

Item No.2 (i) to (v):-

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

Dated this the 06th day of November, 2023.

(Through Video Conference)

**Appeal No. 49 of 2022 (SZ) &
I.A. No.25 of 2023 (SZ)**

With

**Appeal No. 50 of 2022 (SZ) &
I.A. No.26 of 2023 (SZ)**

With

**Appeal No. 51 of 2022 (SZ) &
I.A. No.27 of 2023 (SZ)**

With

**Appeal No. 52 of 2022 (SZ) &
I.A. No.28 of 2023 (SZ)**

With

**Appeal No. 53 of 2022 (SZ) &
I.A. No.29 of 2023 (SZ)**

IN THE MATTER OF

1. K. Rukmangada Reddy,

S/o Shri K Mumnuwamy Reddy,
R/o Kapu Veedhi, Puttur,
Tirupati District, Andhra Pradesh.

2. B. Venkatarama Raju

S/o Shri B. Chengalraju,
R/o Ontimitta, Rachapalam, Puttur,
Tirupati District, Andhra Pradesh.

3. K. Manohar,

S/o Shri Narasimha Reddy,
R/o 17-193 Beedi Colony,
Puttur, Tirupati District,
Andhra Pradesh

...Appellant(s)
(In all the above Appeals)

Versus

1. Union of India

Through Secretary, Government of India,
Ministry of Environment, Forest & Climate Change,
Indira Paryavaran Bhawan,
Jor Bagh Road, New Delhi- 110003.

**2. State Level Environment Impact Assessment Authority,
Andhra Pradesh**

Through Member Secretary,
Ministry of Environment, Forest & Climate Change,
Government of India.

3. Collector and District Magistrate,

Tirupati Road, New Balaji Colony,
Tirupati District,
Andhra Pradesh- 517501.

4. Department of Mining and Geology,

Government of Andhra Pradesh,
Through its Secretary,
State Government Office,
Ibrahimpattanam, Krishna District,
Andhra Pradesh- 521456.

5. Andhra Pradesh State Pollution Control Board,

Through Member Secretary,
1st APSFC Building,
Balaji Colony, Tirupati,
Andhra Pradesh- 517502.

6. Divisional Forest Officer,

Chittoor East (WL) Division,
Chittoor, Andhra Pradesh- 517001.

7. M/s Amaram Commodity Ventures,

Through the Proprietor,
Survey No. 379/2, 380, 381/2 & 6
Eswarapuram Village, Puttur Municipality,
Tirupati District, Andhra Pradesh.

...Respondents in Appeal No.49/2022

With

1. Union of India

Through Secretary, Government of India,
Ministry of Environment, Forest & CC,
Indira Paryavaran Bhawan,
Jor Bagh Road, New Delhi- 110003.

**2. State Level Environment Impact Assessment Authority,
Andhra Pradesh**

Through Member Secretary,
Ministry of Environment, Forest & Climate Change,
Government of India.

3. Collector and District Magistrate,

Tirupati Road, New Balaji Colony,
Tirupati District,
Andhra Pradesh- 517501.

4. Department of Mining and Geology,

Government of Andhra Pradesh,
Through its Secretary,
State Government Office,
Ibrahimpattanam, Krishna District,
Andhra Pradesh- 521456.

5. Andhra Pradesh State Pollution Control Board,

Through Member Secretary,
1st APSFC Building,
Balaji Colony, Tirupati,
Andhra Pradesh- 517502.

6. M/s Sudarshana Granites,

Through the Proprietor,
Survey No. 387/3(Old Sy. No. 6)
Eswarapuram Village, Puttur Mandal,
Tirupati District, Andhra Pradesh- 517583.

...Respondents in Appeal No.50/2022

With

1. Union of India

Through Secretary, Government of India,
Ministry of Environment, Forest & Climate Change,
Indira Paryavaran Bhawan,
Jor Bagh Road, New Delhi- 110003.

**2. State Level Environment Impact Assessment Authority,
Andhra Pradesh**

Through Member Secretary,
Ministry of Environment, Forest & Climate Change,
Government of India.

3. Collector and District Magistrate,

Tirupati Road, New Balaji Colony,
Tirupati District,
Andhra Pradesh- 517501.

4. Department of Mining and Geology,

Government of Andhra Pradesh,
Through its Secretary,
State Government Office,
Ibrahimpattanam, Krishna District,
Andhra Pradesh- 521456.

