

Item No.01:

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

Original Application No. 01 of 2021 (SZ)

(Through Video Conference)

IN THE MATTER OF

Tribunal on its own motion-SUO MOTU Based on The
News item in The Mathrubhumi Newspaper, Edition Dated:
03.10.2020, “30 Lakh Cubic Metre of Sand can be taken from
Bharathapuzha”.

...Applicant(s)

Versus

- 1) Union of India, Rep. by its Secretary,
Ministry of Environment and Forests and Climate Change,
Indira Paryavaran Bhawan,
Jorbagh Road, New Delhi 110 003.
- 2) The Chief Secretary,
Government of Kerala,
Govt. Secretariat,
Thiruvananthapuram-695001
- 3) The Principal Secretary to Govt. of Kerala,
Department of Environment,
Room No. 406, 4th Floor Annex II,
Govt. Secretariat,
Thiruvananthapuram-69500
- 4) The Principal Secretary to Govt. of Kerala,
Department of Forest and Wildlife,
Room No. 403, 4th Floor Annex II,
Govt. Secretariat,
Thiruvananthapuram-695 001.

- 5) The Principal Secretary to Govt. of Kerala,
Department of Revenue and Disaster Management,
Room No. 201A. 2nd Floor Annex I,
Govt. Secretariat,
Thiruvananthapuram-69500
- 6) The Director,
Directorate of Mining and Geology,
Kesavadasapuram, Pattom Palace P.O.,
Thiruvananthapuram -695004
- 7) The District Collector,
Thiruvananthapuram District,
2nd Floor Civil Station Building,
Civil Station Road, Thiruvananthapuram – 695043.
- 8) The District Collector,
Kollam District
Civil Station Rd, Kaankathu Mukku,
Kollam, Kerala – 691013
- 9) The District Collector,
Alappuzha District,
1st Floor, Collectorate, Civil Station,
Alappuzha, Kerala – 688001.
- 10) The District Collector,
Pathanamthitta District,
2nd Floor, Collectorate Rd, Chittoor,
Pathanamthitta, Kerala – 689645
- 11) The District Collector,
Kottayam District,
Kottayam - Kumily Rd, Collectorate,
Kottayam, Kerala – 686002.
- 12) The District Collector,
Ernakulam District
Collectorate, Kakkanad,

Ernakulam – 682030.

- 13) The District Collector,
Idukki District,
Collectorate, Kuyilimala, Painav P.O.,
Idukki, Kerala – 685603.
- 14) The District Collector,
Thrissur District,
First floor, Civil Station, Civil Lines Rd,
Kalyan Nagar, Ayyanthole,
Thrissur, Kerala - 680003.
- 15) The District Collector,
Palakkad District,
Kenathuparambu, Kunathurmedu,
Palakkad, Kerala - 678013.
- 16) The District Collector,
Malappuram District,
Up Hill, Malappuram,
Kerala 676505.
- 17) The District Collector,
Kozhikode District,
Wayanad Rd, Civil Station,
Erannhippalam, Kozhikode,
Kerala – 673020.
- 18) The District Collector,
Wayanad District,
Wayanad, Kerala - 673122.
- 19) The District Collector
Kannur District,
Collectorate Road, Thavakkara,
Kannur, Kerala - 670002.

20) The District Collector,
Kasaragod District,
Civil Station, Vidyanagar,
Kasaragod, Kerala - 671123.

...Respondent(s)

Date of hearing: 06.01.2021.

CORAM:

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

HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER

For Applicant(s): Suo Motu by Court

For Respondent(s): Sri. E.K. Kumaresan through
Sri. John Alexander for R2 to R20 (as Addl.
Respondents R21

Smt. Rema Smrithi for R22 (Addl. Respondent)
Smt. Vidhyalakshmi Vipin for R23
(Addl. Respondent)

ORDER

1. The above case has been Suo Motu registered by this Tribunal on the basis of the newspaper report published in Mathrubhumi newspaper, Edition, dated 03.10.2020 under the caption “ഭാരതപ്പുഴയിൽ നിന്ന് 30 ലക്ഷം ഘനമീറ്റർ മണലെടുക്കാം” “(30 Lakh Cubic Metres of sand can be taken from Bharathapuzha)”

2. However, a reading of the report will go to show that in the guise of de-silting without adhering to the environmental laws, riverbed mining is attempted to be done without any scientific method and the environmentalist in the area raised apprehension that if such an unscientific method of mining is allowed to continue in river basins, it is likely to affect the riverine ecosystem and also affect the ground water recharge level.
3. Further, if there is no regulation or monitoring provided to monitor the manner in which the permitted quantity of sand is likely to be removed from this area that will also lead to illegal mining which will result in huge loss for the Government exchequer. That was how this Tribunal thought of taking an overall situation of the State to ascertain the manner in which such things are being carried out in the State of Kerala and on that basis give general directions as to how this will have to be carried out, in case, this Tribunal finds that there are violations of environmental law in carrying out river bed mining or de-silting. That is the reason why considering the large scale of the issue involved, the entire scope of river bed mining has been taken into consideration for the purpose of registering the Suo-Motu case.
4. So, considering the nature of allegations made and also issue involved in this matter, the Tribunal is satisfied that there arises a substantial question of environment which requires the interference of this Tribunal

for resolving the issue permanently. So the matter is admitted.

