

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL SOUTHERN
ZONE, CHENNAI APPEAL NO.11 OF 2023 (SZ)**

IN THE MATTER OF:

Fishing Boat Owner's Association & Ors.

...Appellant

v.

The Kerala Coastal Zone Management Authority & Others

...Respondents

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Dated at Chennai on this 17th day of January, 2024



COUNSEL FOR 1ST RESPONDENT

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**IN THE HON'BLE NATIONAL GREEN TRIBUNAL, SOUTHERN
ZONE BENCH, CHENNAI**

APPEAL NO. 11 of 2023

IN THE MATTER OF: -

1. Fishing Boat Owners' Association, Registration No. ER 176/91, Palliport P.O., Munambam, Kochi Taluk, Ernakulam District-683515, represented by its President (P.X. Stanly, S/o Xavier, aged 63, Pulikkal House, Palliport P.O., Munambam, Kochi Taluk, Ernakulam District-683515).
2. Deepsea Fishing Boat Operators Association, Registration No. ER 502/98, Palliport P.O., Munambam, Kochi Taluk, Ernakulam District-683515, represented by its President (K.B. Kasim, S/o Basheer, aged 54, Kaniyamparambil, Mannam P.O., Kochi Taluk, Ernakulam District-683520).
3. Munambam Fresh Fish Traders Association Private Limited, Palliport P.O., Munambam, Kochi Taluk, Ernakulam District-683515, represented by its Director (K.J. Nirmal, S/o John, aged 45, Kavalamkuzhi House, Palliport P.O., Munambam, Kochi Taluk, Ernakulam District-683515).
4. Munambam Model Fishing Harbour Fish Trade Services Private Limited, Palliport P.O., Munambam, Kochi Taluk, Ernakulam District-683515, represented by its Managing Director (K.B. Rajeev, S/o Bhaskaran, aged 58, Kuzhippilly House, Palliport P.O., Munambam, Kochi Taluk, Ernakulam District, PIN-683515).
5. Munambam Mini Fisheries Harbour Tharak Agents Private Limited, Palliport P.O., Munambam, Kochi Taluk, Ernakulam District-683515, represented by its Managing Director (P.J. Ancily, S/o Joseph, aged 76, Padamattummil House, Palliport P.O., Munambam, Kochi Taluk, Ernakulam District-683515).
6. Unnikrishnan K.K., S/o Kaladharan, aged 51, Korassery House, Kovilakathumkadavu, Palliport P.O., Kochi Taluk, Ernakulam District-683515 (Korassery Boatyard, Palliport P.O.)
7. K.S. Andavan, S/o Sreedharan, aged 67, Kaithakattu House, Near Ravindra Bridge, Palliport P.O., Kochi Taluk, Ernakulam District-683515. (M.M. Engineering Workshop, Market Road, Munambam).
8. Ratnakaran T.A., S/o Achuthan, aged 58, Thayattuparambil House, Palliport P.O., Kochi Taluk, Ernakulam District-683515 (Sudhas Engineering Workshop and Boat Yard, Market Road, Munambam).
9. P.K. Prakasan, S/o Kumaran, aged 74, Puthenpurackal House, Maliankara P.O., Kochi Taluk, Ernakulam District-683516. (Aroma Boat Yard, Near Mini Harbour, Market Road). **Appellant**



Versus

1. Kerala Coastal Zone Management Authority (KCZMA), Thiruvananthapuram, Thampanoor, KSRTC 4th Floor Building, Thiruvananthapuram District, PIN-695 001 (email: kczmasandtd@gmail.com, Phone: 0471 2339696), represented by Member Secretary.
2. State of Kerala, represented by the Secretary to Government, Public Works Department, Government Secretariat, Thiruvananthapuram-695 001, (email: ceadmin@kerala.gov.in, Phone: 0471 2323711).
3. Executive Engineer, Office of the Executive Engineer, KRFB- PMU Ernakulam/Thrissur District, 2nd Floor PWD Buildings Division, Mamangalam, Ernakulam District, - 682 024, (email: eekmtsrm.pmu@krfb.org, Phone: 0471 2726080). **Respondent**

**COUNTER AFFIDAVIT FILED ON BEHALF OF THE KERALA
COASTAL ZONE MANAGEMENT AUTHORITY (KCZMA),
RESPONDENT -1.**

I, Mr.Suneel Pamidi, Member Secretary, The Kerala Coastal Zone Management Authority (KCZMA), Kerala having office at 4th Floor, KSRTC Bus Terminal, Thampanoor, Thiruvananthapuram-1 solemnly affirm and sincerely state as follows:

1. I am filing this counter affidavit on behalf of the 1st Respondent/KCZMA herein and as such I am well acquainted with the facts and the circumstances of the case from the records available in this office.
2. I deny the averments and allegations stated in this Appeal No. 11 of 2023 except those are specifically admitted hereunder and put the Appellant to strict proof of the same.
3. It is respectfully submit that; the Hon'ble High Court of Kerala passed an order in WP(C) No. 27137 of 2022 (S), WP(C) No.. 13648 of 2022 (E) and WP(C) No. 37523 of 2022 (M) dated 23.03.2023, directed Kerala Coastal Zone Management Authority (here after referred as KCZMA) to pass appropriate orders on the proposal submitted by the Project Proponent (Executive Engineer, Kerala



Road Fund Board) within three weeks from the date of the order (23.03.2023).

