Act, 2010, the Learned Counsel for the applicant sought permission to file necessary application for amendment of the reliefs and accordingly permission was granted and the applicant filed I.A. No. 87 of 2021 to delete the earlier reliefs claimed and substitute the same with following reliefs:

(i) Direct the 1st to 4th respondents to take action against the 7th and 8th respondents for violation of conditions prescribed in the license issued to respondents in RC No. M1/44736/2016 dated 12.12.2017 and RC No. M1/34173/2016 dated 17.08.2017 to the 7th and 8th respondents respectively.

(ii) Further direct the respondents 7 and 8 to restore the well and the environment pollution free and

(iii) 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.

74. This application was allowed and thereafter this Tribunal admitted the matter as per order dated 15.06.2021 and appointed a Joint Committee Consist of 1) the District Collector, Thenkasi District or a Senior Officer not below the rank of Assistant Collector or Sub Divisional Magistrate as deputed

by the District Collector, (2) A Senior Geologist from the office of the Deputy Director of Geology and Mining Department, Tirunelveli, (3) a Senior Office from the Tamil Nadu State Environment Impact Assessment Authority and (4) a Senior Officer from the Tamil Nadu Pollution Control Board as deputed by its Chairman to inspect the area and submit a factual as well as action taken report, if there is any violation found with following ToR:

i. Whether the quarry and other alleged units run by respondents 7 and 8 in the disputed area are having all necessary clearances and permission?

ii. Whether there was any violation committed by the respondents 7 and 8 in operating the quarry against the conditions imposed iii. Whether the unit of respondents 7 and 8 are having all necessary pollution control mechanisms which are sufficient to abate the nuisance due to pollution likely to be caused? iv. Whether respondents 7 and 8 have committed any excess mining, and if so, what is the extent of excess mining done and its impact on environment and assess the damage caused to the environment as well as the environmental compensation apart from the penalty and royalty to be realised from them under the respective mining laws? v. Whether on account of the excess mining any depletion to the groundwater has been caused in that area?

vi. Whether any high density explosives were used by the 7th and 8th respondent for blasting against the permission granted and is there any damage caused to any of the neighbouring houses on account of the same apart from any sound pollution being caused vii. The committee is also directed to assess the damage caused to the neighbouring property owners on account of the unauthorised explosion and vibration caused on account of operating the units of the respondents 7 and 8.

75. 1st respondent had filed counter affidavit contending that the 7th respondent had earlier filed an application for Environmental Clearance on the basis of the decision of the Hon ble Apex Court in Deepak Kumar and ors. Vs. State of Haryana and ors.1 that Environment Clearance is required for mining operation of minor and minerals irrespective of the extent of the lease by its Judgement dated 27.02.2012.

76. It is on that basis the said N. Mohamed Mahaboob filed an application for Environmental Clearance on 16.10.2015 for grant of Environmental Clearance for quarrying rough stone and gravel over and extent of 3.92.0 ha in the survey numbers mentioned in the counter. Since, certain additional details were called for by SEIAA vide their letter dated 24.11.2015 and 30.03.2016 and the proposal was placed in the 76th SEAC meeting held on 01.07.2016 and the Committee had recommended the Environmental Clearance on receipt of additional details.

77. As per order dated 04.05.2016, National Green Tribunal, Principal Bench, New Delhi in O.A. No. 34 of 2016 had given direction that "all the mines owners which of them have not submitted the application as on 31st March, 2016 to SEIAA, DEIAA and DEAC, shall be shut down forthwith and will not be permitted to carry on any mining activity in any manner whatsoever". "The applications

which are deficient and where the applicants have not submitted all requisite documents, such applicants are hereby granted last opportunity of 1 week (one week) to submit the documents. In the event they fail to submit such document and make applications complete and errorless in all respects then after the stated period of 1 week they shall also 1 (2012)4 SCC 629 be liable to be shutdown without any further notice. If they comply with this direction, they would be also to the advantage up to 31st May, 2016." Thereafter, it is also contended by 1st respondent that thereafter MoEF&CCC had issued another notification S.O. No. 804(E) dated 14.03.2017 stating that certain categories will have to be treated as „violation category and that will have to be appraised at Central level.

