

REPORT OF THE HIGH-LEVEL CITIZENS' COMMITTEE ON SAND MINING IN AMARAVATHI AND CAUVERY RIVER BASINS IN KARUR DISTRICT

The Campaign for the Protection of Water Resources, Tamil Nadu and the Campaign for Custodial Justice and Abolition of Torture requested us to conduct an investigation into the indiscriminate sand mining in Amaravathi and Cauvery River Basins in Karur district that is allegedly to be continuing even after the Government of Tamil Nadu introduced the Single Agency System by which the private contracting system was abolished and the Public Works Department authorized to quarry and sell the sand from the approved river basins in Tamil Nadu. We were also requested to examine the arrest of 332 persons when they protested against sand quarrying in Nathamedu on the bank of Amaravathi river in February 2004.

We agreed to be in the investigating committee with Thiru V.Karuppan, I.A.S. (Retd) as its head and requested some activists from the above campaigns to assist the team by way of conducting preliminary investigation on the basis of which we could proceed further in the matter. Accordingly the following activists from the above campaigns visited a few sites where the indiscriminate sand mining is carried out and met the PWD authorities responsible for sand quarrying in these sites:

1. Ossie Fernandes, Campaign for Protection of Water Resources, Tamil Nadu; 2. M.Jeeva, Convener, Campaign for Custodial Justice and Abolition of Torture; 3. T.Fatimson, Convener, Campaign for Right to Livelihood and Food Security, Tamil Nadu; 4. Rajavelu, Coastal Action Network, Tamil Nadu.

Based on the preliminary report submitted by them, the Report of the Jury of the People's Public Hearing on the Impact of sand mining in Tamil Nadu on 19th and 20th February 2002 at Chennai and the Expert Committee Report 2003, we proceeded to investigate into the two aspects mentioned above. The Committee comprises of:

1. V.Karuppan, IAS (Retd), Convenor, NCDHR-T.N.
2. Dr.N.Markandan, Former Vice Chancellor, Gandhigram Rural University, Tamil Nadu
3. K.Manoharan (S.V.Rajadurai), Writer and Human Rights Activist
4. P.V.Bakthavatchalam, Senior Advocate and Human Rights Activist
5. Dr.M.Arunachalam, Environmental Scientist, Manonmaiyan Sundaranar University
6. S.Valentina, State Joint Secretary, All India Democratic Women's Association (AIDWA)
7. Jesu Rethinam, Advocate and Convener, Coastal Action Network, T Nadu
8. T.Fatimson, Convener, Campaign for Right to Livelihood and Food Security, Tamil Nadu

We visited a few sites in Amaravathi and Cauvery river basin where sand is extracted. We were accompanied to these sites by responsible PWD officials. We also met the Collector of Karur District, the Revenue Divisional Officer, Karur, the Superintendent of Police, Karur District, the Inspector of Police, Mayanur and the PWD authorities and recorded their opinions and their versions of the events. We also went through various reports and legal documents made available to us by the preliminary investigation committee referred above and the members of Forum for Protection of Water and Livelihood Resources, Karur District - FPWLR of Forum) regarding the struggles of the local organisations and movements against illegal and indiscriminate sand mining in Amaravathi and Cauvery river basins in Karur district from 1989 onwards. In the public hearing we organised at Karur on 27.5.2004 we also heard the depositions of the farmers and activists from

several villages in Karur district about the indiscriminate mining of sand, the struggles in which they were involved, the arrests made on 25.2.2004 and the mental and physical tortures they underwent during the police custody and in the prison. We also received 15 written affidavits in the public hearing.

We also had an opportunity of going through some of the documents and reports maintained by the PWD officials, about a number of spontaneous protests they had faced from a several of the villages against sand mining, the litigations relating to sand mining in Amaravathi and about the different stands taken by the District Collector on the one hand and by the PWD authorities on the other regarding sand mining in a few sites in this river bed which they deposed before the team. We also went through the findings of the preliminary investigating committee mentioned above and found them corroborative of our own independent findings. Though we were not able to meet some of PWD officials the members of the preliminary Committee met during their visit due to paucity of time, we have incorporated the opinions and views of these officials as well as the facts given by them to the preliminary committee in our final report. All the points we had made in our interim report released to the Press at Karur on 27.5.2004 are incorporated in this Final Report.

VISIT TO THE SITES – Evidence Collected.

We visited the following sites on the Amaravathi and Cauvery river basins in Karur district on 26.05.2004. Our findings are recorded in respect of each of the sites visited

1. Appipalayam

The PWD claims that it is an untapped area for sand mining. However, we found mounds of sand adjacent to a string of ring wells dug in the river bed. We have also found several impression of the tyre marks of different vehicles on the sand on the river bed. We found that the sand extraction has led to the exposure of rock heads and heaps of gravels separated from the fine sand, sieved and dumped into the river bed. This would lead to environmental hazards as these gravels are not supposed to be churned out from the river bed indicating the extensive extraction of sand from the river bed.

We met Tmt. S.Easwary, President of the local Panchayat and a number of local villagers. She explained that the string of ring wells were dug by private contractors to extract water and sell them to dyeing industrial units. About 40 lakhs litres of water per day is sold by these contractors. Tmt.Easwary has lodged several complaints to the District Collector and the concerned PWD authorities about the illegal water extraction which has led to the drying up of the drinking water well of the Panchayat besides a number of other irrigation wells of the local farmers but no action has been taken by these authorities so far. She also said that the panchayat was forced to dig a bore well for drinking water purpose but it gives only brackish water.

2. Anaipalayam

We found a new Japanese made poclain machine without a number plate showing the registration number and with six lorries parked on the bank of the river. Rock heads were found in the stream bed. The altitude inside the channel is 199 m whereas it is 209 m in the river bank. Thus there is a

difference of 10 m which cannot be due to natural erosion but could only be due to indiscriminate sand mining.

3. Thirumukkudalur , Achamapuram Village (on the northern bank of Amaravathi)

Two poclain machines were in operation for sand quarrying. The slope of the river bank was found to be nearly 20 feet. We found mounds of sand excavated by the PWD for sale. Road has been laid for the lorries to go from one bank to the other. We were told by the NMR workers employed by the PWD that the contract for loading and transporting the sand has been given to one L.Subramaniam of Karur.

4. Thirumukkudalur (near the confluence of Amaravathi and Cauvery rivers) -Cauvery Depot.

We found several lorries carrying wet sand from which water was dripping profusely. We also found poclain excavating sand in the middle of the river bed. There were 15 lorries in the river bed. Pacca road has been built to transport the sand to the western bank.

In our visit to these above four sites, we were accompanied by Thiru.Jayapal, Canal Inspector.

5. Mayanur

We visited Kattalai Bed Regulator in Mayanur and shown around by Thiru. N. Jothi Mani, Assistant Executive Engineer, River Conservation Sub Division, Kulithalai PWD. We found 25 lorries and one poclain machine excavating and loading sand. Thiru. Jothi Mani told us that the use of poclain was permitted by a government order dated 19.03.04 for the removal of *Iponia Acquatica* weeds in the river bed in order to facilitate the free flow of water. We also observed that sand was mined as close as 50 meters from the bed regulator whereas as per the Minor Mineral Concession Rules and various court orders within 100 mts in either sides of the bed regulator no excavation work should be conducted.

6. Lalapet (Cauvery Basin)

The old road which looks like a Bed Regulator built by the private contractor who mined sand before the Single Agency System was introduced remains in tact in the river bed. There is also a net-work of new roads crisscrossing the river bed. We found one poclain excavating and loading the sand in the lorries. 32 lorries were kept side by side near the poclain machine. The work of excavating and loading the sand was being continued even at 6.45 PM, that was the time we left the site and it was obvious that the work would have continued for several more hours violating the regulation laid by the High Level Committee that the sand mining and loading operation should be done within 6 a.m. to 6 p.m. in order to prevent illicit mining. When we pointed out this, Thiru.Jothi Mani explained that only those lorries which were given permits up to 6PM will be allowed to take the loads of sands and transport. When asked about the impact of the sand mining on ground water table, he dismissed the observations made by the

High Level Committee by saying that there is no connection between sand mining and ground water table.

We would like to place the fact on record that Thiru. Jothi Mani, the Assistant Executive Engineer, PWD, traveled in a private car of a sand transport contractor with the picture of the AIADMK leader and the present Chief Minister of Tamil Nadu embossed on the rear wind screen. We were surprised to find a public servant using the car of a ruling party man to lead us to the sand quarrying sites (sites of quarrying done by the PWD).

MEETINGS WITH THE GOVERNMENT OFFICIALS

The District collector, Karur

1. We met the District Collector Mr. P. Annamalai, I.A.S., at his office at forenoon of 27.5.2004. He told us that the district administration does not have any major role in the matter of sand quarrying after the Single Agency System was introduced and that its role is restricted to taking action on any theft of sand, overloading the lorries and mining before 6 AM and after 6 PM. In such cases, he said, the vehicles are seized and fine is levied on the persons guilty of such violations. He also added that the district administration is continuously monitoring the sand extraction wherever it takes place. He also added that with the introduction of the Single Agency System, the quantum of sand being lifted has far exceeded that was extracted and transported previously and concluded that the day would not be far off when there would not be any sand left for future construction of houses. As regards the sand mining and loading operations beyond the stipulated time, the Collector said that the PWD is solely responsible for ensuring the observation of the time limit and its authorities can stop issuing permits for loading and transporting well ahead of the time limit so that neither the quarrying nor the loading of sand can take place beyond the stipulated time limit.

The Superintendent of Police, Karur district

2. We met the Superintendent of Police Thiru. Sandip Mittal, I.P.S., at his camp office at Karur in the forenoon of 27.5.2004. He told us that the police are not the monitoring authority as far the sand quarrying is concerned. As regards the arrest of 332 persons on 25.2.2004 on the Amaravathi Bank in Nathamedu, he said the police routinely file the FIRs as soon as the complaints are received and as regards the allegation that some of those who were part of the protest caused damage to poelain thus inviting the relevant sections of the PPD Act, he said that the matter is still under investigation and only when the investigation is over, he could say anything definitely on this issue. He also said that the police has video graphed all the events associated with the protest organized on that day and claimed that one Muthusamy of Kattalai village with criminal records from 1996 instigated the public to create law and order problem. He also added that the police was responsible for saving a number of human lives by encircling the protestors who had chosen a dangerous spot for their agitation. This spot he said had a huge well and if a commotion had been sparked off, a number of people scattered around would have fallen into the well.

The Inspector of Police, Mayanur Police Station

We met Thiru. Sultan, Inspector of Police, Mayanur police station in the police station. He admitted that he was present when the members of SWATE gathered at Nathamedu and has given whatever information available with him to Thiru Thangaraj, Member of the State human Rights Commission who visited Mayanur on 26.5.2004. He told us that beyond this he was not in a position to share any information and that we have to talk to the Superintendent of Police only.

Revenue Divisional Officer, Karur division, Karur

We met Thiru. Nirmalraj, Revenue Divisional Officer, Karur division at his office at Karur on 27.5.2004. He told us that he went to Nathamedu village of Krishnarayapuram Taluk in Karur district on the morning of 25.2.2004 and that in the Revenue Divisional Officer, Kulithalai was also present there. He found hundreds of people assembled there and together with the RDO, Kulithalai he invited the leaders for a discussion and that the latter demanded immediate stoppage of sand mining and the usage of poclains. While the talks were progressing some of the people tried to cross the river. When the police prevented them from entering into the river, other protesters started raising slogans. Both the RDOs asked the protesters to withdraw and disperse. Since they refused to disperse both the RDOs issued on the spot orders to the police to arrest them. Thiru. Nirmalraj said he had not received any petitions regarding the violations of rules in sand mining operation in Nathamedu.

He also said that when the Department of Geology and Mines was in charge of sand quarrying, the authorities of the Revenue Department had a lot of power to deal with the offences relating to sand mining and now whenever the PWD officials seizes lorries and carts engaged in illegal sand mining, they send them to Taluk Offices. A fine of Rs 25000 is imposed for each lorry carrying sand illegally but the owners of the bullock carts are let off after a warning. He told us that the fine amount collected by the Revenue Department during last year was something in the range of Rs. 40 to 50 lakhs. He said that the Revenue Department has not received any procedural instructions from the Government regarding the violations in sand mining. He told us that the engaging giant machines for sand mining have been stopped at Koyampalli. While he said that he had not received any petitions from the President of Appipalayam panchayat about the illegal extraction of water from Amaravathi river, if there is anything like that he would immediately visit the village and take necessary action.

The PWD Authorities

1. As regards the various sites identified by the PWD across the State for sand mining, the following information was collected by the members of the preliminary investigating committee from Thiru. Mani Chandrasekhar, Superintendent Engineer, Palar Basin Circle, P.W.D., on 29.04.2004:

Under the overall control of the Secretary to Government of Tamil Nadu, PWD, the sand mining regions are divided into the divisions which are in turn sub divided into circles as follows:

Chennai Region

1. Palar Basin, Chennai Circle
2. Pennar Basin – Thiruvannamalai Circle
3. Vellar Basin – Cuddalore
4. Special Project Circle – Vellore.

Tiruchi Region

1. Upper Cauvery Basin – Salem Circle
2. Middle Cauvery Basin – Tiruchi Circle
3. Lower Cauvery Basin – Tanjavur Circle

Madurai Region

Periyar – Vaigai Basin Circle

1. Lower Vaigai Basin – Sivagangai
2. Vaipar B.C. – Virudhunagar Circle
3. Thambarabarani Basin – Tirunelveli Circle.

Pollachi Region

1. (Bhavani B.C. – Coimbatore Circle)
2. Bhavani Basin – Amaravathi Division – Karur Comes under special project circle, Palani under Pollachi region.
3. Parambikulam B.C. – Aliyar – Pollachi Circle
4. Special Project B.C. – Palani Basin Circle
5. Bhavani Basin Division – Erode comes under Bhavani Basin Circle, Coimbatore under Pollachi Region.

(Total :14 Circles deal with sand mining. 239 quarrying sites with 95 depots free of all encumbrances – G.O. Ms. No. 451 dated 3.10.2003.Out of 239 quarrying sites 160 sites are banned and only 79 sites are operated under the control of PWD.)

2. The members of the preliminary committee met Thiru. R.Baskaran, Executive Engineer, PWD, Amaravathi Basin, Karur and collected the following information:

1. Within 3 km upstream and 2 km down stream of Amaravathi Basin approximately 10,000 to 20,000 lorry loads of sand can be taken. The length of the river is 147 km. This gives a picture of the amount of sand that can be quarried all along the basin. To remove sand, generally earth mover (poclain) is used. PWD finalises tenders to Private Contractors to load sand from the river bed to the depot, from where the sand is transported to different places in lorries. Each lorry is supposed to carry not more than 2 units. The PWD pays to the loading and transporting contractor Rs 305/- for each load. The persons buying the sand are expected to pay Rs.1000 + Rs.42 as sales tax + Rs.2 as surcharge. For 3 Units of sand the cost is Rs.1500 + Sales Tax Rs.60 + Surcharge Rs.3 (Rs.1563).In case of illegal quarrying the Government has fixed the fine at Rs.25,000 for the first time offence, Rs.75,000 for the second time offence and confiscation of lorry when found third time guilty.

Details of the Depots in Amaravathi river basin

Depot	Taluk	District	Status
Uthammapalayam	Dharapuram	Erode	Functioning
Peramium	Dharapuram	Erode	Functioning
Manalur	Dharapuram	Erode	Functioning
Thalavai Pattinam	Dharapuram	Erode	Functioning

Punganthurai	Dharapuram	Erode	Functioning
Karuppampalayam	Dharapuram	Erode	Not functioning
Ayyampalayam	Dharapuram	Erode	Not Functioning
Panchammadevi	Karur	Karur	Not Functioning
Tirumukkudalur	Karur	Karur	Functioning
Anaipalayam	Aravakurichi	Karur	Functioning
Moolathurai	Aravakurichi	Karur	Not Functioning Non availability of Sand

2. The officials are very strict about the 1 meter depth for quarrying of sand and taking of sand from embankments is not illegal as the actual river bed area is yet to be identified. Now there is a new Government order allowing the use of sand excavation and loading machines. But these machines are used only in a few places but not in all sites. In Amaravathi river basin four sites have been closed down as the sand up to 3 feet (1 meter) had been excavated. Sand quarried from the river bed basin will take thousands of years to be replenished.