5. Andhra Pradesh State Pollution Control Board,

Through Member Secretary,
1st APSFC Building,
Balaji Colony, Tirupati,
Andhra Pradesh- 517502.

6. M/s Amara Commodity Ventures,

Through the Proprietor,
Survey No. 388/1, 388/2, 387/3, 383 & 6P (Old Sy. No. 6)
Eswarapuram Village, Puttur Municipality,
Tirupati District, Andhra Pradesh.

...Respondents in Appeal No.51/2022

With

1. Union of India

Through Secretary, Government of India,
Ministry of Environment, Forest & Climate Change,
Indira Paryavaran Bhawan,
Jor Bagh Road, New Delhi- 110003.

**2. State Level Environment Impact Assessment Authority,
Andhra Pradesh**

Through Member Secretary,
Ministry of Environment, Forest & Climate Change,
Government of India.

3. Collector and District Magistrate,

Tirupati Road, New Balaji Colony,
Tirupati District,
Andhra Pradesh- 517501.

4. Department of Mining and Geology,

Government of Andhra Pradesh,
Through its Secretary,
State Government Office,
Ibrahimpattanam, Krishna District,
Andhra Pradesh- 521456.

5. Andhra Pradesh State Pollution Control Board,

Through Member Secretary,
1st APSFC Building,
Balaji Colony, Tirupati,
Andhra Pradesh- 517502.

6. M/s. Ushasri Commodity Ventures,

Through its Proprietor,
Survey No. 383, 384/4, 384/5 (Old Sy. No. 6) & 6P.
Eswarapuram Village, Puttur Municipality,
Tirupati District, Andhra Pradesh.

...Respondents in Appeal No. 52/2022

With

1. Union of India

Through Secretary, Government of India,
Ministry of Environment, Forest & CC,
Indira Paryavaran Bhawan,
Jor Bagh Road, New Delhi- 110003.

**2. State Level Environment Impact Assessment Authority,
Andhra Pradesh**

Through Member Secretary,
Ministry of Environment, Forest & Climate Change,
Government of India.

3. Collector and District Magistrate,

Tirupati Road, New Balaji Colony,
Tirupati District,
Andhra Pradesh- 517501.

4. Department of Mining and Geology,

Government of Andhra Pradesh,
Through its Secretary,
State Government Office,
Ibrahimpattanam, Krishna District,
Andhra Pradesh- 521456.

5. Andhra Pradesh State Pollution Control Board,

Through Member Secretary,
1st APSFC Building,
Balaji Colony, Tirupati,
Andhra Pradesh- 517502.

6. M/s. Amaram Commodity Ventures,

Through its Proprietor,
Survey No. 387/1 (Old Sy. No. 6)
Eswarapuram Village, Puttur Municipality,
Tirupati District, Andhra Pradesh.

...Respondents in Appeal No.53/2022

Appeal No. 49/2022

For Appellant(s):

M/s. Sanjay Upadhyay, Salik Shafique &
Eisha Kirshan.

For Respondent(s):

Mr. S. Diwakar for R1.
Mr. Sathish Parasaran, Senior Adv. a/w.
Mrs. Madhuri Danti Reddy for R2 & R5.
Mrs. Madhuri Danti Reddy for R3.
Mr. P.S. Raman, Senior Adv. a/w.
Mrs. Madhuri Danti Reddy for R4 & R6.
Mr. T. Sai Krishnan a/w.
Ms. J. Dayana for R7.

Appeal Nos. 50 to 53/2022

For Appellant(s):

M/s. Sanjay Upadhyay, Salik Shafique &
Eisha Kirshan.

For Respondent(s):

Mr. S. Diwakar for R1.
Mr. Sathish Parasaran, Senior Adv. a/w.
Mrs. Madhuri Danti Reddy for R2 & R5.
Mrs. Madhuri Danti Reddy for R3.
Mr. P.S. Raman, Senior Adv. a/w.
Mrs. Madhuri Danti Reddy for R4.
Mr. T. Sai Krishnan a/w.
Ms. J. Dayana for R6.

Judgment Reserved on: 14th September, 2023.

