

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF JUNE, 2024

PRESENT

THE HON'BLE MR. N.V. ANJARIA, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE KRISHNA S DIXIT

WRIT PETITION NOS.25653/2022 C/W 25654/2022, 25655/2022,

25660/2022, 25680/2022, 12221/2023, 12229/2023, 17716/2023

AND 17912/2023 (GM-MM-S)



IN W.P. NO. 25653/2022

BETWEEN

- 1 . SRI S. R. BELLARY
SON OF LATE RUDRAPPA,
AGED ABOUT 49 YEARS,
RESIDING AT MUTEBENNUR VILLAGE,
MUTEBENNUR HOBLI,
BYADAGI TALUK,
HAVERI DISTRICT,
PIN CODE – 581 110.

...PETITIONER

(BY SRI G.S. KANNUR, SENIOR ADVOCATE A/W
SRI SIDDAMALLAPPA P.M., ADVOCATE)

AND

- 1 . STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF MINES AND GEOLOGY,
VIDHANA SOUDHA,
BANGALORE – 560 001.
- 2 . THE JOINT DIRECTOR
DEPARTMENT OF MINES AND GEOLOGY,
NORTH ZONE,
BELLARY – 583 101.

- 3 . THE DEPUTY COMMISSIONER
GADAG DISTRICT,
GADAG, PIN CODE-582101.
- 4 . SENIOR GEOLOGIST (ORE)
MINES AND GEOLOGY DEPARTMENT,
GADAG DISTRICT,
GADAG,
PIN CODE – 583 101.
- 5 . THE DIRECTOR
DEPARTMENT OF MINES AND GEOLOGY,
KHANIJA BHAVAN,
RACE COURSE ROAD,
BANGALORE – 560 001.
- 6 . THE DISTRICT TASK FORCE COMMITTEE (MINES),
GADAG DISTRICT,
GADAG – 583 101,
REPRESENTED BY ITS CHAIRMAN.

... RESPONDENTS

(BY SRI S.S. MAHENDRA, GOVERNMENT ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT IN THE NATURE OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT, ORDER OR DIRECTION QUASHING THE IMPUGNED RESOLUTION DATED 29/09/2022 PASSED BY DISTRICT TASK FORCE COMMITTEE (MINS), GADAG DISTRICT PASSED UNDER THE CHAIRMANSHIP OF THE DEPUTY COMMISSIONER, GADAG DISTRICT, AS PER ANNEXURE-D AND THE ORDER DATED 05/12/2022 REFERENCE NO.Hi/Bhuvi/Ga.bhu.E/Gadaga/Ka.Ga.Gu/Ni.Ah/2022-23/1492 AS PER ANNEXURE-E & ETC.

IN W.P. NO. 25654/2022

BETWEEN

- 1 . SRI A. J. KALKERI
S/O JANDI SAB KALKERI
AGED ABOUT 46 YEARS
R/AT NO. 1152/A GUNDIKERI PLOT

HIREVADHATTI
MANDARGI TALUK
GADAG DISTRICT
PIN CODE: 582 113

...PETITIONER

(BY SRI G.S. KANNUR, SENIOR ADVOCATE A/W
SRI SIDDAMALLAPPA P.M., ADVOCATE)

AND:

- 1 . STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY
DEPARTMENT OF MINES AND GEOLOGY
VIDHANA SOUDHA
BANGALORE - 560 001
- 2 . THE JOINT DIRECTOR
DEPARTMENT OF MINES AND GEOLOGY
NORTH ZONE
BELLARY – 583 101
- 3 . THE DEPUTY COMMISSIONER
GADAG DISTRICT
GADAG
PIN CODE - 582 101
- 4 . SENIOR GEOLOGIST (ORE)
MINES AND GEOLOGY DEPARTMENT
GADAG DISTRICT
GADAG
PIN CODE 583 101
- 5 . THE DIRECTOR
DEPARTMENT OF MINES AND GEOLOGY
KHANIJA BHAWAN
RACE COURSE ROAD
BANGALORE - 560 001
- 6 . THE DISTRICT TASK FORCE COMMITTEE (MINES)
GADAG DISTRICT
GADAG - 583 101
REPRESENTED BY ITS CHAIRMAN

... RESPONDENTS

(BY SRI S.S. MAHENDRA, GOVERNMENT ADVOCATE)

