

**Item No.2:-**

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

***Thursday, the 8<sup>th</sup> day of August 2024.***

(Through Video Conference)

**Original Application No.12 of 2024 (SZ) &  
I.A. Nos.06 to 14 & 23 of 2024 (SZ)**

IN THE MATTER OF

**E.V. Sampath**

S/o. Varadhan,  
No.1/113, Bajanakoil Street,  
Erumaiyur, Chennai – 600 044.

...Applicant(s)

**Versus**

**Tamil Nadu Pollution Control Board**

Rep. by its Member Secretary  
No.76, Anna Salai, Guindy Industrial Estate,  
Chennai – 600 032.

...Respondent(s)

**SAI MINES**

Rep. by its Proprietor N.T. Saisada,  
S.F. No.152, Kurumbapalayam,  
Village, Backside of Gandhi College,  
Sathayamangalam Taluk,  
Erode District – 638 402.

...Applicant/**I.A. No. 06 of 2024**

**M/s. Sri Periyandavar Blue Metal**

Represented by its Partners,  
Mr. A. Shanmugam,  
S.F. No.106/1B, 106/2B, 106/3B, 106/10,  
Nemili Village,  
Vanur Taluk, Villupuram.

...Applicant/**I.A. No. 07 of 2024**

**M/s. Sri M Sand,**

Rep. by its Proprietor,  
Mr. C. Prabagar,  
S. No.128/1,2, Koraikeni Village,  
Vanur Taluk,  
Villupuram District – 605 501.

...Applicant/**I.A. No. 08 of 2024**

**M/s. ASK M Sand**  
(Stone Crusher Cum M-Sand Plant),  
Rep. by its Proprietor,  
Mr. S. Kumaresan,  
RS. No.48/6, Thollamur Village,  
Vanur Taluk,  
Villupuram District – 604 304.

...Applicant/**I.A. No. 09 of 2024**

**M/s. Shree Seyon Blue Metals,**  
Rep. by its Partner,  
Mr. S. Parthasarathi,  
234/5, Society Road, Eraiyur Post,  
Vanur Taluk,  
Villupuram Disstrict – 604 304.

...Applicant/**I.A. No. 10 of 2024**

**M/s. Thirupathi Blue Metal & M Sand**  
Rep. by its Partner  
Mr. E. Sekar  
S.No.10/2, 10/6, 38/1, 41/6 & 41/7  
Enthoor Village,  
Marakanam Taluk, Villupuram Ditricit.

...Applicant/**I.A. No. 11 of 2024**

**1. A.V.M. Hemnath**  
S/ o. Munichandrappa  
3/564-1, Athimugam Village  
Shoolagiri Taluk, Krishnagiri District.

**2. M.N.Ravi khumarr**  
S/o. Nagabhushan  
No.194/18, Prasanthi Nilayam  
1<sup>st</sup> Floor, VLT, Jalagandeshwara Nagar  
Opp: to Anand Electronics  
NH Road, Hosur Taluk-635 109

**3. R. Daya Krishna**  
S/o. Rajanna  
3/564-1, Athimugam Village  
Shoolagiri Taluk,  
Krishnagiri District.

...Applicant/**I.A. No. 12 of 2024**

**M/s. Deepan Raaj Blue Metal and M Sand**  
Represented by its Proprietrix  
Mrs. Malarvizhi Purushothaman  
98, Pattikarar Street,  
Eraiyur Post,  
Vanur Taluk,  
Villupuram District.

...Applicant/**I.A. No. 13 of 2024**

**M/s. Ashok Blue Metal,**  
Represented by its Managing Partner,  
Mr. S. Prakasam,  
No.18-B, Markabandhu Street,  
Perumanur,  
Salem – 636 007.

...Applicant/**I.A. No. 14 of 2024**

**M/s. K.N.R. Constructions Ltd.,**  
Rep. by its Authorized Signatory  
Mr. K. Vinay Kumar Reddy,  
S.F. No.129/1, Puliampatti Village,  
Palani Taluk,  
Dindigul District – 624 617.

...Applicant/**I.A. No.23 of 2024**

For Applicant(s): M/s. A. Yogeshwaran, Poongkhulali. B,  
Iraiyambu. P and Asfaq Ahmath.

For Respondent(s): Mr. P.S. Raman, Advocate General a/w.  
Mr. S. Sai Sathya Jith for R1.  
M/s. M. Nandha Kumar, K. Mukund Rao &  
V. Saran Raj – I.A. No.06/2024.  
Mr. K.S. Viswanathan, Sr. Adv. a/w.  
M/s. T. Hemalatha, R. Rajmohan &  
S. Deepika – I.A. Nos.07 to 11, 13 & 23/2024.  
Mr. G.M. Ananthakumar – I.A. No.12/2024.  
Mr. M.S. Krishnan, Sr. Adv. a/w.  
M/s. M.A. Abdul Wahab, R. Jagadeesan &  
S. Deenadayalan – I.A. No.14/2024.

**Judgment Reserved on: 05<sup>th</sup> April, 2024.**

**CORAM:**

**HON'BLE Smt. JUSTICE PUSHPA SATHYANARAYANA, JUDICIAL MEMBER**

**HON'BLE Dr. SATYAGOPAL KORLAPATI, EXPERT MEMBER**

## **J U D G E M E N T**

***Delivered by Smt. Justice Pushpa Sathyanarayana, Judicial Member***

**1.** There is a spurt in demand of crushed stones in the last few years due to accelerated developmental activities that include the construction of roads, housing projects, buildings, bridges and railways. As a result, there is a demand for an increase in stone crushing units. This mechanical stone crushing

is the source of dust and pollution. Required environmental guidelines have been formulated and are being enforced by different State Pollution Control Boards on the basis of guidelines issued by the Central Pollution Control Board (CPCB) to regulate air and noise pollution.

**2.** While so, the above Original Application is filed to quash the Board Proceeding (B.P.) No.21 dated 31.07.2019 of the Tamil Nadu Pollution Control Board (**TNPCB**), culminating in the Board Resolution dated 16.10.2023 so far it relates to dispensing with the minimum distance between crushers contained in Condition (1) which is 1 Km between new/proposed crushers as prescribed in B.P. No.4 dated 02.07.2004.