CORAM:

HON'BLE SMT. JUSTICE PUSHPA SATHYANARAYANA, JUDICIAL MEMBER

HON'BLE DR. SATYAGOPAL KORLAPATI, EXPERT MEMBER

JUDGMENT

Delivered by Smt. Justice Pushpa Sathyanarayana, Judicial Member

1. These appeals are directed against the grant of Environmental Clearance in favour of the private respondents as it is alleged that they are in blatant violation of the EIA Notification, 2006.
2. The Environmental Clearances under challenge are as follows:

S. No.	Name of Party	Appeal No.	Respondent No.	Date of EC	Area (in hectares)
1.	M/s Amaram Commodity Ventures	49	7	16.08.2022	11.583
2.	M/s Sudarshana Granites	50	6	16.08.2022	4.540
3.	M/s Amara Commodity Ventures	51	6	16.08.2022	6.553
4.	M/s Ushasri Commodity Ventures	52	6	16.08.2022	3.729
5.	M/s Amaram Commodity Ventures	53	6	16.08.2022	1.875

3. The appellants are the residents of villages Eswarapuram, Cherlopalli and Puttur which have now become municipalities. The appellants own agricultural lands in the said villages and they are aggrieved by the earlier illegal mining activities using blasting which has heavily impacted the agricultural productivity and also damaged the water tanks located in Puttur Municipality. Now the impugned Environmental Clearances dated 16.08.2022 granted to the private respondents, if permitted to continue would completely annihilate the area, the agricultural fields, the water source etc. The colour granite mining in clusters in the middle of a habitation which is in close proximity to a reserve forest, temples and water tank would adversely impact the biodiversity as well as their daily

livelihoods. Hence, the above appeals are preferred on the following main grounds:

- (i) During the reorganisation of the districts in the State of Andhra Pradesh, the district of Tirupati was carved out of the erstwhile Chittoor District and partially from SPS Nellore District. Therefore, a separate District Survey Report (DSR) ought to have been prepared in accordance with EIA Notification, 2006 which was not done.
- (ii) Public hearing was conducted beyond the period of 45 days from the date of receipt of the application of the project proponents.
- (iii) The public notice of the public consultation in the mainstream newspapers were not issued, as a result the appellants were not aware of date, time and place of public hearing.
- (iv) The mining lease area would attract permission under the Forest (Conservation) Act, 1980 and the same has not been complied with by the project proponent.
- (v) It is also alleged that the permission was granted to the project proponent to utilise the water for mining from the storage tanks/ponds which are utilised by the residents of the nearby villages for the purpose of agriculture and drinking water.
- (vi) There is a detailed procedure for mining minerals for clusters which has to be seen in toto. Appendix-11 is not followed. Excepting in Appeal No. 49 of 2022, all the other EIAs it is mentioned that blasting will be done.

(vii) There should not be any water body within 01 km. The Gutta Poramboke cannot be converted even into a house site whereas the catchment bund is included in the mining because of which the ground water will be impacted.

4. So, on the following grounds, the Environmental Clearance granted to the project proponents in the above appeals were sought to be set aside.

5. A counter was filed by the 2nd respondent SEIAA, Andhra Pradesh. It is stated that the project proponent's proposal was placed in the SEAC meeting on 29.07.2022 which after examining the proposal, presentation, EIA appraisal, MoEF&CC notifications and OMs and after detailed deliberations recommended to issue the Environmental Clearance with certain conditions. Accordingly, the Environmental Clearances was granted on 16.08.2022.

6. In the meanwhile, vide the G.O. Rt. No. 35 to 60 Revenue (Lands-IV) dated 05.01.2022, the Government of Andhra Pradesh reorganised the existing 13 districts of Andhra Pradesh into 26 districts. The SEIAA had requested the Director of Mines and Geology to obtain the DSR revised for sand and minor minerals for all the 26 districts immediately. As the DSR reports for the reorganised new districts are a time consuming process, it was decided to process the Environmental Clearance applications based on the existing DSRs of the erstwhile combined districts.

7. It was stated further that the reorganisation only affected political and administrative aspects and the same did not bear any impact on the SEIAA's processing the Environmental Clearance proposals. It was also stated that the DSR for the Chittoor District was approved only recently and it was valid till 2023. The Director of Mines and Geology was requested to consider the earlier DSR while granting the clearances until such time new DSRs are prepared and the same was also intimated to MoEF&CC on 11.07.2022.

8. Regarding the public hearing, it was stated that it was within the purview of Andhra Pradesh Pollution Control Board. However, SEIAA had issued notification on 16.06.2022 in Telugu and English dailies intimating the public before 30 days of date of public hearing. The public hearing was conducted on 19.07.2022 with significant number of persons attending the same.

