

**BEFORE THE NATIONAL GREEN TRIBUNAL (EZ), KOLKATA**  
(Under Section 18(1) read with Sections 14 & 15 of National Green Tribunal Act, 2010)

**O.A. No. 93 & 95 of 2024 & M.A. No. 23 of 2024 (EZ)**

Ashish Kothari

....Applicant

Vs.

MoEF&CC and Anr.

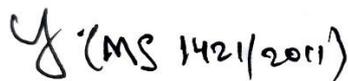
...Respondents

**INDEX**

<b>Sl. No</b>	<b>Date</b>	<b>Particulars</b>	<b>Page No.</b>
<b>1.</b>	04.01.2026	Additional written submissions filed in response to MoEF&CC's written submissions dated 14.12.2025	1816-1827
<b>2.</b>	04.01.2026	Proof of service	1828

Dated this the 4<sup>th</sup> day of January, 2026 at Chennai

Through

 (MS 1421/2011)

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**Additional written submissions filed in response to MoEF&CC's written  
submissions dated 14.12.2025**

It is respectfully submitted as follows:

1. The Applicant had filed written submissions dated 24.11.2025 and after the order dated 21.11.2025 (allowing IA No.108 of 2025 in OA No. 95 of 2024 and IA No.110 of 2025 in OA No. 93 of 2024) was uploaded on the website on 27.11.2025, supplementary written submissions dated 30.11.2025 were filed. The applicant filed both these written submissions after duly serving it on the respondents, as is required, and proof of service was also enclosed with the submissions filed.
2. The applicant was shocked to learn on 02.01.2026 that the MoEF&CC had filed written submissions dated 14.12.2025 without serving a copy to the applicant. In the said written submissions, new contentions have been raised, which were neither pleaded in the counter affidavits dated 19.09.2024 and 05.07.2025 nor argued during oral submissions.
3. Therefore, it has become necessary to file the present additional written submissions in order to address the same.
4. At the outset, it is submitted that conditions in the Environmental Clearance (EC) dated 11.11.2022 or the committees constituted under the EC to monitor

impact during implementation are irrelevant and by no means justify the *legality* of the sanctioned action. The MoEF&CC has failed to address the issues raised in the applications. The written submission contains submissions majorly on how the EC was issued and conditions contained therein at para 11 to 18 at page 1786 to 1796 and in several other paragraphs. The present applications however concern the legality of actions to be performed by the Respondents AFTER the judgement dated 03.04.2023; therefore attempts to justify the same based on the conditions in the EC itself and observations in the judgement dated 03.04.2023 are of no consequence and will in no manner aid the case of the Respondent.

5. Also, the repeated emphasis that this Hon'ble Tribunal "upheld" the EC in its judgment dated 03.04.2023 and therefore there is no cause for any examination is flawed because at para 33 of the judgment this Hon'ble Tribunal categorically held that ***"There are some unanswered deficiencies pointed out by the appellants which need to be addressed."*** Therefore, the fact that the EC dated 11.11.2022 was deficient and required a "revisit" is a matter of record and it is futile for the MoEF&CC to contend otherwise.

**"These aspects"**

6. The MoEF&CC's written submissions suffer from inherent confusion on this aspect.
  - a. At para 3, the MoEF&CC has taken pains to lay emphasis on the words "these aspects" to contend that this Hon'ble Tribunal limited the consideration of the HPC to the "three aspects" mentioned in para 33 of the judgment dated 03.04.2023.
  - b. However, at para 46 (page 1809) the MoEF&CC has stated that it was the "specific submission" of the Union of India that "the HPC looked not only at the three instances framed by this Hon'ble Tribunal but also did a thorough examination of the environmental clearance on all aspects as stated in para 8 of the additional affidavit dated 05.07.2022."

7. It is submitted that the words "these aspects" are being taken out of context by the MoEF&CC. It is necessary to read para 33 in its entirety.
  - a. The Hon'ble Tribunal categorically states, "However, there are some unanswered deficiencies pointed out by the appellants which need to be addressed."
  - b. Then it proceeds to list 3 aspects "by way of instance". "By way of instance, it is pointed out that..."
  - c. Then begins the sentence " These aspects may call for revisiting the EC by a High -Powered Committee (HPC)..."
  