**3.** The application primarily relates to two of the Board Proceedings of the TNPCB, which are (i) B.P. No.4 dated 02.07.2004 and (ii) B.P. No.21 dated 31.07.2019. As per B.P. No.4 dated 02.07.2004, the distance criteria between two crushers must be 1 Km which was determined based on the ambient air quality service in the year 1992 vide B.P. No.609 dated 09.12.1992. Subsequently, the Board issued certain conditions vide B.P. No.48 dated 09.09.1998 based on the representations from various stone crushing industries in the State and considered the relaxation based on the CSIR - National Environmental Engineering Research Institute (**NEERI**) report on dust emissions from stone crushing industries. Therefore, the Board laid down the new norms for the location of stone crushing industries in the State vide B.P. No.4 dated 02.07.2004. The Board fixed the norm that no new/proposed stone crusher should be located within 500 Meters of any National Highway or State Highway or inhabited site or places of public and religious importance. The new criteria as per Clause 2.2 prescribe a minimum distance between new and proposed stone crushers to be 1 Km to avoid dust pollution influence of one over the other. For the purpose of including the educational institutions and other public offices and places of religious importance, the Board issued B.P. No.55 dated 06.10.2005 replaced and amended the B.P. No.4 dated 02.07.2004. Therefore, the Board had provided a minimum distance of 1 Km between crushers to avoid dust

pollution influence and the same was followed till B.P. No.21 dated 31.07.2019 was issued.

4. The B.P. No.21 dated 31.07.2019 came to be issued dispensing with the minimum distance of 1 Km between new/proposed crushers, as prescribed in B.P. No.4 dated 02.07.2004, which is now assailed by the applicant as arbitrary and illegal. The said distance criteria was dispensed with based on the representation from the stone crushers associations who wanted to go for expansion to manufacture M-Sand in addition to the existing consented production of blue metal jelly and new crushers can be permitted so as to meet the demand for supply of blue metal and M-sand for construction activities. The said proposal was approved by the Board and issued B.P. No.8 dated 05.03.2019, relaxing the ban on the expansion of production by the existing units. The Board also approved the proposal to re-examine the 1 Km distance criteria for new crushers by conducting a study through the NEERI. A Technical Committee was also constituted in this regard on 07.03.2019. The report of the said committee recommended dispensing with the minimum distance between new and proposed crushers. In spite of the said recommendation, the TNPCB recommended a further detailed study to identify notified areas and report on them to consider the relaxation of 1 Km distance criteria. While the study by NEERI was pending, the impugned B.P. No.21 dated 31.07.2019 was issued, relaxing 1 Km distance criteria for the existing and new stone crushers. The TNPCB approved the proposal to re-examine the 1 Km distance criteria for the new stone crushers by conducting a study through NEERI, the recommendations of the Expert Committee to dispense with the minimum distance of 1 Km as per B.P. No.4 dated 02.07.2004 was also to be taken up for study by NEERI.

5. The applicant herein had challenged the B.P. No.21 dated 31.07.2019 before the Hon'ble High Court of Madras in **W.P. No.26786 of 2019** and obtained an interim order. However, on 09.01.2024, when the matter was finally taken up by the Hon'ble High Court of Madras, it was recorded that the NEERI had given its recommendations to the stone crushing

industries in the State of Tamil Nadu and also given its conclusion. On 10.10.2023, the TNPCB resolved to accept the proposal of dispensing a 1 Km distance between one stone crushing unit to another stone crushing unit as recommended by the NEERI in its Final Report dated 09.06.2022 along with the other recommendations with respect to the stone crushing units. Based on the report of the NEERI, which was accepted by the TNPCB, the Hon'ble High Court of Madras disposed of the said writ petition with liberty to the petitioner therein to approach this Tribunal. The Hon'ble High Court of Madras had specifically stated that the recommendations of the NEERI are not subject matter of pleadings in the writ petition and it was open to the petitioner to challenge it before this Tribunal. However, keeping the interim order alive for a further period of ten days from the date of disposal.

**6.** The TNPCB, in its response, has stated that the stone crushing industry is an important industrial sector in the country engaged in producing crushed stones of various sizes depending on the requirement. The only polluted emission of concern from the stone crushing is particulate matter. Emission from stone processing should be considered to be fugitive, as the sources are not vented to a bag house or contained in an enclosure with a forced air vent stack. The emission points for dust release also include loading trucks, truck travel on dusty roads, fugitive dust loss from trucks, dumping into the crusher, crushing, screening, transfer point on a conveyor system, loading, and wind blowing dust from storage piles and conveyors.

**7.** It is stated that the TNPCB had received representations from various associations of stone crushing industries to consider the relaxation of the norms of distance criteria. Hence, the study was entrusted to the NEERI, Nagpur to assess the performance of air pollution control measures provided by the stone crushing industries and to assess the dust emission from the industries and also arrived at the optimum distance from the National/State Highways and from the residential area. Accordingly, based on the recommendations, vide B.P. No.48 dated 09.09.1998, norms were fixed with



respect to cluster and single crusher. As per the norms, if the distance between two crushers is more than 100 Meters, each one will be considered as a single crusher and if the distance between the crusher boundaries is less than 100 Meters combinedly they will be considered as a cluster. The norms also included the distance between the crusher and cluster, greenbelt area at the periphery and the provision of 15 – 20 feet wall on all three sides parallel to the National/State Highways and up to the length to be stipulated on the alignment of the road and boundary of the crusher. There was also a total prohibition of stone crushing industries with respect to residential areas as per the directions of the Hon'ble Supreme Court. As per the recommendations of the NEERI, the Board vide B.P. No.4 dated 02.07.2004, issued criteria for existing stone crushing units and new/proposed stone crushing units. As per the above, the distance criteria was fixed along with the greenbelt area at the periphery.