9. The Environmental Clearance was issued to the 7th respondent with the condition that the project authorities should advertise in the vernacular and English newspaper which are widely circulated. Regarding the NOC from the Forest Department, already the project proponent had obtained the same on 11.04.2022. It is stated that there was no postponement in the date of hearing which was issued 30 days in advance as required. The consequence of not conducting the public hearing within the period of 45 days is only to enable the SEIAA to request the State Government to engage another agency or authority to complete the process. The time limit of 45 days prescribed enures to the benefit of the project proponent in order to ensure an expeditious consideration of the application for Environmental Clearance and

the consequence of failure to meet the same cannot result in the cancellation of the Environmental Clearance.

10. Regarding the blasting activity, the SEIAA has stated that the present project does not involve any blasting activity and already the siting requirements have been fully complied with. The SEIAA had public consultations/hearing for all the projects in the clusters and have been carried out on the same date with sufficient time intervals to enable the full and holistic participation of the members of the public.

11. The 3rd respondent, District Collector had filed its reply stating that public hearings for individual mines separately were conducted duly following the procedures laid down in the EIA Notification, 2006. The District Collector also had stated that the procedure prescribed was followed in its letter and spirit. It was specifically pointed out in the public hearing that the appellants had not attended and not raised any objection. The District Collector specifically stated that the public hearing for all the projects in the cluster have been carried out on the same date with sufficient time intervals in between to enable full and holistic participation of the public.

12. The Director of Geology and Mining, who is the 4th respondent, in his counter affidavit has stated that upon receipt of the quarry application on 01.1.2019 for grant of quarry lease for colour granite and based on the recommendation proposals of the Assistant Director of Mines and Geology, "*in principle quarry lease*" for colour granite was granted to the private respondent, who was

required to submit the mining plan approved by the Deputy Director of Mines and Geology within a period of 01 year from the date of issue of the order along with the Environmental Clearance and 'Consent to Establish'. The approved mining plan and 'Consent to Establish' issued by the Andhra Pradesh Pollution Control Board were granted for 20 years and the quarry operations were commenced. It is specifically stated that there is no requirement for conducting a separate mining plan approval process every time when there is a reorganisation of a district for administrative reasons.

13. In the instant case, the mining plan for the erstwhile district of Chittoor was approved as early as on 15.07.2021 and the subsequent reorganisation on 02.04.2022 will not affect the enforceability of the originally approved plan. So far as the reserve forest area alleged in the appeal is concerned, the Divisional Forest Officer, Tirupati had issued a letter informing that the area does not form part of national park/wildlife sanctuary/tiger reserve/biosphere reserve/elephant corridor etc., and the proposed mining area is 25kms of aerial distance from Sri Venkateswara National park and about 20kms of aerial distance from Eco-sensitive zone of SVWL Sanctuary.

14. Regarding the DSR, it is stated that as per the MoEF&CC notification dated 25.07.2018, the DSR shall be updated once in 05 years. The DSR of the erstwhile Chittoor District was uploaded on the district website on 20.12.2018 and it shall be in force upto 05 years that is upto 19.12.2023. The DSR of the newly formed Tirupati will be prepared and uploaded in the website before

19.12.2023 i.e., before the validity period of the DSR of erstwhile Chittoor District ends. It is specifically stated that the above leased areas are located about 9.6 km distance from the border of the present Chittoor District, hence there will not be any significant change.

- 15.** Regarding the blasting, it is stated that no intensive blasting will be used to extract the granite blocks, as it may cause hair line cracks which will make the granite not saleable.

- 16. The 5th respondent, Andhra Pradesh Pollution Control Board,** has stated in the counter that the proposed date of public hearing was fixed on 19.07.2022 for which paper publication was advertised on 16.06.2022 with a clear 30 days notice. The requirement of conducting public hearing within 45 days from the receipt of the request has been specified with a view to facilitate the regulatory authority to complete the process expeditiously and without causing any prejudice to the project proponent. Therefore, revocation of the Environmental Clearance granted to the project proponent on the ground that the time line has not been adhered cannot be done.

- 17.** It is further stated that the public hearing for all the mines present in the cluster were held on the very same day and adequate time was given to the public to raise their grievances in respect of each mine by allowing sufficient time interval between each mine, thus granting the public a meaningful opportunity. The public consultation was conducted based on the cluster EIA and EMP

carried out by the environmental consultants, thereby considering the cumulative impact of the mining activity in the area.

