

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

Application No. 303 of 2013 (SZ)

IN THE MATTER OF:

1. Manushyavakasa Samrakshana Sangham,
Represented by the Secretay,
Manushyavakasa Samrakshana Sangham,
Athirumkal P.O., Koodal – 689693
Pathanamthitta District., Kerala.
2. Santhosh Kumar M.G
Melakkara Padinjattathil
Athirumkal P.O.
Koodal, Pathanamthitta, Kerala.
3. Mathew Sam,
Chakkuthara Plamthottathil,
Athirumkal P.O. Pathanamthitta,
(President, Manushyavakasa Samrakshana Sangham,
Athirumkal P.O., Koodal – 689693
Pathanamthitta District), Kerala.
4. Varghese Bursom,
Kamukumpallil, Inchappara
Koodal P.O.
Pathanamthitta – 689693, Kerala.
5. Koshy Samuel,
Ariyappallil, Koodal P.O.
Pathanamthitta - 689693, Kerala.

...Applicant (s)

AND

1. State of Kerala,
Represented by Secretary to Government,
Department of Environment, Secretariat
Thiruvananthapuram – 695 001.
2. Chief Controller of Explosives, Egmore
Chennai – 600 008.
3. Deputy Chief Controller of Explosives,
CGO Complex, Kakkanad,
Kochi – 682 030.
4. The Geologist,
Department of Mining & Geology,
Pathanamthitta, Adoor,
Pathanamthitta – 689 001.

5. The District Collector,
Pathanamthitta – 689 001.
6. Kerala State Pollution Control Board,
Represented by the Member Secretary,
Kerala State Pollution Control Board,
Thiruvananthapuram – 695 001.
7. Chief Environmental Engineer,
Kerala State Pollution Control Board
District Office, Pathanamthitta -689 645.
8. Kalanjoor Grama Panchayat,
Represented by the Secretary,
Kalanjoor Grama Panchayat
P.O. Kalanjoor, Pathanamthitta – 689 694.
9. The District Medical Officer,
Pathanamthitta – 689 001.
10. Dharshan Granites Pvt. Ltd.,
Represented by Managing Director
Dharshan Granites,
Pothupara, Kalanjoor Village,
Pathanamthitta – 689 001.
11. Pyramid Granites Pvt. Ltd.,
Represented by the Managing Director
Pyramid Granites,
Padapara, Athirungal
Koodal Village, Pathanamthitta – 689 001.
12. Mavalan Granites Pvt. Ltd.,
Represented by the Managing Director
Padam Kalanjoor,
Kalanjoor Village, Pathanamthitta – 689 001.
13. T.K. Suneresan,
Managing Director,
Dharshan Granites,
Pothupara, Kalanjoor Village
Pathanamthitta – 689 001.
14. Jobin Varghese, Managing Director,
Pyramid Granites,
Padapara, Athirungal
Koodal Village, Pathanamthitta – 689 001.
15. Madhusoodanan
Managing Director
Mavalan Granites(p) Ltd.,
Padam Kalanjoor,
Kalanjoor Village, Pathanamthitta – 689 001.

16. Peegreen Aggregates & Sand ndia Pvt. Ltd.,
Represented by the Managing Director,
Peegreen Aggregates & Sand ndia Pvt. Ltd.,
Injapara, Koodal P.O.
Koodal – 689 693, Pathanamthitta
17. Inchapara Sand & Granites Pvt. Ltd.,
Represented by the Managing Director,
Inchapara Sand & Granites Pvt. Ltd.,
Injapara, Koodal P.O.
Koodal – 689 693, Pathanamthitta
18. The Forest Divisional Officer,
Pathanamthitta, Konni P.O.
Pathanamthitta – 689 691.
19. The Commandant,
Fire Force, Pathanamthitta
Pathanamthitta P.O.
Pathanamthitta – 689 001.
20. Kerala State Bio-Diversity Board,
Represented by the Secretary,
Kerala State Bio-Diversity Board,
Thiruvananthapuram – 695 001.
21. Director of Mines Safety,
Bangalore – 560 001.

...Respondent(s)

Counsel appearing for the Applicant:

Mr. Kaleeswaram Raj (Counsel for applicant 1 & 3)

M/s. Manoj Sreevatsan, Kaushik Sharma Ezhilan (Counsel for applicant 2, 4 & 5)

Counsel appearing for the Respondents:

**Mrs. Suvitha .A.S for R-1, R-2, R-3, R-4,
R-5, R-9 and R-18**

Mrs. Rema Smrithi for R-6 and R-7

**M/s. K.F. Manavalan and Bijesh Thomas
for R-8**

Mr. R. Mohan for R-10 & R-13

M/s. V. Raghavachari, V. Srimathi and

V. Lakshmi Narayanan for R-11 and R-14

Mr K.S. Viswanathan for

Mr. Martin Jeyakumar for R-12 and R-15

Mr. Dhamodharan for R-22

ORDER**PRESENT:****HON'BLE SHRI JUSTICE DR. P. JYOTHIMANI, JUDICIAL MEMBER****HON'BLE SHRI P.S. RAO, EXPERT MEMBER**

Dated 11th August, 2016

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

There is no representation on behalf of the applicant. The records show that the applicant has been continuously absent. We have heard the learned counsel for the 1st respondent, State of Kerala, the learned counsel for the 6th respondent, Kerala State Pollution Control Board and the learned counsel for the Project Proponents and perused the available records. Since the issue involved in this case is of environmental importance, we have taken up the matter on merits.

