

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 438/2022

In re: News item published in the National Daily The Hindu Chennai edition, dated: 15th May, 2022, titled **“One killed, 3 workers trapped in 300-foot-deep quarry”** at Adaimithipaankulam near Tirunelveli

Date of hearing: 02.12.2022

**CORAM: HON’BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON’BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON’BLE PROF. A. SENTHIL VEL, EXPERT MEMBER**

ORDER

1. The matter has been taken up suo motu in the light of above media report to the effect that one earthmover operator, Selvam aged 25, died at Adaimithippaankulam in Tirunelveli District in Tamil Nadu and three workers were trapped who were later rescued in an operation conducted by the National District Response Force.

2. Vide order dated 24.08.2022, the Tribunal constituted a joint Committee of CPCB, State PCB and District Magistrate, Tirunelveli to undertake visit to the site, interact with stakeholders and ascertain the compliance status by the concerned mining operator in terms of safety norms and also whether any compensation has been paid or needs to be paid to the next of the kin of the deceased.

3. In view of the above, report has been filed by the Committee on 22.11.2022 after undertaking visit to the site on 29.10.2022. The Committee has found violation of environmental safety norms by the PP

and illegality in mining. With regard to compensation, it is stated that *ex gratia* payments have been made out of Chief Minister Relief Fund and the Labour Welfare which is higher than the compensation prescribed under the Employees Compensation Act, 1923. Relevant extracts from the report are:-

“2. Incident & Action Taken Report Submitted by the Department of Geology and Mining, Tirunelveli:

Joint Director, Geology and Mining Tirunelveli vide his- letter Rc. No. M3/18086/2022 dated 10.11.2022 submitted the incident report of the accident as well as, action taken by District Collector and Geology & Mining Department is detailed below;

- i. An accident occurred on 14.05.2022 around 11.00 PM in the quarry site during the quarrying operations carried out by the workers engaged by the lessee and a huge rock mass fell vertically in the quarry and 6 workers were trapped under the rock mass. Two persons were rescued from the site and four persons died.*
- ii. A quarry lease was granted to above said quarry in favour of Thiru.A.F.Sankaranarayanan & Sankaran for quarrying rough stone and gravel over an extent of 236.5 hectares of patta land in SF. Nos. 844, 848 & 849/2 of Tharuval Palayarrikottai Taluk, Tirunelveli District vide proceedings of District Collector, Tirunelveli Rc. No. M1/27262/2016, dated 13.01.2018, for a period of 5 year. The lease deed was executed on 17.07.2018 and the lease period is valid from 17.07.2018 to 16.07.2023.*
- iii. Subsequently, the above said quarry site was inspected by the Special team constituted by the Commissioner of Geology and Mining, Chennai and the District Collector, Tirunelveli and finding of the team are-as follows;*
 - a) No boundary stones are properly erected and maintained in the lease granted area.*
 - b) No benches were erected in the subject stone quarry as per the approved mining plan.*
 - c) The lessee has not carried out mining operation as per the approved mining plan and no scientific and systematic quarrying operation in the lease hold area,*
 - d) The required safety distance of 7.5 meters to the adjoining patta land was not maintained.*
 - e) The lessee has encroached upon the adjoining non leased out patta land in SF, Nos, 847, 849/1 & 850 of Tharuvai Village and indulged illegal quarrying and transportation of 6713 cbm of roughstone and 998 cbm of Gravel.*
 - f) An excess quantum of 10,88,665 cbm of rough stone and 21,422 cbm of Gravel had been mined and transported by the lessee in the lease hold area without obtaining valid transport*

permit from the office of the Assistant Director, Geology and Mining, Tirunelveli.

g) The lessee has quarried upto a depth of 87.6 meters instead of permitted depth of meters as per approved in the mining plan.