78. Further, as per order in M.A. No. 206 of 2017 in O.A. No. 123 of 2017, the National Green Tribunal, Principal Bench, New Delhi had directed all the State Governments to expedite the compliance to the law as expeditiously as possible and to ensure that though no mining activities be permitted to be carried on without Environmental Clearance. It is on that basis the SEIAA had informed the project proponent, namely, N. Mahomed Mahaboob vide their letter no. SEIAA-TN/F.No.4373/2016/NGT dated 11.05.2016 that his application for seeking Environmental Clearance could not be processed at SEIAA, Tamil Nadu and he was directed to submit the proposal to the MoEF&CC for Environmental Clearance and it was also informed by them that the application processed by him has been closed and recorded.

79. The proposal was placed before the 256th meeting of SEIAA, Tamil Nadu held on 05.12.2017 and they discussed in detail and since the project proponent had not furnished the additional details called for by their office letter dated 30.03.2016, the same was placed in 76th SEAC meeting held on 01.07.2016 and the mining lease also expired on 18.11.2016, they decided to close and record the application submitted by N. Mohamed Mahaboob seeking Environmental Clearance for the proposal of rough stone and gravel and this was communicated to him by their letter no. SEIAA-TN/F.No. 4373/2015 dated 05.12.2017.

80. They have further contended in reply affidavit that 8th respondent, namely, Mr. Sasikumar had not filed any application before them.

81. On the other hand, respondent nos. 7 and 8 have filed independent counter affidavits and also reply to the counter affidavit filed by the 1st respondent contending that they have obtained the Environmental Clearance on the basis of the subsequent lease granted with DEIAA and the same was granted after complying with the procedure and they have also obtained consent to establish and consent to operate from the Tamil Nadu Pollution Control Board.

82. When they applied for high tension electric lines, the same was objected by the local people and thereafter as directed by the District Collector the mining operations has stopped from 16.07.2021 and thereafter, they are not carrying out the mining operations. As regards the contention of the 1st respondent is concerned, 7th respondent has contended that Environment Clearance application was filed on the basis of the earlier mining lease and subsequently, they obtained further mining lease and it is on that basis, as per the existing laws, Environmental Clearance was applied before DEIAA and the same was appraised and then granted in accordance with law.



83. The main grievance of the applicant was not the environmental issue but drawing of electric line through their property which cannot be considered by this Tribunal. As regards, the medical facilities etc mentioned in the Joint Committee report, they have filed objections to the same along with certain documents to show that medical insurance was taken for all their employees. So, at present for the present mining lease, both respondent 7 and 8 have obtained necessary Environmental Clearance from DEIAA and also consent to establish and consent to operate from Pollution Control Board. Since, the Environmental Clearance were granted by DEIAA prior to the order National Green Tribunal, Principal Bench in O.A. No. 186 of 2016-Satendra Pandey vs. MoEF&CC dated 13.09.2018, it cannot be said that Environmental Clearance granted prior to that order is invalid as any order passed subsequent to the issuance of the Environmental Clearance will only have prospective operation and not retrospective operation. But however, if respondents 7 and 8 had conducted any prior quarrying operation after Deepak Kumar's Case by the Hon'ble Apex Court and within the time frame fixed by the Principal Bench in the orders referred to in the reply affidavit of the 1st respondent, then it will be in violation of environmental laws and also against the directions issued by Hon'ble Apex Court in Common Cause vs. Union of India<sup>2</sup> and that will be treated as an illegal mining and action will have to be taken for recovery of the amount of any mining done during that period apart from imposing Environmental Compensation.