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IN W.P. NO. 25655/2022

BETWEEN

- 1 . SHIVAGANGA STONE CRUSHING INDUSTRIES
NO.35, #30/41, 1ST FLOOR
MADURA ESTATE
KESWAPURA VILLAGE
KESWAPURA HOBLI
HUBBALI TALUK
DHARWAD DISTRICT
PINCODE – 580 023
SRI SHASANK S.SHETTAR.C
PARTNER
REPRESENTED THROUGH GPA HOLDER
SRI SHANKARAPPA

...PETITIONER

(BY SRI G.S. KANNUR, SENIOR ADVOCATE A/W SRI
SIDDAMALLAPPA P.M., ADVOCATE)

AND

- 1 . STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF MINES AND GEOLOGY
VIDHANA SOUDHA
BANGALORE – 560 001.
- 2 . THE JOINT DIRECTOR
DEPARTMENT OF MINES AND GEOLOGY
NORTH ZONE
BELLARY - 583101.
- 3 . THE DEPUTY COMMISSIONER
GADAG DISTRICT
GADAG PINCODE – 582 101.

- 4 . SENIOR GEOLOGIST(ORE)
MINES AND GEOLOGY DEPARTMENT
GADAG DISTRICT
GADAG PINCODE – 583 101.
- 5 . THE DIRECTOR
DEPARTMENT OF MINES AND GEOLOGY
KHANIJA BHAVAN
RACE COURSE ROAD
BANGALORE – 560 001.
- 6 . THE DISTRICT TASK FORCE COMMITTEE (MINES)
GADAG DISTRICT
GADAG – 583 101
REPRESENTED BY ITS CHAIRMAN.

... RESPONDENTS

(BY SRI S.S. MAHENDRA, GOVERNMENT ADVOCATE)

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IN W.P. NO. 25660/2022

BETWEEN

- 1 . SRI SURENDRA REDDY
S/O ADISHESHA REDDY
AGED ABOUT 48 YEARS,
R/AT GURU RAGHAVENDRA NILAYA
MULGUND ROAD LAXAMN SAGAG
GADAG DISTRICT
PIN CODE – 582 101

...PETITIONER

(BY SRI G.S. KANNUR, SENIOR ADVOCATE A/W
SRI SIDDAMALLAPPA P.M., ADVOCATE)

AND

- 1 . STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF MINES AND GEOLOGY
VIDHANA SOUDHA
BANGALORE – 560 001.
- 2 . THE JOINT DIRECTOR
DEPARTMENT OF MINES AND GEOLOGY
NORTH ZONE
BELLARY – 583 101.
- 3 . THE DEPUTY COMMISSIONER
GADAG DISTRICT
GADAG
PIN CODE – 582 101.
- 4 . SENIOR GEOLOGIST (ORE)
MINES AND GEOLOGY DEPARTMENT,
GADAG DISTRICT
GADAG
PIN CODE – 583 101.
- 5 . THE DIRECTOR
DEPARTMENT OF MINES AND GEOLOGY
KHANIJA BHAVAN,
RACE COURSE ROAD,
BANGALORE – 560 001.
- 6 . THE DISTRICT TASK FORCE COMMITTEE (MINES)
GADAG DISTRICT
GADAG – 583 101
REPRESENTED BY ITS CHAIRMAN

... RESPONDENTS

(BY SRI S.S. MAHENDRA, GOVERNMENT ADVOCATE)

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COMMISSIONER, GADAG DISTRICT, AS PER ANNEXURE-D
AND THE ORDER DATED 05/12/2022 REFERENCE
NO.Hi/Bhuvi/Ga.bhu.E/Gadaga/Ka.Ga.Gu/Ni.Ah/2022-23/1487 AS
PER ANNEXURE-E & ETC.

IN W.P. NO. 25680/2022

BETWEEN

- 1 . SRI JAGADISH M. BATTURA
S/O MAHADEVAPPA D BATTHURA
AGED ABOUT 42 YEARS,
R/AT MULUGUNDA VILLAGE
MULUGUNDA POST
GADAG TALUK
GADAG DISTRICT
PIN CODE – 582 117.

...PETITIONER

(BY SRI G.S. KANNUR, SENIOR ADVOCATE A/W
SRI SIDDAMALLAPPA P.M., ADVOCATE)

AND

- 1 . STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF MINES AND GEOLOGY
VIDHANA SOUDHA
BANGALORE – 560 001.
- 2 . THE JOINT DIRECTOR
DEPARTMENT OF MINES AND GEOLOGY
NORTH ZONE
BELLARY – 583 101.
- 3 . THE DEPUTY COMMISSIONER
GADAG DISTRICT
GADAG
PIN CODE – 582 101.
- 4 . SENIOR GEOLOGIST (ORE)
MINES AND GEOLOGY DEPARTMENT,
GADAG DISTRICT
GADAG PIN CODE – 583 101.
- 5 . THE DIRECTOR
DEPARTMENT OF MINES AND GEOLOGY KHANIJA

BHAVAN,
RACE COURSE ROAD,
BANGALORE – 560 001.