- iv. On the basis of the complaint of the 1st rescued workers Thiru. Murugun initially a case was registered under section 336, 304 and 304(A) of IPC. As per the proceedings of the Superintendent of Police, Tirunelveli, dated. 15.05.2022, Thiru.Rajat R. Chaturvedi, the Assistant Superintendent of Police, Nanguneri Sub Division is appointed as investigation officers for this case. Since, it attracts the Mines and Minerals Act and Rules, the FIR already filed was altered again on 24.05.2022 u/s 30/1(ii), 336, 379 of IPC, 1-/vii 4(1)(a) of explosive substance act and 21(1) of Mines and Miners (Development and Regulation) Act, 1957. Since the subject quarry operation was carried out without valid permit obtained from the mines department, 29 vehicles involved in this illegal quarrying and transportation of mineral were seized by the police department and remand the said 29 vehicles before the Judicial Magistrate Court - V, Tirunelveli, through Form - 91 and the Hon'ble Judicial Magistrate Court - V, Tirunelveli has verified the vehicles at the place where the vehicles stationed. with safe custody and issued property remand No.513 of 2022 on 31.10.2022.*
- v. On getting the vehicles details from the concerned Regional Transport Officers the Investigation Officer / Assistant Superintendent of Police, Nanguneri Sub- Division vide his letter dated. 26.10.2022 along with the case details has requested the Revenue Divisional Officer, Tirunelveli for filing private complaint before the designated Special Court for taking further necessary action. Based on the request of the Investigation Officer / Assistant Superintendent of Police, Nanguneri Sub-Division, as per the powers delegated under section 22 of Mines and Minerals (Development and Regulation) Act, 1957, the Revenue Divisional Officer, Tirunelveli has filed a private complaint on 31.10.2022 to confiscate the properties seized by the police department by way of an affidavit to Designated Court with respect to the offence committed by the offenders under section 21 of the said act vide Filing No. SPLOC/12095/2022, dated.31.10.2022.*
- vi. The District Collector, Tirunelveli has issued a show cause notice to the lessee Thiru. Sankaranarayanan @ Sankaran on 06.07.2022 to submit his explanation as to why the quarry lease granted over an extent of 2.36.5 hectares of patty lands in SF Nos. 844, 848 & 840/2 of Tharuval Village, Palayamkottai Taluk, Tirunelveli District shall not be cancelled for the violations detected by the team constituted by the Commissioner of Geology and Mining, Chennai and the District Collector, Tirunelveli. Subsequently a personal hearing was afforded to the lessee on 03.10.2022 and passing final order is under process and said quarry became defunct.*
- vii. Based on the team report the Revenue Divisional Officer, Tirunelveli has also issued show cause notice to the lessee on 10.10.2022 calling for the explanation as to why penal action shall not be taken as per the Rule 36(A) of Tamil Nadu Minor Mineral Concession Rules, 1959 for illegally quarried and transportation of 22,420 cbm of Gravel and 10,95,378 cbm Roughstone from the subject quarry and on getting the*

explanation from the lessee final order will be passed as per the act and rules. In order to prevent the such accidents in future in the other quarries operating in Tirunelveli District to verify whether quarrying activities are being carried out in accordance with approved Mining plan, lease granting order and lease deed executed.