84. Since, 8th respondent had not applied for Environmental Clearance in respect of earlier lease and there is no possibility of considering the same as a violation case under 2017 notification. There is no bar for applying for fresh Environmental Clearance on the basis of fresh lease granted. But at the same time, the liability to pay compensation and value of illegally mined articles on the basis of the prior lease without obtaining Environmental Clearance as mentioned in Common Cause vs. Union of India<sup>3</sup> will not be absolved and the persons who have committed illegal mining earlier as to abide by that direction.

85. It is seen from the Joint Committee report that at present, they are having all necessary documents and they have not conducted any excess mining other than the permission granted, either in the Environmental Clearance or in the mining lease granted to them. The report of the Pollution Control Board will go to show that there is no violation of distance criteria and they have given the distances in their reports which were extracted earlier, as such we are not re-extracting the same. So, the contention raised by the applicant in the application that (2017) 9 SCC 499 (2017) 9 SCC 499 there have not followed the distance criteria cannot be accepted.

86. Pollution Control Board in their report signed by the officer on 22.09.2021 had noted the following things in respect of M/s SassiKumar, Rough Stone, Jelly and Gravel (8th respondent):

87. They also mentioned about the M/s N. Mohamed Mahaboob, Rough Stone, Jelly and Gravel (7th respondent)

88. They also noted about another Blue Metals M sand unit by name M/s Sri Rajalakshmi Blue Metal and M Sand belonging to one K. Ravi Kumar, who is the relative of 8th respondent and it is a partnership firm of which the said Mr. Ravi Kumar was the Managing Partner. Certain things were noted in respect of the same

as well and they are not party to the proceedings.

89. They also mentioned about the operations of M/s Almubarka Stone Crusher and M/s Nadira M. Sand of which 7th respondent is the Managing Partner of M/s/ Almubark Stone Crusher and Proprietor of the unit M/s Naadira M Sand which were operating in Sy. F. No. 467 of Pottalpudhur village, Ambasamudram Taluk, Tirunelveli District and S. F. No. 466/2, Ayan Pottalpudhur Village, Ambassamudram Taluk, Tirunelveli District.

90. It is also mentioned in the report that in respect of M/s Almubark Stone Crusher is concerned, a show cause notice was issued under the Air (Prevention and Control of Pollution) Act, 1981 vide proceedings dated 30.07.2021 to carry out certain directions. As regards Nadira M sand is concerned, since they were operating without consent to operate from the Pollution Control Board, they issued closure order and disconnection of power supply vide proceedings dated 08.09.2021.

91. As regards 7th respondent is concerned, they have been directed to carry out the directions issued by the Pollution Control Board vide their letter dated 15.07.2021, namely, the following things:

92. The Joint Committee in their report under Para 16 Conclusion of the Committee, it was mentioned as follows:

16. Conclusion of Committee:

i. The respondents have obtained the necessary clearance and permissions. ii. The mining operations are carried out within the permitted area. iii. The quarry depth is within the permissible depth and above the water table level.

iv. No high density blasting was done. There were no damages to the property of the neighbours.

v. Bench height and slope is not maintained as per MMR 1961.

93. As regards, dispute regarding drawing of the electric line is concerned, that will not fall under the purview of this Tribunal under Section 14 and 15 of the National Green Tribunal Act, 2010. If the applicant or any other person has any grievance regarding the establishment of the poles or drawing of the lines, they will have to move the respective authorities under the Electricity Power Supply Act, 2003 and Section 16 and 17 of the Indian Telegraphic Act, 1988.

