

Item No.02:-

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE BENCH, CHENNAI**

Tuesday, the 18th day of March 2025.

[Through Physical Hearing (Hybrid Option)]

**Appeal No.25 of 2023 (SZ) &
I.A. No.130 of 2024 (SZ)**

IN THE MATTER OF

Alex Paul

S/o. K.C. Paulose
Aged about 51 years,
Koottalil House, Kunnekal Post,
Muvattupuzha, Ernakulam District,
Kerala – 682 316.

...Appellant(s)

WITH

**1. State Environment Impact Assessment Authority
Tamil Nadu**

Through the Member Secretary
3rd Floor, Panagal Maaligai,
No.1, Jeenis Road, Saidapet,
Chennai – 600 015.

2. State Level Expert Appraisal Committee

Through the Member Secretary
3rd Floor, Panagal Maaligai,
No.1, Jeenis Road, Saidapet,
Chennai – 600 015.

...Respondent(s)

For Appellant (s): Mr. G. Vignesh.

For Respondent(s): Mr. S. Sai Sathya Jith for R1 & R2.

Judgment Reserved on: 21st January, 2025.

CORAM:

HON'BLE Smt. JUSTICE PUSHPA SATHYANARAYANA, JUDICIAL MEMBER

HON'BLE Dr. SATYAGOPAL KORLAPATI, EXPERT MEMBER

J U D G E M E N T

Delivered by Smt. Justice Pushpa Sathyanarayana, Judicial Member

1. Aggrieved by the order dated 25.05.2023 of the State Environmental Impact Assessment Authority (**SEIAA**) – Tamil Nadu, closing the proposal seeking Environmental Clearance for the proposed rough stone and gravel quarry over an extent of 4.52.0 Hectares in S.F. No.531/1B (Part) of Ponmanai A Village, Thiruvattur Taluk, Kanniyakumari District, the Appellant/Project Proponent has preferred the above appeal.

2. The appellant is a lessee of patta property situated at S.F. No.531/1B (Part) of Ponmanai A Village, Thiruvattur Taluk, Kanniyakumari District by way of a lease deed for a period of ten years from 2017. The Assistant Director - Geology and Mining Department issued a mining lease for a period of five years in the year 2022, permitting extraction of 4,43,015 Cubic Meters of rough stone and 30,958 Cubic Meters of gravel within the specified restrictions.

3. Therefore, the appellant applied for the Environmental Clearance under "B2" Category of the EIA Notification, 2006, submitting the required documents, including the mining plan as approved by the Department of Geology and Mining, land availability and field inspection reports and clearance certificates from the Forest Department and the Hill Area Conservation Authority (**HACA**).

4. As per the approved mining plan, the proposed quarry operation would be an opencast mechanised mining method in conjunction with the conventional method of mining using Jack Hammer drilling and blasting of shattering effect to loosen the rough stone with 5 Meter vertical bench. The total cost of the project is Rs.3,55,43,000/-, which includes EMP cost for the period of five years and also the Corporate Environment Responsibilities (CER) to the Government School at 2%. The reports confirm that the proposed site is located 3.07 Km from the nearest forest reserve viz., Veerapuli Reserved Forest, which is part of Kanniyakumari Wildlife Sanctuary and 17.84 Km from Kalakadu

Mundanthurai Tiger Reserve (**KMTR**). There is no presence of protected species. The Principal Chief Conservator of Forests (**PCCF**) accorded approval on 19.05.2022 subject to mitigation measures including fencing and Rs.15,00,000/- (Rupees Fifteen Lakhs only) contribution for wildlife conservation. Based on these clearances, the HACA recommended the project in 2022.