3. There will be ground water only if the riverbeds are protected to a stretch of 2 meters on both sides of the river. Sand is being mined as per the suggestions and guidelines of the High Level Committee and the Tamil Nadu Minor Minerals Concession Rules. There are numerous unlicensed pump sets pumping water from the river beds. This is one of the reasons for the depletion of ground water in the Amaravathi basin.

4. There are 11 sand mining sites in Amaravathi division, out of which only Thirumukkudalur and Anaippalayam are functioning in Karur District.

5. The sand dunes in the river are also used for quarrying. When the quarrying of sand from the river beds and loading them in the lorries were entrusted to the private contractors through tender system, they used to mine huge quantities of sand and that too only from where the quality of the sand was good. But now sand is quarried without causing any damage to the river under the supervision of PWD officials.

6. The quarrying have now been stopped in Koyampalli, Karuppambalayam and Aiyampalayam areas as the maximum limit (1 meter) of sand quarrying has been completed.

7. Unregulated sand mining is very disastrous as, during the rainy season, the river will not get good flow of water. So the PWD is very careful while mining sand. The cooperation of the public is very essential.

8. Though the PWD has been made the nodal authority in sand mining it has to approach the Tahsildar or other officials of the Revenue Department for all the issues. The PWD solely cannot initiate legal action against the violators.

9. There is no supervisor in the quarrying site.

10. If the Government takes care of all these issues, sand mining can be operated properly according to law.

11. When we met Thiru. R.Baskaran on 27.5.2004, he told us that his department has issued legal notices to the dyeing Industries to close down their bore wells they have dug in Amaravathi river bed and that suitable action would be taken against them soon.

3. Information provided to the preliminary committee members by Thiru.Chennakesavan, Executive Engineer, PWD, Cauvery and Coleron Basin, Trichy and Karur:

1. Sand mining is a profit oriented and lucrative venture proposed by the Government. A very large quantity of sand is available in Cauvery and Coleron (Kollidam). The depth of sand may also vary from site to site. In Mukkombu, where Cauvery and Coleron meet there is 6 feet of sand and in Mayanur, there is 15 feet of sand available. For uniform flow of water in the river, sand has to be removed regularly from the bed. The total profit through sand mining for the period till 31.03.2004 is estimated to be Rs.67 crores. The sand mining operation done under the supervision of PWD faces a lot of difficulties such as shortage of staff, non availability of protection for PWD Staff and police security in any quarrying point, lack of judicial power for stopping illegal quarrying, poor co-operation from Revenue, Police, Forest Departments, Tamil Nadu Water and Drainage Board and also from the general public. If these problems are sorted out PWD would take care of sand mining in a much better way. Earth moving machines can be used to remove sand (as per a recent Government Order). Though as per law the depth has to be maintained for 1 meter this is not feasible in all areas. Till now 7 quarries have been given to private contractors for loading only. Rest of the operations is done by PWD via job works.

2. Details of sand quarried and profit earned during the period from 08.10.2003 to 31.03.2004:

No. of loads taken	Income	Expenditure	Profit
2,91,168 lorry loads	30,88,49,000		
95,194 cart loads	54,02,000		
Fine levied	2,05,000		
Total	31,44,56,000	9,59,33,000	21,85,23,000

Depots in Coleron Basin

Depot	District	River	Status
Thodaiyur	Trichy	Coleron	Functioning
Nochiyaru	Trichy	Coleron	Functioning
Tollgate New	Trichy	Coleron	Functioning
Kariamanickam	Trichy	Coleron	Functioning
Ponnunagapuram	Trichy	Coleron	Functioning

Depots in Cauvery Basin

Depot	District	River	Status
Mahaveeranallur	Trichy	Cauvery	Functioning
Thiruvingimalai	Trichy	Cauvery	to be started
Manamedu	Trichy	Cauvery	Functioning
Thimarayasamudra	Trichy	Cauvery	Functioning

Marudur	Karur	Cauvery	Functioning
Vadiyam	Karur	Cauvery	Functioning
Thimmachipuram	Karur	Cauvery	Functioning
Chinthlavadi	Karur	Cauvery	Functioning
Mayanur	Karur	Cauvery	Functioning
Thirukkudur	Karur	Cauvery	Functioning
Senapadi	Karur	Cauvery	Functioning
Vangal	Karur	Cauvery	Functioning
Seventhupalayam	Karur	Cauvery	Functioning

3. Cauvery and Coleron (Kollidam) Basins of this division stretch into 6 districts and taking into account the entire Tamil Nadu, the best quality of sand is available only in Amaravathi Cauvery and Kollidam River Basins. There are totally 25 depots in the division, out of which 17 are operating at present. The remaining 8 sites are to start operating in the coming months. .

4. Totally 3 lakhs tons of sand had been mined so far with 2, 20,500 lorry loads of sand. The quantity of sand quarried and the income to Government out of the sale in Trichy division alone, from 08.10.2004 to 31.03.2004 as follows:

• Revenue received by sale of sand	3,088.49 lakhs
• Expenditure	959.33 Lakhs
• Revenue received as fine amount from Illegal sand mining lorries.	02.05 Lakhs
Total Income	2,131.66 Lakhs

The Government of Tamil Nadu has received more than Rs.67 crores as revenue through sale of river sand, out of which the contribution of Trichy district is Rs.2, 131.66 lakhs.

5. Sand has been quarried wherever there are more deposits of sand. Huge deposits of sand are available in Cauvery and Coleron (Kollidam) river basins. Mining of sand in Thottiapalayam, Thottiam, Kulithalai areas have been stopped as they are low lying areas.

6. The river flow can be even only if the river beds are leveled and for this the river bed has to be desilted regularly. As part of desilting process the PWD planned to reduce the height of the sand dune in Mukkombu two years ago. Now the objective of reducing the height of it is sought to be achieved by setting up a depot in this site and mining the sand. This way without spending money the Government will earn more revenue from this area.

7. Sand is also available in huge quantities in Kattalai, Mukkombu, Pudukkattalai, Mettuvaikal areas. Since Noyyal and Amaravathi Rivers join River Cauvery in this area, more quantity of sand gets deposited in Cauvery. This is one of the reasons why there are more sand thefts in this region.

8. The PWD needs to be invested with judicial powers to proceed against illegal mining. According to the existing procedures, when a lorry involved in illegal mining of sand is seized by the PWD officials, they can only report the matter to the Tahsildar or revenue Divisional Officer for further action such as imposing fine .

9. Other Departments such as Geology and Mines, Revenue, Police, Forest etc., are not happy with entrusting sand mining to Public Works Department.

10. As the number of workers employed by the PWD directly is very much less there are many contractors in sand mining and loading.

11. The Government has recently issued an Order allowing the use of machines for sand excavation and loading and this order was circulated in the Meeting of the Executive Engineers held on 4th May 2004. Further information can be obtained from Thiru.Raju, the Deputy Secretary to Government, PWD.

4. The information provided to the members of the preliminary committee by Thiru. Samiaiyah, Assistant Engineer, Cauvery River Basin Sub Division, Public Works Department, Kulithalai are as follows:

There are totally 213 sand mining sites in operation in Tamil Nadu. Out of these, Maruthur, Vathiyam, Thimmachipuram, Sinthalavadi, Mayanur quarry sites operating in Cauvery River are under the control of Cauvery River Basin sub-division at Kulithalai. Maruthur, Vathiyam, Thimmachipuram sand quarries are under the direct supervision and control of the Assistant Engineer. A Work Inspector with 12 part time workers under his supervision operate as a team in each quarry. PWD has given contracts for loading and transporting sand only in nine sand mining sites and that all other works relating to sand mining are however taken care of by the Department itself. Sand is never quarried below the level of the river bed and is done only up to 3 feet depth in a stretch of 4 km on both sides of the river.

The Records and Documents of the Public Works Department

From the records and documents of the Public Works Department, we were able to cull out the following information:

1. Even after the Single Agency System was introduced, there have been protests by the local villagers wherever the PWD identified the sites for quarrying sand in Amaravathi river. The PWD records show that the villagers had objected to sand quarrying in Karuppampalayam, Peramiyam, Ayyampalayam, Pungathurai, Uthamapalayam, Manalur, Moolanur, Anaipudur, Anaipalayam, Panchamadevi on the ground that the ground water level would go down affecting their drinking water and irrigation sources. They had also protested against the use of giant machines for excavating sand. The PWD records show that the protests of the villagers were tackled either through the talks held with them by the PWD authorities and/or with the help of the police.
2. In Karuppampalayam and Pungathurai coming under Kangeyam legislative assembly constituency the local MLA Thitumathi Selvi Murugesan (AIADMK) had objected to sand quarrying without her permission. As regards Karuppampalayam sand quarry she had even sent a petition to the Chief Minister requesting to stop sand mining here as it would cause drinking water shortage. The work was therefore stopped till 7.12.2003. But after getting one of her agents as the contractor for loading and transporting sand, she agreed

to allow sand quarrying. Similarly, she withdrew her protest with regard to the protest in Pungathurai after securing the contract for one of her men to load and transport sand.

3. As regards Uthamapalayam sand mining site, Thiru. M.P.Swaminathan, MLA (DMK) of Vellakoil Constituency has filed a public interest litigation *No.418/2003* in the District Munsiff Court, Dharapuram praying for order for stopping the sand quarrying in Amaravathi River. In his petition he has mentioned that in view of the construction of many dams across Amaravathi river the formation of sand and other deposits have become abysmally low as the water flow has been reduced considerably and that there is hardly any possibility of the sand getting deposited on the banks. He has also pointed out that taking into account all these factors, the Government themselves had stopped sand quarrying in this river for several years. He has also mentioned that several petitions have been sent by him and the Presidents of Panchayats coming under his legislative constituency to the District Collector and other authorities. He has also said that 19 villages in his constituency get drinking water from the wells dug along the river bank and that the sand quarrying within a distance of 35 kilometres would drastically affect the drinking water sources. But ignoring these objections raised by the local legislator including the case filed by him, quarrying and selling of sand continues since 31.12.2003.
4. The PWD authorities concerned have been served with a notice by Thiru. K.Thennarasu, Advocate, Dharapauram on behalf of a villager from Ayyampalayam of Thathamplayam Village of Dharapuram Taluk asking the former to explain why the proceedings for contempt of court should not be initiated against them in view of the fact that in the judgment dated 11.4.2003 on OS No.92/2000, the District Munsiff Court, Dharapuram has issued a permanent injunction against sand quarrying in Amaravathi river.
5. In Moolathurai, the work in the sand quarry commenced on 29.12.2003 had to be stopped in view of objections raised by the local villagers who met the Collector, Karur district personally and expressed their fears that the ground water level would go down. Responding to the villagers' objection, the District Collector accompanied by the Divisional Engineer, Amaravathi River Conservation visited Anaipudur, Moolathurai and Nachipalayam on 15.1.2004 and in his D.O.Letter No.7/2004 dated 17.1.2004 addressed to Thiru. N.S.Palaniappan , I.A.S., Secretary to Government, PWD, Chennai has said in the assessment made by him and the Divisional Engineer, PWD who accompanied him, the sand quarrying in these places would adversely affect the drinking water and agricultural resources of the villagers and that there is very little possibility for sand mining in this area and that therefore Government Order should not be issued approving the proposals for sand mining in these areas.

Despite the objection made by the District Collector who made an on the spot assessment in consultation with the Divisional Engineer in charge of Amaravathi river conservation , it is seen from the letter dated 30.1.2004 of the Superintending Engineer, PWD, Karur addressed to the Collector that the PWD persists in its efforts to quarry sand in these sites. In this letter the Collector is exhorted to co-operate with the PWD for sand quarrying in these areas as this work would provide an opportunity to remove permanently all those illicitly installed motor pumps in the river banks and earn the revenue for the government through the sale of sand. As regards the

impact of sand mining on water resources, this PWD official tells the Collector that the PWD engineers would plan sand mining in such a way as not to affect the drinking water sources.

THE PUBLIC HEARING ON THE ARREST OF 332 PERSONS IN NATHAMEDU ON 25.2.2004

We went through the copies of petitions submitted to the Chief Minister and other government authorities by the villagers and grass roots organisations in Karur district from 1991 onwards requesting them to intervene and stop the indiscriminate sand mining by the private contractors and the PWD and various documents relating to the public interest litigations, the press clippings relating to the issues and struggles concerned and other documents relating to sand mining and the depletion of ground water level, the FIRs relating to the arrest of 332 persons at Nathamedu on 25.2.2004 and the copies of the orders of the Courts enlarging them on bail.

1. According to the police version in the FIR 76/04 dated 25.2.2004 of Mayanur Police station, Christina Samy and 15 others illegally entered into the sand quarry in Amaravathi river in Melkattalai village with deadly weapons to attack B. Rajendran, a Junior Engineer of PWD and Murali and A. Rajendran who were working there, prevented them from discharging their duty and threatened to murder them. Besides these they also caused damage worth of Rs 5000/- to the chain of a poclairn there for sand quarrying.

2. The second FIR No.77/04 dated 25.2.2004 of Mayanur police station against K.Palanisamy and 265 others says that these people angered by the arrest of the above 16 persons were found to be indulging in conspiratorial discussions against government to condemn the anti-farmer activities of the latter and also about causing damage to public property by collecting kerosene, petrol, crow bar and iron rod. As they continued with this conspiracy despite the warning from the police they were arrested.

3. As per the third FIR 80/04 dated 26.2.2004 of Mayanur Police Station, when the police were making their rounds near the Malayalasamy Temple in Nathamedu they found N.Kandasamy and 49 others conspiring to stop the vehicles from taking sand from the government quarry and cause damage to public property and that as a preventive measure the police arrested them.

The 282 persons arrested under the first two FIRs and the 50 persons arrested under the third FIR were remanded to judicial custody for 15 days by the Judicial S Magistrate II, Kulithalai on 25.2.2004 and 26.2.2004 respectively. All the arrested men were lodged in the Central Prison for Men at Trichy; fifty of the arrested women in the Central Prison for Women, Trichy and the remaining 72 women in the Sub Jail, Trichy. Out of the 332 arrested, 316 persons were released on bail by the Judicial Magistrate II, Kulithalai on 3rd and 4th March 2004.

On 5.03.2004 Sessions Court, Karur dismissed the bail petition filed in CrI.M.P.No.05.03.2004 by Christina Samy and 15 others stipulating that a fine of Rs.5,000/- must be paid for damaging the poclairn chain.

On 08.03.2004, the petitioners Christina Samy and 15 others filed a petition before the Madras High Court in CrI.O.P.No.8361/04 seeking bail. The Court on 11.3.2004 ordered conditional bail

asking the petitioners to stay at Madurai until further orders and report in Tallakulam Police Station every day.

Again on 29.03.2004, Christina Samy and 15 others filed a petition in CrI.M.P.No.3864 / 04 before the Madras High Court seeking the relaxation of the conditions for the bail. The condition was relaxed on 01.04.2004 by the Madras High Court.

During the Public Hearing organised by us at Karur on 27.5.2004, we also received written affidavits from 15 persons and heard the depositions of a number of persons involved in the struggle, especially in the protest organised on 25.2.2004. The detailed report prepared by us on the history of the struggle that began in 1989 against sand mining is given in Appendix 1 to this Report. We have collated and summed up hereunder what we heard from these persons during the Public Hearing:

1. In pursuance of the resolutions made in the Farmers' Conference held at Karur on 7.2.2004 as the Government did not take initiative to stop the indiscriminate sand quarrying, the members of the Forum and the local villagers decided to launch direct action as already informed by them to various government authorities and for this purpose they decided to gather on the bank of the river Amaravathi in Nathamedu village and surround one of the sand mounds as a mark of symbolic protest. Accordingly they were gathering there from the early morning of 25.2.2004. Around 7 AM they all sat under the tamarind tree on the way to the river from Malayala Samy Temple. One of the police jeeps went ahead of them and blocked the path leading to the river bed. Several thousands of people from different villages were pouring in batch by batch despite the intimidation by the police deployed on Trichy-Karur High-way from Mayanur to Puliur. A large contingent of police accompanied by the Revenue divisional Officers, Karur and Kulithalai, Thiru.Nithyanandan, Deputy Superintendent of Police, Kulithalai, Thiru. Rathinavel, Sub Inspector of Police, Kulithalai and Thiru. Sultan, Inspector of Police, Mayanur were present there. The protesters led by Christina Samy approached the Revenue Divisional Officer, Kulithalai bringing to his notice the resolutions of the Farmers' Conference at Karur and sought an assurance to stop quarrying of sand that was taking place in excess of the quantity that formerly used to be removed by the private contractors and without doing any scientific study. He told the protesters that sand quarrying cannot be stopped. Sometime later, the Revenue Divisional Officers of Karur and Kulithalai came forward to listen to their demands. The protesters explained to them about several violations of the norms for sand mining including the prohibition of the use of poclains. When one of the PWD officials who was present there told the protesters that Government has allowed the use of poclain, the protesters replied him that unless the Minor Minerals Concessions Rules is suitably amended the use of poclain would be considered illegal. As the protesters were having discussions with the government officials as well as amongst themselves the police was video graphing the entire process of negotiation and peaceful public protest. Subsequently, Thiru.Nithyanandam, Deputy Superintendent of Police, Kulithalai requested Christina Samy come to the Collectorate at Karur with some of her colleagues and talk to the District Collector. She however refused to do so saying that while thousands of villagers had gathered, there was nothing for her to come alone and have a private discussion with the Collector.

