

BEFORE THE HONOURABLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI

In

0.A.No.160 of 2020 (SZ)

IN THE MATTER OF:

EAS Sarma& Ans

...Applicant(s)

Vs

Union of India and Ors. Respondent(s)

Joint Committee Report

Joint Committee Report

In

Application No.160 of 2020

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BEFORE THE HONOURABLE NATIONAL GREEN TRIBUNAL

SOUTHERN ZONE, CHENNAI

In

Application No.160 of 2020

Joint Committee Report on OA No.160 of 2020(SZ) filed before the Hon'ble
National Green Tribunal, Southern Zone, Chennai.

INTRODUCTION

Vide Order dated 27.8.2020 in O.A No. 160 of 2020, the Hon'ble NGT (SZ) has constituted a Joint Committee comprising of 1) a Senior Officer from Regional Office, Ministry of Environment, Forest & Climate Change (MoEF & CC), Chennai, 2) a Senior Officer from Andhra Pradesh Coastal Zone Management Authority (APCZMA), 3) a Senior Officer not below the rank of Chief Conservator of Forest to be designated by the Principal Chief Conservator of Forest & HOFF, Andhra Pradesh and 4) the Divisional Forest Officer, Coringa Wildlife Sanctuary to inspect the area in question and submit a factual as well as action taken report, if there is any violation found including assessment of environmental compensation and remedial measures to be taken to restore the damage caused to the environment.

However, several times the site visit was postponed due to various constraints like request vide letter No. ALN/70/2019-SA(E2) dated 15.7.2020 from District administration due to Covid-19 pandemic in the District, thereafter due to the heavy rainfall in the State of Andhra Pradesh and Telangana and finally due to the Nivar Cyclone at East Coast.

The committee is also directed to consider the question of nature of damage caused to the mangroves and mudflats due to the activities of the sixth respondent and also on the account of the construction of the bund preventing the flow of sea water in that area and the consequential damage caused to the mangroves and the mudflats and its effect on the environment and eco sensitive zone namely, the

Coringa Wildlife Sanctuary and if any damage caused to the environment apart from assessing the environmental compensation required for the restoration of damage caused to the environment.

The committee is also directed to consider the question as to whether any activity of the sixth respondent has been extended in the prohibited CRZ - I and CRZ- IA areas as alleged in the application.

Meanwhile, Hon'ble NGT vide its common order dated 20.11.2020 in I.A.Nos.119&120/2020 of OA No. 160 of 2020(SZ) deleted the 5th respondent and impleaded M/s.GMR Energy Ltd as 8th respondent.

BACKGROUND

GMR Energy Limited, the 8th Respondent has relocated a Barge Mounted Power Plant from Mangalore to Kakinada during June, 2010 by transporting the barge in a mother vessel upto Kakinada high sea. From the high sea, the barge was towed to the existing mooring basin after deepening the commercial channel and dredging the area of mooring basin. From March 2013, the plant remained to shut down due to the non availability of natural gas and do not foresee any chance for getting natural gas in near future, the management decided to sell the barge for managing the financial crisis. As a preparatory work for towing the barge out of mooring basin to high sea to handover to prospective buyer, dredging of the same navigation channel used for bringing the barge to Kakinada mooring basin is done. For dredging, necessary approvals/ clearance were obtained. The approval for dredging given by Andhra Pradesh Maritime Board is at **Annexure-I**.

OBSERVATIONS DURING THE SITE VISIT

The committee members conducted field inspection on 10.12.2020 in the presence of petitioners as well as respondents. On behalf of Shri E.A S Sharma (petitioner) Shri K.M Rao with a team of Environmentalist has described about the damages caused to the mangroves along the roadside patch. The Respondent No.7 informed that the area in question is under their control and covered by the approved master plan and the activities are being undertaken as per the approved master plan.

The Respondent No.8 conveyed that dredging was undertaken after obtaining necessary permissions. As directed by Andhra Pradesh Maritime Board, to avoid mixing of dredging spoil with sea water they constructed a bund in the designated area **for depositing dredging spoils**. Later they realized that the mangrove patch along the road side got affected and removed certain **portion** of bund to allow inflow of sea water into mangrove patch. It is also informed that due to this they have stopped all their activities in that area until further directions.

They also informed that they have taken necessary steps for the regeneration/restoration of the affected mangroves by appointing an Expert Consultant for this purpose. However the petitioner demanded for the complete removal of the bund and the Respondent No. 8 has agreed upon. They also expressed their willingness to restore the damaged area to **its original position** under the supervision of Andhra Pradesh **Maritime** Board **since the** area is under their control. They also informed that apart from the mangrove patch along the road the area adjacent to GMR Power plant did not have mangroves as alleged by the petitioners, in fact it was a reclaimed area and only growth of *Prosopis* plants was found earlier. The photos taken during the site visit is at Annexure-II.