8. The submission of the MoEF&CC is without merit as it ignores that
  - a. this Hon'ble Tribunal had categorically held that "there are some unanswered deficiencies pointed out by the appellants which need to be addressed" and
  - b. that the "three aspects" mentioned are preceded by the phrase "By way of instance".
  - c. The words "These aspects" in the succeeding line have to be read in this context – i.e. that there were some unanswered deficiencies pointed out by the appellants" which needed to be addressed and therefore a HPC was constituted.
  
9. Therefore, the contention of the MoEF&CC in this respect is without merit and the EC ought to have been revisited to address the issues pointed out by the appellant in the appeal (filed at page 13-136 of O.A. 95 of 2024) and the MoEF&CC defeated this very exercise by framing truncated ToR on three aspects, which also were incorrect (reference to EIA Notification only instead of CRZ Notification also despite the EC being issued under both, no reference to the legality of coral translocation etc). These issues have been dealt with in detail in the previous written submissions filed and are not repeated.

**“Issue of Baseline Data Considered by HPC”**

10. Under this heading from para 26 to 36 of the written submissions, the MoEF&CC has contended that the ZSI report “Categorically states that baseline data such as physio – chemical and biological characteristics was collected during March 2021 for which several surveys conducted during the past 5 years were utilised.”

**MoEF&CC admits EIAs are based on one season primary data (in reality they are not even based on one season data as demonstrated in written submissions dated 24.11.2025 (page 1703 of the file))**

11. MoEF&CC admits at para 33 that the EIA for the project is based on one single season’s primary data. It has been stated, “ ... ***while the primary data for the current project may have been collected over a single seasonal cycle, it is critical to note that the analysis is not relied solely on this limited field data. Instead, the institutes have integrated the freshly collected seasonal data with decades of historical data available in their institutional repositories.***”

12. Thus, MoEF&CC has admitted that

- a. The primary data collected for the ZSI report was only over a single seasonal cycle.
- b. That the filed data collected in this single seasonal cycle is “limited.”

13. It needs to be noted that the ZSI report dated 28.07.2021 titled “The Holistic development in Great Nicobar Island and conservation of island faunal diversity” at para 10 of its executive summary clearly states,

*“10. In view of this, **AECOM**, 9th Floor, Infinity Tower-‘C’, DLF Cyber City, DLF Phase-2, Gurgaon-122 002 **has approached the Zoological Survey of India**, Headquarters, Kolkata by electronic communication through an e-mail with the subject ‘Andaman Project’ dated 14th December 2020 **to undertake ‘Rapid Environmental Impact***

***Assessment studies on Marine Ecology for the Master Plan of Development of Great Nicobar Island'* to fulfill the requirement of Environmental and CRZ clearance from the Ministry of Environment, Forest and Climate Change, Government of India. **Hence the present study has been executed."****

14. Thus even the ZSI report itself describes itself as a RAPID EIA study. It is not open to the MoEF&CC to now contend that this report is a comprehensive EIA study based on decades of data.
15. **Firstly**, the MoEF&CC has failed to appreciate the difference between "Primary data" and "Secondary data". Primary data is data collected from the area of study based on terms of reference issued. Secondary data is gathered from previous studies, survey, records and "repositories". A comprehensive EIA study is based on primary data collected over three seasons or one year. A rapid EIA is based on one season, i.e. 3 months' primary data collection.
16. MoEF&CC has admitted in para 26 that the ZSI report is based only on primary data collected in March 2021. *Thus it is not even a rapid EIA.* This aspect has been dealt with in detail in the written submissions filed on 24.11.2025 at page 1703-1708 of the file.
17. The reference to "surveys conducted during the past 5 years" is not to primary data but secondary data. It is not a substitute for primary data collected for an EIA study covering all seasons in the study period.
18. The EIA guidance manual referred to by the MoEF&CC itself at 4.1 at page 17 of the manual clearly and unambiguously states the areas for which primary and secondary data should be collected for an EIA,  
"As a primary requirement of the EIA process, the proponent should collect primary baseline data in the project area as well as the areas falling within 5 km of the proposed project boundary and secondary data

should be collected within 15 kms aerial distance from the project boundary as specifically mentioned at part 9 (III) of form I of EIA Notification,2006.”