2. The police then from 11 AM onwards started asking the protesters to disperse and leave the place. As the protesters refused to leave the police asked them to get into the police vans saying that the protesters were under arrest. As there were more than 1000 persons to be taken into

custody, the protesters asked for more vehicles to take them. They were however packed like sardines in three vans and brought to a Palaniappa Mutharayar Kalyana Mandapam (a private wedding hall) at Mayanur batch by batch.

3. While the protesters were being taken in police vans to Mayanur, they saw a Tata Sumo vehicle with an AIADMK party flag coming towards the place of arrest and a politician getting down from the vehicle to talk to the police officers. It strengthened the suspicion of the protesters about the link between the politicians and sand quarrying. When the last batch of the persons taken to custody was brought to the wedding hall, it was 3.30PM. The police first took down the names of Christina Samy and 14 others for arresting them. When Bakkiyam, an activist of SWATE (she did not participate in the protest) came to the wedding hall to hand over some sanitary napkins to a woman held there she was also asked to remain in the wedding hall.

4. On finding that 16 persons were separated from the rest of the protesters, the other women protesters who were in the ground floor of the hall kept demanding the police to arrest all the protesters. 5 or 6 police men pushed these women with their lathis while pulling down the shutter. When these women, particularly one Ilavarasi was severely hurt, nobody was allowed to reach them to give a helping hand.

5. The police used obnoxious abusive words, particularly against women like Suryakanthi. When one Ramayee pleaded with the police for her release on the ground that her engagement was to take place next day, she was greeted with very vulgar language. Ponnambalam being a disabled person could not get up quickly but the police were taunting him saying whether he was suffering from AIDS. When some of the detained persons asked for drinking water, the police told them to drink urine. One of the persons held there, S.V.Periyasamy is a 67 year old respectable farmer. Without consideration for his age and his social status as a former Chairperson of a Major Panchayat in Karur district, he was also targeted for verbal abuse. As a diabetic patient he needed food and insulin, but the food was given to him only late in the evening. Many women who the police did not arrest were asked to walk back to their villages in the middle of the night.

6. The protesters were not allowed to see their lawyer Thiru. Selvaraj of Karur who rushed to the wedding hall. In the arrest memos given to the arrested persons, someone totally unknown to them signed as a witness. The plea of the protesters to spare four young mothers, particularly two of them who were breast feeding their babies and another woman who was suffering from chest pain and asthma from being arrested was rejected by the police.

7. When the Judicial Magistrate II, Kulithalai came to the wedding hall, there were more than 500 people there. The Magistrate, herself a woman, refused to entertain the pleas made by Christina Samy to release on bail all of them on obtaining personal sureties and not to arrest the five young women.

8. By the time the police decided to give some food to those held in the wedding hall (who did not eat anything since the morning) it was 4.40 PM. The food was extremely salty and half cooked. Even this miserable food did not reach many of the arrestees till 9 PM. After the Judicial magistrate II, Kulithalai came to the wedding hall to remand 272 persons arrested under the first two FIRs (No.76 and 77/04 of Mayanur Police Station) to judicial custody, they were again packed

like sardines in a few buses engaged by police and taken to Trichy during midnight of 25.2.2004. When they reached Trichy, it was 2.30AM next day.

9. After arresting 272 persons and getting them remanded to judicial custody on 25.2.2004, the police did not release the rest of the people immediately. They asked some of them to go back to their villages in the middle of the night. The rest of them were kept in the wedding hall throughout the night. Some of them were allowed to leave next day. The police registered an FIR (No.80/04 of Mayanur Police Station) only on 26.2.2004 to make it appear as if they were arrested only on 26.2.2004, that too when they were found near the site of previous day's protest conspiring to resort to anti-government activities and damaging public property.

10. Out of the 332 persons arrested under the three FIRs, 260 (210 men and 50 women) were lodged in the Central Prison for Men and Central Prison for women in Trichy, while 72 women were lodged in the Sub Jail, Trichy. Their experience in the prisons were tales of woe and unbearable humiliation and insults. In the name of searching the person of Namperuman, the warden in the Central Prison for Men in Trichy stripped him naked in front of the fellow under trials and beat him up. The men brought to the Central Prison for Men had to face a hostile reception from the inmates there as it was already overcrowded. The old inmates vented their anger on the new arrivals. The same food was given to these under-trials twice a day. Two men had to share the same to eat food plates. They were not permitted to use the toilets and they had to answer their natural calls in the open spaces in the prison complex. They were asked to fetch water and clean the jail premises. The plight of a lot of women lodged in the prisons, especially in the Sub Jail, was worse. There were no toilet facilities. They had to use open spaces putting up with the embarrassments caused by the presence of the policemen or the jail staff who stood on guard near them. The women during their monthly periods found it difficult to clean themselves. Though they were only under-trials they were asked to do all kinds of work like sweeping, cleaning, removing the night soil etc. When Thangammal of Aranganathapettai had diarrhea, she was asked to relieve herself in the cell itself. Rani, a lactating mother, whose 8 month old baby was weaned away from her to be bottle-fed by her parents as she was in the jail suffered from breast engorgement.

REPORT ON SAND MINING IN AMRAVATHI AND CAUVERY RIVER BASINS IN KARUR DISTRICT 26TH AND 27TH MAY 2004

Rivers are precious natural resource that need to be preserved, through actual efforts to protect and restore them are lagging behind. Mismanaged upper reaches of Amaravathi River is a best example of the man induced activities on forest removal and culture of mono-specific plant species. In the catchment area of Amaravathi river, though located in the so called protected area (Chinnar Wildlife Sanctuary and Eravikulam National Park) was completely denuded in the high altitude where tea gardens are plentiful. It is a proven fact that natural forests especially the riparian trees along the streams or rivers store water under ground when there is excess flow of surface water and during the dry season they discharge into the stream and this is why the perennial flow in peninsular streams. When the riparian trees are removed and replaced by tea or coffee plantations the function of recharge of ground water during rainy season and discharge to surface water during dry season is lost. This will augment the surface flow during rainy days and there will be no storage of ground water resulting in virtual drying of small streams. As many small streams join to form a river the volume of water will be reduced in the main river.

Medleying of this process in the upstream, the middle and lower reaches of Amaravathi river is affected by the mega scale removal of sand from the channel (River bed) resulting in the dropping of ground water table leaving the wells and embankments dry. As the wetted flood plains are lost it furthers the lowering of ground water in the river bed.

The mining was carried out without understanding the sand budget of a particular river reach (a segment of river ranges from 500 meters to 10 Kilometers). Before sand mining, a through site specific hydrologic and hydraulic information are necessary as this will be used to determine the amount of sand that can be removed from the area without causing undue erosion or degradation at the site and also along the banks of a river.

In general, channel and near channel (in the river bed and along the banks) mining will alter the sediment budget thus by resulting in the loss of water storing capacity in the near below ground aquifer. Also, the sand mining generates extra vehicle traffic which negatively impairs the riverine environment.

Mining of sand will induce more bed degradation, which was obvious in various sites visited such as Appipalayam, Anai palayam and the Thirumukkudalur confluence of Cauvery and Amaravathi rivers. At Thirumukkudalur confluence site stream gradient is very low when compared to bank gradient, which shows that the river channel lowered to a level of high impairment. This will damage the bank.

In Lalapet there is a network of roads built inside the river a rare and unique type of perturbation, which cannot be seen in any river systems in the world to-date. Roads inside the catchment area are considered to be detrimental and this activity of road network construction inside the river (because the river is so wide, 3.5 Kilometer width) will clearly gives an idea of the type of disturbance a river system can receive.

(DR. M. ARUNACHALM)
READER
SRI PARAMAKALYANI CENTRE FOR ENVIRONMENTAL SCIENCES,
MANONMANIUM SUNDARANAR UNIVERSITY,
ALWARKURICHI -627412
TAMIL NADU
E-MAIL: tv_l_arunaces@sancharnet.in
m_arunachalam1@rediffmail.com
arunacm@sancharnet.in

FINDINGS OF THE COMMITTEE

1.The June 2003 Report of the High Level Committee for the Study of Rivers and Riverbeds in Tamil Nadu with Reference to Sand Quarrying set up by the Tamil Nadu Government on the basis of which the Tamil Nadu Government issued the G.O.Ms.No.95 Industries (MMC.I) Department dated 1.10.2003 to create a Single Agency System was issued has observed that the usage of machinery like poclaim for removal of sand has caused river bed erosion, collapse of banks, damages to infrastructure like bridges, transmission power lines and drinking water systems.

The High Level Committee has also made the following observations: "It is suggested that no road should be laid in the river bed". While commenting on the so called 'good' roads laid by the earlier private contractors, the High Level Committee has observed that "It is suggested that as far as possible such formation of roads should be avoided. And it is also suggested that machinery like poclain should not be allowed even to form the road on the riverbed/tank ". The Committee also felt that "employment of such heavy machinery will compress the bed, affect aquatic fauna and create imbalance in the river ecology".

But as pointed out by us above, in all but one site we had visited, poclains were found and most cases they were operating to lift and load sand in the lorries. One could infer that poclains are being used for building roads across the river beds to transport sand in the lorries.

We therefore conclude that the contention of Thiru.Jothi Mani, Assistant Executive Engineer, PWD that the poclains we found in Mayanur and Lalapet were only used to remove the vegetation like *ipomia* that is densely grown on the river banks is blatantly false on three counts: 1. We found the poclains in almost all the sites; 2. The net work of new roads laid after the introduction of the Single Agency System was done by the use of poclains; 3. Removal of weeds is used as a ruse for the illegal use of this machine for which no orders of approval of the Government seems to have been granted.

Besides Thiru. Jothi Mani, some other PWD officials whom the members of this Committee and/or of the preliminary committee met have also said that the use of poclains has been allowed by the Government, though they were not prepared to show us any document in support of their claim.

In this connection , we would like to reproduce some of the observations made and directions given by the High Court of Madras in its judgment dated 15.7.1999 disposing of Writ Petitions No.10632 of 1998, 837 of 1999 and WMP Nos.16253 and 16254 of 1999 and 1130/99. While upholding the Rule 36-A of the Tamil Nadu Minor Minerals Concessions Act that proscribes the use of machinery for quarrying sand from river beds, the Court in paragraph (6) of its judgment observed:

"Minerals are part of the material resources which constitutes a nation's natural wealth and if the nation is to advance industrially and if its economy is to be benefited by the proper development and exploitation of these resources, they cannot be permitted to be frittered away and exhausted within a few years by indiscriminate exploitation without any regard to public and national interest. Applying this ratio by use of machineries the lessee would be able to remove the same to the bed of the river and deplete the same deposits within a shortest span. Sands which are deposits for several centuries and which are the natural resources serve the benefit of one and the all cannot be permitted to be exploited for commercial reasons indiscriminately. It has to be remembered that these resources once removed cannot be replaced in the next generation. It will take centuries for replacement. The consequence of the absence of sand in the river bed would seriously affect the ecology and the environment". In paragraph (13) the Court observed: "In order to conserve the minerals and preserve the environment Government thought it fit not to quarry from the riverbed below one meter and if machinery is used, it will go below one meter even at the first strike".

ii) While giving directions to the Government of Tamil Nadu the High Court made the following observations in paragraph (16) of its judgment:

"In one of the directive principles of the State Policy, namely Article 48-A, the Constitution mandated the State to take endeavour to protect the environment and safeguard the forest and wild life of the country. The protection of environment includes the protection of rivers and forests. The Supreme Court in HINDSTONE's case held "rivers, forests, minerals and such other resources constitute a nations' wealth. Hence these resources are not to be frittered away and exhausted by any one generation. Every generation owes a duty to all the succeeding generations to develop and conserve the natural resources of the nation in the best possible way. It is in the interest of mankind. It is in the interest of the nation". In Mukti Sangharsh's case referred to above, the Supreme Court held that there should be a check to balance the preservation of natural gift and social consumption in such a way that water source would not be altered. Sand is a natural formation on the river beds through the natural process over tens and thousands of years. They sustain the rivers and the percolation of water to far off distances both for the growth of trees to sustain drinking water and raise cultivation. It is almost a lifeline to the human existence. Without considering the precise(sic) gift provided by nature, commercial exploitation for short term gains by pumping out the sand indiscriminately from the rivers will destroy not only the river, but also the whole environment. ...People employ huge machineries like cranes and other pumping mechanism through which they suck out the sand within few days which has been formed over centuries. This leads to depletion, destruction, and whole natural beauty of the river apart from causing untold natural calamities and loss to the society. Therefore, in order to maintain the existing balance in the river bed, the Government should make arrangements and provisions to see that the removal of sand is regulated and proper measures are taken. In our neighborhood state of Kerala, there was a report submitted by a Senior Environmental Engineer referred to in a judgment reported in CHANDRASEKHARAN PILLAI VS.STATE OF KERALA (1988 (2)K.L.J.195). On the question whether the extraction of sand causes environmental degradation, it was stated as follows:

"The extraction of sand will cause environmental degradation such as:

- (a) This will spoil the normal gradient (slope) of the river bed and thereby affect the self-clearing velocity of the river.
- (b) This will give chances to the accumulation of silt and dirt and affects water quality.
- (c) Reduces ground water table during the summer, and causes drinking water shortage.
- (d) Land slides on river banks.
- (e) Affects the water management structures, bridges, retaining walls etc.

In the light of these and other observations made by the Court, it directed the Tamil Nadu State Government to immediately take the following measures:

- (1) To clearly define the river bank and fix permanent marks so as to enable the clear determination of the river bank on either side in reference to all the rivers in Tamil Nadu where quarrying is permitted or at least the portions over which quarrying is permitted.
- (2) To specify the normal sand bed level for the respective rivers and after such demarcations to mark the level with some permanent benchmark on the river bank for the purpose of quarrying.

- (3) To ban the removal or extraction of sand from such rivers where the present sand bed level is below the required level as fixed by the State.
- (4) To form a river management committee or an action committee by the District Collector or the Tahsildar with the co-operation of voluntary agencies so as to ensure that sand is being collected in strict compliance with the restriction laid down by the authorities and the rules and the lease deeds. The wastages and impurities especially those from the septic tanks should not be permitted to open into the river.
- (5) The encroachments are to be prohibited and existing encroachments are to be evicted summarily from the river beds.
- (6) The Forest Department is to be given priority in conservation of forests at the origination point of the rivers.

3. In paragraph 5 of the above Judgment , the High Court of Madras has observed: "At the outset it has to be stated that the Amaravathi river bed is a source of indiscriminate removal of sand leading to hundreds of writ petitions and orders passed in reference to the removal of sand from this river". The High Level Committee entitled the PWD to identify the rivers in Tamil Nadu where the sand can be extracted. The list of such rivers given on page 46 of the Committee's Report of June 2003 does not include Amaravathi River. The District Munsiff Court, Dharapuram in its judgment referred to above has issued injunction orders against sand mining in this river. It is therefore surprising that the PWD has chosen to quarry sand in this river as well.

