

IN THE NATIONAL GREEN TRIBUNAL,
SOUTHERN ZONE BENCH, CHENNAI
APPLICATION No. 172 of 2020

IN THE MATTER OF:-

Association of Deep
Sea Going Artisanal
Fishermen

.....Petitioners

-Vs-

Union of India & ors

..... Respondents

**AFFIDAVIT ON BEHALF OF RESPONDENT NO. 1 (MINISTRY OF
ENVIRONMENT, FOREST AND CLIMATE CHANGE)**

GOKUL KRISHNAN MR

Panel Counsel for UOI
Counsel for the Respondents 1
Mobile No: 9962549483

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I, M.T. Karuppiah S/o Shri. Masilamani aged about 50 years, presently working as Scientist "E" in the Regional Office (Southern Eastern zone) of the Ministry of Environment, Forests and Climate Changes (hereinafter referred to as MoEF&CC) at Chennai do hereby solemnly affirm and state as under:-

1. That I am acquainted with the facts and circumstances of the instant case and duly competent to swear the present affidavit on behalf of the MoEF & CC on the basis of the official records maintained therein.

2. I state that I have perused and understood the contents of the present Original Application. At the outset, I deny all averments, submissions; statements and allegations made therein except as may be specifically admitted herein after.

3. That in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, Ministry of Environment and Forest had notified the Coastal Regulation Zone Notification, 1991 on 19th February, 1991, which, *inter-alia*, provided classification of Coastal Regulation Zone (hereinafter referred to as

CRZ) areas and norms for regulating developmental activities therein. This Notification was subsequently amended from time to time.

4. That it is submitted that in supersession of the CRZ Notification, 1991, the Coastal Regulation Zone Notification, 2011 was notified on 6th January, 2011 for regulation of developmental activities along the coastal stretches and to ensure the livelihood security to the fisher communities and other local communities, living in the coastal areas, to conserve and protect coastal stretches. A copy of CRZ Notification, 2011 is annexed herewith and marked as **ANNEXURE-R1/1**.

5. The validity of the Coastal Zone Management Plans (hereinafter referred to as CZMPs) approved under CRZ Notification, 1991 was extended from time to time, the last such extension being upto 31.07.2018, pending preparation and subsequent approval of fresh CZMPs under the CRZ Notification, 2011. All the developmental activities in the CRZ areas of coastal States were required to be regulated as per the above mentioned notifications and within the framework of approved CZMPs.

6. It is submitted that as per Para 3 (iv) of the CRZ Notification, 2011, the following are permissible activities:-

"(a) ...setting up, construction or modernization or expansion of foreshore facilities like ports, harbors, jetties, wharves, quays, slipways, bridges, sea link, road on stilts, road on reclaimed surface, and such as meant for defense and security purpose and for other facilities that are essential for activities permissible under the notification;

Provided that such roads shall not be taken as authorised for permitting development on landward side of such roads till existing High Tide Line.

Provided further that the use of reclaimed land may be permitted for roads, mass rapid or multimodal transit system, construction and installation, on landward side of such roads, of all necessary associated public utilities and infrastructure to operate such transit or transport system including those for electrical or electronic signal system, transit stopover of permitted designs; except for any industrial operation, repair and maintenance.;

(b) Measures for control of erosion, based on scientific including Environmental Impact Assessment (hereinafter referred to as the EIA) studies

(c) Maintenance or clearing of waterways, channels and ports, based on EIA studies;

(d) Measures to prevent sand bars, installation of tidal regulators, laying of storm water drains or for structures for prevention of salinity ingress and

freshwater recharge based on carried out by any agency to be specified by MoEF."

Further, it is submitted that the permissible activities within CRZ area requires prior Clearance from the competent authority before the commencement of the activity.

7. It is further submitted that the construction of the check dam within the CRZ area, as alleged in the petition, requires a prior clearance as per the provision of the CRZ Notification 2011.

8. It is humbly submitted that this answering Ministry had approved the Coastal Zone Management Plan (CZMP) of Tamil Nadu for all its coastal districts as per the provisions of the CRZ Notification, 2011 vide letter No. 12-8/2018-IA.III, dated 24.10.2018. A copy of the letter dated 24.10.2018 is annexed herewith and marked as **ANNEXURE-R1/2.**

9. It is most humbly submitted that as per the said CRZ notification, the State Coastal Zone Management Authorities (SCZMAs) are primarily responsible for enforcement and implementation of the provisions of the CRZ Notification and compliance of the conditions stipulated thereunder, the powers either original or delegated, under the Environment (Protection) Act, 1986. The provisions related to the composition, tenure and mandate of SCZMAs have been notified from time to time by the Ministry. The main function of these Authorities include amongst others, enquiring into the cases of alleged violation of the provisions of the CRZ Notification, 2011 and take appropriate decision including power to enforce provisions under Section 5, 10 and 19 of the Environment (Protection) Act, 1986.

10. It is respectfully submitted that the answering respondent without prejudice reserves his right to file an additional affidavit at a later stage, if so necessary

11. It is respectfully submitted that in view of the above mentioned facts, the respondent humbly prays that the Hon'ble Court may be pleased to pass such order as deemed fit in the interest of the justice.


DEPONENT

VERIFICATION

I, the above named Deponent, do hereby verify that the contents of the above affidavit are true and correct to my knowledge as per the records of the answering respondents. No part of it is false and nothing material has been concealed there from.

Verified at Chennai on this 01th day of March, 2021

**DEPONENT**

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