18. The Divisional Forest Officer, who is the 6th respondent, has specifically stated that the Assistant Director, Mines and Geology addressed the 6th respondent for NOC as per the extent rules on 28.03.2022. The same was referred to the Forest Range Officer and the Forest Range Officer, Karvetinagar submitted an inspection report dated 09.04.2022 and reported that the subject land is classified as "Gutta Poramboke" and situated at a distance of 284m from the boundary of Karvetinagar forest block. The proposed mining area is not overlapping with any other mining application and there are no trees in the proposed mining area.

19. The report dated 11.04.2022 was re-examined and revised NOC report to the Assistant Director of Mines and Geology dated 16.06.2022 was issued. Therefore, it is stated that the question of application of provisions of Forest (Conservation) Act, 1980 does not arise in the light of the revised NOC report dated 16.06.2022 issued by the Divisional Forest Officer.

20. The project proponent, who is the 7th respondent, has denied all the allegations made in the memorandum of appeal. It is specifically pointed out that there are at least 04 quarries which are in operation in the area where the mining lease has been granted to the private respondents and the existing quarries have been granted lease as early as from the year 2010, 2012, 2014 and 2015. The appellants, who claim to be residents of the nearby villages, have never raised any objection regarding the same. The

7th respondent also denied the allegation regarding the public hearing and reiterated whatever the official respondents have stated.

21. The allegation regarding the public consultation for cluster is also misconceived which is without taking note of the subsequent developments. It is submitted that the cluster environmental management plan forms part of the EIA which is in accordance with law. The allegation that the mining area is in the middle of the habitation area or in close proximity to the reserve forest or temple and water tank are denied. It is stated that the nearest human settlement from the mining area is Cherlopalli Village at a distance of 1.05km on south and the nearest village pond is at a distance of 1.13 kms and the nearest reserve forest is at a distance of 0.375 kms.

22. On 11.06.2020 the Assistant Director, Mines and Geology i.e., 4th respondent submitted a proposal to the Director of Mining and Geology to grant quarry lease for colour granite. The in principle quarry lease was granted on 21.06.2021 by the 4th respondent and the mining area was part of undivided Chittoor District. The cluster situation had been taken into consideration and the cluster EMP is part of the EIA report and the appellants cannot have concern regarding the same.

23. Even according to the 7th respondent no part of the mining area is falling under the forest area. The revised NOC issued by the DFO for grant of quarry lease clarified that the provisions of the Forest (Conservation) Act, 1980 need to be followed only in respect of

areas classified as “Forest Poramboke” and not in respect of the “Gutta Poramboke”. As such the project proponent had submitted based on the standard ToR as follows:

- (i) Cluster EIA and EMP,
- (ii) Surface run off protection measures,
- (iii) Additional dump yard and
- (iv) Forest NOC to be submitted at the time of submission of Environmental Clearance application.

24. Heard Mr. P.S. Raman, Senior Advocate for Respondents No.4 and 6 and Mr. Sathish Parasaran, Senior Advocate for Respondents No.2 and 5 and also other respondents.

25. The question to be decided in these appeals is whether the Environmental Clearances granted can be sustained in view of the violations pointed out by the appellants.

26. Learned Senior Counsel Mr. P.S. Raman started by questioning the bonafides of the appellants. He submitted that there were different project proponents at least 04 in number who were granted lease from the year 2010 which are valid till 2028 in the same area and that were not challenged by the appellants. There were 04 more quarries in operations in the same area. The appeals are filed only against the few and not against all the quarry operations in the same area which is evident that it is only out of business rivalry the appeals are filed. The particulars of the quarries in operation were also provided by the Assistant Director, Mines and Geology in their counter and the lease period are valid till 2030, 2032, 2034

and 2035 and the leases were also issued to them in the year 2013, 2015, 2013 and 2018.

- 27.** Regarding the quarries which are already in operations there were no complaints received from the public either with respect to the pollution aspect or any other complaint. The above said lease areas are also located about 9.6km distance from the border of the present Chittoor District. Therefore, the appeals are filed not with bonafide intention as the appellants have targeted only a few of the project proponents. The other grounds of attack are discussed below:-

I. Detailed Survey Report (DSR):-

- 28.** The first objection of the appellant is that there was no separate DSR prepared for the Tirupati District after it was carved out of the erstwhile Chittoor District and the Environmental Clearance granted without the valid DSR for the district of Tirupati is violation of the Para-2 of the Appendix-X of the EIA Notification, 2006. It is to be noted that in S.O 141 (E) dated 15.01.2016 amendments were sought to be made to the original notification dated 14.09.2006 and the provisions were introduced for processing the application for Environmental Clearances in respect of 'B2' category in mines and minerals by the DEIAA. There was another notification dated 25.07.2018 in S.O 3611 (E), in which further amendments were sought to be made in the procedure for preparation of the DSR. The revised DSR for Chittoor District was uploaded on 29.09.2021 and the final approval was granted on 26.02.2022 which is valid till December, 2023. The District

Collector is the chairman of the DEIAA, therefore, the bifurcation did not necessitate fresh DSR.