4. the sand quarrying is done not only in the river basin, the embankments are also not spared. We could see that sand has been scooped even 20-25 ft deep in the embankments. Roots of the plants on the embankment are fully exposed and hang in the air. To our shock, the burial ground near the embankment at Nathamedu has also been encroached. We could see besides human bones, the mats and pillows on which the dead bodies were laid lying partially buried in the sand. One of the PWD officials, the preliminary committee members met justified the excavation of sand from the embankment. He was of the opinion that the law restricts the depth of sand up to one meter only in the river basin but not in the embankment and that the excavation in the embankments can go to any depth. Moreover he was of the opinion that to maintain the flow of water the sand needs to be removed periodically and the sand quarrying is being done as per the law.

It is pertinent to point out that Thiru. E.Annamalai, the District collector himself has admitted that the quantity of sand that is being extracted by the PWD has far exceeded the quantity that would have otherwise been mined by private contractors and that if such massive extraction is allowed, hardly any sand would be left for construction of houses in future. The PWD is concerned only with the commercial aspect of sand mining and the instance where it tried to overrule the objections made by the Collector with the help of a high ranking PWD Engineer against quarrying of sand in Moolathurai and two other villages is a tell-tale reflection of their outlook.

5. Because of the constant flow of the traffic of lorries to and from the sand mining sites the roads are full of pot holes while the entrances to the sites are slushy.

6. Sand mining in Cauvery and Amaravathi has resulted depletion of ground water in the surrounding areas, destruction of vegetation and agriculture, aggravated drinking water problem and people's access to these rivers.

7. The illegal sand mining in Amaravathi and Cauvery river basins is rampant as the quality and quantity of sand available here are high. The statement of Thiru. Nirmalraj, the Revenue Divisional Officer, Karur that the Revenue Department fetched a sum of about Rs 40-50 lakhs during last year by way of imposing fines on those who transported illicitly mined sand is a telling evidence to the extent to which the illicit sand lifting is going on.

8. Because of excessive sand mining the ground water table has gone down drastically in Nathamedu village. Very less amount of water is left for agriculture and cattle. People in Nathamedu and neighbouring villages have been protesting against sand mining since long but without any positive result.

9. As regards the wet sand we found loaded in several lorries in Thirumukkudalur, we would like to reproduce the observation of the High Level Committee in its Report of June 2003 (p.28): "Further, mining of water-saturated sand results in loss of large amounts of water by evaporation. For example, normally sorted medium size river sand shall have a porosity of 25%. This means a lorry load of wet sand may contain at least about 1000 litres of water".

10. Though several experts and the Courts have pointed out the impact of sand mining on ground water level, several PWD officials particularly Thiru. Jothi Mani, Assistant Executive Engineer whom we met seemed to simply deny any correlation between these two. We therefore consider it pertinent to quote the observations of the High Level Committee: " Sand mining operation can lower the groundwater table if excavation occurs at a depth below the average High table;(the) exposure of groundwater to the surface...results in lowering of groundwater head in adjoining area. Further, large scale removal of sand and subsequent exposure of groundwater leads in the loss of groundwater by evaporation"; "In general, riverbed degradation by mining lowers the elevation of stream flow and the floodplain water table, which in turn can eliminate water table-dependent vegetation in banks"; "During low flow periods this relationship is crucial in ensuring that adequate water is supplied to rivers to support some basic aquatic ecosystems. The average depth of the groundwater table would be required information that should be specified before leasing a region for sand quarrying. In general mining of sand should be restricted within one meter of the high groundwater table". The High Level Committee has also pointed out the impact the sand mining makes on the irrigation sources of the farmers: " The depths of water in these wells are directly related to the catchment capability of the riverbed, which is directly related to the nature of the bed, that is sand. Excavation of sand to greater depths exposing the rock or clay or pebbles as seen in different quarries can have a gradual but very fateful impact on the water source of this region. Constant movement of heavy machinery for quarrying, and heavy vehicles such as trucks on such excavated riverbeds can compact the soil, preventing percolation of water for recharge."

11. We found that not only most of the guidelines set by the Court and the High Level Committee are not adhered to by the PWD but it also functions as a cover for the private contractors who make big money by the simplest way of mining sand. The Single Agency System the Tamil Nadu Government has introduced entrusts the work of sand mining to PWD alone. The PWD can give

contracts through tender system only for loading and transporting the sand to its depots. But in all the mining sites we have visited we found earth movers like poclains belonging to private contractors mining and loading the sand into the lorries which straight away transport the sand to the places where it is sold. The poclain we found on the bank of Amaravathi in Anaipalayam did not have any registration number. In all the mining sites we visited, the name of the loading and transporting contractor was reported to be one Subramaniam of Karur. In the Government Order No.95 Industries (MMC.I) Department dated 1.10.2003 by which the Single Agency System came into force it is said that "even though several rules on sand mining exist, illegal quarrying of sand is out of control. Authority for regulating sand mining is vested with different organizations such as State Geology and Mining Department, Revenue Department and Public Works Department. Hence, implementation and monitoring of rules and regulations regarding sand quarrying are not effective. This important task of sand mining therefore, should be entrusted to a SINGLE AGENCY". But whereas there was at least some cross checking and balancing acts due to the involvement of other departments like Geology and Mining and Revenue before the introduction of the Single Agency system, there is now no accountability on the part of PWD.

12. The High Level Committee in its Report of June 2003 (page 40) has given the list of rivers identified by the PWD for sand mining. It is shown that 1,50,50,000 cubic meter of sand is available in Coleroon (Kollidam) whereas the sand available in Cauvery (in the four districts of Karur, Erode, Namakkal and Trichy) is only 13,00,000 cubic meters. It is not known why the sand mining is continued to be done in Cauvery which is a lifeline to thousands and thousands of people in these districts while no initiative has been made to tap the sand wealth in Kollidam.

13. Determining a sand budget (quantum of sand available for mining) for a particular river reach requires site-specific, topographic, hydrologic and hydraulic information. This will be used to determine the amount of sand that can be removed from an area without causing undue erosion or degradation. Such a scientific method does not appear to have been adopted by the PWD since there is no involvement of geology and mining department in the Single Agency System.

14. In view of these findings, we are afraid that the recent decision of Government of Tamil Nadu to reduce the price of sand quarried by PWD in the name of making the sand available to "common public at affordable prices thereby effecting reduction in the cost of construction" would only lead to much more mindless and indiscriminate sand quarrying thus doing great harm to the ecology, environment and livelihood of present and future generation.

15. We would like to place on record our deep appreciation and respect for hundreds of nameless villagers in Erode and Karur districts who continue to protest through democratic means against indiscriminate sand mining as their very livelihood is at stake. The records available with the PWD themselves speak volumes about these protests.

16. We are amazed by the tenacity and consistency with which the villagers and the grassroots organizations, particularly SWATE and Forum, have been fighting for the drinking water and livelihood resources of the people in Karur district. We should also acknowledge the support and solidarity rendered by Thiru. P.R.Kuppusamy, a leading lawyer, writer and a dynamic social activist who has been passionately involved in the cause of Amaravathi-Cauvery basin farmers. We consider it very relevant to give in Appendix 6 excerpts from the Judgment dated 30.4.2001 of the High Court of Madras on the public interest writ petition No 16010/1997 filed by Thiru. P.R.Kuppusamy and Thiru. R.Karikalan, a leading activist in the Forum challenging the government

order granting license for quarrying sand in Cauvery river in Mayanur. The Judgment that went in favour of the petitioners, exposed the great frauds committed by the contractor and the authorities at the higher levels of power including the ministerial one in the successive governments (both AIADMK and DMK). Such frauds, in some form or other, seem to be perpetuating themselves even during the days of the Single Agency System. It is unfortunate that the Supreme Court in its order dated 11.11.2002 on the Special Leave Petitions to Appeal (Civil) No.10296-10300/2001 of the contractor R.K.Ramasamy has stayed the operative part of the High court Judgment. The Government of Tamil Nadu has filed a counter-affidavit refuting all the contentions of the contractor and prayed for the dismissal of his appeal petitions and upholding the High Court orders. The case is still pending final disposal in the Supreme Court.

As could be seen from the history of the struggle, all the activities resorted to by the protesters have been within the democratic, peaceful and non-violent norms and no harm was done either to human beings or to any public or private property. Only occasion the protesters ever laid their hands on any government property was when they threw a few sand bags into Amaravathi river where the PWD had a plan to mine sand where super exploitation of this material had been done to the detriment of the ecology of the river. There is not even a trace of suggestion in the extensive press coverage their protests including the one in Nathamedu had been receiving that their actions had ever been violent or illegal.

These wild, absurd and blatantly false claims of the police are repudiated by the evidences that can be collated from the photographs and the video-graphs taken by the presspersons as well as by the members of the Forum in which both the protesters and the lathi wielding policemen figure and a wide coverage of the incident had received from both the printed and electronic media which clearly indicate the nature of the peaceful gathering of the activists of Forum and the villagers on the bank of Amaravathi in Nathamedu.

Sixteen persons against whom TNPPD (DL) Act has been invoked are alleged to have threatened to assault a poclairn operator and have caused damage to an excavator chain. This is a blatantly a false accusation made deliberately to terrorise the people who fight for their basic rights into meek submission and resignation. Even if it is true, it only shows that the PWD has violated the recommendations and guidelines of the High Level Committee that proscribe the use of poclairns. The police have made out a case that 50 persons kept in the private wedding hall throughout the night of 25.2.2004 to be arrested only next day, that too when they were sitting near the river bank and conspiring to carry out anti-government and violent activities. The Superintendent of Police, Karur, and the Inspector of Police, Mayanur and the Revenue Divisional Officer, Karur whom we met were unable to assert that the protesters indulged in violent activities.

Some of these offences for which the people are charged are very stringent and totally unwarranted in dealing with peaceful and non violent protests. It may be recalled that even while dealing with certain earlier instances of protests launched at the initiative of the Forum (for example, the road rokos and throwing of the sandbags into the river) or many other instances of road blocking etc., resorted to by various sections of the people in many parts of the State, such stringent acts are only rarely invoked in disproportion to the nature of peaceful protest. These includes Acts relating to unlawful assembly, rioting, assault or use of force to deter public servants from discharging their duty, disobedience to order duly promulgated by public servant,

criminal intimidation and damaging public property. It must be mentioned that the 50 persons who were remanded to judicial custody subsequent to the first batch of 282 persons were detained in the Kalyana Mandapam for a whole night and allegedly harassed by the police who refused to allow even their lawyers to talk to them. Though the Judicial Magistrate II, Kulithalai went to the Kalyana Mandapam concerned to issue orders to remand the 282 persons on the night of 25.02.2004 and 50 others on 26.2.2004 neither she nor the police have followed proper procedural norms to deal with the remaining persons. No custody /arrest memo as per the requirements of the Supreme Court Order in D.K.Basu Vs State of West Bengal were given to any of the persons arrested. Even after witnessing the third batch of 50 persons arrested kept in the wedding hall, since 25.02.2004 she accepted the FIR of the police who made out that these persons were arrested only on 26.2.2004.

While bail was granted by the Judicial Magistrate II, Kulithalai for 316 persons, as regards the 16 persons against whom TNPPD (DL) Act has been invoked they were incarcerated in Trichy Central Prison for more than 15 days. Their bail application was rejected by the District (Sessions) Judge, Karur. They were able to get conditional bail from the High Court which ordered them to remain in Madurai and sign in a police station every day(vide CRL.O.P.No. 8361/2004 by Order dated 11.03.2004 of the High Court). Another two weeks had to pass before the condition was relaxed by the High Court. The cases against them and the other 316 persons have not yet been withdrawn.

The 16 persons against whom TNPPD (DL) has been invoked are:

Christina Samy W/o L.A.Samy. 2.Manjula w/o Raju; 3.,S.V.Periyasamy S/o Vellaiyappa Gounder;4.Lakshmi W/o Kaththaan; 5.Karuppannan S/o Velusamy; 6.Jayaram S/o Pommareddy; 7.Ramasamy S/o Palaniyappa Cettiyar; 8.Karikalan S/o Rethinam; 9.Rajasekar S/o Govindasamy; 10.Muthusamy S/o Karuppan; 11.L.P.Subramaniyan S/o Perumal; 12.Padmawathy W/o Mani; 13..Meganathan S/o Muthusamy; 14.Pakkiam W/o Arumugam; 15.Darmadurai S/o Karuppan; 16.Kandasamy S/o Ramasamy

Christina Samy, the accused No.1 is the Secretary of SWATE, a grassroots organisation with a membership of over 8000 rural women. This organisation has been involved in a number of women related struggles like Anti-liquor Campaign, Anti-Dowry Campaign, Campaign against violence on women and women empowerment besides various social and environmental issues. She was awarded the prestigious Florence Nightingale Award by the Medicos Del Mundo (Doctors of the World), Spain in recognition of her works for gender equality and justice. Manjula, Lakshmi, Padmavathy and Bakkiam, accused Nos 2, 4, 12 and 14 respectively are also office bearers of SWATE; S.V.Periyasamy and Karuppannan, accused Nos. 3 and 5 respectively are former Chairpersons of Major Panchayats in Karur District. R.Karikalan is a dynamic social activist who played a key role in the consistent struggles against indiscriminate sand mining from 1989 onwards. He was a signatory to a number of petitions submitted to government over the years and also in a number of public interest litigations including the one disposed off by Justice E.Padmanaban and Justice S. Jagadeesan mentioned in the history of the struggle appended to this report. K. Muthusamy who figures in the list of 16 people is a leader of small farmers association and the Superintendent of Police, Karur whom we met was given such false information by his subordinates that he confused this Muthusamy with another R. Muthusamy who was a henchman of a private contractor involved in illicit sand mining years ago. M. Meganathan is a committed dalit activist. The others such as G. Rajasekar in this list are also social activists and

responsible citizens with deep roots in their social communities. Only crime they have committed was being in the forefront of the peaceful, non-violent and democratic struggle of the people to protect their water and livelihood resources.

RECOMMENDATIONS AND DEMANDS

1. We call upon the Tamil Nadu Government to take immediate steps to strictly implement the Guidelines set by the Courts and by the High Level Committee in its Report of 2003 with regard to the sand mining and also in pursuance of the Directive Principles (Article 48 A of the Constitution), and as a first step immediately stop the use of earth movers, cranes and other heavy machinery in the river banks as well as in the river beds and employ (wo)man power as it would provide employment to the rural poor besides being environment friendly.

2. The Tamil Nadu Minor Mineral Concession Rules, 1959 and Mines and Minerals (Regulations and Development) Act 1957 must be reviewed and the focus should be on the principles of conservation and regeneration of minor minerals and other gifts of nature but not on the commercial exploitation of them.

3. No sand dunes, barrier dunes should be allowed to be mined. This would lead to serious environmental complications. Along the coast barrier, dunes should not be touched, not only for mining sand but also for exploiting any mineral / major mineral.

4. The Government of Tamil Nadu should form district level River Management Committees consisting of PWD and Revenue officials, scientists, social scientists, environmentalists, representatives from local government bodies, representatives of farmers' associations and NGOs. These Committees should conduct public hearings with the villagers before quarrying sand from a particular site is decided.

5. We recommend a thorough study of all the river basins, which should be done panchayat by panchayat to identify the sand mining sites. This would help avoid choosing environmentally sensitive areas for sand mining. The study team should include environmental scientists, judges, PWD and Revenue officials and panchayat presidents. This should be done to identify appropriate sites for mining sand through out Tamil Nadu. Only after submitting these reports and getting orders of the appropriate Court based on these reports, sand quarrying in any particular site should be commenced. The committee should be vested with powers to inspect the sand mining sites at any point of time. Steps should be taken to demarcate the river boundaries and to protect it. Government should consider the constitution of River Protection Force.

6. The Power to Grant Lease licence should be vested with the Committees (to be formed at district levels) consisting of :

scientists, social – experts, and environmentalists, panchayats / municipality representatives, representatives of farmers' associations and ngo's.

ii) This Committee should frame proper rules after a thorough review of the Tamil Nadu Minor Mineral Concession Rules, 1959 and Mines and Minerals (Regulation and Development) Act 1957.

