

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
SOUTHERN ZONE, CHENNAI  
ORIGINAL APPLICATION No. 188 of 2017 (SZ)**

**IN THE MATTER OF:**

C.H. Balamohanan

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

**REPORT OF THE JOINT COMMITTEE CONSTITUTED IN THE  
O.A. NO. 188 OF 2017(SZ) IN THE MATTER OF C.H.  
BALAMOHANAN VERSUS UNION OF INDIA & OTHERS  
BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,  
SOUTHERN ZONE, CHENNAI.**

Place: Chennai  
Date:15/02/2021

**REPORT OF JOINT COMMITTEE FOR SUBMISSION TO HONOURABLE NATIONAL GREEN TRIBUNAL (SZ) AGAINST ORDER DATED 06.03.2020 ON THE SUBJECT MATTER**

**SUB: ORDER OF Hon'ble NGT IN THE MATTER OF OA:188 OF 2017**

As per the order dated 06.03.2020 of the Hon'ble Tribunal, a Joint Committee is to be formed comprising of Public Works Department, Puducherry, a Senior Scientist from the National Institute of Ocean Technology, Chennai, a Senior officer from the Port Department, Puducherry and Regional Office of Ministry of Environment, Forest and Climate Change, Chennai, to go into allegation and submit a report as to whether, there was any violation of any direction given by the tribunal and whether dredging is being done as per law or contrary to the procedure provided and if there is no proper dredging done, then whether any damage has been caused to the Environment and if so assess the ecological damage and also amount required for restoration of loss of ecology services and submit a factual and action taken report to the Hon'ble Tribunal. The Public works Department, Puducherry will act as the nodal agency for coordination and also for providing all necessary logistics for this purpose.

Accordingly a Joint Committee was formed consisting of the following officials:

- (1) Dr. M.V. Ramana Murthy, Scientist, National Institute of Ocean Technology, Chennai.
- (2) Thiru.S. Sekaran, Superintending Engineer, Circle II, PWD, Puducherry.
- (3) Thiru. M.T. Karuppiah, Scientist-E, Regional Office, MoEF & CC, Chennai
- (4) Thiru. R. Jegajothi, Executive Engineer, Port Department, Puducherry.

**I.OBSERVATIONS OF THE JOINT COMMITTEE**

**(A) FACTS ABOUT CONSTRUCTION OF PUDUCHERRY PORT**

1. The Puducherry Port was constructed in the year 1986-93 under the "**Ariyankuppam Port Project**"(APP). The port was put into operation from the year 1993. The Ariyankuppam project consisted of the following three main components:

- a) Construction of a breakwater.
- b) Construction of a submarine tunnel.
- c) Fabrication and supply of 2Nos Dredgers namely dredger "Pondicherry" and Dredger "Karaikal" for operation in the mouth portion and inner channel of the Port.

2. The construction of breakwater includes a Northern breakwater into the sea for a length of 150 meters and a Southern breakwater of length 500 meters. The Southern breakwater consists of two parts. A 250 meter long pile supported approach trestle,

starting from the shore and leading to the other part which consists of stones reinforced with rock stones and tetra pods. The purpose of the construction of the breakwater is to maintain tranquility in the area between the two breakwaters so as to enable the two dredgers to carry out dredging operation so as to maintain sufficient depth for movement of fishing /cargo vessels. An entrance channel was created, by way of dredging between the breakwaters, for the navigability of fishing vessels and cargo vessels. The Port department being the owner of the two dredgers, the onus of maintaining the navigable channel for the fishing vessels as well as the cargo vessels lies with the Port Department.

3. The model study of the APP project has been done by the Central Water Power Research Station, (CWPRS) Pune. As per the model study conducted by CWPRS, envisaged dredging of accreted sand and to be bypassed by way of pumping the sand from the sand trap through the submarine tunnel to the North of the Port to mitigate erosion, if any due to construction of the port. A submarine tunnel of length 250 meters and size 4metre X 4metre was constructed at a depth of (-) 4metre, as part of the APP project for the purpose of sand bypassing without obstructing the vessel traffic flow. Further, the CWPRS had recommended a quantity of 4.0 lakh cum of sand per annum to be dredged and bypassed through the submarine tunnel from the month of March to November when the littoral drift is from South to North which is the favorable direction of drift and also supply sand to the Northern coast. During the month of December to February, the littoral drift is from North to South and hence is not a favorable direction of drift.

4. However, in a study conducted later by the National Institute of Ocean Technology(NIOT), Chennai in the year 2015, the quantity of dredging required to be bypassed was scaled down to approximately 2.5 lakh cum due to change in hydrodynamic conditions.