4. It is respectfully submitted that; pursuing the above order, KCZMA has invited the Project Proponent (Executive Engineer, Kerala Road Fund Board) to make a detailed presentation on the proposed construction of bridge between Azhikode and Munambam across Munamban Kayal (Backwater) vide letter No.2179/A1/21/KCZMA dated 24.05.2023 and the same is annexed herewith as Annexure R-1.
5. It is respectfully submitted that; the application with all the supporting documents as per clause 4.2 of CRZ Notification 2011 were scrutinized by KCZMA and the project proposal presented by the Executive Engineer, Kerala Road Fund Board PWD (hereafter referred as Project Proponent) was examined in its 128th meeting held on 27.05.2023.
6. It is respectfully submit that: the KCZMA has jurisdiction only to regulate development activities which are permitted and restricted based on CRZ Notification 2011, KCZMA is not authorised to comment on the structural Part of the construction, in this project it is the jurisdiction of Inland Waterways Authority of India to provide NOC on the structural part. Project Proponent submitted the NOC of Inland Waterways Authority of India to construct the bridge across NW-3. KCZMA validated whether the application of the Project Proponent for the construction of road and bridge is as per the CRZ Notification 2011.
7. It is respectfully submitted that; After careful examination of the documents submitted by the Project Proponent, the KCZMA in its 128th meeting decided to issue the CRZ clearance for the proposed construction of bridge connecting Munambam and Azhikode. The proposed project lies in,
 - a. The Survey No(s). 81, 83, 84, 85, 86, 87, 93, 94 and 95 of Kuzhuppilly Village and Survey No(s) 427, 428, 429, 430, 431, 432 and 438 in Azhikode Vilage. The Survey No(s) 81(Pt),



83(Pt), 84(Pt), 85(Pt), 86(Pt), 87(Pt) of Kuzhuppilly Vilage partially lies within the CRZ limit and categorized as No Development Zone of CRZ III.

- b. The Survey No(s) 93, 94 and 95 of Kuzhuppilly Village do not come under the purview of CZMP, 2011 since these survey numbers are outside the CRZ limit.
- c. Similarly, the Survey No(s) 427(Pt), 428(Pt), 429(Pt) of Azhikode Village lies within CRZ limits and categorized as No Development Zone of CRZ III.
- d. The flow of tidal influence water body shall not be disturbed /altered due to the construction in Survey Numbers 430, 431, 432 and 438.

The authority further specified the condition that the fishing activity and movement of fishing boats shall not be disturbed/ affected due to construction activity; the impacts should be monitored and addressed. The project proponent has directed to furnish a compliance report of the conditions stated in the CRZ clearance issued and the same is available in the minutes of 128th meeting which is available in the Annexure A-13 in page 63.

8. It is respectfully submit that the proposed bridge is an elevated structure and passing above the water body and the approach roads to the bridge is passing through the CRZ IV B which is permissible activity under CRZ Notification 2011.

- a. CRZ Notification 2011.Para 8 (I) (ii) (b)

*'(b) construction of dispensaries, schools, public rainshelter, community toilets, **bridges, roads**, jetties, water supply, drainage, sewerage which are required for traditional inhabitants living within the biosphere reserves after obtaining approval from concerned CZMA.'*

- b. Also CRZ Notification 2011 Para 8 (III) (iii) (j)

*'(j) construction of dispensaries, schools, public rain shelter, community toilets, **bridges, roads**, provision of facilities for*

water supply, drainage, sewerage, crematoria, cemeteries and electric sub-station which are required for the local inhabitants may be permitted on a case to case basis by CZMA;'

9. It is respectfully submit that the KCZMA after carefully examining the proposed project with the CZMP 2011 maps prepared by NCESS and approved by MoEF&CC vide letter 28/02/2019 and the same was published in KCZMA website, and strictly following various provisions of CRZ Notification 2011, in the 128th meeting held on 27.05.2023 (Agenda Item 128.01.10) provided clearance for the project proposal for the construction of Azhikode Munambam Bridge.
10. It is respectfully submit that the KCZMA strictly checks the development activity along the CRZ according to the provisions of CRZ Notification 2011. KCZMA applies CRZ Notification 2011 in letter and spirit to protect the CRZ eco-sensitive area. Therefore I pray before this Hon'ble Tribunal to dismiss this petition.

First Respondent

Solemnly affirmed at Chennai

On this 17th day of January 2024

& Signed his name in my presence.



Before Me


Member Secretary, KCZMA