7. The rules should inter alia contain the following:

- (a) No mining should be permitted for a depth exceeding 3 feet; in any case area where sand has been mined for 3 feet from the bank of the river no mining should be permitted permanently.
- (b) Before granting the lease and also before renewing the lease for a further period, the Committee should inspect the site; there should be a public hearing inviting opinions and objections and there should be an Environmental Impact Assessment Report.
- (c) If any lease has exceeded the area of mining in terms of length, width and depth, the lessee shall not be granted any lease till the area illegally mined and so violated, is restored to its area originally prescribed. Besides the lessee should be liable for payment of compensation as may be ordered by the Committee to the families, State and community.
- (d) The Committee should have the powers to inspect the mining area from time to time and shall suggest such remedial measures as may be necessary in the interests of the people affected by such violations of environment.
- (e) The Committee may initiate action through the State River Management Authority to carry out by capable persons / organisations Geo-environmental studies for Sand Mining in River beds, coastal areas and hilly regions. Such studies should clearly bring out (i) the Environmental Resource Appraisal (ERA) indicating all available resources of different kinds in each specified area, (ii) Environmental Impact Assessment (EIA) if mining is carried out upto the specified limits, and (iii) Environmental Management Planning (EMP) incorporating suggestions for sustainable development. These reports should form the basis for granting licences for sand mining.

8. Monitoring Committees should be constituted in all Panchayats and made functional before allowing sand mining. They shall point out all the violation of conditions. All reports submitted by Gramasamithi members and the public should be considered immediately by the District Collector, or police officials and other authorities and immediate action taken to prevent such violation.

9. For each District, the District Court should be empowered to do the following:

- i. to entertain complaints about sand – mining.
- ii. to appoint committee on receipt of such complaints to inspect and make a report about the complaint.
- iii. on receipt of the report, to grant stay of further mining.

- iv. and to refer the complaints to the committee to consider them as mentioned above. The committee will then decide what steps should be taken, including cancellation of lease, but after hearing the parties, including the people affected by such mining.

10. River sand should not be allowed to be taken outside the State.

11. It is high time that the Government of Tamil Nadu explore alternatives to river sand for the purpose of construction of buildings, especially the residential ones.

12. All police authorities, including the Commissioners of Police must be entrusted with the responsibility of ensuring that not illegal sand mining is being done in violation of act and rules.

13.. We call upon the Government of Tamil Nadu and the concerned district authorities in Karur district to withdraw unconditionally all the cases booked against the persons who participated in the protests against indiscriminate sand mining by the PWD and desist from foisting cases especially with draconian provisions of TNPPD (DL) Act on such the people who deserve rewards and awards from the Government for having volunteered to protect the environment and drinking and livelihood sources of thousands and thousands of people in Karur district.

V.Karuppan, IAS (Retd.)
Convenor, NCDHRT.N.

Dr.N.Markandan,
Former Vice Chancellor,
Gandhigram Rural

University,
Tamil Nadu

K.Manoharan (S.V.Rajadurai),
Writer and Human Rights Activist
Human

P.V.Bakthavatchalam,
Senior Advocate and

Rights Activist

Dr. M.Arunachalam,
Environmental Scientist
Manonmaniyam Sundaranar University
Association, (AIDWA)

S.Valentina
State Joint Secretary
All India Democratic Women's

JesuRethinam
Advocate
Convenor

T.Fatimson, Convenor,

and

Campaign for Right to
Coastal Action Network, Tamil Nadu

Livelihood and Food Security,
Tamil Nadu

Appendix 1

History of the struggle against illegal and indiscriminate sand mining in Amaravathi and Cauvery rivers in Karur district.

Kattalai, Renganathapuram, Mayanoor Villages in Karur District in Tamil Nadu lie near the confluence of the rivers Cauvery and Amaravathi in Karur District. Naturally, all the cultivable lands in this region were endowed with very good irrigation facilities: the canals and the wells ensured perennial water supply and the farmers were able to raise three crops an year. All these became a non-reality, when the Tamil Nadu Government permitted sand quarrying in 1989, allowing the private contractor to gain huge profits by exploiting sand as a minor mineral.

As per legal requirements under the Tamil Nadu Minor Minerals Concession Rules, 1959, the then District Collector of Trichy gave the contractor, M.Palanisamy of Coimbatore district, the permit for sand quarrying in Cauvery on June 1, 1989. Though there are strict rules and regulations laid down in The Mines and Minerals (Regulation and Development) Act, 1957 such as that one should quarry the sand only up to a depth of 1 meter and that no machines should be used etc., the contractor was alleged, with the backing of the administrative and police authorities and the powerful political parties, to be quarrying sand to a depth of 10 to 20 feet through deploying sand excavations machines (Poclain) to lift sand from inside the river bed. This contractor was said to have quarried and transported between 500 and 1500 lorry loads of sand every day. This resulted in a sudden drying up of irrigation wells and even the course of the river changed. While the water table of the river widely seen going down drastically, the level of irrigation canals remained higher than the level of water flowing in the river. In short, the irrigation canals became extinct.

As the unimpeded sand quarrying has altered the courses of Amaravathi and Cauvery Rivers in Tamil Nadu and disturbed the ecological balance enormously thus dangerously affecting the drinking water and livelihood sources of the people of Karur district, the Forum for the Protection of Water and Livelihood Rights, Karur District (FPWLR or Forum) has been doing its best to highlight these issues and get remedies through all democratic means available. Forum consists of grass roots organisations such as All Small Farmers Lift Irrigation Associations SWATE, People's Development Movement (PDM), Karur District All Labourers' Union (KADALU), Dalit Rights Awareness Liberation Movement (DRALM) and Women Movement Against Poverty and Violence – Tamil Nadu (Women Ma Po Vi) and the local representatives of the political parties.

SWATE (Society of Women in Action for Total Empowerment) based at Veerarakkiam village of Karur District has remained the mainstay of the Forum and initiated the protracted struggle against illegal and indiscriminate sand mining by involving various farmers' organisations. In the course of its long struggle it has also addressed a number of social and cultural problems resulted as the by-product of the operations of the private sand miners and transporters. It found that the prostitution and the illicit brewing of liquor were becoming rampant in the areas where activities connected with sand mining were going on and that instances of rape, forcible abortions and murders by anti-

social elements and the accidental deaths of men and women workers employed for sand mining were also reported from time to time. SWATE was also hearing complaints from the local populace that their protests were being quelled by the money and muscle power of the private contractors. SWATE therefore combined all these issues when addressing the question of sand mining and in the process of which it itself faced a number of threats from the vested interests. The culmination of these threats was the setting fire to its office building at Veerarakkiyam on the late evening of 7.3.1999 by some miscreants. Though complaint was lodged with the police immediately, followed by a one day hunger fast organised at Chennai on 17.5.1999 the culprits have not so far been traced and brought to book just as the police chose to ignore earlier complaints regarding the threats faced by SWATE.

STRUGGLE AGAINST PRIVATE CONTRACTORS

The initiatives taken or facilitated by SWATE and/or the Forum are given below in chronological order:

1.Civil Suit No.OS 59/60 filed in the Court of District Munsiff, Karur by Kattalai Small Farmers Association seeking injunction against indiscriminate mining of sand by the private contractor M. Palanisamy in the river bed of Cauvery between 0.0 to 2 miles in Kattalai village as he was violating the norms laid by the Government and also in view of the damage the sand mining causes to drinking and irrigation water sources, roads and bridges and the environment. At the first instance, temporary injunction for a period up to 28.2.1990 was granted by the Court in its order dated 30.1.1990. But subsequently in the Court's final judgment dated 27.1.1992, it was vacated with direction that the lessee shall comply strictly with the conditions of the grant.

2.Public Interest Litigation (WP 5762/90) filed in the High Court, Madras challenging the permission given by the District Collector of Trichirapalli to the private contractor M. Palanisamy for sand mining. The High Court in its order dated 4.5.1990 gave interim injunction for sand mining. Again in its order dated 5.8.1992, the court ordered that the interim injunction granted "be made absolute" and the private contractor and the government authorities concerned 'do continue to be restrained in excavating the sand contrary to the condition imposed".

3.Road roko between Kattalai and Ranganathapuram villages were planned for 25.11.1991. But it was withdrawn after the peace meeting held by the Tahsildar, Kulithalai on 23.11.1991 in Kattalai village. The senior citizens of the village, the representatives of the private contractor and the officials of the High Ways department attended the meeting. The following resolutions were made in the peace meeting:

- i. It was agreed that the road from Kattalai leading to Trichy-Karur Highway will be repaired. After the rainy season a tar road will be laid.
- ii.The lorries carrying sand would not be allowed to pass through the village and instead they will be diverted through another road adjoining the village.
- iii.The first stage of repairing the road should be completed before 30.11.1991 and until that date no lorries would be allowed on the road.
- iv.The sand spilled from the lorries should be removed by the private contractor at his own expense.

4. Road Blocks were organized on 27.4.1992, 5.4.1996 and 15.11.1996 to draw the attention of the government authorities to the ire and indignation of the local villagers about the indifference of the former to the ecological and social problems caused by the sand mining by private contractors.

5. During the period from 1.11.1992 to 19.11.2000, 24 petitions had been submitted to the Chief Minister of Tamil Nadu, the District Collector, Karur, the

authorities of Public Works Department and Geology and Mining Department and the police authorities drawing their attention to the illegal and indiscriminate sand mining (gist of the petitions are given in Appendix 2)

6. Peace talks were held with the Assistant Director of Geology and Minerals Department, Trichy, the Tahsildar, Kulithalai and the Sub Inspector of Police, Kulithalai on 4.4.1996 to stop the illegal activities of the private contractors.

7. Another Writ Petition No. 16010 of 1997 was filed in public interest praying for quashing of the Government Order giving license to one R.K.Ramasamy of Coimbatore for sand mining in Cauvery river in Mayanur and ordering payment of compensation by the contractor for the damages caused to the environment and drinking water and irrigation facilities in this area. In a historical judgement dated 30.04.2001 on the writ petition, the division bench of the High Court comprising of Justice S.Jagadeesan and Justice E.Padmanabhan besides quashing THE Government Order that gave the license to one R.K.Ramasamy for quarrying sand in Cauvery river bed in Mayanur , ordered a CBI probe into the matter and directed the concerned district collectors to estimate the loss and recover it from him.

8. With SWATE as the main component, the Forum launched from November 2002 continuous non violent and peaceful protest actions against illegal sand mining in Cauvery and Amaravathi river basins in Karur District by the private contractors. The mining was done in violation of the rules and regulations of the Minor Minerals Concessions Rules. A Protest Rally was organised on 29.11.2002 against illegal sand mining demanding to stop laying in the river bed of the road which disrupts villager's access to water and their transport facilities and other basic needs. At the end of the Rally a petition was sent to concerned authorities to take immediate action. But there was no action taken by the officials.

9. A One- day fasting of the villagers in front of the Collectorate, Karur District was organised on 31.03.2003 to stop illegal sand mining in at Lalapet in Kulithalai Taluk in Cauvery river basin and protect the water and livelihood resources. The Forum urged the State Government to intervene immediately and take stringent action to stop illegal sand mining in Lalapet. After the end of the token fast , a telegram was sent to the District Collector calling upon him to take action to stop sand mining within a week and informing him that the Forum would organise a road roko if no action was taken by the Collector. Copy of the telegram together with a statement was also released to the press.

10. As there was no response from the District Collector, a mass protest and road roko took place at Lalapet and then in Kulithalai on 9.4.2003. More than 7000 people gathered at Lalapet around

10.00 a.m. from all over Karur District to protest against the illegal sand mining in Cauvery river basin at Lalapet, Thottakurichi and Srinivasanallur of Karur District. The following demands endorsed by the mass of the people who participated in the road roko were submitted by the Forum to the concerned authorities as well as to the Government of Tamil Nadu:

- Cancel all the permits given to quarry sand in Cauvery and Amaravathi River basin.
- Cancel the permit that extends the period of sand quarrying.
- Ensure that no permit will be given again for sand quarrying in rivers until the rivers regain their natural flow.
- Make public aware of the extent of area for which is given for sand quarrying at Lalapet in Cauvery river basin and ensure the physical marking of the quarrying area be done.
- Remove the road constructed inside the river bed and restore the natural condition of the river.
- Ban the use of poclain and other giant machines that are used for mining Sand.
- Issue special orders to prevent the lorries and bullock carts from carrying sand to other states or other districts of Tamil Nadu from Karur District.

As neither the District Collector nor any other district administrative authorities turned up to listen to the grievances of the people, the road roko continued preventing, besides the normal traffic, the lorries that carried sand. When the protesters learnt around 2 P.M. that the traffic was being diverted from Kulithalai, which is about 10 kilometers from Lalapet, they shifted their site of road roko to Kulithalai and continued their struggle. The traffic in National Highway between Trichy and Karur was paralysed for about 7 hours. Irked by the indifference of the district collector and other administrative authorities who did not care to turn up to meet the protestors till 5 PM, the protesters became restive and started raising slogans against the Collector. They even went to the extent of shouting that the "Collector is dead". The protesters with a view not to disrupt the traffic and cause inconvenience to the general public wound up the rail roko with a note that "this protest may end today but the struggle will continue till we get justice".

While the district administration remained indifferent to the struggle, the police swung into action and filed cases under section 147, 341 353, 188 IPC in Lalapet and Kulithalai police stations against the following persons in connection with the road roko:

Chrisitina Samy; P.R.Kuppusamy, Advocate, Karur; Meganathan, Dalit Panthers ; S.V.Periasamy; Chandrasekhar; Viswanathan and Senthil. All these persons who surrendered before the criminal court were later released on bail.

SINGLE AGENCY SYSTEM AND THE ACTIONS OF THE FORUM

In the meanwhile a High Level Committee for the Study of Rivers and Riverbeds in Tamil Nadu with reference to Sand Quarrying was set up by the Government of Tamil Nadu in compliance with the Judgment Order dated 26.7.2002 of the High Court, Madras in a public interest litigation. The Committee submitted its Report to the Government in June 2003. Based on the observations and recommendations made by the High Level Committee, the Government of Tamil Nadu issued the G.O.Ms No.95 Industries (MMC.I) Department dated 1.10.2003 by which the private contract system was abolished and Single Agency System authorising the Public Works Department (PWD) to quarry and sell sand from various sites in Tamil Nadu created. The main observations and recommendations of the High Level Committee are given in Appendix 3.

This system came into operation from 5th October 2003 by virtue of another Government Order. PWD was authorised to quarry sand from 239 selected safe spots in river and canal beds throughout the state and market them through 95 depots at the rate of Rs.1000 per lorry load. In Karur district the state government has identified 8 sites for quarrying sands. Out of these, three sites were exploited by the private contractors earlier.

8th October 2003

While the Forum welcomed the decision of the State Government to do away with the private contract system for extracting and selling sand, it found to its dismay that none of the guidelines and recommendations made by the High Level Committee was being observed by the PWD from the day one it took over the responsibility of sand mining and selling. In its meeting on 8.10.2003 it recorded the following observations:

- PWD is using (poelain) sand excavation machines and also for loading on to lorries.
- Motor vehicles are entering the river beds damaging the banks.
- Roads are laid across the river.
- Sand is lifted round the clock though it supposed to stop at 6.30 p.m.

- There is no clear-cut lease deed for any of the places where sand is quarried.

- A 5 k.m.stretch inside the river bed has been handed over to the PWD to extract sand.

- PWD issued tenders to private contractors for collecting sand and loading sand on to the lorries.

- The sales depots of the PWD are inside the river.

- Up to 20 feet sand has been removed closer to the embankments of the River Basin in Amaravathi and Cauvery.
- There is no display of information boards displaying the details of the extent of area of sand mining, the quantity to be extracted, the names of the contractors to whom the work of loading and transporting sand has been given.
- There is no technical person to supervise sand quarrying in any of the sites excepting collecting Rs.1042 for 2 units of sand per lorry.

Considering all these facts, Forum submitted petitions to District Collector and the PWD authorities to take appropriate action against illegal (i.e. one that violates all norms) sand quarrying.

23rd November 2003

On learning that the PWD had planned for sand quarrying in River Cauvery Basin near Kattalai village and started preparatory work from Saturday 22nd November 2003, the Forum decided to mobilise the farmers in the neighbouring villages to protest against the decision of the PWD since in this part of the river bed sand had been quarried continuously for 10 years and the river bed had gone down below 20 feet. Forum members and farmers from more than 15 villages around Kattalai formed human chain as a protest to PWD's action.

24th November 2003

Protesting against the decision to quarry sand in Cauvery river bed near Kattalai village, the Forum submitted petitions to the District Collector and PWD authorities.