29. The Appendix-X provides for procedure for preparation of District Survey Report. The main objective of preparation of DSR is for "identification of areas of aggradations or depositions where mining can be allowed. The identification of areas of erosions and proximity to infrastructural structures and installations where mining should be prohibited and calculation of annual rate of replenishment and allowing time for replenishment after mining in that area".

30. In this regard, it will be appropriate to advert to the decision in **Satendra Pandey Vs. MoEF&CC** reported in **2018 SCC Online NGT 2388** which reads as follows:

"18. We also find that parameters for consideration while preparing District Mining Plan (DMP) and District Survey Report (DSR) are only for the purpose of ascertaining whether an area is fit for mining which are quite different from the parameters laid down for EIA. The Consideration of the view point of the public by keeping DSR in public domain is not a substitute of public hearing for consideration of the view point of the public for EIA.

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22. For all these reasons, we direct that the procedure laid down in the impugned notification be brought in consonance and in accord with the directions passed in the case of Deepak Kumar (Supra) by (i) providing for EIA, EMP and therefore, public consultation for all areas from 5 to 25 ha., falling under category B-2 at par with category B-1 by SEAC/SEAA as well as for cluster situation wherever it is not provided; (ii) Form-1M be made more comprehensive for areas of 0 to 5 ha by dispensing with the requirement for public consultation to be evaluated by SEAC for recommendation of grant EC by SEIAA instead of DEAC/DEIAA; (iii) if a cluster or an individual lease size exceeds 5 ha the EIA/EMP be made applicable in the process of grant of prior environmental clearance; (iv) EIA and /or EMP be prepared for the entire cluster in terms of recommendations 5 (supra) of the guidelines for the purpose of recommendations 6, 7 and 8 therefor; (v) revise the procedure to also incorporate procedure with respect to annual rate of replenishment and time frame for replenishment after mining closure in an area; (vi) the MoEF&CC to prepare guidelines for calculation of the cost of restitution of damage caused to mined out areas along with the Net Present value of Ecological Services forgone because of illegal or unscientific mining."

31. From the above it is evident that since there was no change in topography and considering the distance that it is 9.6 km away from the border of the Chittoor District, the siting is also not impacted due to the bifurcation. The bifurcation of any district is only for a better administration which has got no bearing on the environment. As the erstwhile DSR prepared for the district of Chittoor which is approved and valid till December, 2023, the new DSR will be prepared for the district of Tirupati before December, 2023. Hence, the mining of colour granite as per the impugned Environmental Clearances will not have any impact even if a fresh DSR is prepared.

32. It would also be useful to refer to the letter from the Department of Mines and Geology, Ibrahimpatnam to the Member Secretary, SEIAA dated 03.06.2022. The relevant portion of which is as follows:

"State Government vide G. O. Rt. No. 35 to 60 Revenue (Lands-IV) dated 25.01.2022 has reorganised 13 districts of Andhra Pradesh into 26 districts and through reference cited above, the SEIAA requested to get the DSRs revised for sand and mines and minerals for all reorganised 26 districts.

In this connection, it is submitted that these DSRs have been prepared and approved recently and considerable time is required to prepare the DSRs for the reorganised districts. It is pertinent to mention that the draft mining plans are being approved by the Department keeping in view of the sustainable and environmental friendly mining practices. Further, since the mining zones are concentrated in clusters and have minimal impact due to reorganisation of the districts.

In view of the above, I request the SEIAA to consider the existing District Survey Reports (DSRs) of erstwhile 13 districts and grant requisite statutory clearances till the revised DSRs of reorganised districts are being finalised."

33. In response to the same, the SEIAA, Andhra Pradesh had addressed to the MoEF&CC by letter dated 11.07.2022 which is referred to as follows:

"It is to submit that DSR is information of tentative mineral resources and the approvals are based on the mineral resources available in the applied areas which are susceptible to change during resurvey of the area in the course of the time.