**8.** The river sand is the essential material for construction activities in the State and due to the scarcity of the same and also due to the indiscriminate mining of sand which affected the river ecosystem, the State Government decided to encourage the use of M-sand in construction activities in the place of river sand. The M-sand is manufactured by crushing blue metal either in stone crushers as an extended facility or in standalone M-sand units. In order to regulate the activities of the M-sand units, the Board issued certain guidelines vide B.P. No.26 dated 30.07.2018. In the meanwhile, the stone crusher associations had made representations that the norms for maintaining a 1 Km distance from crusher to crusher shall be waived so that the existing crushers can go for expansion to manufacture M-sand in addition to the existing consented production of blue metal jelly and the new crushers can be permitted to meet the demand for supply of blue metal and M-sand for construction activities. Therefore, considering the demand for M-sand and also the latest developments in pollution control technologies, the Board issued B.P. No.8 dated 05.03.2019, as per which, the existing stone crushing units with valid consent shall be permitted to increase their production

along with or without M-sand production unit, however, complying with the norms prescribed in B.P. No.4 dated 02.07.2004. The stone crushing units were also directed to meet the ambient air quality standards at all times. The standalone M-sand units shall comply with the norms prescribed in B.P. No.26 dated 30.07.2018.

**9.** Subsequently, the Board had constituted a Technical Expert Committee comprising officers from the TNPCB, NEERI and National Productivity Council (NPC). The Technical Expert Committee carried out a detailed study on the stone crushers and air pollution control measures and the ambient air quality in the vicinity of the crushers. After advertent to the guidelines issued by the other State Pollution Control Boards in the country and after a detailed study, the Committee in its report submitted in April 2019 and recommended that the minimum distance of 1 Km between new / proposed units as prescribed in B.P. No.4 dated 02.07.2004 may be dispensed with. The stone crushing units shall meet the ambient air quality standards at all times. All existing and new crushers shall provide air pollution control measures as suggested by the National Productivity Council, NEERI and other Board circulars. It was then decided to take up a fresh and scientific study through NEERI regarding the minimum distance to be maintained from the inhabited site, National Highway, State Highway, places of public and religious importance, etc. and till such time, the existing distance norms of 500 Meters from National/State Highways as prescribed in B.P. No.4 dated 02.07.2004 was to be continued.

**10.** The said report of the Technical Expert Committee was considered by the Board and it was observed that dispensing of minimum distance of 1 Km may lead to the mushrooming of crushers which will have dust pollution influence. However, supply of blue metal is also to be ensured for the development of construction activity. Therefore, based on the resolution dated 24.04.2019, the Board had instructed to conduct a further detailed study to identify notified areas and furnish a report so as to examine the relaxing of the distance criteria of 1 Km between two crushers.



**11.** Based on the above, the proposal was placed before the Board and the same was considered vide B.P.No.21 dated 31.07.2019 and the siting criteria for the stone crushers were issued, as per which, the minimum distance of 1 Km between the new/ proposed crushers as per B.P. No.4 dated 02.07.2004 was dispensed with and the said relaxation was extended to the existing stone crushers and M-sand units along with other conditions. The Board also would review the performance of the installation and operation of air pollution control measures and compliance with the standards by the stone crushing units after one year. The TNPCB also prescribed the pollution control measures to be adopted by the stone crushing units as recommended by the NPC, NEERI and TNPCB.

**12.** It is also pointed out by the TNPCB that with respect to relaxing of 1 Km distance between crusher to crusher, the MoEF&CC has prescribed standards for the stone crushers in the Environment (Protection) Rules, 1986. The rule only prescribes the standard for the emission and discharge of environmental pollutants and the standards for the emission of suspended particulate matter. The Environment (Protection) Act or Rule does not prescribe any norms for the distance criteria to be maintained between crusher to crusher. When the B.P. No.21 dated 31.07.2019 was challenged in W.P. No.26786 of 2019, the Hon'ble High Court of Madras issued an interim order, staying the operation of the B.P. No.21 dated 31.07.2019 which was in force till the same was disposed of on 09.01.2024.

**13.** It is also stated that the NEERI, in its final report dated 09.06.2022, had reported that the distance between two stone crusher units is not important and significant and can be withdrawn considering the following facts: -

"a) By specifying inter distance between the stone crushing industries shall lead to the dispersal of stone crushing industries across in the State of Tamil Nadu resulting into spreading of dust pollutants.

b) Inter distance between stone crushing industries is not as significant and governing criteria compared to specifying distance from stone crushing industries to habitation areas (approved residences/inhabited site, educational institutions, places of public offices and religious importance, State/National Highways, etc.)

c) Specifying inter distance between stone crushing industries as a limiting criteria is a way against cluster of industries, which is not preferable leading to spread and increase in the dust pollutants.”

**14.** The TNPCB has further contended that the Hon'ble High Court had not observed any defect with the B.P. No.21 dated 31.07.2019 and the applicant is re-agitating the same before this Tribunal is not maintainable. The prayer to quash the B.P. No.21 dated 31.07.2019 and the Resolution dated 16.10.2023 is only an internal proceeding of the Board, accepting the report of the NEERI. Therefore, it is not open to the applicant to challenge the same when there is no cause of action for the challenge and prayed for dismissal of the application.

**15.** Heard the learned counsel for the applicant as well as the learned Advocate General appearing for the sole respondent viz., TNPCB.

**16.** The learned Advocate General who appeared for the TNPCB raised a preliminary objection regarding the maintainability of the application on two grounds viz., (i) locus standi and (ii) limitation.

**(i) Locus Standi:-**

It is submitted that the applicant, who was also the petitioner before the Hon'ble High Court in W.P. No.26786 of 2019, has no locus standi to maintain the application. The applicant herein claims himself to be an agriculturist but has not provided any proof of evidence that he has agricultural lands and also the impact on the same due to the crushing units. Therefore, the application filed by the applicant lacks bonafide.

Besides, the applicant is not an expert or has any idea about the geographical location of the crushers which are mostly located in the close vicinity of the quarries to mine leased by them and faraway from the agricultural lands and residential area.

As the applicant has already filed a Writ Petition before the Hon'ble High Court of Madras as a Public Interest Litigation revolving around the same aspect, the Original Application cannot be entertained on the same grounds. Taking advantage of the liberty granted by the Hon'ble High Court of Madras in W.P. No.26786 of 2019, this application is filed. The applicant is not entitled to challenge the report of the NEERI, which is a research institute created by the Government of India.

