

**BEFORE THE NATIONAL GREEN TRIBUNAL (SZ) CHENNAI
MEMORANDUM OF APPLICATION**

(Under Section 18(1) read with Sections 14, 15 of National Green Tribunal Act 2010)

Application No. 131 of 2022 (SZ)

Between:

Mahendran P ... Applicant

Vs

The State of Tamil Nadu & arr ... Respondents

MEMO FILED ON BEHALF OF THE APPLICANT

It is respectfully submitted as follows:

1. The respondents have published draft CZMP maps and land use maps on the website of the Department of Environment and had provided a period of 45 days for submissions of comments / suggestions.
2. Post this, a public hearing would be organized as required by law at the District level.
3. Simply saying that objections to the draft will be considered will perpetuate the same cycle of illegality – the respondents cannot be rewarded for their failures. They have consistently delayed in preparing compliant CZMPs and failed to properly mark tidally influenced areas in the subject CZMPs.

Why is it important for the subject draft Maps to be “complete”?

4. The order of this Hon’ble Tribunal in OA 241 of 2017 has attained finality. The respondents were parties to the case and are under a duty to comply with the law while preparing the CZMP under the 2019 CRZ Notification.
5. However, they have prepared the draft CZMP by ignoring tidally influenced waterbodies in the Ennore backwater region, in violation of the order of the Hon’ble Tribunal – by not using the 1996 CZMP as a base while preparing the present draft maps.

6. The present draft maps also DO NOT EVEN MARK LARGE SWATHES of backwater regions, tidally influenced salt pans as waterbody and demarcate CRZ areas from its boundaries. Maps demonstrating this have been filed.
7. The drafts are essentially incomplete. Portions of waterbody itself are not shown. It is not that there are some errors that need correction. There are fundamental and fatal lapses in failing to prepare the CZMP with the correct baseline map, namely the Government of India-approved 1996 CZMP. It is important that the draft maps are complete in all respects while being published.

Importance of 45 days to submit comments

8. The 45 day period provided after communication of the maps is essentially the period provided for people to understand the maps, identify errors (like failure to mark boat parking yard etc), collect evidence in support of their statement and submit comments.
9. The public hearing serves a different purpose. It is for informed participation in person so that people can voice their views effectively. These two stages in the process are distinct and are not substitutes.

Why is considering objections that large portions of the tidally influenced waterbody is missing, while preparing the final map not sufficient ?

10. People have submitted objections concerning the subject sheets covering Ennore – inter alia stating that the waterbody itself is missing. Objections have also been raised regarding the non-use of the 1996 CZMP as base map in the lead up to the finalisation of the CZMPs prepared in 2018.
11. It is necessary to bear in mind that the respondent ought to have prepared the draft CZMP in compliance with the orders of this Hon'ble Tribunal. The respondent in its status report served late last night claims that they have done so.

12. This is a repetition of the very same cycle.

Scenario 1

13. Let's assume for the sake of argument that the present draft CZMP maps published are complete i.e they include the missing river and paraval areas. People would have had 45 days' time to read, understand and submit comments with evidence. If any issues were noticed in terms of zoning, infrastructure etc, then it could be pointed and these could be addressed in the final CZMP.

Scenario 2

- a. However, the present draft maps do not include the waterbodies. Assuming comments submitted are considered and even assuming that some portions of the waterbody are included in the final maps – it is insufficient - the people have lost the right to study the draft maps, suggest changes with evidence. This could have resulted in the preparation of better final maps.
- b. The final maps may be notified without any changes and the waterbodies missing. People have again lost the right to a proper CZMP for the area.

14. The purpose of this exercise is not to delay the preparation of CZMPs. The respondent ought to have started preparing the CZMPs in the year 2019 – they cannot start late, after several years and now claim that they will rush through the process. The aim is to prepare proper plans that are compliant with law. Urgency cannot be a justification for the preparation and finalisation of incomplete and non-compliant plans/maps.

15. Experience has shown that the left out areas will not be marked by the authorities on their own accord. While preparing the 2018 CZMPs, the same request was made and they did not do it. In fact, during the course of OA 241 / 2017, they submitted a site inspection report by NCSCM saying that some areas were added in the 2018 CZMPs. This Hon'ble Tribunal refused to accept it and directed the exercise to be properly done based on the 1996 CZMP.