It is seen from the MoEF&CC’s own contentions that this was not done.

19. Further, at para 34, the MoEF&CC has misleadingly referred to data collection requirement in the EIA guidance manual for air, surface water quality and groundwater quality as “one season” while conveniently suppressing the express mandate of the manual at

- a. 4.4 which states, “While bathymetry is a one-time parameter, oceanographic data which as currents, waves, tides, etc. need to be measured at least for two seasons (page 1030 of the file)
- b. Annexure 6 of the manual titled “Guidance note for collection of oceanographic data” which states, Physical, chemical and biological data has to be collected in two to three seasons so as to understand their impact in different seasons like pre and post monsoon.” (page 1033 of the file)

20. The MoEF&CC has evidently failed to appreciate the importance of collecting primary data for all seasons for a port project, explained by its own Minister in the Parliament. (see page 579 of the file)

21. It is reiterated that

- a. EIA report states (page Chapter 1 - 26) that baseline data collection was between December 2020 and March 2021, but,
- b. The survey of ecology and biology in the EIA was conducted between 14-22 December 2020.
- c. The survey of leatherbacks was conducted between 12-18 February 2021.
- d. Thus, EIA report is not even a Rapid EIA (i.e. a study based on 3 months’ baseline data collection)

- e. The ZSI study's baseline data was collected in March 2021.
- f. The Wildlife Institute of India (WII) report's baseline data was collected between 14-19 April 2021.
- g. Thus, none of the study reports based on which EC was granted even qualify as a rapid EIA.

**Erroneous reference to provisions of OM dated 03.11.2009 –  
Suppression of Para 5 (D) of OM which specifically mandates  
Comprehensive EIA for ports in Andaman and Nicobar islands**

22. It is submitted that at para 34,35 and 36 of the written submissions, MoEF&CC has relied on and referred to the OM dated 03.11.2009 and after extracting the table in the OM, has stated that "... Serial No. 11 which pertains to Andaman and Nicobar Island is blank, and thus there are no shoreline changes indicated in the table for Andaman and Nicobar Islands, therefore, the comprehensive study of three seasons data is not applicable to the Andaman and Nicobar Island."

23. The MoEF&CC has failed to disclose to this Hon'ble Tribunal the contents of para 5 (C) and (D) of the OM dated 03.11.2009.

- a. Para 5 (D) is specific to Andaman and Nicobar Islands and unambiguously mandates that port and harbour projects more than 5 million tonnes per annum in Andaman and Nicobar Islands "shall be subjected to Comprehensive Environment Impact Assessment including physical and mathematical modelling and ground verification." This mandate is not dependent on the erosion status, which is covered by para 5 (B) of the OM.
- b. Para 5 (C) of the OM in fact prohibits the establishment of Ports and Harbours within 10 km of CRZ IA areas. In the instant case, even if the MoEF&CC refuses to admit that the Galathea bay is a turtle nesting ground, the presence of corals in the immediate vicinity is admitted in para 23 of the written submissions.

## **ISRO erosion mapping**

24. In para 31 and 32, the MoEF&CC has made new submissions regarding the ISRO SAC mapping of erosion along Galathea bay where the port is located.
25. It is factually incorrect to state that the ISRO SAC study has mapped the eastern flank of the Galathea bay as “predominantly stable and an accretion zone.”
26. The map at page 1005 of the file clearly shows that the eastern flank is marked in RED (erosion) and BLANK (stable), with RED marking more than half the flank. In fact, only the river mouth is marked in YELLOW (accretion). It is thus clear that the ISRO SAC mapping has marked erosion in this area.
27. The MoEF&CC has itself stated that the SAC map (2021) indicates erosion in the northern parts of the East and West flank of the Bay.
28. In so far as the contention that the ISRO SAC map does not classify it in to “high / medium / low”, it is submitted that
- a. Even assuming the best case scenario of it being a “low erosion” area, a comprehensive EIA is mandated by clause 8 (iii) of the ICRZ, 2019 (extracted by MoEF&CC itself at para 29).
  - b. While the MoEF&CC seeks to rely on decades old data in para 33, it seeks to discredit the ISRO SAC study by stating that it is 9 years old.
29. The fact remains that comprehensive EIA is mandated by the OM dated 03.11.2009 for any port and harbour project in the Andaman and Nicobar Island over 5 million tonnes capacity and the present port, which is a 14.2 million TEU annum capacity (multiple times greater than 5 million tonnes an annum) has to be subjected to “Comprehensive Environment Impact Assessment including physical and mathematical modelling and ground verification.” This mandate is irrespective of the erosion status of the coast.

