

BEFORE THE NATIONAL GREEN TRIBUNAL

SOUTHERN ZONE, CHENNAI

**Application No. 89 of 2014 (SZ) and
M.A.Nos.213 and 231 of 2014**

Applicant(s)

Respondent(s)

Mr. M.S. Thankappan, Thekkady
Idukki Dist.

Vs. Union of India, MoEF, New Delhi and
Others

Legal Practitioners for Applicant(s)

Legal practitioners for respondent(s)

M/s.P.B. Sahasranamam,
S. Kamaleshkannan
Sai Sathya Jith

Mr. M.R. Gokul Krishnan
for R-1 and R-4
Smt. Suvitha A.S for R-2, R-3 and R-5
M/s. M.K.Subramanian &
P.Velmani for R-7
Mr.M.Ajay for R6

**Application No. 212 of 2014 (SZ) and
M.A.Nos. 232 of 2014 (SZ) and
M.A. Nos. 175 of 2015**

Applicant(s)

Respondent(s)

Mr. Abraham Thomas, Murukady P.O.
Idukki Dist.

Vs. The Secretary, MoEF, New Delhi and
others

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Legal Practitioners for Appellant(s)
M/s. Yogeshwaran

Legal Practitioners for Respondents
Mr. M.R. Gokul Krishnan for R-1 and R-4
Mrs. Suvitha, A.S. for R-2, R-3 and R-5
Mrs. Rema Smrithi for R-6
M/s. Abdul Saleem, Vidya Lakshmi and
S. Saravanan for R-7
M/s. M. Ajay for R-8

Note of the Registry	Orders of the Tribunal
Item No.9&10	Date:30 th May, 2017

In these applications there has been various orders passed by this Tribunal starting from 10.3.2014. On 10.3.2014 this Tribunal has granted order of interim injunction restraining the respondents 2 to 5 in Application No.89 of 2014 from proceeding with the activities either developmental or constructional in the Periyar Tiger Reserve in Idukki District, Kerala State until further orders, as *prima facie* case has been made out.

This order came to be modified subsequently on 8.5.2014 by which the Tribunal, after hearing the contention of both the counsel, has modified the order dated 10.3.2014 to the extent of permitting the 3rd respondent in Application No.89 of 2014 to complete the construction in respect of the cafeteria since the facts and circumstances do warrant so for such modification. Accordingly, the 3rd respondent was permitted to complete the construction works in respect of cafeteria alone and the order dated 10.3.2014 was modified to that effect.

Subsequently, in the order dated 26.5.2014 the

Tribunal has permitted the 3rd respondent in Application No.89 of 2014 to put up anti-poaching sheds and shifting of car parking from Periyar Tiger Reserve to peripheral area which is actually a part of Kumili Town.

In the mean time, the Government of Tamil Nadu in Application No.89 of 2014 has filed M.A.No.212 of 2014 for the purpose of impleading the Government of Tamil Nadu and M.A.No.213 of 2014 praying for order of injunction restraining the respondents from proceeding with any construction, earth filling or related developmental activities, including Mega Car Parking in the water spread area of Mullai Periyar Reservoir, falling in the area leased and in possession of the State of Tamil Nadu.

In the order dated 5.9.2014 made in M.A.No.212 of 2014 the Tribunal has ordered impleadment.

In the order dated 5.9.2014 made in M.A.213 of 2014 the Tribunal has passed the following order:

“This is an application for an order of interim injunction restraining the respondent from proceeding with any construction, earth filling or any

related developmental activity including a mega parking lot in the water spread area of Mullai Periya Reservoir, falling in the area leased and in possession of the State of Tamil Nadu. The counsel for the respondents seek time for filing reply. The facts and circumstances and the immediate necessity would warrant a direction to the 3rd respondent to maintain *status quo* by not making any further developmental or construction activities in the Periyar Tiger Reserve in Idukki District till 26.9.2014.”