3. *Action Taken Report by the District Collector for non-recurrence of such accidents;*
 - i. *The special team has inspected the all other 54 stone quarries in the District and ascertained various violations in 53 quarries. Based on the recommendation of the special team the Sub Collector, Cheranmaliadevi and the Revenue Divisional Officer, Tirunelveli had issued penalty proceedings for all the 54 stone quarries. Since, out of 54 stone quarries '14 stone quarries identified with grave violations such as encroachment of adjoining government land, not forming proper benches in the quarry and quarry operation exceeded the perMitted depth as per the approved mining plan, etc., For such cases the District Collector, Tirunelveli has issued show cause notices to the lessees calling for explanation as to why the subject lease shall be cancelled as per the Rule 36(5)(h) of Tamil Nadu Minor Mineral Concession Rules, 1959:and subsequently afforded personal hearing to the lessee's consent arid leis sing final order in the regard is under process. Now, all the.64 stone quarries in the District are not under operation.*
 - ii. *In order to avoid such instant in future, the District- Collector. Tirunelvell has directed the all Taluk Level Task Force of Tirunelveli District vide letter Rc. No.k12/ 1(3465/2021, dated. 0111.2022, to surprisingly inspect the other new quarries granted under lease in Tituneiveli District and to submit fortnight inspection report to the District Level Task Force inconsonance with the following paremeters for review and further necessary instructions.*
 - a) *Whether, the quarry has been working with valid permission issued by the authorities.*
 - b) *Whether, the quarry has been working within the area granted under lease.*
 - c) *Whether, the quarry has been working as per the approved mining plan and conditions stipulated in the lease granting order.*
 - d) *Whether, proper safely distance are maintained properly as per the conditions stipulated.*
 - e) *Whether, the lessee has properly formed benches for every 5 meters depth with the width or 6 meters as stipulated in the mines regulations.*
 - f) *Whether, the lessee has carried out mining operations as per the permitted depth in the approved mining plan.*
 - g) *Whether the quarry area has been properly fenced with barbed wire to curtail the human and live ;stocks accessibility into the quarry site.*
 - h) *Whether, safety kids such as shoes, helmets, hand cloves, mask and other basic amenities such as drinking water, first aid medical kids-are properly provided by the lessee to the labourer.*

- i) To ensure whether, the quarry operations are carried out between 6 AM to 6 PM.
 - j) 10 Whether, all the quarry labourers are registered with Labour Department and Enrolled with insurance Scheme.
 - k) To ensure whether, the mineral laden vehicles are properly covered the minerals with tarpaulin \JO-1Po transporting.
- iii. Further, the District Collector, Tirunelveli has also instructed the Sub Collector, (Theranrnahedevi and the Revenue Divisional Officer, Tirunelveli vide D.O Ir No. M²/28475/2022, dated. 03.10.2022 to fix the responsibility to the sub-ordinate officials of their jurisdiction to carry out routine and surprise of the stone quarries to ascertain whether the stone quarries are being operated with valid transport permit in view of curtailing illegal quarrying and transportation of minerals if any.
- (iv) Further, to keep a vigil on excess mining in the lease out areas and mining of minerals outside the lease out boundaries, the State Government has proposed to implement the drone technology for assessing the quantum of minerals actually removed for recovering the loss of mineral revenue if any from the lessees and invoking penal action against the lessees. The Government of Tamil Nadu has sanctioned an amount of 25 crores to the Commissioner of Geology and Mining, Chennai to implement the drone technology once in six months in the existing quarries and mines in the state. In this regard an expression of interest (EOI) notification was published on 26.10.2022 by the Commissioner of Geology and Mining, Chennai vide reference No. 99701MM412020 to empanel agencies for conducting drone survey. After completion of empanelment process for the selection of agencies for drone survey, all the existing quarries in Tamil Nadu will be surveyed through drones to ascertain the quantum of mineral excavated and transported from the lease hold area ,as well as outside the lease hold area if any.
- (v) Further, the Directorate General of Mines Safety, Chennai Region has also suggested that observance of the precaution as per the Provisions of Regulation 108 of Mines and Mineral Regulations Act, 1981 in respect of opencast workings, such as the quarry wall shall be kept sloped or benched, height and breath of the benches, conditions covering deep hole blasting and 1 or with help of heavy machinery, etc., by the mine operation / lessee Further I is. also suggested to imparting vocational training to the. persons employed in the mining by the mine operator / lessee as per the Ride 610,G of. the mines vocational training Rules, 1965.in the.vocational training centre.
- (vi) The District Administration is taking at most effort. to implement the said remedial measures effectively in consultation and co-ordination with the Directorate General of Mines Safety, Chennai Region.