Under the circumstances explained above, it is submitted that SEAC, Andhra Pradesh and SEIAA, Andhra Pradesh will apprise the Environmental Clearances applications based on the mines and Geology Department approved mining plans which were approved keeping the sustainable and environmental friendly practices till revised DSRs of the reorganised districts are finalised and place in public domain."

- 34.** From the above correspondence it is evident that the revised DSR was not required for the bifurcated Tirupati District for consideration of the grant of Environmental Clearance and the contention of the appellant that a fresh DSR has to be prepared consequent to the reorganization of districts does not hold merit.

II. Cluster EIA/EMP is not prepared

- 35.** To the objection raised by the appellant that cluster EIA/EMP was not prepared, the Learned Senior Counsel Mr. Sathish Parasaran appearing for SEIAA pointed out that the cluster EMPs were prepared and submitted before the authorities by the project proponents. SEIAA in its counter also has stated that as per the letter dated 19.03.2022 issued by the Department of Mines and Geology the total cluster area including the other mines mentioned by the appellants within 500m radius is more than 05ha., hence the 7th respondent has gone for public hearing. The SEIAA had further stated that the project proponent had applied for ToR to SEIAA. Hence, there is no merit in the argument of the appellant that Cluster EIA / EMP is not prepared.

III. Public Hearing

36. The appellant has assailed the Environmental Clearance also on the ground of public hearing which was alleged to have been permitted beyond the period of 45 days from the date of receipt of the application of the project proponent. Secondly, the public notice of the public consultation in the mainstream newspapers was not issued and resultantly the appellants were unaware of the dates, time and venue of the public hearing.

37. The Learned Senior Counsel appearing for the SEIAA contended that the conduct of public hearing is primarily within the purview of Andhra Pradesh Pollution Control Board. However, SEIAA ensured that the press notification was issued on 16.06.2022 in Telugu and English daily intimating the public the date of public hearing which is well beyond 30 days from the date of announcement. The public hearing was also conducted by EE (RO), Tirupati, Andhra Pradesh Pollution Control Board duly following the procedure mentioned in the EIA Notification, 2006 and recorded the minutes of the public hearing which was attended by a significant number of people.

38. The submission of the Andhra Pradesh Pollution Control Board is that the project proponent had issued a letter on 31.05.2022 to fix the date of public hearing along with draft EIA, EMP and ToR issued by the 2nd respondent. Though, originally the date fixed by 12.07.2022 and at the request of the project proponent it was proposed again to have it on 19.07.2022. Accordingly paper publication was effected on 16.06.2022 giving a 30 days notice fixing the public hearing as 19.07.2022. Hence the postponement

alleged by the appellant is incorrect as it was given before finalising the date of the public hearing. The said public hearing was advertised not only through newspapers but also made known to the public by beating of the drums to announce the date of public hearing. It is submitted further that the requirement of conducting the public hearing within 45 days from the receipt of request has been specified with a view to regulate the statutory authority to complete the process expeditiously and without causing any prejudice to the project proponent. The same is procedural safeguard/right granted to the project proponent. Therefore, there is no violation of the procedural mandate in conducting the public hearing.

- 39.** The Pollution Control Board has further mentioned that the public hearing for all the mines in the present cluster were held on the very same day and the adequate time was given to the public to raise their grievances in respect of each mine by allowing sufficient time intervals between each mine. The public hearing was also conducted based on the cluster EIA and EMP carried out by National Accreditation Board for Education and Training (NABET) accredited environmental consultants. They may consider the cumulative impact of mining activity in the area. Hence, the allegation of the appellants that the public hearing was critical and was not in compliance with the mandate prescribed under EIA Notification, 2006 is unsustainable and unacceptable.

40. The SEIAA in its letter dated 26.04.2022 had issued the ToR with public hearing, subject for the action point which included cluster EIA and EMP. Two cluster EIA and EMP were studied which was the subject matter in the public hearing also.

IV. Blasting Operations

41. The Environmental Clearance granted is under B-1 category for mining of colour granite in the Eswarapuram and other villages. In the Environmental Clearance itself it is specifically stated that the extent proposed mine area is 11.583 ha., in Appeal no. 49/2022, 4.540 ha., in Appeal 50/2022, 6.553 ha., in Appeal 51/2022, 3.729 in Appeal 52/2022 and 1.875 ha., in Appeal 53/2022 and the project falls in B1 category. The mine life is 41 years, 25 years, 25 years, 23 years and 24 years respectively. Earlier ToR was issued on 26.04.2022 and public hearing was held on 19.07.2022. The Committee perused the letter received from the Hon'ble Minister of Tourism, carefully examined the contents and noted that the nearest mine in this cluster is 650m to the summer storage tank. Public welcomed the project as there is no blasting is involved in this colour granite mines and no significant impact is anticipated.