5. Considering the nature of things involved, we feel that the Additional Chief Secretary of the Department of Irrigation (Water Resources Department), Government of Kerala, Thiruvananthapuram and also the Chairman, Kerala State Pollution Control Board (KSPCB) are also to be impleaded as additional respondents 21 and 22 respectively. The Member Secretary, State Environment Impact Assessment Authority (SEIAA), State of Kerala is also to be impleaded as an additional respondent No. 23 as they are the person to supervise the issuance of environmental clearance etc., in their State.
6. When the matter came up for hearing for admission today through Video Conference, Sri. E. K. Kumaresan through Sri. John Alexander represented respondents 2 to 20, and as additional respondents 21 Smt. Rema Smrithi represented additional respondents 22 and Smt. Vidyalakshmi Vipin represented additional respondent No.23. Issue notice to the first respondent.
7. It is not clear from the newspaper report as to what is the procedure that is being adopted by the District Collectors of each District, while granting permission for mining the excess sand assessed by conducting survey. It is also not known as to whether the District survey reports are prepared in a scientific manner prior to issuance of approval as contemplated under the Mining Policy and the guidelines issued by the

Ministry of Environment, Forests and Climate Change (MoEF & CC) regarding Sustainable Sand Mining Policy of 2016 and 2019 and also the guidelines of enforcement and monitoring of the sand mining issued in January 2020.

8. In order to ascertain the genuineness of the allegations made in the newspaper report, we feel it appropriate to appoint a Joint Committee comprising **(1)** a Senior Officer from Ministry of Environment, Forests and Climate Change (MoEF & CC), Regional Office, Bangalore, **(2)** the Principal Secretary or a nominee deputed by him, not below the rank of Joint Secretary of Department of Environment, **(3)** the Principal Secretary or a nominee deputed by him, not below the rank of Joint Secretary of Department of Revenue and Disaster Management, **(4)** The Principal Secretary or a nominee deputed by him of Department of Irrigation & Water Resources Department (WRD) **(5)** the Director, Directorate of Mining and Geology, Thiruvananthapuram, **(6)** a Senior Officer from the Kerala State Pollution Control Board (KSPCB) as designated by its Chairman, **(7)** the Principal Chief Conservator of Forest & Head of Forest Force (HoFF) or his nominee, not below the rank of Chief Conservator of Forest, State of Kerala and **(8)** a Senior Officer from State Environment Impact Assessment Authority, Kerala to ascertain the manner in

which the river bed sand mining is being done in the State of Kerala and whether they are complying with the Sand Mining Policy of the Central Government and also complying with all the environmental laws including obtaining of Environmental Clearance (EC) as required under EIA Notification 2006, as amended in 2016, in view of the directions issued by Hon'ble Apex Court in Deepak Kumar's case, whether the District survey reports are being prepared before conducting the mining and before according sanction for mining and whether any regulation or monitoring is provided regarding the quantum of sand to be mined and the manner in which it has to be done etc., including transport and disposal of the same and whether all necessary permission under the environmental laws have been obtained from them and necessary mining plan have been provided and approved by the concerned Departments etc.,

9. The committee is also directed to report in the light of existing Rules and Guidelines whether sand mining in riverbed passing through the forest areas and eco-sensitive zones like National Park and Sanctuary etc., is going on and the status of such cases in the state of Kerala; whether permission is being granted in those areas/buffer areas, whether the person to whom the permission is granted is obtaining necessary permission and sanction under the concerned forest and environmental laws for

this purpose.

10. The committee is also permitted to co-opt the District Collector of each District, whenever they are inspecting that particular area for the purpose of ascertaining these aspects and getting inputs from them regarding the manner in which such operation is being done in the respective Districts, so as to understand as to whether they are following a uniform method and whether they are complying with the directions issued by the Ministry of Environment, Forests and Climate Change (MoEF & CC) in maintaining the Sustainable Sand Mining Policy in the State.

11. The committee is also directed to ascertain as to whether any action has been taken by the authorities for conducting illegal mining in these areas, including excess mining than the permitted quantity and what are all the safeguards provided for preventing such illegal activities being done in the river bed where mining is permitted by the Departments.

12. The Chief Secretary, State of Kerala is directed to provide all necessary assistance to the committee for carrying out their work as directed by this Tribunal including co-ordination of District Collectors and the other Departments and also the logistics support, if any, required at the time of their inspection in the State.

13. The Kerala State Environment Impact Assessment Authority (KSEIAA) will be the nodal agency for co-ordination and also for providing necessary logistics for this purpose.
14. The committee is also directed to submit the report to this Tribunal on or before 16.03.2021 by e-filing in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF along with necessary hardcopies to be produced as per rules.
15. The Registry is directed to carry out the amendment and send the copy of the amended proceedings to the respondents along with the order passed by this Tribunal so as to enable them to comply with the direction to file their independent response regarding the issue.
16. The Registry is directed to communicate this order to the official respondents and also members of the committee immediately through e-mail along with the copy of the paper report and the gist of the Suo Motu proceeding with amended full cause title so as to enable them to comply with the direction and for filing their independent response to the allegations made in the newspaper report and filing the report as directed by this Tribunal.

17. For consideration of report, post on 16.03.2021.

.....J.M.
(Justice K. Ramakrishnan)

O.A. No. 01/2021
06th January, 2021, Sr.

.....E.M.
(Shri. Saibal Dasgupta)