- 6 . THE DISTRICT TASK FORCE COMMITTEE (MINES)
GADAG DISTRICT
GADAG – 583 101
REPRESENTED BY ITS CHAIRMAN.

... RESPONDENTS

(BY SRI S.S. MAHENDRA, GOVERNMENT ADVOCATE)

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IN W.P. NO. 12221/2023

BETWEEN

- 1 . SRI S.R. BELLARY
SON OF LATE RUDRAPPA,
AGED ABOUT 49 YEARS,
RESIDING AT MUTEBENNUR VILLAGE,
MUTEBENNUR HOBLI,
BYADAGI TALUK,
HAVERI DISTRICT,
PINCODE – 581 110.

...PETITIONER

(BY SRI G.S. KANNUR, SENIOR ADVOCATE A/W
SRI SIDDAMALLAPPA P.M., ADVOCATE)

AND

- 1 . STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF MINES AND GEOLOGY,

VIDHANA SOUDHA,
BANGALORE - 560 001.

- 2 . THE JOINT DIRECTOR,
DEPARTMENT OF MINES AND GEOLOGY,
NORTH ZONE,
BELLARY – 583 101.
- 3 . THE DEPUTY COMMISSIONER,
GADAG DISTRICT,
GADAG,
PIN CODE - 582 101.
- 4 . SENIOR GEOLOGIST (ORE),
MINES AND GEOLOGY DEPARTMENT,
GADAG DISTRICT,
GADAG,
PIN CODE - 583 101.
- 5 . THE DIRECTOR,
DEPARTMENT OF MINES AND GEOLOGY
KHANIJA BHAVAN,
RACE COURSE ROAD,
BANGALORE - 560 001.
- 6 . THE DISTRICT TASK FORCE COMMITTEE (MINES),
GADAG DISTRICT,
GADAG - 583 101
REPRESENTED BY ITS CHAIRMAN.

... RESPONDENTS

(BY SRI S.S. MAHENDRA, GOVERNMENT ADVOCATE)

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IN W.P. NO. 12229/2023

BETWEEN

- 1 . SRI S.R. BELLARY
SON OF LATE RUDRAPPA,
AGED ABOUT 49 YEARS,
RESIDING AT MUTEBENNUR VILLAGE,
MUTEBENNUR HOBLI,
BYADAGI TALUK,
HAVERI DISTRICT,
PINCODE – 581 110.

...PETITIONER

(BY SRI G.S. KANNUR, SENIOR ADVOCATE A/W
SRI SIDDAMALLAPPA P.M., ADVOCATE)

AND

- 1 . STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF MINES AND GEOLOGY,
VIDHANA SOUDHA,
BANGALORE - 560 001.
- 2 . THE JOINT DIRECTOR
DEPARTMENT OF MINES AND GEOLOGY,
NORTH ZONE,
BELLARY – 583 101.
- 3 . THE DEPUTY COMMISSIONER
GADAG DISTRICT,
GADAG,
PIN CODE - 582 101.
- 4 . SENIOR GEOLOGIST (ORE),
MINES AND GEOLOGY DEPARTMENT,
GADAG DISTRICT,
GADAG, PIN CODE - 583 101.
- 5 . THE DIRECTOR
DEPARTMENT OF MINES AND GEOLOGY
KHANIJA BHAVAN,
RACE COURSE ROAD,
BANGALORE - 560 001.

- 6 . THE DISTRICT TASK FORCE COMMITTEE (MINES),
GADAG DISTRICT,
GADAG - 583 101
REPRESENTED BY ITS CHAIRMAN.

... RESPONDENTS

(BY SRI S.S. MAHENDRA, GOVERNMENT ADVOCATE)

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IN W.P. NO. 17716/2023

BETWEEN

- 1 . SRI BASAVARAJ B BELAWADI
S/O BHADRAPPA BELAWADI
AGED ABOUT 62 YEARS,
R/AT TULASI ICON,
HANAGAL ROAD,
HAVERI – 581 110.