25th November 2003

A delegation from the Forum met Thiru.Chennakesavan, Revenue Divisional Officer, and Karur and handed over a petition requesting to stop sand quarrying in Kattalai and neighbouring villages. When Thiru .Chennakesavan visited the places on the same day, the farmers urged him not to allow the mining of sand from that village, as the members of the 21 lift irrigation farmers associations in these villages receive water from Kattalai for agriculture purpose while 3 town panchayats viz Thanthoni, Puliur and Uppidamangalam receive water for drinking purpose. The Revenue Inspector who accompanied the RDO assured the villagers that sand would not be quarried any more from that place.

8th December 2003

The concerned authorities not only remained silent over the petitions submitted by the Forum as well as to the pleas made by the villagers but commenced preparatory works for sand mining in Amaravathi river basin such as laying roads connecting the two banks of the river vertically from Thirumukkudalur to Nathamedu villages for transporting sand across the river. Agitated by this development and perceiving the retardation to the flow of the river and the damage to the ecology of the river that the laying of such a road would cause, on December 8th 2003, about 400 people, most of them members of the Forum from surrounding 8 villages of Nathamedu, Melakkattalai, Kattalai, Veerarakkiam, Natarajapuram, Kulathupalayam, Uppidamangalam and Puliur reached the river bed to protest against laying of road. The protesters threw the sand bags kept by the PWD to lay the road into water as a mark of their protest. Then they formed a human chain raising slogans such as "we protect water, we protect sand and land, we protect people, and we will not let our livelihood resources to be destroyed or looted".

Police in big number came to the spot and took into custody 42 people. Out of them the following 28 women and men were arrested under sections IPC 147, 427, 435 and remanded to judicial custody at the Central Prison, Trichy:

Women:

1. Manjula 2.Chinnammal 3.Selvi 4.Chinnapponnu, 5.Kamatchi 6.Thangammal 7. Bakkiam 8. Sumathi 9.Palaniammal.

Men:

10.S.Mahalingam 11.S.Arjunan 12.E.Maniappan 13.S.Murugesan 14.A.Velusamy 15.K.Sakthivel 16.M.Murugesan 17.C.Ponnusamy 18.G.Rajasekar 19.K.Ramalingam 20.K.Saravanakumar 21.K.Ramasamy 22.P.Vengatesan 23.K.S.Mahadevan, 24. K.Murugesan 25.V.Ramasamy 26.P.Subramanian 27.T.Lingamoorthy 28.L.P.Murugesan.

They were released on bail 10.12.2003 but the case against them has not so far been withdrawn.

13th December 2003

The Forum organised a press meet condemning this arrest and explained its position with regard to sand quarrying in Karur District in particular and in Tamil Nadu in general.. Number of farmers' associations and human rights organisation had also extended their solidarity to the struggle.

16th December 2003

With a view to broad base its campaign and draw the attention of a wider public to the negative results of indiscriminate sand mining that affects the water and livelihood resources, the Forum members met on 10.12.2003 and after an elaborate discussion on the next level of plan of action, decided to organise a Farmers' Conference on 9th February 2004 at Karur with the following objectives:

To create awareness amongst the people about their rights to water rights and their duty to protect them.

- To make the Tamil Nadu Government aware of the determination of the farmers and the common people to save the rivers by preventing pollution and protecting the sand.
- To assert that the access to and control over food, livelihood resources are basic rights of people and that they would not allow any legislation, agreements or policies at State, National or International levels to control these basic rights.
- To pressurise the Tami Nadu Government to evolve a clear policy on sand quarrying in the rivers of Tamil Nadu, taking into account the number of recommendations contained in High Court directions, the High Level Committee Report and the findings of the existing scientific researches as well as a clear cut State policy on Water related issues.

9th February 2004 FARMERS' CONFERENCE

In the Farmers' Conference at Karur on 9.2.2004 attended by nearly 10000 people addressed by a number of prominent citizens including Justice H.Suresh, a retired judge of Bombay High Court, the following observations were made:

In recent years, the Government orders and projects and policies formulated by the Government of Tamil Nadu have proved to be working against the interest of the people. They affect adversely the basic livelihood resources of people like water and agriculture. The ground water is getting depleted and in few areas the water is contaminated with dyeing factory effluents. The left out ground water is sold to multi-national companies. In the name of development common lands are given to private companies. Particularly during the last fourteen years the illegal sand quarrying in Cauvery and Amaravathi rivers in the districts of Karur, Trichy and Namakkal had been rampant. In Karur District, the dyeing factory effluents are let into canals and rivers. The ground water, surface water and agricultural lands are getting polluted. There have been consistent resistance from people against private contractors, industrialists and respective Government Departments. But till date the Government have not responded to the genuine demands of the people. Hence it has become necessary for the common people, landless agricultural workers, small farmers, women and dalits of Karur district to come together in this Conference and put forward their demands. These demands are given in Appendix 4.

The Conference also passed the following resolutions:

It is resolved to urge the Tamil Nadu Government to stop sand quarrying in River Cauvery and Amaravathi in the whole of Karur district permanently by 22.02.2004. The Forum along with the farmers, agricultural labourers, women and common people of Karur district will take action on 25.02.2004 if the dateline is not met with

It is resolved to urge the Tamil Nadu Government to stop the effluents discharged from the dyeing factories polluting the water resources in Karur district completely and permanently by 22.02.2004. The Forum along with the farmers, agricultural labourers, women and

common people of Karur district will take action on 25.02.2004 if this date line is not met with.

It is resolved that in the oncoming Lokh Sabha elections, all the political parties contesting in Karur Constituency should be asked to make clear their stand in favour of our above demands in their Election Manifesto. Particularly their position on:

- Permanently banning sand quarrying in the rivers in Karur District.
- Permanently stopping the pollution caused by the dyeing factory effluents.
- Clear policy to stop programmes like Waste land Development under which pretext, common resources and wealth of our people and Nation are being given away to the Multinational companies.

It is resolved that if any of the political parties fail to reflect these demands in its manifesto, the party in question would be boycotted.

The first two resolutions were forwarded by the Forum to the President and Prime Minister of India, the Chief Minister of Tamil Nadu and the district authorities like the Collector and the superintendent of Police, Karur District.

25th February 2004 ARRESTS IN NATHAMEDU

As the administration of the Tamil Nadu Government chose to ignore the resolutions passed in the Farmers' Conference, at the initiative of the Forum about 2000 people from various villages gathered at Nathamedu village of Krishnarayapuram Taluk in Karur District on the morning of 25.02.2004 with a view to express their protest in a peaceful manner by symbolically blocking one of the sand mounds heaped in Amaravathi River for transportation.

332 protesters were arrested under the following three FIRs of Mayanur Police station:

1. FIR No.76/04 dated 25.2.2004 against Christina Samy of SWATE and 15 others (11 men and 4 women) under Sections 143, 147,148,188,341, 353,506(ii) IPC and 3 of PPD (DL) Act.

2.FIR No.77/04 dated 25.2.2004 against K.Palanisamy s/o Kandasamy Gounder, Valayakaranpudur and 265 others (148 men and 117 women) under Section 151 CrPC read with 7(1)(A) of CLA Act.

3.FIR No.80/04 dated 26.2.2004 against Kandasamy s/o Nachianna Gounder, Lingathur and 49 others (all men) under Section 151 CrPC read with 7(1)(A) of CLA Act.

The 282 persons arrested under the first two FIRs and the 50 persons arrested under the third FIR were remanded to judicial custody for 15 days by the Judicial S Magistrate II, Kulithalai on 25.2.2004 and 26.2.2004 respectively. All the arrested men were lodged in the Central Prison for Men at Trichy; fifty of the arrested women in the Central Prison for Women, Trichy and the remaining 72 women in the Sub Jail, Trichy. Out of the 332 arrested, 316 persons were released on bail by the Judicial Magistrate II, Kulithalai on 3rd and 4th March 2004.

On 15.03.2004 Sessions Court, Karur dismissed the bail petition filed in CrI.M.P.No.05.03.2004 by Christina Samy and 15 others stipulating that a fine of Rs.50,000/- must be paid for damaging the pochain chain. A note on TNPPD (DL) Act is given in Appendix 5.

On 08.03.2004, the petitioners Christina Samy and 15 others filed a petition before the Madras High Court in CrI.O.P.No.8361/04 seeking bail. The Court on 11.3.2004 ordered conditional bail asking the petitioners to stay at Madurai until further orders and report in Tallakulam Police Station every day.

Again on 29.03.2004, the petitioners Christy Samy and 15 others filed a petition in CrI.M.P.No.3864 / 04 before the Madras High Court seeking the relaxation of the conditions for the bail. The condition was relaxed on 01.04.2004 by the Madras High Court.

The case foisted on all the 332 arrested persons is still pending.

Appendix 2

The Gist of Petitions submitted to Government Authorities regarding sand mining in Amaravathi and Cauvery River Basins between 1991 And 2000.

1. Petitioners: Amaravathi river basin small farmers' development association, Kattalai (dated 28.8.1991)

To
The Assistant Engineer
PWD, River Conservation Division
Mayanur

There are about 75 families cultivating in the lands along the bank of Cauvery for the last 30 years. The sand mining done by one private contractor M. Palanisamy of Coimbatore has affected our agricultural lands. As the level of the bank has gone down our agricultural lands get inundated. On 22.8.1991, the District Collector, Trichy made an inspection of our lands. He has assured us that after ascertaining the boundary of the river bank necessary action would be taken. We there

request you to kindly demarcate and let us know the correct boundary of the river bank to ensure our livelihood and survival.

2. Petitioners: R.Karikalan and S.Jesuraja on behalf of Kattalai, Malaiyappapuram, Renganathapuram, Melamayanur, Nathamedu, Melakattalai, Veerarakkiyam, Chinnamanayakkanpatti, and Villagers (dated 01.11.1992)

To

The Chief Minister, Fort St. George,

Chennai – 600 009

One contractor M. Palanisamy from Coimbatore takes sand in Kattalai village across Cauvery (from 0 to 02 miles) for the past 2 years using 2 poclains. The river bed has gone down to 20 feet. The water level in irrigation wells and drinking wells have gone down. Due to the movement of lorries the bridges get destroyed. Transport to our village gets affected. Families who rely upon agriculture for 30 years have been affected. Immediate action in this regard is required.

3. Petitioner: R.Karikalan on behalf of Village Development Youth Association, Village Welfare Associations and the Public of Kattalai village (dated 18.3.1996)

To

The Secretary to Government

Mining and Geology Department, Chennai

For the last 9 years one Palanisamy has been quarrying sand in Kattalai area using poclains. This has resulted in the depletion of drinking water and irrigation water resources. We have brought this matter to the notice of the concerned authorities several times in person as well as through petitions. But no action has so far been taken. Now, the contractor claims that he has obtained the license to continue with sand quarrying in the same area. When we report this to the authorities they deny having issued any licenses. The contractor is trying to circumvent the orders of the High Court, Madras and quarry sand illegally. We therefore request you to see that no further license is granted. If we do not get justice, we would be compelled to resort to dharnas like stopping the buses.

4. Petitioners: R.Karikalan on behalf of Village Development Youth Association, Youth & Women Association, Association of the Small Farmers of the Neighbourhood, Swate Women Movement, Kattalai Post, Via Mayanur, Kulithalai Taluk – 639 108 (dated 04.04.1996)

To

The Deputy Director

Geology & Mining

Trichy.

For the last eight years, one Palanisamy who has been granted permit for quarrying the sand between Kattalai and Mayanur is engaging 500 private lorries and 20 own lorries for removing the sand. This caused depletion of ground water seriously affecting our agriculture. We therefore request you not to grant license for quarrying sand in the river bed between Kattalai and Mayanur.

5. Petitioner: R.Karikalan on behalf of Village Development Youth Association, Youth & Women Association, Association of the Small Farmers of the Neighborhood, Swate Women Movement, Kattalai Post, Via Mayanur, Kulithalai Taluk – 639 108 (dated 15.04.1996)

To

The District Collector

Karur District

To stop sand mining the villagers resorted to road block on the Trichy, Karur High way on 04.04.1996. Though the impact of sand mining was explained to the Tahasildar, Musiri fresh licenses have been given. The reason given by the Tahasildar was that he and the Director of Geology and Mining are not the sole authorities for granting license. The Tahsildar however assured that within a period of 1 month a scientific study on the impact of sand mining would be done and he would do the needful. Sand mining has been done more than 10 feet depth in the river bed in their villages. Now fresh tenders have been given for 5 more years. If this continues the drinking water resources and agricultural avenues would be badly affected transforming this area into a desert.

6. Petitioners: R.Karikalan and S.Yesurajan, on behalf of 43 villagers of Village Development Youth Association, Youth & Women Association, Association of the Small Farmers of the Neighbourhood, Swate Women Movement, Kattalai Post, Via Mayanur, Kulithalai Taluk – 639 108 (dated 30.04.1996)

To

The District Collector,

Karur (with copies to the Assistant Director, Geology and Mining, Trichy; Sub Collector, Musiri)

The water level in the irrigation and drinking water wells has been going down due to the sand mining in this area for the last eight years. We have brought this matter to your notice several times. You and the Sub Collector, Musiri may be aware that a road block was organized to protest against the grant of new lease for sand mining. The sand contractor is using his goondas to terrorise the people. We therefore request you not to grant new licenses for sand mining in Mayanur area.

7. Petitioners: Palanisamy and 5 others of Kattalai village (dated 15.05.1996)

To

The Tahsildar

Kulithalai Taluk

Karur District.

We have petitioned to you several times about the sand mining between Kattalai and Mayanur. We also resorted to road rook to protest against it. The concerned officials who visited our village assured us that the sand mining would be stopped. But every night illicit removal of sand continues. . When the persons involved in illicit sand mining are questioned, they reply that they have been permitted by Tahasildar. Please take necessary action to stop sand quarrying.

8. Petitioners: R.Krikalan on behalf of Kattalai villagers (dated 16.05.1996)

To

The Chief Minister

Government of Tamil Nadu

Fort St.George

Chennai – 600 009

From 1989 onwards one Palanisamy of Coimbatore after obtaining license from the Government has been quarrying sand using giant machines for more than 15 feet depth. This is in violation of all the norms. This has resulted in the lowering of the water level in drinking and irrigation wells. This matter was brought to the notice of the government and concerned authorities several times. Even the road roko struggle has not yielded any result. The authorities always favour the contractor only. Now attempts are being made to get a permit to quarry sand in Mayanur as well. The contractor is using his money power. We request your intervention.

9. Petitioners: R.Krikalan on behalf of Kattalai villagers (dated 16.05.1996)

To

The Secretary

Geology and Mining

Government of Tamil Nadu

Secretariat

Chennai – 600 009

From 1989 onwards one Palanisamy of Coimbatore after obtaining license from the Government has been using giant machines to quarry sand for more than 15 feet depth. This is in violation of all the norms. This has resulted in the lowering of the water level in drinking and irrigation wells. This matter was brought to the notice of the government and concerned authorities several times. Even the road roko struggle has not yielded any result. The authorities always favour the contractor only. Now attempts are being made to get a permit to quarry sand in Mayanur as well. The contractor is using his money power. We request your intervention.

10. Petitioners: R.Karlikan on behalf of villagers in Karur Parliamentary Constituency, Krishnarayapuram Assembly Constituency, Aandipalayam, Chinnamanayakkanpatty, Vadugapatti, Puliur Kalipalayam, Veerarakkiam, R.S.Natarajapuram, Nathamedu, Melakattalai villagers & small farmers Association (dated 24.05.1996)

To

The Chief Minister

Fort. St. George, Chennai.

We have faxed to you our petitions dated 24.04.1996 and 25.05.1996 requesting you not to grant fresh licenses for sand quarrying. The people from 15 villages met the District Collector, Karur today and expressed thier grievances to him. We request you to make enquiries with the District Collector and do the needful to ensure drinking water and irrigation facilities.

11. Petitioners: S.K.Palanisamy, President and 24 others, Kattalai Small Farmer's Association (dated 01.06.1996)

To

The District Collector, Karur

At the point of confluence of the rivers Amaravathi and Cauvery from Kattalai to Mayanur, sand mining is done by a private person for the past 7 years. Using poclain sand mining is done and around 1000 lorry loads of sand are being taken daily. All the Government guidelines and fixed

boundaries have been violated and sand mining is done more than 15 feet depth. All the drinking wells and irrigation wells have dried up. More than 12,000 acres of agricultural land is affected. 25 villages face water scarcity.