The area **in question is not a notified forest** area and not under the control of forest department. The affected **portion of mangrove** area is approximately 1.80 km away **from Coringa Wildlife** sanctuary boundary as well as away **from proposed Eco Sensitive Zone of Coringa WLS (the Coringa WLS Eco Sensitive Zone** is not yet notified hence default zone of 10 km from Coringa WLS is currently applicable).It is noted that the important migratory bird species like Great knot and Indian skimmers are seen along with other species in the Kumbhabhishekam mudflats area which is under the control of AP Maritime Board.The committee also noticed that the area is fully covered with high buildings, immense warehouses, Industries, Ports, Fishing harbor and other facilities related to port related activities.

Recommendations of the committee

The main allegation of the petitioner in OA No.160 of 2020(SZ) is that there is a violation of Environmental Laws by the respondent No.8while dredging. Further, due to deposition of dredging spoil and construction of bund in that location, the mangroves got damaged and requested to remove the bund and restore the mangroves to its original status as well as maintenance of Kumbhabhishekam mudflats area which is important for migratory birds. In view of this and based on the observations/discussions during the site visit, the followings are recommended.

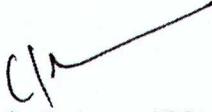
1. As demanded by the representatives of the petitioner and as agreed by the Respondent No.8 during the site visit, the affected portion of Mangroves has to be restored to its original position by 8th respondent by engaging suitable consultant/subject expert under the supervision of AP Maritime Board. The balance portion of the bund also has to be removed to allow in flow of sea water into this area by taking due care that the deposited dredging spoil not mixed with sea water.

2. The Kumbhabhishekam mudflats area is to be maintained suitably by AP Maritime Board without affecting the existing port activities since important migratory bird species like Great Knot and Indian Skimmers along with other migratory bird species are visiting this area every year. The area is falling in the default ESZ and therefore, they have to follow the rules and regulations imposed on ESZ.
3. Vigilance should be taken to protect the existing Mangroves and mudflats by the project proponent, AP Maritime Board and Forest Department while dredging the canal in future for port related activities.


(Dr. C. Palpandi)
Scientist 'C'
MoEFCC


(Dr. K. G. Prijilal)
Research Officer
MoEFCC


(Shri Rahul Pandey, IFS)
CCF (Wildlife)


(Shri C. Selvam IFS)
Divisional Forest Officer,
WLM, Rajamahendravaram


(Shri A. Ramarao Naidu)
Environmental Engineer
F&A APCZMA

ANDHRA PRADESH MARITIME BOARD
O/o DEPUTY CHIEF EXECUTIVE OFFICER
KAKINADA

From
Siddharth Jain, I.A.S.,
Deputy Chief Executive Officer,
Andhra Pradesh Maritime Board,
Port Administrative Building,
P.B. No.11, Beach Road,
Kakinada -533 001.
Mail Id: dir_ports_kkd@ap.gov.in
dp_kkd@vabhoo.com

To
M/s GMR Energy Limited,
701, 7th Floor, Naman Centre,
Plot No.C-31, Bandra Kurla Complex,
(Opp: Dena Bank), Bandra East,
MUMBAI -400051,
MAHARASTRA.

Lr.No.SE/PP2/05/2020-1, dt.01.02.2020

Gentlemen,

Sub: Andhra Pradesh Maritime Board – GMR Energy Limited – Approval for dredging of Channel for towing the Barge out of mooring basin and Approval for disposal of dredged sand to location Specified–Permission - Issued – Reg.

Ref: 1) M/s GMR Energy Limited Lr.No.GMR/GEL/KKD/BP/7.12/4221,
Dt.21.12.2019.
2) This Office Lt.No.SE/PP2/05/2020, Dt.27.01.2020.
3) Govt., Memo.No.INC01-PORT/15/2020, Dt.30.01.2020.
(Copy enclosed)

With reference to your letter 1st cited, the Government in the reference 3rd cited have approved the proposal for dredging of Channel for towing the Barge out of mooring basin and for disposal of dredged spoil to location specified and the Government have also issued necessary permission for your proposal subject to the following Terms and conditions.

- (i) The activity of the dredging should not hamper the movement of Barge/ Boats and other Traffic including Fishing boats through the commercial channel while plying from shore to ship and vice - versa.
- (ii) During the course of dredging work, no Government property should get damaged, if any damage occurs to any of the Government pipelines, it should be repaired to it's normalcy with M/s GMR Energy Limited cost.