5. However, the proposal was rejected by the SEIAA – Tamil Nadu, based on the recommendation of the State Expert Appraisal Committee (**SEAC**) – Tamil Nadu on 23.03.2023, on the grounds that: -

- (i) The site is located in an ecologically sensitive area with extensive rubber plantation and the quarrying operations may cause serious environmental degradation.
- (ii) The area is rich in biodiversity with various flora and fauna and the project may significantly impact the ecological balance.
- (iii) The project is said to be located close to a National Highway, raising concerns regarding transportation, safety and dust pollution.
- (iv) The cumulative impact assessment was not conducted to analyse the effect of multiple quarrying activities in the region.

6. The said rejection order, which is impugned in this appeal, is challenged by the appellant on the following grounds:-

- (a) The authority failed to consider the clearances granted by the PCCF, confirming that the site is not in an ecologically sensitive/protected area. Further, no region around the site is designated as ecologically sensitive by the MoEF&CC or the Forest Department, HACA and also the Local Administrative Body.

- (b) The authorities have assumed that the project was within 2.75 Km of the Kanniyakumari Wildlife Sanctuary, whereas the actual nearest reserve forest is 3.07 Km away.
- (c) The Central Pollution Control Board (**CPCB**) had stipulated only 50 Meter buffer zone for quarries in Tamil Nadu whereas, the Director General of Mines and Safety (**DGMS**) issued a circular that sets a 500 Meter buffer only for quarries involving extensive blasting, which is not applicable in this case.
- (d) The Forest Department and Agriculture Department have already accorded clearances to the project by observing that the proposed activity would not have any adverse impact on the flora and fauna.

7. Hence, alleging that the order impugned is not based on the documents furnished by the appellant and the authorities have presumed the distance criteria without any basis.

8. The **SEIAA – Tamil Nadu**, which is the 1st Respondent, has filed its counter, stating that the application/proposal was submitted on 01.12.2022, which was considered in by the SEAC – Tamil Nadu on 23.03.2023, wherein the Project Proponent made a detailed presentation. The SEAC – Tamil Nadu had raised concerns about the ecological sensitivity of the site, noting that it is located in the Western Ghats surrounded by thick vegetation and situated at the top of the hill, which appears to function as a watershed. The SEAC – Tamil Nadu also observed that the project site is approximately 2.75 Km from the Kanniyakumari Wildlife Sanctuary which if allowed to operate would have a potential impact on the sanctuary ecosystem. Besides, the National Highway is located at 443 Meters from the foothill of the proposed mining area, which comes within 500 Meters distance criteria as prescribed by the DGMS for blasting operations. The next observation by the SEAC – Tamil Nadu was about the depletion of topsoil causing environmental degradation and affecting the flora and fauna in the surrounding area. Based on the above observations, the SEAC – Tamil Nadu decided not to

recommend the project for Environmental Clearance, and place the same before the SEIAA – Tamil Nadu on 12.04.2023. The SEIAA – Tamil Nadu accepted the recommendations of the SEAC – Tamil Nadu and decided to reject the application and issued the order impugned.

9. In the **additional affidavit dated 12.03.2024** filed by the SEIAA – Tamil Nadu, it is stated that the SEAC – Tamil Nadu appraised the proposal based on the Keyhole Markup Language (**KML**) File submitted and used the Decision Support System (**DSS**) developed by the MoEF&CC to assess the site proximity to ecologically sensitive areas. It was determined that the proposed quarry is 2.75 Km from the Kanniyakumari Wildlife Sanctuary, which is part of the Western Ghats, a biodiversity hotspot.

10. It is further stated that the sanctuary has been declared as an Ecologically Sensitive Zone (**ESZ**) with a buffer extending up to 3 Km from its boundary. The proposed site is also found to be located at the top of a hill which is a watershed. Therefore, the precipitated water from the hilltop will drain into the nearby channel/river as the case may be. Hence, the proposed activity would impact the surface runoff and nearby water channels. Additionally, it was stated that the Metalliferous Mines Regulations, 1961 and the DGMS Circular No.2 of 2003 mandate that a 500 Meter radius around the blasting site be treated as a 'danger zone', requiring proper warning systems and protective measures. In the instant case, there is only 443 Meter distance from the National Highway to the proposed quarry.