...PETITIONER

(BY SRI SRIKANTH PATIL K., ADVOCATE)

AND

- 1 . THE STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF MINES AND GEOLOGY,
VIDHANA SOUDHA
BENGALURU - 560 001.
- 2 . THE JOINT DIRECTOR
DEPARTMENT OF MINES AND GEOLOGY
NORTH ZONE
BELLARY – 583 101.

- 3 . THE DEPUTY COMMISSIONER
GADAG DISTRICT
GADAG – 582 101.
- 4 . SENIOR GEOLOGIST (ORE) AND
COMPETENT AUTHORITY
DEPARTMENT OF MINES AND GEOLOGY
GADAG DISTRICT, GADAG – 582 101.
- 5 . THE DIRECTOR
DEPARTMENT OF MINES AND GEOLOGY
KHANIJA BHAVAN,
RACE COURSE ROAD
BENGALURU – 560 001.
- 6 . THE DISTRICT TASK FORCE COMMITTEE (MINES)
REPRESENTED BY ITS CHAIRMAN
GADAG DISTRICT, GADAG – 582 101.

... RESPONDENTS

(BY SRI S.S. MAHENDRA, GOVERNMENT ADVOCATE)

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IN W.P. NO. 17912/2023

BETWEEN

- 1 . SRI BASAVARAJ B BELAWADI
S/O BHADRAPPA BELAWADI,
AGED ABOUT 62 YEARS,
R/AT TULASI ICON,
HANAGAL ROAD,
HAVERI - 581 110.

...PETITIONER

(BY SRI SRIKANTH PATIL K., ADVOCATE)

AND

- 1 . THE STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF MINES AND GEOLOGY
VIDHANA SOUDHA,
BENGALURU - 560 001.
- 2 . THE JOINT DIRECTOR
DEPARTMENT OF MINES AND GEOLOGY,
NORTH ZONE,BELLARY - 583 101.
- 3 . THE DEPUTY COMMISSIONER
GADAG DISTRICT,
GADAG - 582 101.
- 4 . SENIOR GEOLOGIST (ORE) AND COMPETENT
AUTHORITY
DEPARTMENT OF MINES AND GEOLOGY,
GADAG DISTRICT,
GADAG - 582 101.
- 5 . THE DIRECTOR
DEPARTMENT OF MINES AND GEOLOGY
KHANIJA BHAVAN,
RACE COURSE ROAD,
BENGALURU - 560 001.
- 6 . THE DISTRICT TASK FORCE COMMITTEE (MINES)
REPRESENTED BY ITS CHAIRMAN,
GADAG DISTRICT, GADAG - 582 101.

... RESPONDENTS

(BY SRI S.S. MAHENDRA, GOVERNMENT ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT IN THE NATURE OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT, ORDER OR DIRECTION QUASHING THE IMPUGNED RESOLUTION DATED 29.09.2022 PASSED BY THE DISTRICT TASK FORCE COMMITTEE (MINES) GADAG DISTRICT PASSED UNDER THE CHAIRMANSHIP OF THE DEPUTY COMMISSIONER GADAG DISTRICT AS PER ANNEXURE-A AND THE ORDER DATED 05.12.2022 REFERENCE No.HiBhuVi/GaBhuE/Gadag/KagaGu/NiAh/2022-23/1512-1516 AS PER ANNEXURE-A1 & ETC.

THESE WRIT PETITIONS HAVING HEARD AND RESERVED FOR ORDERS, COMING ON FOR PRONOUNCEMENT OF ORDER, THIS DAY, **CHIEF JUSTICE** DELIVERED THE FOLLOWING:

CAV JUDGMENT

(Per : N.V.Anjaria, the CJ)

All these nine writ petitions have common thread of facts and the issue involved is identical. In that view, they were notified and heard together to be disposed of by this common order.

1.1 Heard learned Senior Advocate Mr. G.S. Kannur assisted by learned Advocate Mr. P.M. Siddamallappa and Mr. K.Srikanth Patil for the petitioners and learned Government Advocate Mr. S.S. Mahendra for the respondents, at length.

2. In these petitions filed under Article 226 of the Constitution, what is prayed by the petitioners is to set aside resolution dated 29th September 2022 passed by the District Task Force Committee (Mines), Gadag District. Also prayed to set aside is order dated 5th December 2022. Interim prayer was made for stay of the said resolution dated 29th September 2022 as well as the order dated 5th December 2022.

2.1 All the petitions contain same and similar prayer seeking to set aside the resolution and the order of even dates passed in their individual cases.