16. The applicant can, by way of a guided field visit, point these experts to the tidally influenced lands in the Ennore backwaters that have been left out.

1996 P

17. Under the CRZ Notification, 1991, CZMPs for Tamilnadu were approved on 27/09/1996. Sheet 2 (Thiruvallur District) of the CZMP (hereinafter called the 1996 plan), covering the Ennore-Puzhuthivakkam area included the Buckingham canal, Kosasthaliyar river, their flood plains and backwater area of the Kosasthaliyar, which also included salt pan areas inside this tidally-influenced backwater region. Letter dated 27/09/1996 is annexed as **Annexure A**. The CZMP consisted of a written descriptive plan and associated maps.

Modification of 1996 CZMP sought

18. The State Government thereafter realised that their proposed petrochemical park would be falling in the areas demarcated as CRZ and sought to have some areas excluded from the 1996 plan and wrote to the MoEF & CC on 14/05/1997 seeking modification of Sheet 2. The MoEF on 30th September 1997 communicated their decision on various issues sought by the State Government regarding Sheet 2. Copy of MoEF's letter dated 30/09/1997 is annexed as **Annexure B**.

MoEF's letter dated 30/09/1997

19. The crux of the letter :

- (a) Reclassification of the area from CRZ - I to III was approved
- (b) Reduction of CRZ area to 100 meters from the backwater was approved
- (a) To adopt backwater area as demarcated by the Chief Hydrographer to the Government of India and to modify the earlier map that was based on IRS imagery data was approved.
- (c) Regrading exclusion of salt pan areas from CRZ,

- (i) in case the salt pan area lies in the inter tidal zone, it was made clear that it will form part of CRZ and under no condition this area can be excluded from CRZ
- (ii) In case the Salt pan area fell outside the HTL of the backwater area, then 100 m width or the width of the backwater, whichever is less, of the salt pan area will have to be demarcated as CRZ.

What could have been done pursuant to the MoEF's letter?

20. The state government was to demarcate the area as per the above conditions, and backwater area was to be demarcated by Chief Hydrographer to Government of India. Neither the original 1996 nor the impugned 1997 documents were in the public domain and hence were not challenged at an earlier point. However, even assuming that these approvals for modifications were valid, only the re-classification of CRZ I to III and exclusion of salt pan areas outside 100 meters of the HTL of the backwater area could have been permitted and the backwater ought to have been demarcated only through the Chief Hydrographer to the Government of India. It is a fact that the Chief Hydrographer has not demarcated the backwater areas in this region, and that no such altered map has been submitted for approval to or approved by the Ministry of Environment and Forests.

Illegal changes made to the 1996 CZMP

21. However, contrary to the letter of the MoEF dated 30/09/1997, the State of Tamil Nadu, uploaded on its website, a CZMP for the subject area (sheet 2), hereinafter referred to as "1997 Map", contrary to the letter of the MoEF dated 30/09/1997. This had excluded

- a) Entire Kosasthalaiyar river
- b) The entire portion of the tidally influenced backwaters
- c) Salt pans falling within the tidally influenced backwaters
- d) CRZ area to be demarcated to a distance of 100 meters from the HTL of the backwaters.

Further, the extent of the map had been reduced from 16 km North-South to 13 km North South, excluding 3 km of the southern extent of the map. The CZMP was not complete as it had only a map and no descriptive plan along with it. The state of Tamilnadu claims that this map has been approved by the MOEF vide the communication dated 30/09/1997.

22. It is evident from a reading of the communication dated 30/09/1997 that the 1997 map is the result of fraudulent exercise to exclude an entire water body, its flood plain, backwater system, salt pans, mangrove areas from the CZMP, thus taking them outside the purview of the CRZ notification, 1991. This fraud has resulted in conversion of ecologically sensitive areas for industrial use. No demarcation by Chief Hydrographer appears to have been done as Chief Hydrographer would not have obliterated the entire backwater system in the name of demarcation. RTI responses have also confirmed that the Chief Hydrographer was never approached for such a demarcation and the same was not done.

23. The Hon'ble Tribunal may be pleased to consider these submissions and render justice.

Dated this the 1st day of December, 2022 at Chennai



Counsel for the Applicant