30. It is a fact that the coast is marked as an eroding area in the ISRO SAC map and hence at the very least requires a comprehensive EIA study under clause 8 (i)(c) of ICRZ, 2019.

## **“Issue of CRZ- IA Considered by HPC”**

31. It is submitted that the MoEF&CC has stated at para 37 that the NCSCM “..visited the project site on 17<sup>th</sup> and 18<sup>th</sup> of June, 2023 and its nearby areas and undertook extensive ground truthing to determine status of High Tide Line, Low Tide Line and Ecologically Sensitive Areas (ESAs) for the proposed Port Area / International Container Transshipment Terminal (ICTT) at Galathea Bay..” and that based on

- a. “Observations made during the ground truthing exercise ”
- b. In terms of response received by the Forest Department of the UT Administration and Project Proponent,

the NCSCM concluded that no portion of the proposed port falls in CRZ -IA.

32. The contention that NCSCM undertook “extensive ground truthing” to determine status of HTL and LTL and ESAs over a span of 2 days (17<sup>th</sup> and 18<sup>th</sup> June, 2023) and concluded that no part of the port fell in CRZ IA is preposterous.

- a. Firstly, June is not the nesting season for turtles in Great Nicobar Island, and the claim that in two days NCSCM visited the port site and “nearby areas” and concluded that it was not a turtle nesting ground is preposterous and makes a mockery of the Government’s own data and reports and thousands of studies. Galathea bay (including the eastern flank) was notified and protected as a sanctuary for leatherback turtles (See page 655 of the file).
- b. Secondly, HTL/LTL of the area is marked using remote sensing data and HTL / LTL cannot be ascertained based on a two day visit (on 17<sup>th</sup> and 18<sup>th</sup> June, 2023). HTL is defined in the ICRZ Notification, 2019 as ““High Tide Line” means the line on the land upto which the highest water line reaches during the spring tide.”

33. The above contention is contrary to the ICRZ Notification, 2019 and the manner prescribed for demarcation of HTL/LTL, ESAs etc. as per the manual issued by the MoEF&CC.

34. Further, at para 42, the MoEF&CC has stated that "no turtle nesting or coral reefs are present on the eastern flank of Galathea Bay where the port is proposed". This assertion is patently false and contrary to the record.

- a. WII's report submitted for this very project by the project proponent recorded one leatherback nest on the eastern side of the Galathea river mouth on 15-16 April, 2021 when they visited (page 593 @ 611)
- b. Forest Department's own map submitted as part of data for preparation of CZMP marks turtle nesting on the eastern flank as well (See page 1017,1018,1019 of the file)
- c. Forest Department's data of turtle nesting for the years 2022-2024 (see page 1352-1354 of the file)
- d. Photographs of the turtle hatchery which was on the eastern flank are filed as part of the NCSCM report on the CZMP dated April 2023 (page 1408 -1409 of the file)
- e. Photographs of turtle hatchery which was on the eastern flank and photos of nests (filed at page 1474-1477 of the file)
- f. It is preposterous to claim that the eastern flank of the bay is not a turtle nesting ground when the entire bay was notified as a leatherback turtle sanctuary.

(please see written submissions dated 24.11.2025 from page 1715 of the file onwards for elaborate submissions on this issue)

35. In any case, the entire bay is important if it is to function as a turtle nesting ground. Reclaiming the bay and constructing a port and claiming that the turtles can navigate and approach the beaches on the western flank is without merit and makes a mockery of years of research on turtle behaviour and the law mandating protection of turtle nesting grounds.

