

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI

Application Nos.269 of 2016 (SZ)

In the matter of

Meenava Thanthai K.R. Selvaraj Kumar
Meenavar Nala Sangam
Rep. by its President
M.R. Thiyagarajan
Royapuram, Chennai

.. Applicant

Vs

1. The State of Tamil Nadu
rep. by its Secretary to Government
Environment and Forest Department
Fort St. George, Chennai
2. The State of Tamil Nadu
rep. by its Secretary to Government
Public Works Department
Fort St. George, Chennai
3. The Chairman
National Coastal Zone Authority
Govt. of India
Ministry of Environment, Forest and Climate Change
New Delhi
4. The Chairman
Tamil Nadu Coastal Zone Management Authority
Saidapet, Chennai
5. The Chairman
The Tamil Nadu Pollution Control Board
Guindy, Chennai
6. The District Collector
Thiruvallur District
7. The District Environmental Engineer
Tamil Nadu Pollution Control Board
Ambattur, Chennai
8. The Superintendent Engineer
Water Resources Department
Palar Basin Circle, Chepauk
Chennai
9. M/s. Chettinad International Coal Terminal Pvt Ltd
Rep. by its Managing Director

Anna Salai, Chennai 600006

.. Respondents

Counsel appearing for the applicants

M/s. K. Mageshwaran

Counsel appearing for the respondents

For respondent Nos.1,2,4,6,8 .. M/s. M.K. Subramanian

E. Manoharan, P. Velmani

For respondent No.3 .. M/s. G.M. Syed Nurullah Sheriff

For respondent Nos.5 & 7 .. M/s. S. Azhagamperumal

O R D E R

Present

Hon'ble Shri Justice Dr. P. Jyothimani, Judicial Member

Hon'ble Shri P.S.Rao, Expert Member

29th May, 2017

Whether judgment is allowed to be published on the Internet .. Yes/No

Whether judgment is to be published in the All India NGT Reporter .. Yes/No

This application is filed praying for a direction against the official respondents to consider the representation of the applicant dated 12.10.2016 and the representation is against 9th respondent who is stated to be an encroacher of Kosasthalaiyar River, polluting the same and thereby affecting fishing community. The applicant has also prayed for setting aside the letter of the Superintending Engineer, Water Resources Department, Palar Basin Circle, Chepauk, dated 12.08.2011 addressed to the 9th respondent. In the said letter it is stated that the 9th respondent has already obtained permission from the Chief EWRD, Chennai Chennai

Region for construction of Coal Conveyor System across Buckingham Canal. There was a request by the 9th respondent for approval of WRD to provide 7 m wide road bridges across the backwaters of Ennore Creek for attending maintenance work. It also stated that the proposed service road crossing is located in Survey No.143 of Kattupalli Village parallel to the already constructed elevated Coal Conveyor System across backwaters of the Ennore Creek. Therefore, by virtue of the said letter the Superintending Engineer, WRD, Palar Basin Circle, Chepauk, Chennai has granted permission to the 9th respondent permitting to provide two numbers of service road bridges parallel to the existing coal conveyor system across the backwaters to Ennore Creek.

2. The learned counsel appearing for the applicant, however, would submit that so far as the impugned order of the Superintending Engineer, WRD, Palar Basin Circle, Chepauk, Chennai -600 005 dated 12.8.2011, according sanction for the construction of two bridges of 7 M wide for the purpose of attending maintenance works of the closed conveyor, through which coal is being taken from Port Yard to the stockyard of the 9th respondent, he has no objection to the proposed service road crossing Kattupalli Village parallel to the already constructed elevated coal conveyor system across the backwaters of Ennore Creek.

3. However, the case of the applicant, as submitted by the learned counsel is that by virtue of the order dated 12.8.2011 the applicant is permitted to put up a bridge in Kosathalaiyar which is different from Ennore Creek.

4. First of all, the applicant who has chosen to challenge the proceedings of the Superintending Engineer of the WRD dated 12.8.2011

has not explained the reason for the enormous delay in filing the application.

