

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE BENCH AT CHENNAI
ORIGINAL APPLICATION NO. 187 of 2020**

IN THE MATTER OF:

**DEMOCRATIC TRADITIONAL FISHERIES WORKERS
FORUM AND ANOTHER ...APPLICANT**

Versus

UNION OF INDIA & ORS. ...RESPONDENTS

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NEW DELHI

DATE:23.11.2021

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE BENCH AT CHENNAI
ORIGINAL APPLICATION NO. 351 OF 2019**

IN THE MATTER OF:

**DEMOCRATIC TRADITIONAL FISHERIES WORKERS
FORUM AND ANOTHER**

...APPLICANT

Versus

UNION OF INDIA & ORS.

...RESPONDENTS

RESPONSE TO THE REPORT OF THE JOINT COMMITTEE

1. That the Applicant has gone through the Report submitted by the Joint Committee. It is stated that the Applicant has the following Response/submissions on the Report which are as follows :-
2. That the Order dated 29.09.2020 passed by this Hon'ble Tribunal inter-alia, states:

“

9. The committee can go into the question regarding the allegations made in the application and submit a factual as well as action taken report, if there is any violation found.

10. The committee is also directed to ascertain as to whether any environmental clearance is required as provided under EIA Notification, 2006 and as per directions of the Hon'ble Apex Court in (*Deepak Kumar Vs State of Haryana (2012) 4 SCC 629*) and if there is any violation, they are directed to assess the environmental compensation as well.

11. The committee is also directed to go into the question as to what is the nature of activities that is being done by the user agency, whether they are involved only in dredging, for the purpose of cleaning the river bed, so as to enable the free flow of water or in the guise of dredging they are doing sand mining without obtaining necessary clearance and how the sand is being dealt with whether it has been used for commercial purpose or for spreading the same in the area where replenishment of sand is required under the Sustainable Sand Mining Policy of Central Government. They are also directed to ascertain the quantity of sand that is being extracted illegally by the user agency for the purpose of assessing environmental compensation.

12. The committee is also directed to ascertain as to whether the area falls within the Coastal Regulation Zone where sand mining is prohibited.”

3. That the Joint Committee has submitted its Report to this Hon'ble Tribunal and the Applicant wants to give a Response to the said Joint Committee Report which is as follows:-

- i. A perusal of page 3 of the Joint Committee's Report shows that as per the prevailing Sand Mining Policy, 2019 of Andhra Pradesh the District Collector shall obtain statutory clearances which ,inter-alia, includes Environmental Clearance prior to commencement of operation from the competent authorities. The Report of the Join Committee further in its conclusions at page 11-12 states that "The area of each sand reach is around 10 hectares and are operating without Environmental Clearance from SEIAA." The District administration has permitted Sand Mining without the mandatory Environmental Clearance.Hence, there is not only a violation of EIA Notification, 2006 but also Sand Mining Policy, 2019 of Andhra Pradesh.
- ii. The Hon'ble NGT in para 9 of its Order dated 29.09.2020 has clearly mentioned that a factual as well as action taken report needs to be submitted, if there is any violation found. It is stated that inspite of mentioning a number of violations in the Report the Joint Committee has failed to submit any Action Taken Report to the Hon'ble Tribunal.
- iii. The Hon'ble NGT in para 10 of its Order dated 29.09.2020 has clearly mentioned that if there is any violation, the Committee was directed to assess the environmental compensation as well, which has not been done by the Committee

- iv. The Joint Committee has failed to discuss in its Report whether area falls under CRZ area where sand mining is taking place which the Hon'ble Tribunal had specifically asked to be done vide its Order dated 29.09.2020.
- v. The committee in its findings at Dowleswaram Barrage at page 4 states that "Water Resource Department is carrying out sand extraction in River Godavari without scientifically assessing the quantity of silt deposits. Since the quantity of silt deposited and loss in storage capacity is not ascertained by Water Resource Department, it cannot be treated as de-siltation and has to be considered as mining. Further the sand extracted is used both for Government schemes and as well for commercial purposes." This clearly establishes that Sand mining is taking place in this area both for Government schemes and commercial purposes.
- vi. As per the conclusions in Joint Committee Report at page 11 it is mentioned that "Water Resource Department have permitted three sand reaches namely Venkatanagaram sand reach, bridge lanka and ketavanilanka sand reach which are located near Dowleswaram barrage. Sand is extracted in all the three reaches manually through boats. The sand so extracted is brought to the bank and then loaded into trucks. In these three reaches heavy machinery is not used for sand extraction but heavy vehicles are plying on the river bed for sand transportation. Proper log books are not maintained on the quantity of sand extracted." It is stated when proper log books are not mentioned on the quantity of sand, there always an issue non-transparency and corruption of record.
- vii. As per the conclusions in Joint Committee Report at page 12 it is mentioned that "The committee did not observe any

environmental impacts or damage to structures near to the sand reaches in Dowleswaram." It is stated that when No EC is obtained for sand mining and EIA Notification, 2006 has been violated, there is no question for no Environmental Impact in the area.

- viii. As per the conclusions in Joint Committee Report at page 12 it is mentioned that "In Kotipalli (near to the alleged location mentioned in the application), 2 Km length Railway bridge from Kotipalli to Muktheswaram is under construction on the waterway out of which for a length of 700m natural flow of river Godavari is obstructed." In view of the above conclusion the committee has erred in observing there was no "environmental impacts" in the area.

It is therefore, prayed that in view of the abovementioned facts, circumstance and submission the prayer in the Original Application may very kindly be allowed.

This Hon'ble Tribunal may pass any other orders as the Hon'ble Tribunal may deem fit and proper in facts and circumstances of the case.




RITWICK DUTTA RAHUL CHOUDHARY G. STANLEY HEBZON SINGH
ADVOCATES FOR THE APPLICANT

Place: New Delhi/Chennai

Date: 23.11.2021