**(ii) Limitation:-**

The prayer in the application is to quash the B.P. No.21 dated 31.07.2019. The same was the prayer filed by the applicant before the Hon'ble High Court of Madras as a writ petitioner in the Public Interest Litigation (PIL) challenging the B.P. No.21 dated 31.07.2019 so far that relates to the Condition No.(1)i.e. the minimum distance of 1 Km between the new/proposed crushers as prescribed in B.P. No.4 dated 02.07.2004. The Hon'ble High Court of Madras has accepted the resolution passed by the TNPCB to accept the report of the NEERI, which is an expert body, wherein the distance of 1 Km is recommended to be dispensed with along with other recommendations. The Hon'ble High Court of Madras has specifically stated that the report of the NEERI or its recommendations is not the subject matter of the PIL, as the report of the NEERI is dated 09.06.2022. While permitting the writ petitioner to approach this Tribunal, the interim order suspending the operation of the B.P. No.21 dated 31.07.2019 was extended for a period of 10 days. Albeit, the applicant has approached this Tribunal within a period of 10 days.

The learned Advocate General would point out that the report of the NEERI was prepared in May 2022 and the resolution of the Board which is impugned is on 16.10.2023.

Before the Hon'ble High Court of Madras, when the B.P. No.21 dated 31.07.2019 was under challenge on the ground that the said proceeding was passed in violation of the principle of non-regression that prohibits any decision of existing environmental law, the Hon'ble High Court of Madras had accepted the resolution by the Board, adopting the report of the

NEERI and closed the writ petition. The applicant can at the most only challenge the report of the NEERI, if otherwise permissible. The report of the NEERI was obtained as an expert body which is always open to the Board to either accept or reject or modify, as the report can be considered only as a guideline. The objection of the applicant before the Hon'ble High Court of Madras was that the decision to accept the report of the NEERI is a matter of policy and not based on the empirical study. Therefore, the prayer of the applicant that the same has to be quashed was not accepted by the Hon'ble High Court of Madras. If the applicant was aggrieved by the report of the NEERI and if it was worth challenging it, it is barred by limitation as on date.

To challenge the B.P. No.21 dated 31.07.2019 which was already put to challenge before the Hon'ble High Court of Madras is only an act of re-agitation and the same cannot be entertained. Even presuming that the Hon'ble High Court of Madras had directed the applicant to go before this Tribunal, the said writ petition filed in the public interest, as stated even in the affidavit, cannot traverse beyond the prayer. However, considering the fact that the applicant has been fighting for a common cause namely, pollution which is an environmental issue, the application is heard.

**17.** Therefore, the question that arises for consideration is whether the B.P. No.21 dated 31.07.2019 and the Resolution dated 16.10.2023 are liable to be quashed.

**18.** The contention of the applicant is that on 07.03.2019, the Board had constituted a Technical Expert Committee comprising officers from TNPCCB, NEERI and National Productivity Council (**NPC**) for their report and recommendations for the ToR mentioned therein. One of the references for the committee was that the committee shall furnish its recommendation on the minimum distance criteria to be maintained between crusher to crusher, National Highways, State Highways, habitations for the existing stone crushers and for the proposed stone crushers. The committee appears to have recommended that the minimum distance of 1 Km be

dispensed with. The same committee also mentioned that a detailed scientific study may be taken up again through a reputed technical institution like NEERI. Based on the detailed study, the minimum distance to be maintained can be decided. So, till such time, the existing norm of 500 Meters as prescribed in B.P. No.4 dated 02.07.2004 has to be continued.

**19.** It is submitted by the learned counsel for the applicant that the NEERI and NPC did not conduct any study and the report is only based on personal knowledge, as admittedly no reason for dispensing with the minimum distance is furnished. In spite of the Technical Expert Committee's report, the TNPCB had thought it fit to undertake a detailed scientific study and give its recommendations on the distance criteria and the dust control measures to be provided by the stone crushers. However, even before the report could come from the CSIR-NEERI, the Board had approved relaxing the 1 Km distance criteria for the existing and new stone crushers in the State of Tamil Nadu.

**20.** It is further pointed out by the learned counsel for the applicant that the B.P. No.4 dated 02.07.2004 was challenged before the Hon'ble High Court of Madras and the same was upheld. When the B.P. No.4 dated 02.07.2004 was upheld by the Hon'ble High Court of Madras, the Board cannot go backwards on the subject of standards of protection and alter the condition without reasoning. It was contended that the dispensing with the minimum distance by the Board was not based on any scientific and expert report and therefore, it is illegal and arbitrary and would result in mushrooming of crushers which would have dust pollution influence. During the pendency of the writ petition in the month of June 2022, the NEERI filed its report on "*Assessment of dust emissions from stone crushing industry and distance criteria in Tamil Nadu*". This report was relied on by the Board to justify its decision, which is already taken to dispense with the distance requirement between the crushers.

**21.** The learned counsel further pointed out that a bare reading of the report of the NEERI has only stated that air pollution is very high in areas where there are clusters of crushers. However, the NEERI had concluded to recommend that the distance criteria be dispensed with, which according to the applicant is contrary to the evidence in the report itself.

**22.** In this regard, it is to be noted that the 1 Km distance requirement was taken away on 31.07.2019 by way of B.P. No.21, and the report of the NEERI was taken in support of their decision by passing a Resolution dated 16.10.2023. Therefore, according to the applicant, the NEERI's recommendations are tailor-made to suit the decision of the TNPCB, which is already taken.

**23.** Though the applicant has set out that there are certain infirmities in the report and the same is tailor-made to suit the conclusions, which were already taken by the TNPCB in its Board Proceedings, unfortunately, the report of the NEERI is not challenged. The apprehension of the applicant is that if the impugned proceeding viz., B.P. No.21 dated 31.07.2019 is allowed to continue, it will worsen the air pollution.