11. Heard the learned counsel appearing for the appellant as well as the respondents.

12. The question that arises for consideration is,

Whether the impugned order of rejection of the SEIAA – Tamil Nadu dated 25.05.2023 is liable to be set aside?

I. Ecologically Sensitive Area: -

13. The first ground in the order impugned is that the proposed quarry site is located in an ecologically sensitive area in the Western Ghats and surrounded by thick vegetation. The case of the appellant is that the said site is not notified as ecologically sensitive area by the MoEF&CC. It is 3.07 Km from the ecologically sensitive zone of the Kanniyakumari Wildlife Sanctuary, as per S.O. 3236 (E) dated 22.09.2020. In fact, the clearance dated 19.05.2022 from the PCCF – Tamil Nadu confirms that the project site does not fall within the ecologically sensitive zone, elephant corridor and not will impede wildlife movement.

14. It is pointed out by the learned counsel for the appellant that the ESZ in the northeast direction is “zero”, meaning there is no restriction on quarrying activities at the proposed location. The PCCF also confirmed that the site is not within the protected ESZ or elephant corridor and there is no anticipated harm to the flora and fauna provided the appellant implements voluntary wildlife conservation measures, including fencing and contribution of Rs.15,00,000/- for wildlife conservation. As the PCCF would be the right person to decide on this issue and the PCCF having granted the approval, the decision of the SEIAA – Tamil Nadu is not based on any statutory basis. Therefore, it has to be held that the rejection of the Environmental Clearance on this ground is based on an incorrect understanding of the site’s location.

II. Watershed Concern: -

15. The impugned order is passed based on the noting of the SEAC – Tamil Nadu that the proposed mine lease area is at the top of the hill, which appears to be a watershed, potentially affecting the surface runoff.

16. In reply, the appellant has stated that the project site is a patta land consisting of a rock surface not suitable for cultivation/vegetation, as documented in the mining plan. There is no water body around the project area and the mine pits are often used as water catchment tanks. Additionally, the appellant

asserts that the post-mining quarry pit could serve as a water catchment area, thereby contributing to water conservation rather than causing water depletion. Therefore, the rejection of the Environmental Clearance on this ground also lacks any logical basis.

III. Project site is close to the Kanniyakumari Wildlife Sanctuary:-

17. According to the appellant, the project site is outside the Ecologically Sensitive Zone as per Notification S.O. 3236 (E), and the PCCF also confirms that the site is not within the protected area or elephant corridor and advised a voluntary wildlife contribution of Rs.15,00,000/- for mitigation measures.

18. Additionally, the Hill Area Conservation Authority (HACA) and the Agriculture Engineering Department have also recommended the project with specific conditions. As the project site is located outside of the ESZ of Kanniyakumari Wildlife Sanctuary, the apprehension of the SEIAA – Tamil Nadu is unwarranted.

IV. Proximity to the National Highway: -

19. The SEAC – Tamil Nadu observed that the National Highway is located at a distance of 443 Meters from the foothill of the proposed site which falls within the 500-meter danger zone as stipulated in the circular issued by the DGMS for blasting operations.

20. In response to the same, the appellant has stated that the quarrying operations will be using NONEL-based electric detonators for controlled blasting. The circular issued by the DGMS and Metalliferous Mines Regulations, 1961 does not impose a ban or restriction on mining within 500 Meters but it only provides guidelines for safe blasting procedures.

21. It is also specifically pointed out that the project site is 443 Meters away from a district road (MDR 488) and not from a National Highway. Therefore, when the appellant uses controlled

NONEL-based delay detonators, ensuring safety and minimal environmental impact, the reasoning of the SEIAA – Tamil Nadu may not be right.

V. Environmental degradation and topsoil: -

22. As per the SEAC – Tamil Nadu, the quarrying operations would deplete the fertile topsoil leading to environmental degradation.