2.2 The resolution dated 29th September 2022 sought to be impugned was passed pursuant to the proceedings of the District Task Force Committee (Mines), the District Sand Monitoring Committee and the District Stone Crushers Licensing and Regulation Authority meeting held under the Chairmanship of the Deputy Commissioner, Gadag. The Committee *inter alia* discussed the issues relating to stone and sand quarry leases located within one kilometre boundary of Kappatgudda Wildlife Sanctuary.

2.3 It noted *inter alia* that in view of the directions of the Hon'ble Supreme Court in its order dated 7th June 2006 on I.A. No.1000 of 2003 in Writ Petition No.202 of 1995, no proposal for mining in the Sanctuary and National Park or within one kilometre from the boundary of Sanctuary or National Park should be forwarded to the SCNBWL, it recorded that there was a prohibition of mining activity within such peripheral area. The mining activities were required to be stopped in the boundary of Wildlife Sanctuary and National Park and if

quarrying activities are continued within such area and the operations have to be suspended, it was resolved.

2.4 It was therefore unanimously decided to suspend fourteen quarry leases located within one kilometre boundary of Kappathgudda Wildlife Sanctuary and to cancel the lease if any violation is found. The stone crusher units under different petitions herein were found to be operating within the prohibited area.

2.5 The other order challenged in the petition is dated 5th December 2022 passed by the Senior Geologist and Competent Authority, Department of Mines and Geology, Gadag, whereby the Competent Authority exercised its powers under Rule 8-K(2) of the Karnataka Minor Mineral Concession Regulations, 1994, to suspend the stone quarry leases of the petitioners to completely prohibit the quarrying activities. The quarrying lease of the petitioner in the first captioned petition was in 3 acres and 10 guntas in Survey Nos.210/1 and 210/2 at Shirahatti Village, Shirahatti Taluk, Gadag District, which was disband.

2.6 It was provided that legal action would be taken to cancel the stone quarrying licence as per Rule 6(3) of the Karnataka

Minor Mineral Concession Regulations, 1994 (hereinafter referred to as 'KMMC Rules 1994'). All the nine petitioners have challenged the very resolution dated 29th September 2022 and the order of even date as above issued to them by the Competent Authority suspending the stone quarry licence under the aforesaid Rule 8-K(2) of the KMMC Rules 1994.

3. Before advertng to the merits of the impugned decision, in order to have a complete idea of the factual aspects pleaded, the facts may be drawn from the first Writ Petition No.25653 of 2022. The case of the petitioner was *inter alia* that it was granted licence for ordinary building stone quarry in 3 acres of land in Survey No.1210/1 and 2 from 10th May 2017 at Shirahatti Village, Shirahatti Taluk, Gadag District, for a period of twenty years. It was stated that the licence was issued after environmental clearance. It was further stated that in the year 2019, the respondent authorities issued Notification declaring Kappathgudda Reserve Forest at Kappathgudda as a Wildlife Sanctuary. It was sought to be stated by the petitioners that eco-sensitive zone was not notified and that the Notification was issued without jurisdiction and that it was an arbitrary action based on the decision of the Supreme Court in **T.N. Godavarman Thirumalpad Vs. Union of India** dated 4th

August 2006 and that the petitioners were asked to stop the mining units as their units fall within the boundary of one kilometre from Kappathgudda Wildlife Sanctuary.

3.1 In the background, the petitioners had filed two Writ Petition Nos. 3296 of 2021 and 18080 of 2021. They culminated into the orders of this Court dated 12th April 2021 and 29th October 2021 respectively. In both cases, while passing the order, this Court reserved liberty and permitted the respondents to initiate the proceedings for cancellation of leases after following the procedure and affording opportunity of hearing.

3.2 Pursuant to the aforementioned order dated 29th October 2021 in the said Writ Petition No.18080 of 2021, the process in law was started by the authorities. Notice was issued on 31st March 2022 calling upon the petitioner to submit its reply. Reply was filed by the petitioner on 8th April 2022. Thereafter, on 29th September 2022, the subject matter was placed before the District Task Force Committee, which dealt with the same in paragraph 15 of the proceedings of the meeting.

4. The respondents filed their statement of objections-cum-reply to the present petition in which the respondents *inter alia*

placed on record the minutes of the proceedings of the meeting of the Task Force Committee which revealed that the subject was elaborately discussed and dealt with by the Committee. In the reply, it was further stated that the Deputy Conservator of Forests, Gadag District, provided the information before the District Task Force Committee on 19th May 2019, that certain part of Gadag District were came to be notified as Kappatgudda Wildlife Sanctuary and that on 20th July 2022, the proposal of approved eco-sensitive zone of Kappatgudda Wildlife Sanctuary was published.