94. So under such circumstances, this Tribunal feel that the application can be disposed of as follows:

i. Respondents 7 and 8 are entitled to carry on the mining and crusher unit, if they are having all necessary Environmental Clearance and permission granted by the concerned authorities.

ii. In case there is any direction issued by the Pollution Control Board for closure of the unit for non compliance of the conditions, if any, then the respondents 7 and 8 are directed to file an application to revoke those orders and if such an application is filed, the pollution control board is directed to consider those applications and pass orders in accordance with law without delay.

iii. In respect of any violation committed of running the unit on the basis of the earlier mining leases against the direction of the Hon ble Apex Court in Deepak Kumar s case and further directions issued by Principal Bench in this regard, then the mining authorities are directed to take appropriate action including recovery of value of minerals and assess Environmental Compensation for the mined articles as it will be treated as a unauthorised mining as observed by the Hon ble Apex Court in Common Cause case and strictly implement the directions issued by the Hon ble Apex Court in Common Cause case and take steps to realise the amount from respondents 7 and 8 in accordance with law after giving them proper opportunity and complying with the procedure laid down under the respective statutes within a period of six months, if they have operated the mining operations against the directions of the Hon ble Apex Court and the Principal Bench during that period.

iv. Respondents 7 and 8 are directed to comply with the recommendations made by the Joint Committee and also the directions issued by the Pollution Control Board in its letter and spirit to avoid possible pollution being caused on account of their operations.

v. The Pollution Control Board is also at liberty to take action against those units which were mentioned in their report belonging to 7th respondent and the relative of the 8th respondents, which units are not party to the proceedings, if the directions issued by them are not complied with in accordance with law, including imposition of Environmental Compensation for the violations of conditions imposed as directed by Principal Bench and this Bench applying the guidelines issued by the CPCB in this regard.

vi. The liberty of the applicant to move the appropriate authority under Electricity Supply Act 2003 and Telegraph Act for redressal of grievance, if any, drawing of electric line is left open,

95. The points are answered accordingly.

96. In the result, the application is disposed of with following directions.

I. Respondents 7 and 8 are entitled to carry on the mining and crusher unit, if they are having all necessary Environmental Clearance and permission granted by the concerned authorities.

II. In case there is any direction issued by the Pollution Control Board for closure of the unit for non compliance of the conditions, if any, then the respondents 7 and 8 are directed to file an application to revoke those orders and if such an application is filed, the Pollution Control Board is directed to consider those applications and pass orders in accordance with law without delay.

III. In respect of any violation committed of running the unit on the basis of the earlier mining leases against the direction of the Hon ble Apex Court in Deepak Kumar s case and further directions issued by Principal Bench in this regard, then the mining authorities are directed to take appropriate action including recovery of value of minerals and assess Environmental Compensation for the mined articles as it will be treated as a unauthorised mining as observed by the Hon ble Apex Court in Common Cause case and strictly implement the directions issued by the Hon ble Apex Court in Common Cause case and take steps to realise the amount from respondents 7 and 8 in accordance with law after giving them proper opportunity and complying with the procedure laid down under the respective statutes within a period of six months, if they have operated the mining operations against the directions of the Hon ble Apex Court and the Principal Bench during that period.

IV. Respondents 7 and 8 are directed to comply with the recommendations made by the Joint Committee and also the directions issued by the Pollution Control Board in its letter and spirit to avoid possible pollution being caused on account of their operations.

V. The Pollution Control Board is also at liberty to take action against those units which were mentioned in their report belonging to 7th respondent and the relative of the 8th respondents, which units are not party to the proceedings, if the directions issued by them are not complied with in accordance with law, including imposition of Environmental Compensation for the violations of conditions imposed as directed by Principal Bench and this Bench applying the guidelines issued by the CPCB in this regard. VI. Liberty of the applicant to move the appropriate authority under the Electricity Supply Act 2003 and Telegraph Act for redressal of grievance, if any, regarding drawing of electric line is left open.

VII. Considering the circumstances, the parties are directed to bear their respective costs in the application. VIII. Registry is directed to communicate this order to the Chairman, SEIAA, Chairman, Tamil Nadu Pollution Control Board, Director of Mines and Geology and District Collector, Theni for their information and compliance of the directions.

87. With the above observations and directions, the application is disposed of.

.....J.M. (Justice K. Ramakrishnan) .....E.M. (Dr. Satyagopal Korlapati) 31st January, 2022 AM.