4. Compensation paid to deceased

Status of compensation paid to the next of the kin of the deceased furnished by the Revenue Divisional Officer, Tirunelveli vide letter

R.C.No.A5/325812022 dated: 10.11.2022 as well as by the Special Deputy Collector, Tirunelveli District Vide letter R.C.K3/OS/175/2022, dated 10.11.2022 is tabulated as below:

S. No.	Name and address of the deceased	Compensation amount paid under (in Rs.		Name of the kin and relationship to the deceased
1.	Thiru. Murugan (Hitachi Cleaner) S/o Paramasivan Ayankulam, Nanguneri Taluk, Tirunelveli District	Chief Minister's relief fund	Labour welfare board	
		10,00,000 Through DD No. 719416/ 19.05.2022	5,00,000 Through DD No. 719416 / 19.05.2022	Tmt. Shantha Mother
2.	Thiru. Murugan (Hitachi operator) S/o Subramanian, Ilayarkulam, Nanguneri Taluk, Tirunelveli District	10,00,000 Through DD No. 719417/ 19.05.2022	,00,000 Through DD No. 719418 / 19.05.2022	Tmt. Pappa – Mother
3.	Thiru. Selvakumar (Tipper Lorry Driver) S/o Mani, Kakkaikulam Nanguneri Taluk Tirunelveli District	10,00,000 Through DD No. 719419/ 19.05.2022	,00,000 Through DD No. 719420 / 19.05.2022	Tmt. Vellammal Mother
4.	Thiru Rajendran (Tipper Lorry Driver) S/o Pitchaikaran , Amman Kovil street,Urudyyan Kudiruppu Tirunelveli Taluk, Tirunelveli District	10,00,000 Through DD No. 916716/ 24.05.2022	,00,000 Through DD No. 916717/ 24.05.2022	Tmt. Manimegalai

5. Compliance as per NGT direction

i) Ascertain the compliance status by the concerned mining operator in terms of safety norms

- The cause of the accident is due to violation & non-compliance of the norms, which was detailed in Section 2. The main non-compliance observed by the investigation team after incidence are as follows;
- No boundary stones are properly erected and maintained in the lease granted area.
- No benches were erected in the subject stone quarry as per the approved mining plan.
- The lessee has not carried out mining operation as per the approved. Mining plan and no scientific and systematic quarrying operation in the lease hold
- The required safety distance of 7.5 meters to the adjoining patta land was not maintained.

- The lessee has encroached upon the adjoining non leased out patta land in SF. Nos. 847, 849/1 & 850 of Tharuvai Village and indulged illegal quarrying and transportation of 6713 cbm of roughstone and 998 cbm of Gravel.
- An excess quantum of 10,88,665 cbm of roughstone and 21,422 cbm of Gravel had been mined and transported by the lessee in the lease hold area without obtaining valid transport permit from the office of the Assistant Director, Geology and Mining, Tirunelveli.
- The lessee has quarried upto a depth of 87.6 meters- instead of permitted depth of 44 meters as per approved in the mining plan.

(ii) Whether any compensation has been Paid or needs to be paid to the next of the kin of the deceased.

The total compensation paid by the government et, Labour welfare board to deceased family details is given in below table column A. However, in order to assess the compensation given is adequate or not, committee calculated Compensation as per Employee Compensation Act. The details are as follows;

Compensation = fifty percent of the monthly wages of the deceased x relevant. Factor
 Minimum monthly wages are not notified for employees of stone mining by Government of Tamil Nadu. so notified rates for Granite industry GO (2D) No, 79 dt. 09.08,2018 & draft notification dt. 07.03.2022 was taken into consideration for calculation.