**24.** The learned counsel for the applicant further submitted that the NEERI's study has not been gone into detail by the Board. The samples relied on by the NEERI are also not collected throughout the year but during the monsoon season when the moisture content is higher, which will not reflect the actual pollution. The principle of non-regression that prohibits any recession of existing environmental law is violated by the Board. Neither the NEERI nor the TNPCB had made a study of the cumulative impact of the crushers in a cluster. It is also submitted that the B.P. No.21 dated 31.07.2019 is in violation of Sections 17 A and 19 of the Air (Prevention and Control of Pollution) Act, 1981. The Board Resolution dated 16.10.2023 has not discussed the NEERI's report but has simply adopted the same. Hence, the learned counsel for the applicant prayed for allowing the application and quash the B.P. No.21 dated 31.07.2019 and also the Resolution dated 16.10.2023.



**25.** In response, Mr. P.S. Raman, the learned Advocate General appearing on behalf of the TNPCB submitted that first of all to dispense with the 1 Km distance was made even in the year 2019, whereas the resolution of the Board was made only after the report of the NEERI came to be filed in June 2022 during the pendency of the writ petition. Hence, the applicant cannot now question the Board's decision made in 2019, which is clearly barred by limitation.

**26.** Secondly, it was contended that the Hon'ble High Court of Madras had accepted the report of the NEERI when it was brought to the knowledge that the same was adopted by the TNPCB. The Board has already objected to the locus standi of the applicant to maintain the application. The applicant being not an expert cannot make allegations based on mere apprehension, as only after empirical data from clusters would prove the pollution, the applicant will have a right to object.

**27.** Having already exhausted before the Hon'ble High Court of Madras for the cause of action which arose in the year 2019, the applicant cannot be permitted to re-agitate the same. Even otherwise, in the absence of any evidence to show that the applicant is an agriculturist and currently carrying on the agricultural activity and that his agricultural lands are being affected by the operation of the crushers in clusters in the area cannot maintain the application. The applicant being an agriculturist cannot be allowed to challenge the report of the NEERI, which is an expert body.

**28.** The learned Advocate General also pointed out that the excepting three States viz., Tamil Nadu, Kerala and Assam, the distance criteria is not applicable to any other States in India. Even among the three States, the State of Kerala has a 100 Meter distance criteria, Assam has 300 Meter and only in the State of Tamil Nadu, the 1 Km distance criteria is imposed. Therefore, it has to be seen whether the distance criteria will have an impact on the environment leading to health hazards.

**29.** The question to be resolved revolves around the impact of different types of pollution on the health of humans and occupational health impacts. Quarrying and stone processing operations including surface mining, crushing, screening material handling and transfer operations are potential sources of particulate emission of fine dust and noise. The harmful effects of fine dust (PM<sub>10</sub>) particles on health are more in winter due to higher concentrations of fine dust in the air. Even the industries are operating to their maximum capacity in this season, the emissions from a stone crushing unit are from different sources as follows:-

(i) Transportation: While transporting the mined stones by heavy vehicles like trucks and trailers fugitive dust emission occurs due to the movement of heavy vehicles on Kacha/earthen roads. The emission again varies depending on various aspects like climate conditions, moisture in the soil, speed of the vehicle, etc. The only control for such emissions is spraying water on roads intermittently.

(ii) During Crushing Operation: Generation of particulate matters is inherent during crushing operations. The size reduction during crushing is directly proportional to the higher emission.

(iii) Screening: The shaky and vibrating screens emit dust as a result of agitation of dry stone. The high-frequency screening emits more dust than low-frequency screening. Here, again the screening of fine particles produces higher emissions than the screening of coarse sizes.

**30.** Now coming to the NEERI report given in May 2022, the study was undertaken to assess dust pollution concentration and its fallout in and around the workplace and in the ambient air and delineation of control measures and review of the distance criteria to arrest the dust pollution within the permissible limits. The NEERI had identified two locations viz., (i) Tirusulam near Chennai and (ii) Kodangipalayam in Tiruppur District. The sampling program was designed in such a way to facilitate in fixing the permissible distance from habitation and highways from the periphery of the crushing area on all sides.

The report says the meteorological data was monitored and analyzed in Chennai on 24-hour basis during the period in December 2021 whereas, in Kodangipalayam, it was done in January 2022.

**31.** The learned counsel for the applicant would contend that the sample collection done from September to November is the rainy season and the sample collection done from December to January is the winter season. It was pointedly argued that ideally, it should have been a year long study and not during the rainy season or during winter. It was also further contended that the report of the NEERI is based on average source emission which is an anathema to air pollution. Short-term modelling of critical value and average value cannot be taken as a source value. According to the applicant, the cumulative impact of the cluster was not considered. Para 8.6 of the NEERI report deals with the distance from the stone crusher to the nearby stone crusher, which is usefully extracted below:-

**"8.6 Distance from stone Crusher to nearby Stone Crusher**

The distance from stone crushing industry to stone crushing industry as mentioned in the TNPCB Proceeding (BP No. 4, dated 02.07.2004) is not important & significant and can be withdrawn considering the following facts:

1. By specifying inter distance between the stone crushing industries shall lead to the dispersal of stone crushing industries across in the state of Tamil Nadu resulting into spreading of dust pollutants.
2. Inter distance between stone crushing industries is not as significant and governing criteria compared to specifying distance from stone crushing industries to habitation areas (approved residences/inhabited site, Educational Institutions, Places of public offices and religious importance, State/National Highways etc.)
3. Specifying inter distance between stone crushing industries as a limiting criteria is way against cluster of industries, which is not preferable leading to spread and increase in the dust pollutants.

Considering the above, the minimum distance between crusher to crusher is dispensed so as to avoid mushrooming of single clusters over larger area and paving way for favourable condition for cluster of crushers in a compact area closer to each other, thereby reducing the minimum distance between the crushers, confining the pollution levels within a smaller area so that prevention measures (control/mitigation) can be adopted more effectively."

**32.** As recognizing that non-regression is a prerequisite for the effectiveness of all sustainable development policies, laws and regulations, the principle of non-regression should be followed.

**33.** Fugitive emissions from process operation and material handling have been given low weightage as compared to hazardous air pollutants and emissions from the combustion of coal or liquid fuels. Dust emissions and fugitive emissions cannot be underestimated as it is not less harmful than hazardous air pollutants. It is well proven fact that stone crushers are the source of PM<sub>10</sub> and PM<sub>2.5</sub>. An earlier study in a cluster proved to be a source of high levels of dust generation in the vicinity and also found that ambient concentrations and occupational exposure levels exceeded the Indian National Ambient Air Quality Standards at most of the locations. It is also not disputed that environmental pollution by stone crushing units affects the workers involved with several diseases. The workers are also not wearing or provided with safety/protective devices.