During the tenure of the previous government several frauds had been perpetrated in the matter of sand quarrying. It is still being continued using the old license. We request immediate action.

12. Petitioners: P.Arumugam and S.K.Palanisamy on behalf of the farmers of Chinnamanaiyakkanpatty, Veerarakkiyam, Nathamedu, Kattalai, Renganatha puram, Mela Mayanur, Manavasi, and R.Pudukottai (dated 17.06.1996)

To

The District Collector, Karur District.

More than 10000 acres of land get water for irrigation from Amaravathi. Because of sand mining 20000 small farmers have been affected. While the river bed has gone down to 25 feet the irrigation canal remains 25 feet above the river bed. Hence we request immediate action against those mining sand.

13. Petitioner: S.K.Palanisamy, President, Kattalai Small Farmer's

Association (dated 19/7/96)

To

The Chief Minister, Fort St. George, Chennai

Near the confluence of the rivers Amaravathi and Cauvery from Kattalai to Mayanur, sand mining is done by a private person for the past 7 years using poclain. Around 1000 lorry loads of sand are being removed daily. All the Government guidelines and fixed boundaries have been violated and sand mining is done more than 15 feet deep. All the drinking wells and irrigation wells have dried up. More than 12,000 acres of agricultural land have been affected. 25 villages face water scarcity.

During the tenure of the previous government several frauds had been perpetrated in the matter of sand quarrying. It is still being continued using the old license. We request immediate action.

14. Petitioners: Kattalai villagers Village Associations, Kattalai Post, via Mayanur, Kulithalai Taluk (dated 31/3/97)

To

The District Collector
Karur.

As sand mining is done for the past 7 years ground water gets depleted. Agriculture has come to a standstill. In Mayanur. Individual contractors issue hand bills stating that the sand mining does not cause any negative impact. Giriraj and Sivanandam who are the Managers of the sand mining contractor are distributing these hand bills. Hence Action should be initiated against them.

15. Petitioner: P.R.Kuppusamy, B.A.B.L.,
Advocate, Karur (dated 8/4/97)

To
The Inspector General of Police (Law and Order)
Chennai.

A private contractor who is mining sand in Cauvery basin in Renganathapuram using poclains has now laid a road in Cauvery River to the south of Manavasi village for 1 km. He has also laid 3 sub roads and is using 4 poclains. He removes 400 to 500 lorry loads of sand every day and sells them at Coimbatore, Tiruppur and Kerala which is illegal. Though the lease is granted to one Ramasamy, the person who actually carries out sand mining is said to be a resident of Coimbatore, who carries out the mining operation by employing about 300 goondas. When I took some experts on ground water, geology, ecology, biology etc., to do a scientific study on sand mining in this area on 9/2/97 we were harassed by these goondas who snatched away video cameras, film rolls and other photographic equipments and tried to assault us. With a view to protect the experts who accompanied me and also to retrieve the cameras I sought the help of the Inspector of Police, Mayanur Thiru Vengidusamy.

The residents of this village are against sand quarrying. But the anti social elements are threatening that they would instigate clashes between different communities in this village if we persist in continuing with the protest. Hence we request you to take immediate action against these criminals.

16. Petitioner: R.Karikalan, Kattalai, Via Mayanur, Kulithalai Taluk, Karur-639108
(dated 14/5/97)

To
The District collector,
Karur

On 9.2.1997 a group of experts visited the Cauvery river bed in Mayanur to study the impact of sand mining. I and Jesurajan went there to bring them to our village and show them the area where sand mining is done in our village. Sivanandan s/o Kumarasamy, Mayanur and Tamilvanan s/o Maruthan, Ranganathapuram and a few others tried to attack me. They caught me by my shirt when I was sitting in the vehicle in which the experts traveled and used abusive language against me. Though I lodged a complaint with the Inspector of Police, Mayanur, no action has so far been taken. I therefore request you to take suitable action against these persons.

17. Petitioner: P.C.Rathinam, President, Thottiyam Firka Canal Irrigation Farmers Association, R.No.67/1973 (dated 15/5/97)

To
Mr.Kuppusamy, Advocate,
Convenor, Cauvery protection Council,
Karur.

The Thottiyam vadakarai irrigation area covers an area of 25,000 acres agricultural lands. When water is released from Mettur Dam, the water flows from Ramasamudram madagu and flows through various tributary canals for 25 km distance and joins Cauvery River near Pettavaithalai.

When letting off water from Mettur is stopped, the aquifer water which flows through an artificial dam called Korambu located near Sri Rramasamudram canal is allowed to be used for the agricultural fields. This water meets the irrigation and drinking purposes for more 25 villagers.

Poclains were used in this area for sand quarrying during the last month resulting in the formation of a huge pit near Korambu. As the water flowing from west to east falls into the pit retarding the flow of the river, the cultivated crops particularly the plantain crops have been severely affected. Hence we request you to arrange to get immediate orders from the government authorities concerned to stop sand mining in this area.

18.Petitioner: R.Karikalan on behalf of Youth Association and the Village Public, Kattalai (dated 14.7.1997)

To

The District Collector, Karur

For the last 8 years hundreds of lorry loads of sand is being quarried illegally in the area between Kattalai and Mayanur and sold in other districts. This has greatly affected the drinking and irrigation water resources and the environment. Though this matter was brought to the notice of the concerned authorities several times and despite many agitations launched, no action has been

taken. The sand mining issue has been covered by the printed media as well. Sand quarrying is done for one km stretch without demarcating the area of operation. Four poclains are engaged. The lorries should not enter the river bed. The river water is allowed to flow only in the middle of the river. We have protested against these illegal activities several times. But the contractor is using his musclemen to terrorise the public. We therefore request necessary steps to stop sand quarrying in this area immediately.

19. Petitioners: Kattalai villagers (dated 9/2/98)

To
The District Collector, Karur

Under the license given in 1989, for the last 8 years sand mining has been done using giant machines and thousands of lorry loads of sand is being sold in other districts. This has grossly affected our drinking and irrigation water sources as well as the environment. We have brought this matter to the concerned authorities through various channels and filed litigations. In such a situation giving a fresh license for sand quarrying would amount to a great harm to us. The printed media has also given coverage to the issue of the negative impact of sand mining. Several experts have also commented on this. We therefore request that in the interest of the common people, no fresh license may be issued.

20. Petitioners: Youth Associations, Lift Irrigation Farmers Association, SWATE women's movement, Farmers of Kattalai, Nathamedu, Melamayanur, Veerarakkiam and Valayalkaranpudur (dated 27.1.1999)

To
The Secretary to Government
PWD, Secretariat, Chennai

With the license given for quarrying sand one R.K.Ramasamy using eight giant machines has been quarrying 600 lorry loads of sand every day and selling them in other districts and states. This has resulted in lowering of river bed by 10 to 20 feet resulting in depletion of ground water and degradation of the environment. From 1989 onwards the farmers, Swate women's movement and the youth associations have been protesting against this through various means. The press has also covered this issue.

Though water is released from Mettur from June month, water does not flow along the river bank near our village. From Kattalai to Mayanur a huge culvert is built. In 1992, the former District

Collector had issued orders not to quarry sand from Cauvery when there is no water. But from 1996 sand mining has been done in this area. The former orders of the District Collector are not followed here. The Chennai High Court ordered not to use poclain in Trichy, Salem, Namakkal distinct but Karur was not included in that list. If sand mining is not stopped immediately then we will sit on a hunger fast before the Tamil Nadu Legislative Assembly building on February 18 1998.

21. Petitioner: R. Karikalan, S/o, Rathinam, Amaravathi River Basin Farmers Association, Kattalai Post, Via Mayanur, Krishnarayapuram Taluk, and Karur (dated 11.10.1999)

To
The District Collector, Karur

It is requested to enroll the petitioner as a member in Committee to monitor the sand mining in river Amaravathi Basin.

22.Petitioner: R.Karikalan and 56 others Youth Association, Kattalai Post, Via Mayanur, Krishnarayapuram Taluk, Karur (dated 19.11.2000)

To
The District Collector, Karur

Sub; - Ban sand mining in poromboke lands of Amaravathi river basin in Kattalai village.
No lease to Government as well private parties.

The patta lands belonging to the survey no 1 across Amaravathi basin has been purchased by one person. He is trying to mine sand from poromboke lands and sell it. He is also trying to get permit for selling sand. If his attempt materialises, our livelihood will be adversely affected. A petition on this issue is pending in the High Court of Madras. The petitioner requests not to give any more fresh license for sand mining.

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Appendix 3

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Observations And Recommendations Of The High Level Committee In Its Report Of June 2003 Submitted To Government Of Tamil Nadu

The June 2003 Report of the High Level Committee for the Study of Rivers and Riverbeds in Tamil Nadu with Reference to Sand Quarrying set up by the Tamil Nadu Government in compliance with the Order dated 26.7.2002 of the High Court, Madras. On the basis of the observations and recommendations of the Committee, the Tamil Nadu Government issued the G.O.Ms.No.95 Industries (MMC.I) Department dated 1.10.2003 to create a Single Agency System entrusting the mining of sand to the Public Works Department.

The High Level Committee has observed that the private sand mining contractors have caused colossal ecological damages in almost all the rivers in Tamil Nadu where sand mining was done by them. It has also observed that this has also resulted in the degradation of the surrounding environments. The pattern of sand quarrying according to the Committee was so haphazard, chaotic, indiscriminate, irregular that it was resulting in river bed erosion, collapse of stream banks mining, negative impact on the surface water flow, threat to the structure and change of river environment – lowering of water tables, reduction in bank storage, degradation of ground water and in its quality, social problems that effect the local communities and many more. The Committee has also collected the colossal damage done to the river beds, banks, electrical and hydraulic structures etc., by the use of heavy machinery.

The High Level Committee got the PWD identify the rivers in Tamil Nadu where the sand can be extracted. The list of such rivers given on page 46 of the report does not include Amaravathi river.

Recommendations made by High Level Committee

- The Committee after examining the river basins of Tamil Nadu, where sand mining is done has felt that there is no effective control on the operation because no single department is vested with such powers. It has recommended that the operation of such magnitude in rivers like Tamiraparani, Vaigai, Cauvery, Amaravathi, Pennaiyar, Palar etc., should be controlled by a single agency with powers to take necessary actions.
- The High Level Committee has also made the following observations: "It is suggested that no road should be laid in the river bed". While commenting on the so called 'good' roads laid by the earlier private contractors, the High Level Committee has observed that " It is suggested that as far as possible such formation of roads should be avoided. And it is also suggested that machinery like poclair should not be allowed even to form the road on the riverbed/tank . In this connection , the Committee feels that employment of such heavy machinery will compress the bed, affect aquatic fauna and create imbalance in the river ecology".
- The Committee has suggested that no road should be laid in the riverbed. In order to maintain uniform riverbed level, the lessee should employ technical persons to supervise sand quarrying.
- The Committee with a view to prevent illicit sand mining and transporting suggested that sand mining operation in the entire state should be restricted between 6.00 a.m. and 6.00 p.m. only.
- The Committee observed that sand lessees had not maintained proper registration of the amount of sand quarried at each pit mouth. There is only a dispatch register that indicates number of Lorries, which transported sand on any particular day. The lessees should be directed to adhere to rules.
- The Committee suggested that the lessees should be insisted to disseminate information about the leases granted and other information on the name board or on the information board.
- The Committee recommended that as observed by the Courts violations of the terms of the grant should be dealt with stringently, by taking actions under Section 379 of Indian Penal Code. Severe Penalties should be imposed and the violators of the law be made to pay heavy compensation.

- There must be a total ban of quarrying of sand from patta land adjoining the riverbanks within 250 meters, because such quarrying will cause:- 1.Erosion of banks during floods; 2.Widening of the river with possibility of flooding the agriculture land and human settlements;3. Retardation of the flow of water of down stream, which will consequently affect the public in the lower regions.

Appendix 4

Demands of the Farmers' Conference, Karur Held On 7.2.2004

- We demand the Tamil Nadu Government to issue a Government order during the State budget 2004 for a clear policy to stop sand mining in the rivers of Cauvery and Amaravathi in Karur, Namakkal and Trichy Districts.
- We demand immediate and permanent stoppage of sand quarrying in Cauvery and Amaravathi rivers in Karur district by 22.02.2004, as a first step in this matter.
- We demand that while quarrying sand in any river in Tamil Nadu, the protection of environment and ecology should be considered at the first priority and the Minor mineral Act 1959 and Mines Act 1957, the various High Court verdicts and directions and the suggestions and recommendations of High Level Committee should be strictly followed.
- We demand that the Tamil Nadu Government promulgate a clear and just policy on sand mining in river basins in Tamil Nadu. This policy should be formulated by the Government of Tamil Nadu during this Budget session 2004-2005. The formulation of policy should be on the basis of prioritising the use of sand (the natural and first need for sand is to keep alive the water springs to sustain the ground water level, thus the water resources for drinking and irrigation are primarily fulfilled) laying conditions and controls on buildings and constructions in Tamil Nadu, for sand is largely used as a construction material. (Categorising and prioritising kinds of constructions - domestic, commercial, industrial, urban, rural, control over sanctioning for construction of lakes, ponds and other types of water storages).
- We demand that the Tamil Nadu Government should stop the system of stocking sand in godowns. Sand is neither a periodically cultivable produce nor a thing that rots in a given time. River sand is essential part of the river to maintain the water table.
- We demand that the State should withdraw permanently its proposals to give licenses to 70 private companies for sale of water.
- We demand that the licences sanctioned to the domestic and multinational companies on the river banks in Tamil Nadu for water business must be withdrawn by Tamil Nadu Government immediately and permanently.
- We demand permanent cancellation of all the licences given to Pepsi and Coco-Cola within SIPCOT area.
- We insist and demand that the Tamil Nadu Government must not allow and give permit for water business by Sakthi- CocoCola combine in Padamathur of Sivagangai District.

- We demand that the State should take action on a war footing to completely stop the effluents of dyeing factory being let into canals, rivers, water sources and into the cultivable lands in Karur district by 22.02.2004. This demand we place after approaching the Government through many petitions and democratic actions during the last ten years.
- This Conference condemns the State and Central Governments for cutting down the benefits to the poor, Dalits, farmers and for the agriculture in general due to the pressure of corporate sectors and imperialistic globalisation.
- We demand that the Central Government and Tamil Nadu State Government should give the following benefits and implement the related schemes:
 - Free supply of electricity for agriculture.
 - Subsidies for investment in agriculture
 - Tamil Nadu Government should open and operate all the paddy procurement centres.
 - The procurement cost for the crops should be conducive to all.
 - Ration cards for all the families and all essential quality commodities.
 - Free Bus passes to the students.
 - The price for the sugarcane purchased should be immediately paid to sugarcane producers by the sugar mills.
 - We demand a separate board for agricultural labourers in Tamil Nadu.
 - We demand immediate action from Tamil Nadu State Government and the Central Government to stop importing milk from other States or other countries, while Tamil Nadu has surplus produce of milk within the State.
 - We demand Tamil Nadu Government to withdraw Waste land Development program – G.O. (Ms.) No.189 dated 2.07.2002 as that alienates the poor, Dalits, women from livelihood resource and common land.
 - We condemn the Tamil Nadu Government for implementing this program while there is a Public Interest Litigation pending in the High Court.
 - The Government should immediately withdraw the wasteland development program in districts like Karur, Pudukottai.
- Instead of giving lands to the companies for development, we demand that the Tamil Nadu Government should give these lands to Dalits, landless agricultural workers and poor women.

Appendix 5

Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992 [Tamil Nadu Act 59 of 1992]

Statement of Objects and Reasons

T.N. Act 59 of 1992.

The Tamil Nadu Public Property (Prevention of Destruction and Loss) Act, 1982 (Tamil Nadu Act 29 of 1982) was enacted to provide punishments for causing damage or loss to public property by mischief. Consequent on the enactment of a similar law by parliament in the year 1984, namely, Prevention of Damages to Public Property Act, 1984 (Central Act 3 of 1984), the provisions of Tamil Nadu Act 29 of 1982 have become void.