23. As already pointed out, the project site is purely a rocky surface, unfit for cultivation. Having stated that the lease area is at the top of the hill, which is a watershed, the SEAC – Tamil Nadu cannot hold that there will be depletion of fertile topsoil. The findings are mutually contradictory. The Forest Department's clearance further confirms that the project will not significantly impact the local flora and fauna. The appellant has already voluntarily offered Rs.15,00,000/- for mitigation measures for any potential ecological effects. Therefore, rejecting the proposal on the ground of topsoil depletion is totally unfounded.

24. From the above analysis of the facts, it is evident that the SEIAA – Tamil Nadu has passed the order of rejection not based on or supported by a well-reasoned and legally sound justification. The principles of procedural fairness, transparency, and adherence to the statutory requirements remain crucial in such decisions.

25. In this context, it would be appropriate to refer to the decision of the Hon'ble Supreme Court in **Civil Appeal Nos.15 – 16 of 2020 dated 04.07.2023 in Hindalco Industries Limited Renukoot Plant Vs. Ashwani Kumar Dubey & Ors.** The Hon'ble Supreme Court, while deciding on environmental standards imposed by the National Green Tribunal, held that:

- i.** The decisions must be based on the established norms and regulations rather than discretionary recommendations lacking statutory backing.

ii. Deviation from prescribed environmental norms must be justified with reasons and backed by scientific data.

iii. Uniformity in the application of standards is essential to ensure fairness and predictability in environmental regulation.

26. The Hon'ble Supreme Court has specifically held that,

"10. It is apparent that the appellant's concern that a new standard other than what has been prescribed by the statute has been mandated is borne out. Entry 70 of the First Schedule to the Rules stipulates that for boilers with the capacity of 15 ton per hour or more, the emission standard is 150 mg/Nm³. The NGT was persuaded to accept the suggestions of the Committee, which recommended a stringent standard i.e., 50 mg/Nm³. While this was not permissible without amendment of Rules, at the same time this Court is alive to the fact that the Committee constituted by the NGT comprised of distinguished technical experts who, in their wisdom, recommended that the standard for the appellant ought to be 50 mg/Nm³, though they did not furnish any reason why other units were not expected to follow that standard."

27. The above judgment underscores that environmental decision-making must be based on objective criteria, expert assessments, and a transparent process. Rejecting the proposal without providing adequate reasoning would amount to arbitrariness and procedural impropriety.

28. In view of the foregoing reasons, the rejection of the Environmental Clearance proposal warrants reconsideration to ensure that the SEIAA – Tamil Nadu's decision is based on substantial reasoning and due process. Therefore, it is essential that the SEIAA – Tamil Nadu undertakes a thorough reassessment of the Environmental Clearance Application, addressing any procedural or substantive gaps, and render a decision that upholds both environmental safeguards and the integrity of the regulatory framework.

29. In the result, the **appeal [Appeal No.25 of 2023 (SZ)] is allowed**, setting aside the impugned order of rejection passed by the SEIAA – Tamil Nadu vide Letter No. SEIAA – TN/F.No.9625/2022 dated 25.05.2023 and remanded the matter back to the SEIAA – Tamil Nadu for fresh consideration. While considering the proposal again, the SEIAA – Tamil Nadu is directed to afford an opportunity of a personal hearing to the appellant and pass appropriate orders within a period of 8 (Eight) weeks from the date of this order.

30. In view of the above, the interlocutory application [I.A. No.130 of 2024 (SZ)] is closed.

Sd/-

Smt. Justice Pushpa Sathyanarayana, JM

Sd/-

Dr. Satyagopal Korlapati, EM

Internet – Yes/No

All India NGT Reporter – Yes/No

Appeal No.25/2023 (SZ)
18th March, 2025. Mn.

Note:

The SEIAA – Tamil Nadu may promptly take back the file related to the issuance of EC, which was submitted before the Tribunal.