4.1 It was stated in light of the said consideration that the proposal involving mining of minerals in the eco-sensitive zone area within one kilometre from the boundaries of National Parks and Sanctuaries were prohibited, which was done, it was stated, in accordance with the directions of the Supreme Court in order dated 4th August 2006 in **T.N. Godavarman Thirumalpad Vs. Union of India** which was **Writ Petition No.202 of 1995 [(2014) 6 SCC 738]**, as well as, in view of another decision of the Supreme Court in **Goa Foundation Vs. Union of India and [(2014) 6 SCC 590]**.

4.1.1 The respondents next stated that the guidelines came to be published by the Ministry of Environment Forests and Climate Changes, Government of India dated 6th May 2022. Paragraph 1.6 thereof was in respect of taking up any activity in the eco- sensitive zone, if notified or falling within 10 kilometres from the boundary of the National Parks or Wildlife Sanctuaries unless prior approval of National Board for Wildlife (NBWL) or of Standing Committee of National Board for Wildlife (SCNBWL) was taken.

4.1.2 It is given out that Senior Geologist, in the light of the decision dated 29th September 2022 by the District Task Force Committee (Mines) and in view of the decisions of the Apex Court as well as the guidelines issued by the Ministry of Environment and Forests, suspended the quarry leases of the petitioners by order dated 5th December 2022, until the petitioners get clearance from NBWL or SCNBWL.

4.2 The record shows that this Court passed interim order dated 7th February 2023 staying the orders impugned in the petition. Thereafter, the State filed interim application for vacation thereof, which culminated into order of the Supreme Court dated 4th July 2023 in Special Leave to Appeal (C)

No.10054 of 2023. Therein, the Supreme Court referred to its own decision in **T.N. Godavarman Thirumalpad Vs. Union of India [(2022) 10 SCC 589]** which was relied on by learned counsel for the petitioner-State, more particularly, paragraphs 54 and 56.8 thereof, to note the submission that since there was a draft Notification, no matter it was final Notification, the buffer zone had to be maintained. However, since the order under challenge before the Supreme Court was interim order, the Supreme Court declined interference on that count and observed that the petitioner-State could file appropriate application for vacating of stay and that the Court would examine the legal position after giving opportunity to the respondent to file reply.

4.3 Noticeable it is that by communication dated 1st March 2024, the Government of Karnataka has notified six eco-sensitive zones around the protected area in Karnataka State as per guidelines of Government of India. The National Parks and Sanctuaries which are included therein are Bukkapattana Chinkara Wildlife Sanctuary, Kamasandra Wildlife Sanctuary, Rajiv Gandhi National Park (Nagarhole) Tiger Reserve, Kappathagudda Wildlife Sanctuary, Anashi National Park and

Dandeli Wildlife Sanctuary (Kali Tiger Reserve) and Cauvery Extension Wildlife Sanctuary.

5. Referring with relevance at this stage, the statutory provisions applicable, it is sub-rule (1) of Rule 32 of KMMC Rules 1994, which allows owners of the land to apply for permission for quarrying. Rule 5 of the Environment (Protection) Rules, 1986, deals with the prohibition and restriction on the location of the industries and the carrying on process and operations in different areas.

5.1 Rule 5 is extracted herein in its relevant part,

“5. Prohibition and restriction on the location of industries and the carrying on processes and operations in different areas

- (1) The Central government may take into consideration the following factors while prohibiting or restricting the location of industries and carrying on of processes and operations in different areas:-

(i) Standards for quality of environment in its various aspects laid down for an area.

(ii) The maximum allowable limits of concentration of various environmental pollutants (including noise) for an area.

(iii) The likely emission or discharge of environmental pollutants from an industry, process or operation proposed to be prohibited or restricted.

(iv) The topographic and climatic features of an area.

(v) The biological diversity of the area which, in the opinion of the Central Government needs to be preserved.

(vi) Environmentally compatible land use.

(vii) Net adverse environmental impact likely to be caused by an industry, process or operation proposed to be prohibited or restricted.

(viii) Proximity to a protected area under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 or a sanctuary, National Park, game reserve or closed area notified as such under the Wild Life (Protection) Act, 1972 or places protected under any treaty, agreement or convention with any other country or countries or in pursuance of any decision made in any international conference, association or other body.