2. This application was originally filed as Writ Petition in WP(C) No.13248 of 2011 on the file of the Hon'ble High Court of Kerala at Ernakulam for a direction against the official respondents 1 to 9, 18 and 19 to ensure that no blasting / mining / quarrying operations are conducted by the respondents 10 to 17 in Kalanjoor Grama Panchayat, for a declaration that the said respondents 10 to 17 are not entitled to conduct any blasting / mining / quarrying operations in Kalanjoor Grama Panchayat and also for a direction against the official respondents to refrain from granting permit, licence, NOC etc., to the said respondents.

3. The case of the applicant before the Hon'ble High Court of Kerala at Ernakulam was that the 10th respondent, who is managed by its Managing Director - 13th respondent is conducting quarrying and blasting operations in Survey No. 220-225 in Block No. 32 in Koodal Village. Likewise, 11th respondent, who is managed by its Managing Director 14th respondent is conducting similar operation in Survey Nos. 45/1, 45/2, 45/3 in Block No. 32 in Koodal Village. Likewise 12th respondent, who is managed by its Managing Director 15th respondent is conducting blasting operations in Survey No. 323/7 in Block No. 32 in Kalanjoor Village. It is also stated that the respondents 16 and 17 are also attempting to start new Units in R. S. No. 166/2/3/1/9/7 and 157/3 in Block No. 30 in Koodal Village.

4. According to the applicant, the said operations are being done by the said respondents without obtaining permission from any authorities and they are not entitled for any licence, permit or NOC for the reason that such mining cannot be permitted since it will amount to demolition of hillock and destruction of water resources. The applicant also relied upon certain information obtained under Right to Information Act to substantiate his relief claimed in the Writ Petition. That apart he also relied upon various judgments of the Apex Court in the context of stone crushing and mining operations wherein the Apex Court has come down heavily against indiscriminate mining, such illegal activities of the said respondents. The 7th respondent, Kerala State Pollution Control Board (Board) has filed its latest status report dated 23.07.2016. According to the said status report, the 10th respondent is having

Consent for crusher Unit valid upto 30.06.2018 and quarry permit valid upto 30.06.2018. Likewise, the 11th respondent is also having crusher Unit valid upto 30.06.2018 and quarry permit valid upto 07.04.2017 and the 12th respondent is also having crusher Unit valid upto 30.06.2018 and quarry 1 and 2 with permit valid upto 30.06.2018 and quarry 3 with permit valid upto 30.06.2019 respectively. It is also stated that the inspection was carried on 17.06.2015 and the various orders of Consent have also been produced. It is further stated that the said 3 quarries have also obtained Environmental Clearances. In respect of the respondents 16 and 17, according to the Board, they have not started any quarrying operation or stone crusher operation. On going through the pleadings, it is seen that as per the direction of the Hon'ble High Court of Kerala, the District Collector has conducted inspection and filed the report before the High Court on 23.06.2011. As per the report the respondents 10 to 17 are the persons / firms indulging in mining of rocks and like activities and others are Government Departments. It is also stated that out of the respondents 10 to 17, respondents 16 and 17 are not in existence on the said date and there were neither stone crushing Units nor quarrying Units.

5. Virtually, the dispute revolves around the respondents 10 to 15 alone, the 3 operators, namely (i) Dharshan Granites Private Limited., (ii) Pyramid Granites Private Limited, (iii) Mavalan Granites Private Limited.

6. It is stated that Dharshan Granites Private Limited, in Kalanjoor Village is conducting blasting operations and crusher Unit in poromboke land in Block No. 33, Re Survey No. 31/1 of Kalanjoor

Village a place which is called Pothupara. The report of the Collector also states that he has obtained necessary lease from the Mining and Geology Department valid upto 25.11.2016. That apart, the said Dharshan Granites Private Limited, has also obtained licence from the Explosive Department and also blasting operation licence apart from the certificate from the Kerala State Pollution Control Board and licence from Kalanjoor Grama Panchayat. Further, it is stated that there is no residential houses situated within a radius of 100 metres where the quarrying operation is going on.

