

BEFORE THE NATIONAL GREEN TRIBUNAL

SOUTHERN ZONE AT CHENNAI

MA. No. 138 of 2017

in

OA.No. 63/2017 (SZ)

C.H. Balamohanan
No. 97/18, Pudhunagar Street,
Bharathipuram,
Pondicherry – 605011

Petitioner

-Vs-

1. The Union Territory of Puducherry,
Rep. by its Secretary to Govt,
Department of Science and Technology and Environment, Puducherry

2. The Public Works Department,
Rep. by the Chief Engineer,
No. 34, Lal Bahadur Sastri Street,
Puducherry – 605001

3. The Port Department
Rep. by its Secretary to the Govt
No. 1 Rue Dumas Street
Puducherry – 605001

4. M/s. Dredging Corporation of India Ltd,
Rep. by its Chairman cum Managing Director,
Dredge House, Port Area,
Visakapattinam – 530035

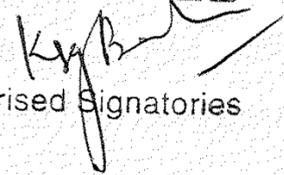
5. M/s. Marg Ltd, Marg Axis
Rep. by its Director,
No. 4/318, OMR, Kottivakkam
Chennai - 600041

Respondents

REPLY SUBMITTED BY 5TH RESPONDENT

1. The 5th respondent denies the entire allegation, averments made in the Petition filed by C.H.Balamohanan for violating the Order of this Hon'ble Tribunal dated 24.03.2017 in OA.63/2017. The 5th respondent greatly obliged the Order of this Hon'ble Tribunal and act accordingly.

For MARG LIMITED


Authorized Signatories

2. The 5th Respondent submits that the Petitioner filed the OA. 63/2017 to get injunction against Govt.of Puducherry and M/s. Marg Ltd. from discharging dredged material from Ariyankuppam River mouth, the common entrance of Puducherry Fishing Harbour 1.5 km from the harbour mouth and for directing to discharge the dredged material at a location of 4 kms from the harbour mouth between the pier and Gandhi statue for beach nourishment as provided in the Govt. order dated 28.06.2016 issued by Govt. of Puducherry. In OA.63/2017 It is understood that for beach nourishment project, work order was issued to Dredging Corporation of India (DCI) on 24.11.2016. There was an urgent requirement for Port Department to dredge 75000 cubic meter sand for fishing vessels. Since it was an urgent work DCI unable to done immediately and thereupon meeting held between Port Department and Dredging Corporation of India on 30.01.2017 for the short term tender by Port Department for dredging of 75000 cubic meters of sand for fishing vessels.

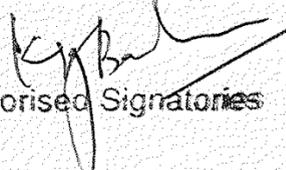
3. The 5th Respondent submits that on 14.02.2017 there was a short term tender announced by the Port Department, Puducherry. Marg Limited is a Public Limited Company and doing construction works. It is true that Marg Limited was a successful bidder of the tender for short term by the Port Department, Puducherry as well as Letter of Intent issued by the Port Department to Marg Ltd and it's mobilized the dredger for the need of emergent work. Meanwhile, petitioner filed an application in OA. 63/2017 to get injunction against the Govt.of Puducherry and M/s. Marg Ltd

4. The 5th Respondent (Marg Ltd in MA.138 of 2017) submits that, there was an affidavit submitted by the 5th Respondent (Port Department, Puducherry), in OA. 63/2017 reconsidering the case and provided that

“Dredging Corporation of India should be allowed to continue their assigned work strictly in terms of work order dated 24.11.2016. The dredged sand (3 lakh Cubic Meter) should be discharged in the stipulated lead distance of 4 km and pumping strictly following the conditions imposed by the state Level Environment impact assessment Authority which accorded permission for nourishing of Coastline vide their letter dated 07.02.2017

Since M/s. Marg Ltd had mobilized their dredger on the basis of letter of intent though the need for emergent work as contemplated in the tender no longer exists, the higher suction capacity of dredger machine of M/s. Marg Ltd. Could be used to remove the accumulated silt

For MARG LIMITED


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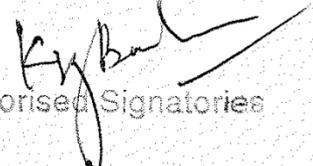
between New Port and the river mouth i.e. in the lagoon to clear the common passage for fishing vessels, and commercial vessels. The required environmental clearance is to be taken before starting of operation by M/s. Marg Ltd; required funds should be allocated in the budget of Port Department for this work in BE.2017 -18.”

The same has been communicated to the DCI & Marg Ltd. Accordingly the order was passed by this Hon'ble tribunal in OA. 63/ 2017 that against the petitioner's prayer has been in fructuous since, the Puducherry Govt. reconsidered the case and changed the plan and further ordered as per the new plan the project should be done by the Parties.

5. The 5th Respondent submits that the quantity of 3 lakh cubic meter sand dredging work allotted for Beach nourishment to DCI. The same was completed on 18.08.2017 however in spite of completion of the 3 lakh cubic meter by DCI, the fishing vessels were still finding in navigating the channel since the extension of completion period of 8 month and it's resulted in siltation and hence it was need to dredge some more quantum of sand to clear the silt for fishing vessels. Hence the Port Department asked Marg Ltd to clear the channel as per the work order issued to it on 13.04.2017. It is pertinent to mention that Marg Dredger remained berthed outside the harbour since the date of issue of the work order, without any violation of the order of this Hon'ble Tribunal in OA.No.63/2017. When the need of additional quantum of 40000 cubic meters in the channel east of the tunnel arose, upon the dredging work assigned by the Port Department, Puducherry to the 5th respondent by the work order dated 13.04.2017, with proper environment clearance Marg dredger clear the silt in the channel. It is false statement by petitioner that without environment clearance Marg Dredger located. It is pertinent to mention that, according to the work order assigned to Marg Ltd, as a successful bidder the dredging work has been done as per the decision of the Government.

6. Due to the bonafide reason, the 5th Respondent herein and 7th Respondent in OA. 63/2017 is just a Successful bidder of a short term tender by the Port Department of Puducherry, other than that it's not arrayed as a main party in this project. Marg Ltd completed the assigned dredging work, as per the work order dated 13.04.2017 without any violation and also the work has been completed with proper environment clearance.

For MARG LIMITED


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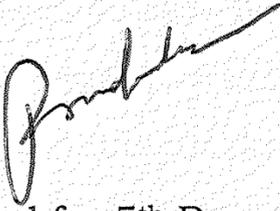
Hence it is, therefore prayed by the 5th respondent that this Hon'ble Court may be pleased to dismiss the application filed against the 5th Respondent and thus render Justice.

Dated at Chennai on this 13th day of October 2020

For MARG LIMITED


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For 5th Respondent



Counsel for 5th Respondent