**34.** It is not out of place to mention that stone crushers have always been on the radar of the National Green Tribunal and several orders have been passed on the polluting stone crusher units in different states across the country. The crusher units though do not use any kind of fuel, they emit uncontrolled fugitive dust into the atmosphere which has a deadly effect on the inhabitants living around these units, particularly the employees/workers engaged inside the unit. Further, the crushing operations produce significant noise pollution.

**35.** It is also evident from the number of cases filed before the National Green Tribunal, PAN India, that these small and medium sized crusher units lack dust control equipments, dust containment measures, water sprinklers, metalled or concrete roads and other pollution control measures. Most of the units are in violation of the guidelines established by the CPCB or SPCBs. The National Green Tribunal also has been passing several orders issuing directions to follow. The pollution control measures stop operation orders until pollution control measures are adopted, recovery of environmental compensation and restoration measures, etc.

**36.** Now, the question is whether the siting criteria prescribed will take away the pollution. One cannot deny the polluting potential of stone crusher units simply by claiming that

no fuel is used or hazardous pollutants are emitted. It can also be not denied that besides the noise pollution, the dust emitted by these units causes health issues for the inhabitants around the area. Even standalone crusher units operating outside any industrial zone contribute to the pollution, as they lack in proper infrastructure and the emissions from the units cause pollution in the region. Therefore, the crusher unit in any region is a point of concern for air quality and noise pollution.

**37.** The upgraded CPCB Guidelines for the stone crusher sector have to be followed strictly. The general measures given by the CPCB alone are extracted below:-

**5.1 General Measures**

i. Wind breaking wall: GI/MS/brick wall should be provided along the periphery of crusher. Height of the wall should be 3-ft more than the highest node of the crusher.

ii. Roads: Metaled/concrete roads should be provided within the premises. Ramps and the entire ground area inside the premises should also be metaled.

iii. Housekeeping: To curb the air pollution in the crusher premises, arrangement of rotating water sprinkling system/fogger/Anti-smog gun should be provided. Fine dust accumulated and bag filters in the crushing area should be cleaned at regular intervals and the collected dust should be stored in sacks for further sale or disposal.

iv. Plantation: 2-3 rows of tall trees should be planted around the periphery of crusher.

v. Housing should be open for movement of mechanical drivers, conveyor belts, etc. should be sealed properly with flexible rubber flaps.

vi. Name of the unit, contact details of the owner and address of the unit, plant capacity and date of issue of CTE/CTO from SPCBs/PCCs should be displayed on the display board at the entrance.

vii. Transportation: Vehicles carrying any kind of material should be completely covered.

viii. Regular wetting of roads should be done to suppress dust within the premises to control dust emission re-suspension.

ix. Water consumption and handling: Unit should provide settling tanks of appropriate size and recycle & reuse of the water in process. Crusher should provide a water storage tank with adequate capacity. In case of use of groundwater, stone crushing unit should obtain permission to extract groundwater from the Central Ground Water Authority (CGWA)/Ground Water Department (GWD) of the State/UT. Unit should maintain proper log book of consumption of fresh water. Depending on availability, efforts may be made to use STP treated water instead groundwater to control emissions from process activities."

**38.** The CPCB Guidelines further prescribe the regulatory mechanism for stone crushing units. As per Clause 6 (x) of the CPCB Guidelines issued in July 2023, new crushers should be allowed to operate only in dedicated crusher zones as per the siting policies of the SPCBs/PCCs. The CPCB categorically



recommends the operation of all new crushers only in dedicated crusher zones but leaves the siting policies to SPCBs/PCCs. The independent study of the National Council for Cement and Building Materials conducted in Tamil Nadu, Goa, Haryana and Jharkhand has revealed that the generation of particulate matter in clusters (with partial dust control measures) far exceeds the generation of SPM than in isolated crushers (with dust control measures and with partial dust control measures). The average SPM concentration was found to be way beyond the standards irrespective of the isolated or cluster units. The same scenario was observed with respect to the concentration of PM<sub>10</sub> and PM<sub>2.5</sub> which exceeded the limits in case of the units provided with partial dust control measures. Only when the dust control measures were in place fully, PM<sub>10</sub> and PM<sub>2.5</sub> are within the norms in respect of isolated units. In respect of fugitive dust emissions, the study has shown that the SPM load is way beyond the prescribed norms. In conclusion, it was observed that the ambient and fugitive dust level in stone crusher units (where proper dust control measures were provided) were mostly found under stipulated limits and the ambient and fugitive dust levels of units located in clusters was found to be much higher than the prescribed limits. This highlights the need for stone crusher units to follow the best practices to control dust pollution and to improve air quality.

**39.** The *'Environmental Guidelines for Stone Crushing Units'* issued by the CPCB, outlines the ways to measure source emissions, stone materials and other general principles to combat the air pollution from the stone crushing units. The implementation of these guidelines is of pertinent importance in conserving the stone crusher sector which is responsible for significant fugitive dust emission and causes severe air pollution. This has been devised, according to the suggestions of the Centre for Science and Environment (CSE), a non-profit organization, in consultation with the State Pollution Control Boards. The CSE proposed the guidelines for stone crushers and shared them with all the State Pollution Control Boards along with CPCB in March 2023.



**40.** The CPCB guidelines cover the following areas:- (1) Point source emissions and pollution abatement, (2) Air-borne particles and product storage, (3) General pollution control measures, (4) Water consumption and oversight, (5) Regulatory compliance and oversight and (6) Involvement of SPCBs, workers health and safety, dedicated crusher zones, and timeline and enforcement.

**41.** Though it appears to be a step towards the right direction, the CPCB Guidelines are not entirely comprehensive in certain areas and do not mention any details regarding the operational timing and noise emissions or any such distance criteria that have been extensively discussed in the Board Proceeding of the TNPCB. This stems from the notion that stone crushers have limited pollution potential, claiming that no fuel is burnt or hazardous pollutants are emitted. Nevertheless, the dust emitted by these units in addition to the noise nuisance causes health issues for the population living nearby.