7. In respect of Pyramid Granites Private Limited, the District Collector's report states that quarrying operation is done in Re Survey No. 45/1 and 45/2 in Block No. 32 of Koodal Village, which is a registered land held by the Managing Director of Pyramid Granites. That apart, the Managing Director is also holding other registered land in Survey No. 45/4 also and he is conducting quarrying operations and crusher Unit in the land in Survey No. 45/1 and 45/2 and it is stated that there is no quarrying operation seen in Survey No. 45/4. Further, it is stated that the said Pyramid Granites has obtained necessary permission from the Mining and Geology Department which is valid upto 08.04.2017. That apart, licence has been obtained from all Departments concerned, apart from permission from the Revenue Department for quarrying from the land in Survey No.35 in Block No. 32 in Koodal Village. The Revenue permit is valid upto 02.07.2017 and there are no residential houses within 100 metre radius of the said quarry.

8. With respect to the 3rd operator Mavanal Granites Private Limited, it is also running quarrying operations and metal crusher in Re Survey Nos. 323/6, 323/7 and 323/4 in Block No. 33 in Kalanjoor village. The lands are registered in the name of the Managing Director of Mavanal Granites. The said Company has also obtained necessary permission for conducting quarrying operations apart from licences from concerned authorities. It is also stated that in addition to that it has obtained lease grant for quarrying in Government land in Survey No. 317/2 in Block No. 33 in Kalanjoor Village valid upto 10th February and conducted quarrying operations there. Now there is no quarrying in the said land since the lease is expired. In addition to that, it has also obtained lease grant for quarrying operations from the Mining and Geology Department in respect of the land in Survey No. 288/1 in Block No. 32 of Koodal village, which is a Government land. In spite of the licence having been obtained, it is found that the Unit is not conducting quarrying operations in the said Survey Number.

9. Further, the lands in Survey Nos. 220-225 in Block No. 32 of Koodal village are not in the name of the said three respondents, who are the Project Proponents. It is true that an objection has been filed against the report of the District Collector on behalf of the applicants and I.A. No 11973 of 2011 has been filed to reject the report of the District Collector dated 23.06.2011 in which the Hon'ble High Court of Kerala has not passed any orders.

10. Therefore, it is clear that the disputes relate only in respect of the above said three quarrying Units. The said Units have been inspected

by the 9th respondent the District Medical Officer, Pathanamthitta, who in his report dated 15.10.2011 has stated that all the three Units have satisfied necessary conditions as per the Public Health Act and no dust pollution has been caused and the loading area has been covered with Tarpauline and there was no dwelling house within 200 metres radius and there is no health hazard.

11. The Mines and Minerals Department has filed a memo dated 14.03.2016. The memo also reiterates whatever is stated by the District Collector in his report. In addition to that, the memo filed by the Department of Mines and Minerals, also states that all these Units are functioning under RMCU system of KMMC Rules 2015 and all the Units have obtained Environmental Clearance, which are valid as on date. That apart, it is stated by the Department of Mines and Minerals that all the three Units have obtained other statutory licences, namely, Explosive Licence, Blastman Certificate, Consent from Pollution Control Board and also licence from concerned Grama Panchayat. It is clear from the above said report insofar as it relates to respondents 10,11 and 12 who are represented by their Managing Directors - Respondents 13,14, and 15, that they are carrying on the mining activities after obtaining EC from State Level Environment Impact Assessment Authority (SEIAA). In fact, Dharshan Granites, the 10th respondent has obtained EC from SEIAA on 23.12.2015. Pyramid Granites, 11th respondent, has obtained EC from SEIAA on 24.05.2014 and the Mavalan Granites, 12th respondent has obtained EC from SEIAA on 15.03.2013 and 26.12.2015 and the above ECs are valid as on date.

12. The said Project Proponents have also produced various records to substantiate their contention that they have obtained Permission from various authorities including EC and they are running the quarrying activities strictly in accordance with law.

13. We have verified the copies of EC filed by the State Pollution Control Board in respect of the above said three Units and satisfied that the EC in respect of these three Units are valid as on today and the Consent of the Board also subsists as on date.

14. In the light of the various reports filed by the statutory authorities, it is clear that the quarrying operations carried on by the said respondents are well within the conditions prescribed under the EC. The Consent as well as the conditions stipulated by the various authorities concerned insofar as it relates to the respondents 16 and 17, it is categorically stated by all the official respondents that the quarrying or crushing activities are not carried on by these two respondents. The distance between the Unit from the residential area is beyond 100 metres in respect of the three Units under operation. In such view of the matter, we are of the considered view that the relief claimed by the applicant in respect of the above said respondents cannot be granted. If at all, the applicant or any other person who is affected by the EC granted by the authorities concerned, namely, SEIAA and other officials, it is always open to them to work out their remedy in the manner known to law. In such view of the matter, and looking from any angle, we are of the view that the applicant is not entitled to any relief and therefore, the

application stands dismissed. However, we make it clear that all the statutory authorities who have granted permissions including EC, shall scrutinize the activities of the said respondents to the effect that they carry on their activities strictly in accordance with the conditions issued in various orders of the authorities and take action in case of any violation.

15. With the above direction, the application is dismissed. There is no order as to costs.

Justice Dr.P. Jyothimani
Judicial Member

P.S. Rao
Expert Member

NGT