42. Learned Counsel for Mines and Geology also specifically pointed out that in the colour granite quarrying no intensive blasting will be used to extract the granite blocks, otherwise even a thin hair line crack if developed due to blasting operations, the granite blocks extracted will become un-marketable. Since, these cracks will absorb water and after polishing, it leads to breakage of the polished slabs. Therefore, the Learned Counsel for the Mines and

Geology stated that blasting is anathema for colour granite quarrying operations.

43. Even as per the Environmental Clearance in the general condition it is stated that Environmental clearance is valid for 20 years and while giving Consent to Establish and Consent to Operate, the Andhra Pradesh Pollution Control Board is directed to ensure compliance of guidelines issued in G.O Rt No. 239 dated 16.04.2020 issued by the Medical, Health and Family Welfare Department, Government of Andhra Pradesh and the Ministry of Home Affairs scrupulously. The appellant has alleged that due to the use of the blasting technique for granite mining, the embankment of the summer storage water tank has developed the cracks and that the continued mining would inundate the nearby villages.

44. Admittedly, the quarry operation in question has not yet commenced their operations though they are granted the Environmental Clearance on 16.08.2022. However, even on 29.09.2021, the Public Health and Municipal Engineering Department had sent a final report of the Expert Committee in SS tank, Puttur which refers to the longitudinal crack and sloughing of D/F section of earthen bund from Ch.1520 to Ch.1735 observed in SS tank and the report of the Expert Committee was submitted.

45. In the recommendations the report had stated that the sloughed bund section between Ch.1520 to Ch.1735 could not be rectified and brought to stable condition, new earthen bund as per the available approved drawing shall be formed duly keying the new

bund into the existing bund on either side with benching as per IS specifications. From the above report, it is evident that the cracks on the SS tank are existing in the year 2021 which has become beyond repair. Therefore, the apprehension of the appellant that blasting operations would impact the environment is only a surmise.

V. Forest Area

- 46.** The appellants had argued that the mining lease area would not attract permissions under Forest (Conservation) Act, 1980 despite the recommendation of the Divisional Forest Officer to comply with the procedure as prescribed under the Forest (Conservation) Act, 1980.
- 47.** It is alleged that the Sy. No. 379/2, 380, 381/2, 378/2 of Eswarapuram Village, Puttur Mandal of Chittoor District is classified as "Gutta Poramboke" as per revenue records. Though, the project proponent had not approached the Forest Department, the Assistant Director of Mines and Geology has addressed the 6th respondent seeking no objection report. The report of the Forest Range Officer also had stated that the land is classified as "Gutta Poramboke" which is situated at a distance of 284m from the boundary of Karyetinagar forest block. Further the Forest Range Officer stated that the proposed mining area is not overlapping with any other mining application and there are no trees in the proposed mining area. Therefore, the question of application of the provisions of Forest (Conservation) Act, 1980 does not arise in light of the revised NOC report dated 16.06.2022 issued by the

Divisional Forest Officer. Hence, the objection regarding the forest area is also not sustainable.

48. The Learned Counsel appearing on behalf of the project proponent stated that the appeals itself are filed out of business rivalry and the appellants have not even produced any evidence to show that they are hailing from the villages for which Environmental Clearances are granted. The appellants have also not opposed or objected to the already existing mining activities of similar nature happening in the same area and they have pick and chosen only these project proponents which itself a proof that the objection of the appellants are not bonafide and they are motivated.

49. The consideration of the objection raised by the appellants and the arguments of the respondents would go to show that these appeals do not have any merit and they cannot be allowed. **Accordingly, the appeals are dismissed.**

50. As a corollary, the interlocutory applications [I.A. Nos.25 to 29 of 2023 (SZ)] are closed.

NGT

Sd/-

Smt. Justice Pushpa Sathyanarayana, JM

Sd/-

Dr. Satyagopal Korlapati, EM

Internet – Yes/No

All India NGT Reporter – Yes/No

Appeal Nos.49 to 53/2022(SZ) &
I.A. Nos.25 to 29/2023 (SZ)
06th November, 2023. (AM)