**42.** The B.P. No.4 dated 02.07.2004 of TNPCB prescribes the norms for the location of stone crushing industries which has given the criteria for existing stone crushing units as recommended by NEERI. It has specified the types of clusters, the distance between crusher/cluster of crushers and habitations/ National Highways or State Highways and also the greenbelt area at the periphery. The minimum distance between the new/proposed stone crusher should be 1 Km to avoid the dust potential influence of one over the other.

**43.** In B.P. No.21 dated 31.07.2019, the TNPCB relaxed the 1 Km distance criteria for the existing stone crushers and constituted a Technical Expert Committee of TNPCB, NEERI and NPC to carry out a detailed scientific study. Based on the said study, the 1 Km distance was dispensed with. A further detailed scientific study was taken up by NEERI based on which the minimum distance to be maintained from the inhabited site, National Highway, State Highway and places of public and religious importance may be denied. The NEERI after clearly setting out the recommendations to stone crushing industries in the State of Tamil Nadu concluded that "*the minimum 1 Km*

*distance between one stone crushing unit to another stone crushing unit shall be dispensed so as to avoid mushrooming of single crushers over a large area. This will pave way for favourable condition for cluster of crushers in a compact area close to each other, thereby reducing the minimum distance between the crushers, confining the pollution levels within a smaller area so that prevention measures (control/mitigation) can be adopted more effectively”.*

**44.** The NEERI report relied on simulation by AERMOD and by model ISCST3 and estimated safe distances for both the study areas using measured and predicted concentrations. The safe distance for TSPM predicted concentration of AERMOD varied from 81 – 2000 Meters for critical cases and the seasonal average varied from 81 – 258 Meters, whereas the safe distance measured for RSPM varied from 258 – 2000 Meters for critical cases and 16 – 2000 Meters for seasonal average. The safe distance for TSPM concentration varied from 80 to 1500 Meters (as per Simulation by Model ISCTS3) for critical cases and for seasonal average varied from 40 – 550 Meters and in respect of RSPM, the safe distance varied from 142 – 3000 Meters and for seasonal averages varied from 40 – 900 Meters. However, the NEERI report indicates that the above emissions from stone crushing units can be brought down by 50% if suggested control measures are adopted.

**45.** The recommendation for the study area at Tirusulam, Chennai suggests that no more stone crushers should be allowed in this area, which indicates the need for limiting the number of crushing units within a cluster based on the carrying capacity.

**46.** The report makes a recommendation of 500 Meter safe distance to be maintained from National Highways or State Highways, inhabited sites, educational institutions and other public offices and places of religious importance so as to avoid dust emission from the stone crushing industries, inter alia other recommendations.

**47.** A perusal of the Board Resolution dated 10.10.2023 reveals that the NEERI report has been accepted along with recommendations as well as to adopt the '*Environmental Guidelines for Stone Crushing Units*' issued by the CPCB in July 2023. However, the Board Resolution does not reveal the critical examination of the report. As revealed in the report, unsafe loads of TSPM and RSPM can reach a distance beyond 1 Km and up to 2 Km, which certainly necessitates a detailed examination and calls for additional measures, particularly for arriving at the safety distance criteria. Such an analysis becomes all the more essential in the backdrop of the sample collection period not covering the entire year and that too as it ignores the dry period. The resolution neither addresses the issue of carrying capacity to be studied nor there is a mention on the need for cumulative impact assessment in respect of clusters. The resolution is also silent about the need for imposing specific conditions to protect health of the workers in the clusters.

**48.** The data from the NEERI report conducted in these two studies, though it is stated that the units have not adopted all the pollution control mechanisms, reveals that the different models indicate the influence of TSPM and RSPM even at a distance of 2000 Meters based on analysis of the samples that were collected during December and January, overlapping the monsoon season. The real picture would have been more alarming if the samples were collected throughout the year, especially during dry periods during which there is every possibility for the TSPM and RSPM to be carried for a farther distance. Therefore, there is a compelling need for revisiting the siting criteria while permitting the stone crushing industries in a cluster.

**49.** In **O.A. No.256 of 2020 (SZ)** [*Tribunal on its own motion Suo Motu based on the news item in News Desk Magazine dt. 11.11.2020, under the caption Air Pollution and Industries, "These Six Industries in North Chennai are polluting the air for more than half the year, the North Chennai Thermal Power Station along Ennore Port" Vs. Union of India and Ors.*], this Tribunal, while examining the pollution caused by six industries in Manali, has specifically directed the State Pollution

Control Board and CPCB to arrive at separate criteria for standalone industrial units and for the units located in industrial estates.

**50.** Following the same principle, the TNPCB is expected to fix the siting criteria separately for standalone stone crushing units, in case, they intended to permit them and for the cluster of stone crushing industries.

**51.** Time and again this Tribunal has found in a catena of cases that the problem of fugitive emissions is exacerbated due to improper roads, though the guidelines stipulate laying of metal/pavement roads. The problem of fugitive emissions can be reduced significantly if concrete roads are laid (both the approach road to the stone crushing unit / cluster and within the unit premises). Therefore, the CPCB and TNPCB shall consider imposing formation of concrete roads as a precondition.

**52.** The NEERI report also indicates the importance of greenbelt development and suggested certain native species for being planted in the greenbelt area. This Tribunal has also noticed that in several cases, the common violation of the Consent conditions is the non-development and non-maintenance of green cover. This issue can be resolved only if the development of green cover prior to the grant of Consent to Operate is imposed. It may also be stipulated to create a greenbelt, as recommended in the NEERI/CPCB report or any other scientific report, listing the desired species to be planted. This is to be done to ensure that the dust level is brought down significantly. The TNPCB may conduct an inspection annually during the first five years after the consent has been granted and in case the green cover is not being raised as stipulated, the TNPCB can consider imposition of penalties or even suspension of the consent in case of gross negligence on the part of the project proponent. This is basically to ensure that both the regulators as well as project proponents accord the highest priority for raising the green cover which can minimize the dust pollution significantly from reaching the areas beyond the clusters.