Name of the deceased	Age	Minimum monthly wage as per GO (2D) no. 79 dt. 09.08.2018	Minimum monthly wage as GO (D) No. 96 dt. 07.03.2022	Relevant factor	Compensation calculated as per GO (2D) No. 79 dated 09.08.2018	Compensation calculated as per GO (D) No. 96 dated 07.03.2022
Thiru Murugan (Hitachi Cleaner)	20	Rs. 9046	Rs. 11,217	216.91	Rs. 9,81,084	Rs. 12,16,540
Thiru Selvan (Hitachi Operaor)	25	Rs. 9046	Rs. 11,217	216.91	Rs. 9,81,084	Rs. 12,16,540
Thiru Selvakumar (Tipper Lorry Driver)	30	Rs. 9046	Rs. 11,217	207.98	Rs. 9,40,694	Rs. 11,66,456
Thiru RAjendran (Tipper Lorry Driver)	42	Rs. 9046	Rs. 11,217	178.49	Rs. 9,40,694	Rs. 10,01,061

Sr. No.	Name of the deceased	Compensation amount paid (in Rs.)	Compensation calculated as per Employees Compensation Act	
			Compensation calculated as per GO (2D) No. 79 dated 09.08.2018	Compensation calculated as per GO (D) No. 96 dated 07.03.2022
		A	B	C

1.	Thiru Murugan (Hitachi Cleaner)	15,00,000	Rs. 9,81,084	Rs. 12,16,540
2.	Thiru Selvan (Hitachi Operaor)	15,00,000	Rs. 9,81,084	Rs. 12,16,540
3.	Thiru Selvakumar (Tipper Lorry Driver)	15,00,000	Rs. 9,40,694	Rs. 11,66,456
4.	Thiru RAjendran (Tipper Lorry Driver)	10,00,000	Rs. 9,40,694	Rs. 10,01,061

From the above, the compensation paid to the deceased family are more than the compensation as per Employee Compensation Act, 1923.”

4. It is seen that out of 54 quarries inspected, 14 have been identified with grave violations such as encroachment of Government land, not following environmental safety norms etc. for which action has been initiated. To avoid such incidents in future surprise inspection has been directed. Directions are also said to have been issued for fixing accountability of the concerned erring officers. Funds have been allocated to implement drone technology and directions have been further issued to observe precautions in open cast mining.

5. We are of the view that the report should be accepted which is by credible committee, based on visit to the site and after interaction with the stake holders. None has contested the report. We accordingly accept the same. Necessary remedial measures in the light of report be taken and monitored at an appropriate higher level in the Administration which may include recovery of compensation for excess mining, removing encroachments and also undertaking restoration measures in the mined area. Compensation may be fixed by the statutory regulator - State PCB in accordance with the principles laid down by the Hon'ble Supreme Court in Common Cause¹, Goa Foundation², MC Mehta v. UOI³, Sterlite Industries

¹ (2017) 9 SCC 499

² (2014) 6 SCC 590

³ (1987) 1 SCC 395

(India) Ltd. v. UOI⁴ and Goel Ganga Developers India Pvt. Ltd. v UOI⁵ and order of this Tribunal dated 26.2.2021 in OA 360/2015, NGT Bar Association vs. Virender Singh. The Monitoring may be undertaken at the level of Additional Chief Secretary, Environment atleast for six months on monthly basis. Further, we find that even though *ex gratia* payment is said to be more than the amount payable as per Employees Compensation Act, 1923, the said payment does not exclude the liability under the said provisions. Concerned State Department – Labour Department may take further action in this regard, as per law.

6. We place on record our appreciation for the comprehensive work undertaken by the Committee which may be conveyed to the Members of the Committee by the CPCB.

The application is disposed of.

A copy of this order be forwarded to the Chief Secretary, Tamilnadu, CPCB, State PCB and District Magistrate, Tirunelveli by e-mail for compliance.

A copy of this order be also forwarded to Tamil Nadu State Legal Services Authority by e-mail.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Prof. A. Senthil Vel, EM

December 02, 2022
O.A. No. 438/2022
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⁴ (2013) 4 SCC 575

⁵ (2018) 18 SCC 257