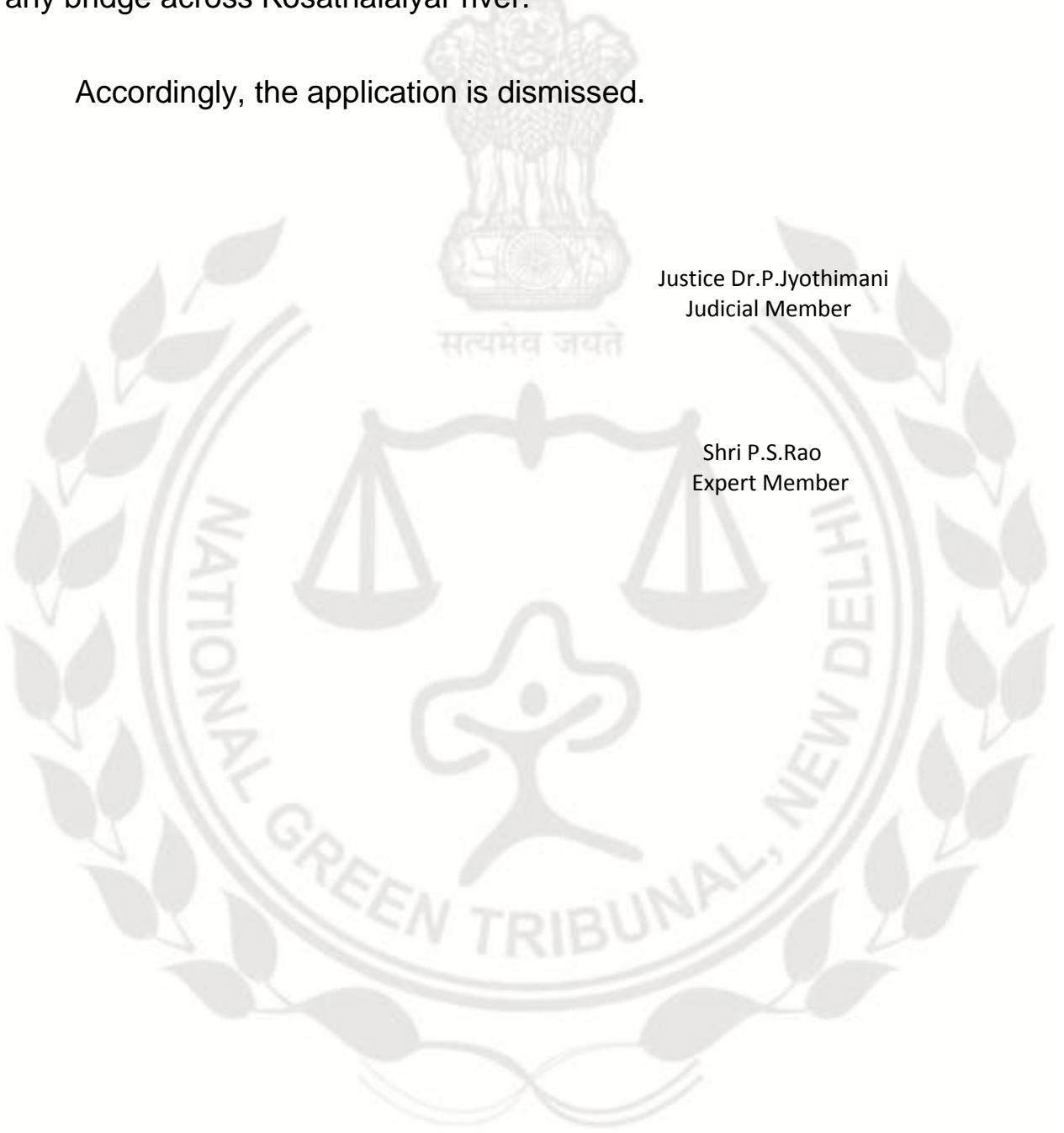
5. In our considered view, pursuant to the stand taken by the applicant that the 9th respondent may be permitted to use the road for the purpose of attending the maintenance work, is to avoid the period of limitation while challenging the order dated 12.8.2011. Be that as it may, they never challenged the order dated 12.8.2011.

6. At this point of time, it is brought to the notice of this Tribunal that the order dated 12.8.2011 itself came to be passed pursuant to report of the Empowered Committee constituted by the Hon'ble Supreme Court . It is also brought to the notice of this Tribunal that the Hon'ble Supreme Court constituted the Empowered Committee consisting of various officials of the Government as well as the Scientists and ultimately accepted its recommendations that the Ennore Port is a better place to handle coal because of the better infrastructure, including state of the art closed conveyor system, a different system of coal handling which is being adopted by Ennore Port for transporting coal. Therefore, according to the learned counsel appearing for the 9th respondent the closed conveyor system which is being adopted by the 9th respondent for the purpose of carrying coal from the Ennore Port to their stock yard itself has been found good by the Monitoring Committee and that cannot be found fault with by the applicant at this point of time.

7. In any event, the applicant's another prayer against the 9th respondent to remove the encroachment in Kosathalaiyar River has nothing to do with the any environmental issue. However, in the light of the said order dated 12.8.2011 in which permission has been granted to the

9th respondent only for the purpose of construction of road bridges parallel to the existing Coal Conveyor System across the backwaters of Ennore Creek, we cannot presume that the 9th respondent has proposed to put up any bridge across Kosathalaiyar river.

Accordingly, the application is dismissed.



Justice Dr.P.Jyothimani
Judicial Member

Shri P.S.Rao
Expert Member

NGT