- (iii) The Department may hold this permission on Administrative or other reasons at any time. No compensation or claim will be entertained in this regard for whatsoever reason.
- (iv) Drawing of the Channel and area to be dredged are to be super imposed on Navigational Chart 3009 (Kakinada Port) and Same is to be submitted to the Port Department.
- (v) M/s GMR Energy Limited shall indemnify the Government any losses what so ever in the entire period of Operations (i.e.,) from dredging and mooring out the barge.
- (vi) The proposed dredged area parallel to the Commercial Canal shall be at least 60 Mts. Distance from the center of North groyne. The Dredging depth shall be limited to (-) 3.20 m. only.
- (vii) The dredged spoil shall be disposed to reclaim the low lying area in the North side of existing GMR Energy Limited site up to opposite to Port Administrative Building on East side of ADB road up to +3.00 Mts, level of chart datum by constructing Bunds around the area up to +3.5 Mts. duly allowing slushy water in to the sea as directed by the departmental officials.
- (viii) M/s GMR Energy Limited shall take all relevant permissions if any required on the subject issue.

Further, M/s GMR Energy Limited shall take further necessary action in consultation with the Port Officer, Kakinada and Executive Engineer, Marine Division, Kakinada.

Encl : As above.

Yours Sincerely,
Sd/-Siddharth Jain
Deputy Chief Executive Officer,
Andhra Pradesh Maritime Board.

Copy to Port Officer, Kakinada for information.

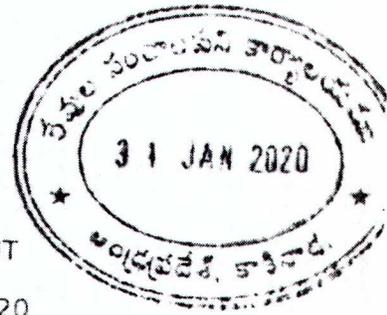
Copy to Executive Engineer, Marine Division, Kakinada for information.

-//True Copy//-


Personal Assistant to

Deputy Chief Executive Officer

mehul
01/12/2020



GOVERNMENT OF ANDHRA PRADESH
INFRASTRUCTURE & INVESTMENT(PORTS) DEPARTMENT

Memo No. INC01 PORT/15/2020

Date: 30-01-2020

Sub:- I&I Dept. - Andhra Pradesh Maritime Board - GMR Energy Limited -
Approval for dredging of Channel for towing the Barge out of
mooring basin and approval for disposal of dredged sand to location
-Permission - Accorded.

Ref:- From the Dy.Chief Executive Officer, Andhra Pradesh Maritime Board
Lr.No.SE/PP2/05/2020, dt.27.01.2020.

& & &

The attention of the Dy. Chief Executive Officer, A.P Maritime Board, Kakinada is invited to the reference cited and Government after careful examination, hereby approve the proposal for dredging of Channel for towing the Barge out of mooring basin and for disposal of dredged spoil to location as proposed in the reference cited.

2. The Dy. Chief Executive Officer, A.P Maritime Board, Kakinada shall take necessary action, accordingly.

R. KARIKAL VALAVEN
SPECIAL CHIEF SECRETARY TO GOVERNMENT

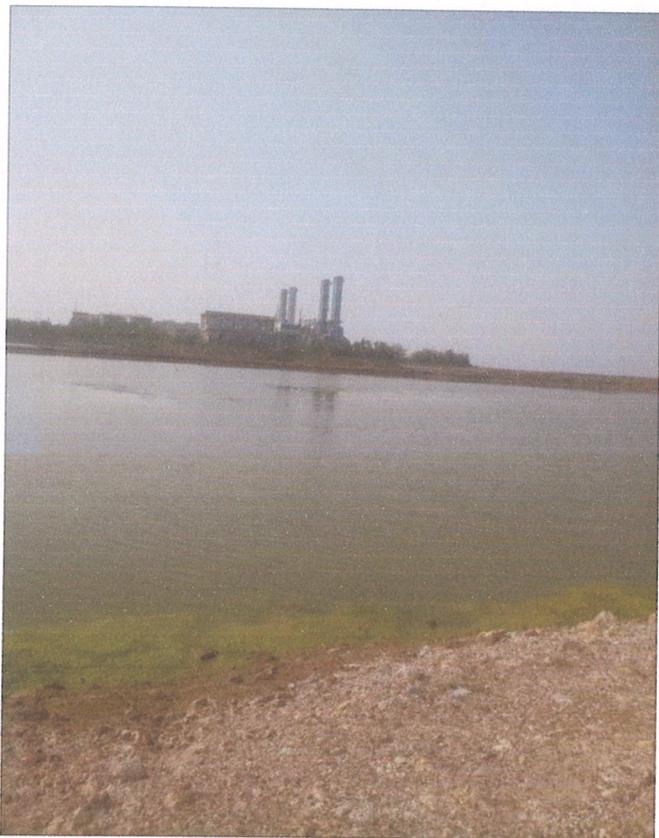
To
The Dy. CEO, A.P. Maritime Board
A.P Maritime Board, Kakinada

Copy to:
The PS to Spl.SC to Govt.

// FORWARDED :: BY ORDER //

SECTION OFFICER

Annexure-II



Photos taken during the site visit