(ix) Proximity to human settlements.

(x) Any other factors as may be considered by the Central Government to be relevant to the protection of the environment in an area.

(2) While prohibiting or restricting the location of industries and carrying on of processes and operations in an area, the Central Government shall follow the procedure hereinafter laid down.

(3) (a) ...

(b) ...

(c) ...

(d) ...

(4) ...”

5.1.1 Rule 8-K(2) of the KMMC Rules, 1994 under which the impugned orders are issued reads as under,

“8-K. Quarrying operations to be in accordance with quarrying plan/simplified quarrying plan.- (1) Every holder of a lease/license/working permission/sand tender shall carry out quarrying operations in accordance with the approved quarrying plan/simplified quarrying plan with such conditions, as may have been imposed under sub-rule (2) of Rule 8-G or with such modifications, if any, as approved under sub-rule (3) of Rule 8-G or in accordance with the quarrying plan/simplified quarrying plan or the scheme of quarrying submitted or approved under Rules 8-C or 8-I or 8-J, as the case may be.

(2) If the quarrying operations are not carried out in accordance with the quarrying plan/simplified quarrying plan as referred to under sub-rule (1), Deputy Director/Senior Geologist concerned may pass an order for suspension of all or any of the quarrying operations and permit continuance of only such operations as may be necessary to restore the conditions in the quarry as envisaged under the said quarrying plan/simplified quarrying plan.”

5.2 With this background of facts and the events, proceedings to consider the factual and legal merits of the case, it could not be disputed that the quarry units of all the petitioners are situated within one kilometer area from the boundary of Kappatgudda Wildlife Sanctuary.

5.2.1 The details provided by the State authorities in this regard is summarised in tabular form hereunder,

Sl. No.	WRIT PETITION No. / Year	PETITIONER NAME	QUARRY LICENSES / LEASES No.	DISTANCE FROM KAPATHAGUDDA WILDLIFE SANCTUARY
1	25653/2022	SRI S.R. BELLARY	80 (Patta Land)	505 METERS
2	25654/2022	SRI A.J. KALKERI	90 (Patta Land)	32 METERS
3	25655/2022	SHIVAGANGA STONE CRUSHING INDUSTRIES	1115 (Patta Land)	485 METERS
4	25660/2022	SRI SURENDRA REDDY	77 (Patta Land)	637 METERS
5	25680/2022	SRI JAGADISH M. BATTURA	53 (Patta Land)	353 METERS
6	12221/2023	SRI S.R. BELLARY	36 (Patta Land)	645 METERS
7	12229/2023	SRI S.R. BELLARY	116 (Patta Land)	740 METERS
8	17716/2023	SRI BASAVARAJ B BELAWADI	112 (Patta Land)	231 METERS
9	17912/2023	SRI BASAVARAJ B BELAWADI	111 (Patta Land)	165 METERS

5.3 The prohibition against establishing or running the quarry lease within one kilometre distance from the National Park or Wildlife Sanctuary came to be examined by the Supreme Court and this Court in more than one decision. In the backdrop, are the decisions of the Supreme Court in **T.N. Godavarman Vs. Union of India (supra)**, **Goa Foundation Vs. Union of India**

(*supra*), as also the decision in **T.N. Godavarman Thirumalpad in re Vs. Union of India** (*supra*), wherein the prohibitory directions were enunciated.

5.4 In **T.N. Godavarman Thirumalpad Vs. Union of India** (*supra*), the Supreme Court considered the issues related to protected forests, National Parks and Wildlife Sanctuaries in the context of the provisions of the environment globe and Wild Life (Protection) Act, 1972. It dealt with the prescriptions and determination of eco-sensitive zones, extended buffer zones, Wildlife Sanctuaries and National Parks, as also the activities to be prohibited or to be permitted in such eco-sensitive zones or buffer zones. The issue of prohibition of mining within National Parks and Wildlife Sanctuaries was also *inter alia* dealt with.

5.4.1 The Apex Court stated thus,

“In our opinion, the Guidelines framed on 9th February 2011 appears to be reasonable and we accept the view of the Standing Committee that uniform Guidelines may not be possible in respect of each sanctuary or national parks for maintaining ESZ. We are of the opinion, however, that a minimum width of 1 kilometre ESZ ought to be maintained in respect of the protected forests, which forms part of the recommendations of the CEC in relation to category B protected forests. This would be the standard formula, subject to

changes in special circumstances. Recommendation that the ESZ should be relatable to the area covered by a protected forest may not always be a reasonable criteria also merits consideration. It was argued before us that the 1 km wide “no-development-zone” may not be feasible in all cases and specific instances were given for Sanjay Gandhi National Park and Guindy National Park in Mumbai and Chennai metropolis respectively which have urban activities in very close proximity. These sanctuaries shall form special cases.”