5. The Committee has purused the matter with facts available with Port department and observations on various points in the Order is as under;

**(B) QUANTITY OF DREDGING UNDERTAKEN BY PORT DEPARTMENT**

6. The APP project was constructed and commissioned in the year 1986-1993. Since then, the quantum of dredging done by the Port Department year wise is as detailed under:

Sl.No	Year	Quantity of sand Dredged (cum)
1.	1989-90	3,79,000

2.	1992-94	3,68,000
3.	1994-95	NIL
4.	1995-96	NIL
5.	1996-97	NIL
6.	1997-99	58,369
7.	1999-2000	2,40,000
8.	2000-01	29,808
9.	2001-02	3,69,529
10.	2002-03	3,03,079
11.	2003-04	3,37,336
12.	2004-05	2,09,032
13.	2005-06	Nil
14.	2006-07	15,665
15.	2007-08	1,92,849
16.	2008-09	21,277
17.	2009-10	98,195
18.	2010-11	1,23,226
19.	2011-12	33,434
20.	2012-13	Nil
21.	2013-14	Nil
22.	2014-15	1,40,352
23.	2015-16	1,04,000

24.	2016-17	91,080
25.	2017-18	3,97,035
26.	2018-19	60,000
27.	2019-20	1,20,000

7. It is found that the Port Department could not undertake the recommended quantity of 2.5 lakh cu.m. per annum dredging during some financial years due to paucity of funds and pending litigation on the proposal of privatization of port. During non dredging period, there was no blockage of sediment by harbour and hence no downdrift erosion.

**(C) SAND DISPOSAL**

8. It is found that in the initial period the dredged sand had been discharged in the North of the breakwater into the sea, as recommended by the CWPRS, Pune. During the intervening period in the year 2010-11, dredging was undertaken by the Project Implementing Agency (PIA) under the CSS scheme but could not be disposed at designated location due to issues raised by local fishermen and social groups on quantity of dredging. In order address the issues raised by them, the dredged sand was discharged and placed in the North on the land to facilitate ease of measurement of the dredged quantity by adopting stack measurement so as to address the concern of the fishermen/public as it can be easily verified. The other reason for stockpiling the sand on land is due to the issue of dredging contract during North East monsoon (October to February). It is not advisable to dispose sand on the North during North East monsoon, when movement of coastal currents are towards South, which may cause silting of entrance channel of port.

**(D) DREDGING UNDERTAKEN BY DREDGING CORPORATION OF INDIA (DCI)**

9. The Port Department awarded the work of " Dredging at the common entrance of Puducherry Fishing Harbour and Commercial Harbour and discharging the dredged sand between Pier and Gandhi statue for beach nourishment" to Dredging Corporation of India , Vizag, a Government of India enterprise as they have their own dredgers. The scope of the work was to dredge a quantity of 3.0 lakh cu.m. in a time period of 4 months and discharge the sand to the North into the sea for the purpose of beach nourishment. The work order was issued on 24.11.2016. The DCI after mobilizing a dredger by name "ID GANGA" commenced the dredging work on 08.01.2017. However, the DCI faced difficulty in carrying out the work due to technical snags of the dredger "ID GANGA" and therefore were not able to make notable progress in their work. On

account of the poor progress in work, the navigable channel had narrowed down due to siltation and no fishing vessels could be taken into the harbour. Fishermen whose livelihood is dependent on fishing have made representation to Government to find an alternative to facilitate operation of fishing vessels by desilting the channel immediately for operation of fishing vessels.

10. With no signs of improvement in the progress of dredging by DCI and under pressure from the fishermen community, a meeting was called by the then Secretary (Ports) on 30.01.2017 and it was decided that a quantity of 75,000 cu.m, carved out of the 3.0 lakh cu.m awarded to DCI, could be awarded to any other agency to make the entrance channel open for navigation. It was decided to discharge the sand within 1.5km along the shoreline into the sea.

11. Based on the above decision, a short tender was called by the Port Department on 09.02.2017 and the work was issued to M/s Marg Ltd, Chennai, who happened to be L1 in the tender. The work order to MARG was issued on 13.04.2017. On noticing these developments, Thiru C.H Balamohan had approached the Hon'ble Tribunal for disposing at 1.5 Km and prayed that the sand must be discharged at 4Km as contemplated in the original work order awarded to DCI on 24.11.2016. The learned Hon'ble Tribunal was considering passing an interim order in the event of non-filing of reply by Government respondents. However, the Government reconsidered the entire case and filed an affidavit before the Hon'ble tribunal, explaining the process adopted on engaging M/s DCI and M/s Marg Limited and the Hon'ble Tribunal disposed the case.