A perusal of the said order shows that while the Tribunal was aware of the prayer of the Government of Tamil Nadu in M.A.No.213 of 2014, at the end of the order the Tribunal has directed the 3rd respondent in Application No.89 of 2014 to maintain *status quo* by not making any further developmental or constructional activities in the Periyar Tiger Reserve in Idukki District and that order continues even as on date.

A reading of the above order, no doubt means that not only *status quo* was in respect of the area leased out and in possession of Tamil Nadu but also the other areas of Periyar Tiger Reserve in Idukki District which are situated in the territory of State of Kerala and in fact the Government of Kerala through its Deputy Director (Project

Tiger), Periyar Tiger Reserve, Thekkadi, Idukki District has filed M.A.No.231 of 2014 in Application No.89 of 2014 and M.A.No.232 of 2014 and M.A.No.175 of 2015 in Application No.212 of 2014 to vacate the said order and further praying for permitting the Government of Kerala to act as per the Tiger Conservation Plan (TCP) approved by the National Tiger Conservation Authority (NTCA).

The Additional Advocate General of the State of Kerala while pointing out the order of this Tribunal dated 5.9.2014, would submit that by virtue of the said order which is beyond the prayer of the Government of Tamil Nadu in M.A.No.213 of 2014, the Government of Kerala is unable to carry on any activity in the area within the jurisdiction of Kerala as per TCP approved by the NTCA. The learned Additional Advocate General would fairly submit that for the time being the prayer as asked for by the Government of Tamil Nadu in M.A.No.213 of 2014 can be granted, subject to the final decision in the main application.

Mr.Mani Sankar, the learned Additional Advocate General of the State of Tamil Nadu while stating that there can be no objection for granting relief as prayed for by the State of Tamil Nadu in Application No.213 of 2014, would submit that it must be stipulated that even in the area falling in Kerala, the Government must be permitted to act in accordance with law and as per the NTCA approval. Since this Tribunal happens to be Environment Court, is concerned with environment in the territory of both Kerala as well as Tamil Nadu.

After hearing the learned Additional Advocate General of the State of Kerala and State of Tamil Nadu, we are of the view that the order dated 5.9.2014 requires modification in the light of the prayer of the Government of Tamil Nadu in M.A.No.213 of 2014, otherwise it will result in a situation where the Government of Kerala may not be able to do any activity under the approved TCP for protecting forest and wildlife in Periyar Tiger Reserve situated within its territory because of the interim order of *status quo*.

In view of the same, the interim order passed by this Tribunal on 5.9.2014 stands modified to the effect that the status quo order passed shall be in respect of construction, earth filling or any related developmental activity including Mega Car Parking in the waterspread area of Mullai Periyar Reservoir, falling in the area leased and in possession of the State of Tamil Nadu. The said order stands modified to the above effect.

We make it clear that even in respect of the territorial area situated in the State of Kerala, any activity shall be in accordance with law and as per the approval granted by NTCA.

We also incidentally refer to our subsequent order dated 17.2.2017 wherein we have permitted the Kerala Government and allowed shifting of site for parking of vehicles from the boat landing point to the proposed site at Kumili Town purely in the interest of protection of environment and wildlife however, making it clear that no further development and no further filling or laying floor

with cement concrete or putting of tar or laying tiles or any other construction at the site in Kumili should be carried out.

This was further reiterated when it was mentioned before us on 10.3.2017 that the order passed on 17.2.2017 was purely an interim measure, taking into consideration the environmental issue and not either in the interest of State of Kerala or State of Tamil Nadu as no tourist vehicle should be allowed deep into forest/core area of the Tiger Reserve causing disturbance to the wild animals.

Subsequently, in our order dated 18.4.2017 we have directed removal of the bamboo fencing put up by the Kerala Government at the vehicle parking site at Kumili Town which the learned Additional Advocate General of the State of Kerala has also accepted.

With the above directions, M.A.Nos.231 and 232 of 2014 and M.A.No.175 of 2015 stand disposed of.

Post the main applications on 7.8.2017

....., JM
(Justice Dr. P. Jyothimani)

.....,EM
(Shri P.S. Rao)