36. The MoEF&CC has repeatedly extracted conditions in the clearance and stated that activities not permitted in CRZ IA areas will not be carried on. What needs to be noted is that the MoEF&CC is contending, contrary to its own records, that Galathea bay where the port is being located is not a turtle nesting ground and hence they will proceed to construct the port in Galathea bay. The statements of the respondent do nothing to protect the Galathea bay and its turtle nesting grounds and are irrelevant when deciding the legality of the MoEF&CC's actions. Statements of this nature offer no protection when the authority denies that the area in question needs to be protected as CRZ IA.

### **CRZ IA areas not excluded after the judgment dated 03.04.2023**

37. The admitted extent of CRZ IA areas in the project as seen from the revised ICRZ recommendations dated 08.07.2022 remains unchanged and **NOT A SINGLE SQUARE METRE of CRZ IA** area has been excluded from the project after the judgment of this Hon'ble Tribunal dated 03.04.2023. This fact is clear and admitted in the submissions of the MoEF&CC as the only reference to exclusion of CRZ IA areas is at para 42 which refers to the map at page 1272 which was submitted to the EAC **prior to the issuance of the EC** dated 11.11.2022 and the revised recommendations of the ANZMA.

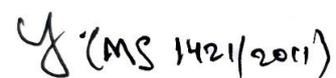
38. On the confidentiality of the HPC report, it is submitted that it is clear from the MoEF&CC's own submissions at para 52 that **ONLY** the airport component was declared as a defence and strategic project. The MoEF&CC cannot rely on the statements extracted in this Hon'ble Tribunal's judgment to claim that the project is exempt from disclosure. It is evident from the submissions of MoEF&CC that no order was passed declaring the commercial port, township and powerplant as defence and strategic projects – because it is preposterous to claim so. It does not fall for consideration of this Hon'ble Tribunal to decide whether the project is strategic or defence purposes and the attempt of the MoEF&CC to hide behind such a fanciful claim is only to attempt to avoid scrutiny.

39. When the entire process of granting EC is in public domain and all documents are available publicly, how can the HPC report, which only re-examines the EC (according to the MoEF&CC itself), suddenly become confidential? As submitted, this Hon'ble Tribunal is not called upon to decide if the project is for defence or strategic purposes and it has already been held that this Hon'ble Tribunal will examine whether the conclusions of the HPC are legally valid and tenable based on the contents in the affidavits filed by the MoEF&CC, which according to them contains necessary information. These aspects have been dealt with in detail in the previous written submissions filed and are not repeated for the sake of brevity.

40. If the applications are allowed, it will only result in proper exhaustive impact assessment studies and appraisal and implementation of the law.

It is therefore prayed that this Hon'ble Tribunal be pleased to consider these submissions along with the written submissions dated 24.11.2025 and 30.11.2025 filed by the applicant and allow the applications as prayed.

Dated this the 4<sup>th</sup> day of January, 2026 at Chennai

 (MS 1421/2011)

Counsel for the Applicant

1828



Raghunandan Sriram &lt;raghunandan.sriram.adv@gmail.com&gt;

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**Service of additional written submissions filed by Applicant in response to MoEF&CC's written submissions dated 14.12.2025 | OA No 93 of 2024**

1 message

**Raghunandan Sriram** <raghunandan.sriram.adv@gmail.com>

4 January 2026 at 22:16

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Cc: "cc: Poongkhulali B" &lt;poongkhulali.b@gmail.com&gt;, Yogeshwaran Amarneethi &lt;yogeshwaranadv@gmail.com&gt;

Respected Sir/Ma'am,

Please find attached the Additional Written Submissions filed by the Applicant in response to MoEF&CC's written submissions dated 14.12.2025 in the captioned Original Application. Kindly treat this email as service of the submission.

Regards,  
Raghunandan Sriram  
On behalf of Yogeshwaran A  
Counsel for Applicant

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Raghunandan Sriram  
Advocate  
Chennai

**Additional Written Submissions\_dt 04.01.2026\_OA 93 of 2024.pdf**

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