**53.** Considering the importance of the green cover in reducing the dust, the industry i.e. standalone or cluster shall be made responsible for increasing the green cover not only within the premises of the unit but also along the approach roads and the radius of safe distance prescribed. In case, such a stipulation is difficult, then a precondition may be imposed for the erection of wind breaking wall which could be a GI / MS sheet or any other prescribed material of adequate height. Prior to necessary clearance, inspection may be undertaken to ensure that the wind breaking wall is in place if the green cover has not been raised earlier.

**54.** Another common violation that has been noted is non-implementation of sprinkling of water even if the sprinklers are installed as a precondition. The failure is attributed to a lack of periodical cleaning of the spray nozzles, lack of adequate water in the vicinity where the units are located as well as to the likely damage to machinery when water is sprinkled. Therefore, there is a need for SPCBs/CPCB to insist on dry dust collection systems either as a standalone condition or in addition to the water sprinkler systems.

**55.** Upon analyzing the trade off between the usage of M-sand and river sand for construction purposes, the production of M-sand is being encouraged by dispensing with the distance criteria while ensuring strict adherence to the environmental guidelines. The river sand mining affects the livelihood of the general public such as agriculture due to flooding, erosion, groundwater depletion, etc. which proves detrimental to the associated and the economy at large whereas, the economic gain from increased M-sand production due to the establishment of cluster units aid the boom in the infrastructure industry.

**56.** The learned counsel for the TNPCB has indicated that the B.P. No.21 dated 31.07.2019 is due for revision and is to be reviewed after one year. We direct that this review be taken up immediately and arrive at new guidelines for being followed, within three months. The TNPCB shall **(a)** undertake a study through an accredited agency for cumulative impact assessment

to fix the distance criteria from the proposed clusters to habitations, public buildings, water bodies, etc. **(b)** conduct a study to arrive at a carrying capacity of the area to arrive at the number of units that can be permitted in the said cluster. While undertaking the above studies, the primary concern should be to protect the interest of the environment and people residing in the nearby areas and it should also be noted that the present study of NEERI as well as other studies have clearly revealed the high risk that clusters pose due to pollution of Particulate Matter (PM<sub>2.5</sub> and PM<sub>10</sub>) drifting to long distance.

**57.** Considering the recommendations of the CPCB as well as other studies that recommend the formation of clusters of stone crushing industry and that currently except for the States of Tamil Nadu (1 Km), Kerala (100 Meters) and Assam (300 Meters), other states do not have distance criteria between crusher units, this Tribunal cannot uphold the prayer of the applicant.

**58.** It is also noticed from the NEERI's report that a large number of units in the study area are functioning in gross violation of the condition stipulated by the TNPCB and causing environmental pollution. Ideally, the Board should have taken note of this aspect and imposed necessary environmental compensation.

**59.** In view of the above, the Original Application [O.A. No.12 of 2024 (SZ)] is disposed of with the following directions to the TNPCB for compliance, in addition to the recommendations of the NEERI & CPCB and accepted by the Board by its Resolution dated 10.10.2023:-

**(I)** The TNPCB is directed to examine the siting criteria for the location of stone crushing units before granting consent. The TNPCB shall arrive at different siting criteria for individual stone crushing units and for units to be located in a cluster.



- (II)** In case a cluster approach is being adopted, the TNPCB shall conduct a carrying capacity study and decide the maximum number of crushing units/production capacities that can be established in a cluster. While doing so, the TNPCB shall also consider the cumulative impact of having multiple units in a cluster on the environment and nearby habitations, public buildings, water bodies, ecologically sensitive areas, etc.
- (III)** The review of B.P. No.21 dated 31.07.2019 may be taken up and new guidelines may be framed with a specified time of 3 (Three) months.
- (IV)** The TNPCB shall impose a condition for laying concrete roads both within the unit/cluster premises and the approach roads.
- (V)** The TNPCB shall also impose conditions for dry dust collection systems such as cyclones and dust hoppers or any other suitable measures in addition to sprinkler systems.
- (VI)** The TNPCB shall impose conditions for protecting the health of the workers. In order to protect workers and inhabitants in the neighbourhood from the boundary of stone crusher units, health camps may be organized by the Project Proponent(s) once in 6 months for workers and at least once in a year for the inhabitants.
- (VII)** The TNPCB shall impose the development of green cover as a precondition for the grant of Consent to Operate or for the erection of wind breaking wall, which could be a GI / MS sheet or any other prescribed material of adequate height till such time the trees grow to the desired height. The species to be planted may also be indicated to the Project Proponent by the TNPCB.

- (VIII)** In addition to the green cover around the individual unit/cluster, a condition may be imposed for the development of green cover in the radius of safe distance prescribed. This should also include increasing the green cover along the approach roads, in the residential area as well as in and around the public buildings.
- (IX)** The expenditure required for increasing the green cover in the area earmarked for siting criteria (safe distance) may be collected from the Project Proponent(s) and the task of increasing the green cover may be entrusted to the Forest Department or other appropriate agency by the TNPCCB.
- (X)** The TNPCCB shall conduct an inspection annually during the first five years after the consent has been granted and in case the green cover is not being raised as stipulated, the TNPCCB can consider imposition of penalties or even suspension of the consent in case of gross negligence on the part of the project proponent. This is basically to ensure that both the regulators as well as project proponents accord the highest priority for raising the green cover which can minimize the dust pollution significantly from reaching the areas beyond the clusters.
- (XI)** The TNPCCB shall initiate action on the violations noticed in the study conducted by the NEERI by following due process of law.
- (XII)** The TNPCCB may undertake a study in collaboration with the experts from the CPCB also, which report may be considered by the CPCB for adoption by other SPCBs.

**60.** In view of the above, the interlocutory applications viz., I.A. Nos.06 to 14 & 23 of 2024 (SZ) are also closed.

**Sd/-**  
**Smt. Justice Pushpa Sathyanarayana, JM**

**Sd/-**  
**Dr. Satyagopal Korlapati, EM**

Internet – Yes/No

All India NGT Reporter – Yes/No

**O.A. No.12/2024 &  
I.A. Nos.06 to 14 & 23/2024 (SZ)  
08<sup>th</sup> August, 2024. Mn.**

