

**BEFORE THE NATIONAL GREEN TRIBUNAL, SOUTHERN
ZONE, CHENNAI**

IN

Original Application No. 144 OF 2020

IN THE MATTER OF

Dr. Sarvabhoun Bagali ... APPLICANT

Versus

State of Karnataka and Ors. ... RESPONDENT

**ADDITIONAL AFFIDAVIT ON BEHALF OF THE
RESPONDENT NO.2 AND RESPONDENT NO.7 i.e., MINISTRY
OF ENVIRONMENT, FOREST AND CLIMATE CHANGE AND
NATIONAL WETLANDS COMMITTEE (MoEF&CC)
RESPECTIVELY.**

MOST RESPECTFULLY SHOWETH

I, Pankaj Verma currently working as Scientist E in the Ministry of Environment, Forest and Climate Change (MoEF&CC), do hereby solemnly affirm and state as under.

1. That I, in my official capacity as Scientist 'E' in the Ministry Environment, Forest and Climate Change, i.e., Respondent No.2 in the above-mentioned matter, am conversant with the facts and

circumstances of the case on the basis of official records, and as such authorized and competent to swear this affidavit.

2. It is most respectfully submitted that the present additional affidavit has been filed by the Answering Respondent in respect to the queries sought by the Hon'ble National Green Tribunal vide orders dated 22.02.2022 and 23.03.2022 as follows: A. Whether the sand mining can be permissible even in a manmade wet land, tanks and ponds etc., B. To state any objections to the Joint Committee Report. C. The only question to be considered is whether mining is permissible in the water bodies and if at all any permission is granted, whether it is against the guidelines issued by the MoEF&CC.
3. That the Wetlands (Conservation and Management) Rules, 2017 (hereinafter "Rules, 2017) in short Wetlands Rule,2017 apply to the wetlands or wetlands complexes categorized as 'wetlands of international importance' under the Ramsar Convention and wetlands as notified by the Union Government, State Government and Union Territory Administration. These rules shall not apply to the wetlands falling in areas covered under the Indian Forest Act, 1927, the Wildlife (Protection) Act, 1972, the Forest (Conservation) Act, 1980, the State Forest Acts, and the Coastal Regulation Zone Notification, 2011 as amended from time to time.

4. That the Hon'ble Supreme Court vide order dated 4th October, 2017 in M.K. Balakrishnan & Ors. Vs. Union of India & Ors., Writ Petition (Civil) No.230 of 2001 has directed that:

“We make it clear and reiterate that in terms of our order dated 8th February, 2017, 2,01,503 wetlands that have been mapped by the Union of India should continue to remain protected on the same principles as were formulated in Rule 4 of the Wetlands (Conservation and Management) Rules, 2010”.

5. That the Wetlands Rules, 2017 (2) (i) defines the “wise use of wetland” as maintaining the ecological character of them through implementation of ecosystem approach with the help of sustainable development. The wetlands shall be conserved and managed in accordance with the abovesaid principle.

Rule (2) (1) (i) “wise use of wetlands” means maintenance of their ecological character, achieved through implementation of ecosystem approach within the context of sustainable development;”

6. That the “wise use of wetland” is a parameter to prohibit the activities in wetlands. As per Rule 4 (2) (i) of the Rules, 2017, ‘conversion for non-wetland uses’ is a prohibited activity.
7. That removal of sand for maintaining the ecological balance and conserving the ecosystem carried out in a controlled scientific

manner can be permissible in the wetlands. Whereas the mining of sand for the commercial activity cannot be made permissible in the wetlands.

8. That as per the Rule 5(4) (g), (h) and (n) states that the State Wetland Authority or Union Territory Wetlands Authority can perform certain functions to strategize the conservation and wise use of wetland. “Wise use of wetland” is a principle which shall govern the management of ecosystem which incorporates sustainable uses, they can issue necessary directions for conservation and sustainable management of wetlands.

“5. Wetlands Authorities. – (4) The State Wetlands Authority or Union Territory Wetlands Authority shall exercise the following powers and perform the following functions, namely:-

(g) define strategies for conservation and wise use of wetlands within their jurisdiction; wise use being a principle for managing these ecosystems which incorporates sustainable uses (such as capture fisheries at subsistence level or harvest of aquatic plants) as being compatible with conservation, if ecosystem functions (such as water storage, groundwater recharge, flood buffering) and values (such as recreation and cultural) are maintained or enhanced;

(h) review integrated management plan for each of the notified wetlands (including trans-boundary wetlands in coordination with Central Government), and within these plans consider continuation and support to traditional uses of wetlands which are harmonized with ecological character;

(n) issue necessary directions for conservation and sustainable management of wetlands to the respective implementing agencies;"

9. It is further submitted that the answering respondent has no comments on Joint Committee report.
10. That in view of the aforementioned facts and circumstances, this Hon'ble NGT may kindly be pleased to pass appropriate order(s). Further, it is stated that the present affidavit be read as a part and parcel of the Counter affidavit filed by the answering respondent.

VERIFICATION

Verified at New Delhi on this 12th day of April, 2022 that the contents of this affidavit based on official record(s) maintained and information available in the office are true and correct, no part of it is false and nothing has been concealed there from.

Pankaj Verma
DEPONENT

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