12. Subsequent to the above Order, the DCI continued its dredging. However the performance of the dredger "ID GANGA" continued to be sluggish and therefore the DCI mobilized an additional Dredger "TSHD XIX" and together, the quantity of 3.0 lakh cu.m assigned to them was completed. However, the time taken for completion was 8 months, which is twice the time allotted for completion. The entire quantum of 3.0 lakh cum, except a quantum of 58,610cum, was disposed between pier and Gandhi Statue as per the original work order. The quantum of 58,610cu.m was disposed on land due to change in littoral drift, which is inevitable during non-conductive period. The Port Department is contemplating to doze this left-over quantum into the sea during conducive period, which would complete the beach nourishment initiative.

**(E) DREDGING UNDERTAKEN BY MARG LTD**

13. During the period when DCI was facing difficulties in dredging with their Dredger "ID GANGA" due to technical issues, a decision was taken by the Government to get an alternative agency for dredging by calling a short tender to meet the requirement of fishermen for operation of fishing vessels. Based on the above decision, a short tender was called by the Port Department on 09.02.2017 and the work order was issued on 13.04.2017 to M/s Marg Ltd, Chennai, who happened to be L1 in the tender.

However, M/s MARG could not commence their dredging due to the Order dated 24.03.2017 of the Hon'ble Tribunal, which disposed the case filed by Thiru. Balamohan, based on the affidavit filed by the Government of Puducherry. In the affidavit, Government of Puducherry stating M/s.Marg Limited could be used to remove the accumulated silt between new port and the river mouth i.e., in the lagoon to clear the common passage for fishing vessels and commercial vessels with environmental clearance.

14. Following the Order, attempts were made to utilize DCI to dredge an extra 40,000 cubic metre to clear the channel for navigation of the fishermen vessels. Due to non willingness of DCI to carry out the extra quantity, the Port department had requested the MARG Dredger to carry out dredging in the entrance channel based on the work order issued to them on 13.04.2017 which had Environment clearance. M/s Marg completed the work on 09.02.2018.

#### **(F) ENVIRONMENT DAMAGE**

15. The observation of the applicant on environmental damage and insufficient mitigation measures were reviewed. The changes in configuration of coast due to construction of any harbour should be dealt carefully with design and environmental management plan. The Pondicherry harbour is small in magnitude in terms of the projection of breakwater and quantum of blockage of sand movement. On prima facie, the Committee has reviewed it based on available records and found that the extent of damage is not significant. However, there is a need to set right the mechanism for any development of port activities including dredging/disposal strategies.

#### **(G) RECOMMENDATIONS**

17. On reviewing the facts, the Joint Committee places the following points before the Hon'ble Tribunal as under:

- i) Dredging had been carried out as per the scientific recommendations of the expert organization like CWPRS, Pune and NIOT, Chennai. However, due to paucity of fund in the budget allocation, the recommended quantity of dredging had not been taken up. The administrative issues relating to award of contract and concerns of local fishermen resulted in disposal of sand on land. The Committee was given to understand from the port authorities that the accumulated sand will be dozed into the sea during conducive period of littoral drift and it was advised to consult expert institutions for placement of the sand.
- ii) The Committee understands that the Port department presently carries out dredging as per the scientific study done by CWPRS, Pune and the recommendation of NIOT later in its report for the Pondicherry Beach nourishment Project. The engagement of different dredgers by M/s DCI and M/s Marg due to inevitable circumstances by the Government of

Puducherry was noted and it was advised to streamline the procedures for smooth port operations. The Standard Operating Procedures (SOP) to be drawn with support of expert institutions for dredging and disposal of sand by port authorities.

- iii) The Committee has assessed the environmental damages if any due to administrative lapses in award and implementing of dredging and found to be not significant. Also, the reports from recent study conducted for Sagarmala project does not notice any adverse impact. However, port authorities should comply with the environmental management plan drawn for the Sagarmala project.

*W.S. - ——— W.S.*

Dr. M.V Ramana Murthy,  
Scientist-G  
Head Coastal Engineering,  
NIOT,  
Chennai.

Dr. M.T. Karuppiah,  
Scientist-E,  
MOEF & CC.  
Chennai.

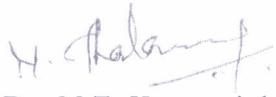
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Circle II, PWD,  
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