Widespread damages to public property are being caused during procession, assembly, meeting, agitation, demonstration or other activities organised by political parties or communal, language or ethnic groups. The provisions of the said Central Act 3 of 1984 do not provide for the payment of compensation for damage or loss caused to the public property by the political parties or communal, language or ethnic groups. It has been decided to prevent such widespread damages to public property by enacting a comprehensive legislation providing for punishments of the persons who actually cause damage or loss to the public property and to make the political parties or communal, language or ethnic groups which organised such processions, assembly, meeting, agitation, demonstration or other activities liable to pay compensation in respect of damage or loss caused to any public property. It has, therefore, been decided to undertake a comprehensive legislation to achieve the object. It has also been decided to repeal Tamil Nadu Act 29 of 1982.

Amendment Act: T.N. Act 46 of 1994

The Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992 (Tamil Nadu Act 59 of 1992) was enacted to prevent widespread damages to public property by enacting a comprehensive legislation providing for punishments of the persons who actually cause damage or loss to the public property and to make the political parties or communal, language or ethnic

groups which organised procession, assembly, meeting, agitation, demonstration or other activities liable to pay compensation in respect of damage or loss caused to any public property during such procession, assembly, meeting, agitation demonstration or other activities. Widespread damages to private property are also being caused during procession, meeting agitation, demonstration or other activities organised by political parties or communal, language or ethnic groups. The provisions of the said Act do not provide for the payment of compensation and for the punishment in respect of the damage or loss caused to private property. It has, therefore, been decided to amend the said Act suitably providing for punishments of the persons who actually cause damage or loss to the private property and to make the political parties or communal, language or ethnic group which organised such procession, assembly, meeting, agitation, demonstration, or other activities liable to pay compensation in respect of damage or loss caused to any private property also.

The provisions of the said Act do not also provide for appeal against the decisions of the aforesaid authority in deciding the claim for compensation. It has, therefore, been decided to provide a forum of appeal for the above purpose.

Appendix 6

Excerpts from the Judgment dated 30.4.2001 of Justice S. Jaqadeesan and Justice E.Padmanabhan of the High Court, Madras on the Writ Petition No.16010/97 filed by Thiru P.R.Kuppusamy and Thiru R.Karikalan against the Government of Tamil Nadu represented by the Secretary to Government, Industries Department (1st Respondent) and the private contractor R.K.Ramasamy (5th Respondent) challenging the Government Order granting license under Rule 39 of Tamil Nadu Minor Minerals Concessions Act to the contractor for sand mining in Cauvery river bed in Mayanur, Karur District

51. A perusal of the connected proceedings and in particular the G.O. file placed before us would disclose that the fifth respondent had applied in a form, in appendix VI. The application is dated 10.5.1995. The application is addressed to the Principal Secretary to Government, Industries Department. The application was received by the Joint Secretary to Government, Industries Department on 12.5.1995. The application was forwarded by the State Government to the second respondent, District Collector on 24.5.1995 and the District Collector was directed to resubmit the application with required particulars for consideration of the application through the Director of Geology and mining. The application has been directly addressed to the State Government by the fifth respondent.

52. A High Level Committee was constituted and it inspected the site on 6th October 1995. The High Level Committee, in its report signed on 26.5.1995 has recorded thus:-

"11. Any other particulars in brief:

A part of this area was held under lease priority applied for the stretch of river Cauvery. Adequate sand deposit is available. There are no water works.

Improvised approach road is available"

12. Recommendations of the reasons stated above, the High Level Committee:

In view of the Committee recommends the area of 25 hectares for consideration of grant of quarry lease subject to

the condition that the applicant should develop the available improvised road."

53. It is pointed out that in respect of column 12, there is a correction as to the extent of area the committee recommended. The committee recommended the area of "10" hectares, which had been subsequently corrected as 25 hectares. Even in the G.O. also there is a correction with respect to the area. In Para 3 of the G.O. also originally what was written is "10" hectares and it has been corrected as "25" hectares. We have no doubt that such corrections has been made. Even in the office note also, it had been noted that the committee had recommended the area of "10" hectares, but later number "10" has been corrected as "25" and it had been incorporated.

54. A perusal of the file makes it abundantly clear and make it beyond doubt that in the original application, recommendations of the committee, the note file, the Government order have been altered or interpolated to suit some one's convenience for obvious reasons and material alterations visibly noticed relate to area of lease, extent of lease, period of lease, as the very recommendations of High Level Committee had also been altered material. These aspects demonstrate fraud on power, criminal manipulations and fabrication of records by some one who has access to original file.

55. The order would show that the fifth respondent had applied for grant of lease under Rule 39 for an extent of 25 hectares for a period of three years. While in the application, which has since been corrected from 10 to 25 hectares and as if the fifth respondent had applied for 10 years, while it is for three years. The recommendations of the committee had been corrected with respect to the extent of the area. Further, the G.O. also proceeds as if it is for the grant of sand / quarry. The note order have been put up on 7.11.1995 and the concerned Under Secretary had approved the note on 9.11.1995 and the Principal Secretary had signed on 10.11.1995 and the Minister in-charge had signed on 19.3.1996 and the draft order has been put up for approval on 22.3.1996 and it had been approved by the Deputy Secretary on 22.3.1996. G.O. has been issued on 22.3.1996.

56. A perusal of the G.O. file would show the manner in which the application has been entertained, handled and decided by the first respondent. It is rather shocking and it exhibits not only manipulations, arbitrariness and whimsical attitudes, but also the extraordinary power under Rule 39 had been exercised for apriori considerations and it exhibits a clear fraudulent motive to grant lease by the first respondent to the detriment of public interest. Therefore the learned Additional Advocate General had rightly and fairly stated that he is unable to support the impugned order. The learned Addl. Advocate General had also represented that certain criminal investigation is going on, but not at that fast.

57. The very application filed by the lessee is only for a period of three years in respect of particular extent of 25 hectares. The application had been filed by the lessee in Appendix VI, the application is dated 10.5.1995.

58. The High Level Committee, whose recommendations as noticed, which are relevant to the proceedings reads thus:-

"A part of this area was under lease priority. The area applied for in the stretch of river Cauvery. Adequate sand deposit is available. There are no water works. Improvised approach road is available."

This is the particular furnished by the Committee in respect of any other particulars.

59. In respect of its recommendations of the Committee, it is also another extraordinary thing which proceeds thus:-

"In view of the reasons stated above, the Committee recommended the area of 10 hectares for consideration of grant of quarry lease subject to the condition that the applicant should develop the available improvised road."

60. Here and now, it has been pointed out that the extent of area for which the Committee had recommended has been corrected. The High Level Committee had not indicated the period for which the lease has to be granted. The original file would refer to the minutes of two High Level Committees, namely on 26.10.1995 and 7.10.1995. But the minutes dated 7.10.1995 had been scored. Paragraph 3 of the order impugned would show that the committee had inspected the area applied for by lessee, Ramasamy between 6.10.1995 and 7.10.1995. According to G.O., the Committee had recommended for the grant of lease of the quarry sand. The portion of the recommendations of the committee has been incorporated in G.O. proceedings as seen.

61. The committee had recommended an extent of 25 hectares while original file would show that the Committee had recommended an area of 10 hectares for consideration of grant of quarry lease, which is disclosed by the note order. But the note order had been corrected and the Arabic numeral 10 had been encircled and number "25" had been written. In the copy of the application also the period for which the quarry lease is required had been corrected from "3" years to "10" years. The Committee's recommendation, it is also to be pointed out, has been corrected. The G.O. has also been corrected, even with respect to the portion of the Committee's Recommendation as to the extent of "10" hectares has been corrected as "25". The G.O. would also show that the Government had decided to grant lease for a period of five years, while the application itself is for a period of three years.

62. Neither in the office note nor in the draft orders nor in the impugned G.O. nor in the inspection report submitted by the High Level Committee as well there is no reference or consideration or application of mind with respect to the material aspects, namely, (1) Mineral development, (2) Public Interest which are the primordial requirements for exercise of power under Rule 39. There is no application of mind with respect to the mineral development as well as the public interest, which alone would justify the grant of lease under Rule 39. Such words have not even been referred to and no application of mind either by the Committee or by the State Government nor such aspect had gone into the mind of the authorities, namely State Authorities before exercise of power under Rule 39. The area in respect of which the lease is applied, is for 25 hectares out of 334.14.0 hectares in SF.No.1, Cauvery River bed, Mayanoor. No plan had been enclosed to the application nor the Committee had submitted a plan to identify the area, which had been visited and in respect of which the Committee had recommended for grant of lease. This again stares at the face of the G.O. Along with the lease deed alone, the sketch has been appended as showing

the area granted on lease, but there is nothing to show that this is the area which was inspected by the high level committee or in respect of which lessee had applied.

63. Even before the approval for the proposal to substitute the site submitted by the District Collector to the State Government in the light of the objections, the lessee had come before this court and also obtained certain directions. Besides, the lessee had also moved the State Government, which had also issued telex instructions, directing the District Collector to issue permits.

64. These permits had been sought for and issued as if alternate site itself had already been leased or site had been altered. Such directions have been issued even though the altered site is (sic!) has neither been approved nor it had been identified nor it had been handed over to the lessee nor the lease deed had been executed in this respect nor the schedule in the earlier lease deed had been substituted by consent of parties nor even original lease deed had been registered until now. Yet by other directions of the State Government as well as the certain orders passed by this court, the lessee had managed to commence the quarrying operations and as per the interim as well as by threat of contempt proceedings, the lessee had managed to secure large scale transport permits, though the District Collector above(sic!) had been resisting and contesting proceedings.

65. Before continuing the discussions, it is relevant to refer the Rules, namely, Rule 39, by which an extra-ordinary power is conferred by the said Rule enabling the State Government to grant lease as against the other provisions of the same Rules, which prescribe the regular procedure, which is normal in granting lease. But in this case, Rule 39 had been invoked by lessee himself and it is a choice, which the lessee had made and the State Government authorities had conceded the same even without application of mind.

76. The reasons which prevail to interfere with impugned proceedings with us could be enumerated as:-

"A) Neither in the notes paper nor in the file nor in the notings, there is anything to show that either the Secretariat or the Secretary to Government or the Minister or the decision making authority had arrived at an opinion that the grant of lease is in the interest of mineral development and in the public interest, nor there is an application of mind.

B) Neither in the file nor in the impugned proceedings, nor there is anything to indicate that the State Government had considered the case as a special case for grant of lease either in public interest or for mineral development.

C) There is nothing to indicate as to why the application of the 5th respondent had been considered as a special case, which is primordial requirement of Rule 39, which prescribes that the State Government may grant quarry lease or permission in special cases. The specialty in this case is total non-application of mind.

D) Neither in the file nor in the notings nor in the report of the High Level Committee nor in the impugned order any reasons have been recorded before taking a decision that the grant of lease is for mineral development and it is in the interest of public.

E) Rule 39 had been invoked too frequently and admittedly in 35 cases lease has been granted under Rule 39 at or about the same time without resorting to regular procedure, as if all the 39(sic!) cases are special cases.

F) The 5th respondent applied for three years lease even as per the typed set of papers filed before this court and the original lease application had been corrected as if it has been applied for ten years with different ink on a latter point of time, and just before the impugned grant. The preamble portion of the impugned G.O. proceeds as if the applicant has applied for grant of lease for a period of five years.

G) The recommendations of the high level committee for 10 hectares had been corrected and interpolated with respect to the area to 25 hectares. In the notes paper put up also, the area recommended by the committee has been corrected as 25 hectares, while what the committee recommended being ten hectares only. Everywhere in the file there are corrections or fabrications made with criminal intent and obligation to advance the case of individual to the detriment of public property and exchequer.

H) There is nothing to show that the District Collector or Director of Geology and Mining had forwarded the proforma as seen from the file.

I) The Government proceeded as if the High Level Committee had recommended grant of an area of 25 hectares, while the High Level Committee had recommended actually for 10 hectares only.

J) There is neither application of mind nor the concerned persons have adverted themselves to interest of mineral development and public interest. There is no inkling at all to show that anyone had applied their mind to the requirements of Rule 39 and casually Rule 39 had been invoked and it is extraordinary munificence shown to the 5th respondent. The same reason applies to the period of lease as well as the area of lease.

K) Neither in the application nor in the recommendations of the High Level Committee nor in the office note nor in the G.O impugned, the quarry had been localized, but the impugned grant is over an area of 25 hectares out of 334.14.0 hectares in SF.No.1 of Mayanoor village.

L) There is no reason at all for the State Government not to resort to the regular procedure of grant of lease by following the fair procedure of inviting application or disposing it of under Section-II of the Tamil Nadu Minor Mineral Concession Rules, 1959.

M) The exercise of power under Rule 39 being an extraordinary power in deviation of the regular procedure, could be exercised only for mineral development and

public interest, which elements have been lost sight of by everyone at all stages and the exercise of power by the first respondent does not conform to the requirement of Rule 39.

N) If the order impugned is to be sustained, it definitely amounts to exercise of uncanalised power and power has been exercised without reference to the very requirement of Rule 39.

O) Neither there is a declaration of public interest nor there is a declaration that it is for mineral development nor even such an expression finds a place on the face of impugned proceedings.

P) In the original notes was prepared by the concerned section on 7.11.95 and put up to the Section Officer on 8.11.95. The concerned Under Secretary had signed it on 9.11.95. The Principal Secretary had signed it on 10.11.95, while the papers have been circulated to the Minister, who had signed it on 19.3.96. On 22.3.96 another endorsement has been made to the effect that Minister (Industries) observed that this order may be issued immediately. A draft order has been put up for approval on 22.3.96. It was approved by the concerned Deputy Secretary and G.O was issued on the same date. Curiously, the writing of the Minister for Industries, as seen from the file, is partly above his designation "MINISTER FOR INDUSTRIES" and partly below the said designation. Above the expression "MINISTER FOR INDUSTRIES", the file shows that Minister had written thus:-

"LEASE IS GRANTED FOR"

Below the said designation, the words "5YEARS" has been written. Further below on the right side the Minister had signed. Obviously, the designation " MINISTER FOR INDUSTRIES" and the second line "5 YEARS" closely follow the signature, which is dated 19.3.96. The said writing on the face of it is abnormal. There was no movement of the file between 10.11.95 and 19.3.96 even though the file had reached the concerned Minister on 11.11.95.

Q) The lessee represented to the State Government as if the lease deed had been executed and registered with a plan attached thereto which would show the portion was marked parallel and near to the river bed, though the Government did not specify the portion with respect to which the lease under Rule 39 was granted.

R) At the instance of the lessee, the Government issued directions on 10.7.96 to the District Collector to issue transport permits, even before registration of lease deed.

S) The lessee, even before the formalities for change of the site, and even before issue of proceedings or instructions indicating the change and even before localizing and handing over the alternate leasehold site, approached the State Government for direction to issue transport permits, and closely following thereto, the State Government issued instructions by its letter dated 10.7.1996 and directed issue of permits even before an alternate site was allotted.

T) Even before orders could be issued substituting the area or site of the lease, directions have been issued to issue transport permits.

U) The Lessee filed a writ petition as if there had been a valid lease deed executed and registered in respect of an alternate site and secured directions to issue transport permits.

Hence all the above points are answered in favour of the petitioners here in and against the 5th respondent.

VII. CONCLUSION:-

77. For the above reasons, the decision making process as reflected from the note file as well as the impugned notification being arbitrary, it is demonstrable non-application of mind and callous indifference to Rule 39, we are of the considered view that the grant in favour of the 5th respondent deserves to be quashed and a further direction has to be issued to the 2nd respondent to estimate the loss caused to the State Government by the illegal quarrying of sand by the said respondent, assess the damage and estimate the loss caused to the public exchequer after issue of notice, pass orders and recover the same from the said respondent or initiate appropriate action without delay.

78. It is essential to add this is a fit case where the State Government should have ordered investigation by the CBI in respect of 35 odd Rule 39 grants during the same period as identically ordered and take up appropriate action at least even at this point of time to book the offenders to file, if it had not been done so far.

79. The impugned, Government order and grant of lease are quashed. It follows automatically that the other two writ petitions, namely, W.P.Nos. 6712 & 6713 of 1998, need not be gone into as the very grant has been quashed and nothing further survives in those two writ petitions.

80. However, it is to be stated that in future at least the State Government shall examine the aspect of ecology and depletion of natural water resources and life before granting of such leases in Cauvery bed and shall see that a balanced view is taken.

81. The writ petitions are allowed with cost of Rs. 5000 to the petitioners against the 5th respondent.