(para 54)

5.4.2 It was observed,

“Mining within the national parks and wildlife sanctuaries shall not be permitted.”

(para 56.4)

5.4.3 The Supreme Court further stated that,

“In respect of sanctuaries or national parks for which the proposal of a State or Union Territory has not been given, the 10 Km buffer zone as ESZ, as indicated in the order passed by this Court on 4-12-2006 in Goa Foundation and also contained in the Guidelines of 9-2-2011 shall be implemented. Within that area, the entire set of restriction concerning an ESZ shall operate till a final decision in that regard is arrived at.”

(para 56.8)

5.5 The directions in paragraph 56.4 above came to be modified by the Supreme Court in its order dated 3rd June 2022 in Writ Petition No.562 of 1995, as per its decision dated 26th April 2023,

“We also modify the directions contained in paragraph 56.4 of the order dated 3rd June 2022 (supra) and direct that mining within the National Park and Wildlife Sanctuary and within an area of one kilometre from the boundary of such National Park and Wildlife Sanctuary shall not be permissible.”

(para 65)

5.6 The directions were further clarified with regard to the distance criteria of eco-sensitive zones as per order dated 28th April 2023 by the Supreme Court,

“We find that the directions issued in paragraph 65 of the judgment of this Court delivered on 26th April 2023 are very much clear. It reads thus:

65. We also modify the directions contained in paragraph 56.4 of the order dated 3rd June 2022 (supra) and direct that mining within the National Park and Wildlife Sanctuary and within an area of one kilometre from the boundary of such National Park and Wildlife Sanctuary shall not be permissible.”

(para 9)

5.6.1 It was further stated,

“The perusal of the above para would reveal that the directions, which were issued by this Court earlier for prohibiting mining activities within a distance of one kilometre from the boundary of such National Parks and Wildlife Sanctuaries only insofar as the State of Goa was concerned, has been made applicable pan-India.”

(para 10)

5.6.2 It was then stated,

“The aforesaid question arose since in case of some of the National Parks and Wildlife Sanctuaries, the ESZ areas are less than one kilometre. In some, it is as less as 500 meters and in some others, it is even less than 500 meters.”

(para 11)

5.6.3 It was finally held,

“We, therefore, clarified that **even in case where the ESZ boundaries are less than one kilometre from the Protected Area, the ban on mining shall extend upto a distance of one kilometre from the boundary of such areas.**”

(para 12)

(emphasis supplied)

5.7 The Division Bench of this Court in **Sri Sardar Ahmed H.A. Vs. State of Karnataka, Department of Commerce and Industries and others, ILR 2021 KAR 4989** considered Rule 32 (1) of the Karnataka Minor Mineral Concession Rules, 1994 prohibiting the mining activities within eco-sensitive zones or one kilometre from the boundary of the National Park and Sanctuary. The challenge to the notification banning such activity within such area came to be upheld relying on the decision in **T.N. Godavarman Vs. Union of India, Goa Foundation vs. Union of India (supra)**.

6. Thus the issue of prohibiting to run and operate the quarries within one kilometre peripheral area from the

boundary of the National Park or Sanctuary is no longer *res integra* and the Supreme Court has issued unequivocal directions banning the operations within the said periphery. Minimum one kilometre distance from the notified National Parks and Wildlife Sanctuary has to be maintained in establishing, running and operating the quarry units.

6.1 The Kappatgudda Wildlife Sanctuary is a notified Sanctuary and the distance of one kilometre has to be observed treating it as prohibited area in which, mining activities cannot be allowed. It is also to be noted that the preserving one kilometre from the protected area is irrespective of the eco-sensitive zone Notification. Therefore, publication of the eco-sensitive zone Notification is of no consequence. In the present case, the quarry leases of all the writ petitioners are situated within one kilometre from the boundary of Kappatgudda Wildlife Sanctuary. They could not have been permitted and their operations were liable to be suspended and stopped.

7. The impugned Resolution as well as the respective orders passed in each case, therefore are eminently proper

and legal. The petitions are required to be dismissed. All the nine petitions are accordingly dismissed.

**Sd/-
CHIEF JUSTICE**

**Sd/-
JUDGE**

KPS