

A.Kathirvel vs Union Of India Ministry Of Environment ... on 31 May, 2021

Bench: K Ramakrishnan, K. Satyagopal

Corrected Copy

Item No.08:

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI

Original Application No. 106 of 2021 (SZ)
(Through Video Conference)

IN THE MATTER OF:

M. Kathirvel,
Munnur Village,
Karur District.

Versus

Union of India, Rep by its secretary,
MoEF&CC, New Delhi and others.

...Applicant(s)

....Respondent(s)

Date of hearing: 20.05.2021.

CORAM:

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

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

For Applicant(s):

Mr. Kumaresan represented
Mr. K. Nagendra Prasad, G, Prabhu & T. John Alexander
& Mr. M. Arun

For Respondent(s):

Mr. C. Kasirajan through
Ms. Ashwini for R3 & R4
Dr. V. R. Thirunarayanan for R5, R6 & R8

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ORDER

1. The grievance in this application is regarding the illegal operations of the quarries and crushing

unit by the original 16th respondent who has been re- arrayed as 11th respondent of which original respondents 13 to 15 were partners and the violations committed by them in respect of conditions imposed in the environmental clearance as well as consent or permission granted. Apart from causing air, noise, soil and water pollution. On the basis of the earlier compliant, inspections were conducted by the Officer's and certain deficiencies were noted and show cause notices were issued for rectifying the same which was challenged before the Hon'ble High Court of Madras (Madurai Bench) while filing W.P. No. 3399/2020 and W.P. 3398/2020 and they are pending. Further, excess mining was also done by these units and mining was extended to the area other than permitted as well. Since some illegalities were found in transportation of materials that a crime was registered as F.I.R. No. 243/2020 dated 07.05.2020. The illegal activities are still continuing.

2. According to the applicant, they are using heavy explosives than permitted, causing lot of noise pollution. The pollution control mechanisms provided are not effective and causing dust pollution. The quarrying is also conducted very near to the residential houses causing damage to the nearby structures. The authorities have not taken any action against them in spite of the fact that certain violations were noticed by them. That prompted the applicant to file this application seeking the following reliefs:-

A. Direct the 4th respondent to take steps to initiate cognizance against the 16th respondent for violation of the Environment (Protection) Act, 1986.

B. Direct the respondent No. 1, 3, 4, 6, 7, 8 & 9 to ensure that no mining activities are conducted by the 16th Respondent in violation of the provisions of the EIA Notification, 2006. C. Direct the 16th Respondent to pay compensation to the Applicant as victim of the provisions of the EIA Notification, 2006.

3. On the basis of the allegations there is no role for the original respondents 2, 9 & 10 to 12 and no relief has been claimed against them as well and they are not in fact directly involved in regulation of mining activities except for enforcing the violations if any, and offence, committed under the respective provisions. So they are not necessary parties to the proceedings and they are deleted from the party array. So the original respondents 3 to 8 are re-arrayed as respondents *2 to 7 and original respondents *13 to 16 are re-arrayed as respondents 8 to 11 respectively.

4. The office is directed to carry out the amendment in the cause title.

5. The applicant is also directed to file an amended application before this Tribunal for the purpose of serving the same to the respondents.

6. When the matter came up for hearing for admission today through Video Conference, Sri. Kumaresan represented Mr. K. Nagendra Prasad, Mr. G. Prabhu, Mr. M. Arun and Mr. T. John Alexander counsel for the applicant. Sri. C. Kaasirajan through Ms. D. Ashwini represented respondents 3 & 4 and Dr. V.R. Thirunarayanan represented respondents 5, 6 & 8.

7. On going through the allegations in the application, we are satisfied that there arises a substantial question of environment which requires the interference of this Tribunal for resolving the same. So the matter is admitted.
8. Issue notice to the respondents by Registered post with acknowledgement due, by e-mail and produce proof of service on them by filing proof of affidavit as per rules.
9. The applicant is also directed to serve the copy of the amended application along with the documents produced to the standing counsel appearing for the some of the official respondents noted above within a week and produce proof of such service by filing proper affidavit as per rules.
10. The applicant is also directed to produce necessary requisites along with postal cover and the necessary postal stamps before this Tribunal within a week, to send notice to all the respondents through Tribunal, to ensure service on them, so as to enable this Tribunal to proceed against them, if they did not appear, in their absence in accordance with law.
11. In order to ascertain the genuineness of the allegations made in the application, we feel it appropriate to appoint a joint committee comprising of (1) a Senior Officer from Integrated Regional Office, Ministry of Environment, Forest and Climate Change (MoEF & CC), Chennai, (2) a Senior Officer from State Environment Impact Assessment Authority (SEIAA), Tamil Nadu, (3) The Revenue Divisional Officer, Karur, (4) The Assistant Director of Geology & Mining, Karur District and (5) a Senior Officer from Tamil Nadu Pollution control Board (TNPCB) as deputed by its Chairman to inspect the unit in question and submit a factual as well as action report, if there is any violation found.
12. The committee is directed to ascertain as to whether the present 11th respondent (Originally 16th respondent) unit is having all necessary clearance and permission, whether sufficient pollution control mechanism has been provided, whether any pollution both air, noise and soil pollution has been caused on account of the operation of the unit as alleged by the applicant, whether any excess mining has been done or mining is being carried out in an area other than the area permitted and if so, what is the nature of action taken. If there is any violation found, the committee is directed to assess the environment compensation apart from imposing penalty and royalty for excess mining done has provided under the respective rules.
13. The committee is also directed to conduct the soil analysis and also water analysis of water bodies nearby and ascertain as to whether there was any degradation caused on account of the operation of these units and if there is any contamination found, what is the remedial measures to be taken for rectifying the same this may also be incorporated in the report.
14. The Geology & Mining Department will be the nodal agency for co- ordination and for providing necessary logistics for this purpose.
15. The applicant is also directed to submit a set of papers to the members of the committee within a week, so as to avoid delay in submitting the report.

16. The committee is directed to submit the report to this Tribunal on or before 01.07.2021, 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.

17. The Registry is directed to communicate this order to the members of the committee as well as the official respondents immediately through e-mail, so as to enable them to comply with the direction and for filing their independent response to the allegations made in the application and also for filing report as directed by this Tribunal.

18. For appearance of parties, for filing independent response and also for consideration of report, post on 01.07.2021.

(*) Corrected as per order dt. 31.05.2021.

.....J.M. (Justice K. Ramakrishnan)E.M. (Dr. K. Satyagopal)
O. A. No.106/2021, (SZ) 20.05.2021, Sr.