

## THE NATIONAL GREEN TRIBUNAL (SZ) CHENNAI

## MEMORANDUM OF APPLICATION

SECTION 18(1) READ WITH SECTION 14 OF NATIONAL GREEN TRIBUNAL  
ACT 2010)

Application No.172 of 2017 (SZ)

Sadakathullah,  
MohideenAbudul Kader,  
Thaika Street,  
Pattanam, Thoothukudi – 628 204.

...Applicant.

-Vs-

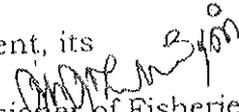
1. Union of India,  
Secretary to the Government,  
Of Environment, Forests and climate Change,  
AryavaranBhavan, Jorbagh, New Delhi-110 003.
2. Tamil Nadu Coastal Zone Management Authority,  
By its Member Secretary,  
Panangal Building, Saidapet,  
Chennai-600 015.
3. The Directorate of Fisheries  
By its Commissioner,  
Commissioner, Admin Buildings,  
Saidapet, Chennai-600 018.
4. The District Environmental Engineer,  
Tamil Nadu Pollution Control Board,  
C7 and C9, SIPCOTY Industrial Commander  
Meelavitan,  
Thoothukkudi District – 628 001.
5. The District Collector,  
Collectorate, Palyamkottai Road,  
PSP Nagar, Korampallam,  
Thoothukkudi,  
Tamil NMadu-628 101.
6. The District Coastal Zone Management Collector,  
Thoothukudi District,  
Represented by its Chairman, the District Collector,  
Collectorate, Palyamkottai Road,  
PSP Nagar, Morampalaam,  
Thoothukudi, Tamil Nadu – 628 101.  
District Collector  
Thoothukudi.

Remarks filed by the 3<sup>rd</sup> Respondent on the minutes of Joint Committee

I, J. Jayakanthan S/o. Thiru. D.Jagadeeswaran, Hindu, aged about 53 years Commissioner of Fisheries, Chennai residing at HIG-3, May Flower Garden, Srinivasa Avenue Road, Raja Annamalaipuram, Chennai-600028 do hereby solemnly affirm and sincerely state as follows:-

I am the 3<sup>rd</sup> Respondent in the Main Case and filing the remarks on "Minutes of Joint Committee Report" directed by the Hon'ble National Green Tribunal on the application No.172 of 2017 (SZ) on 06.01.2021.

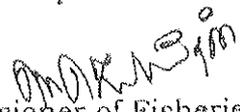
I humbly submit that the applicant Thiru. P.M. Sadhakathulla, S/o. Mohaideen Abdul Kader aged 49 years, residing at 49, 2/139A, Thalka Street, Kayalpattinam, Thoothukudi and represented to be the president of the Mass empowerment and guidance association, Kayalpattinam has alleged in his main application that the 3<sup>rd</sup> respondent had illegally constructed the Fish Landing Centre and a concrete road in SingiThurai (KarupudaiypalliVettan)Kayalpattinam in the inter tidal zone (betweenHTL&LTL) without the mandatory clearance under the CRZ Notification 2011, while the fish landing centre can be constructed in CRZ area after the due studies, assessments and clearances under law, the Notification prohibits the construction of any Road in the Inter-tidal zone area, (i.e), the area between HTL andLTL and thereby prayed to issue an order of permanent injunction restraining the 3<sup>rd</sup> respondent, its

  
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officers, designates or contractors from constructing the fish landing centre or associated structures at Singithurai in Kayalpattinam in Thoothukudi District without mandatory clearance under CRZ notification 2011. He also prayed to impose exemplary costs on the 3<sup>rd</sup> respondent for the damages caused and for costs of restoration, removal of violation.

I humbly submit that the Hon'ble National Green Tribunal issued a Notice for filing a counter affidavit against the application of the petitioner and the District Collector, Thoothukudi being the 5<sup>th</sup> respondent had filed a detailed counter before the National Green Tribunal.

1. I submit that in the said counter the District Collector and being the 5<sup>th</sup> respondent has clearly stated that the construction of Fish Landing Centre at Singithurai in Thoothukudi District has been sanctioned by the Hon'ble Chief Minister of Tamil Nadu in Tamil Nadu legislative assembly under 110<sup>th</sup> Announcements. The buildings like Auction Hall net mending sheds, toilet block are proposed and constructed beyond the HTL area. The concrete Road used for movement of transport vehicles to bring the Fish catches from Sea and fishing equipment's to & from Auction Hall, Net mending shed to Main Road, This road falls in the outer side boundary of HTL. Moreover the Earthen road was in existence earlier to 1998, since EB post were also available during 1998 itself for the use of fishermen and the road was upgraded to concrete road. This works are permitted in the CRZ Notification 2011. So, construction of Fish Landing Centre is not a prohibited activity, since the site belongs to CR-II.

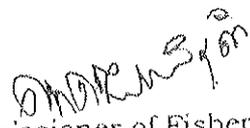
  
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CRZ-II

(ii) Buildings permitted on the landward side of the existing and proposed roads or existing authorized structures shall be subject to the existing local town and country planning regulations including the 'existing norms' of Floor Space Index or Floor Area ratio: provided that no permission for construction of buildings shall be given on landward side of any new roads which are constructed on the seaward side of an existing road:

(iii) Reconstruction of authorized building to be permitted subject with the existing floor Space Index or Floor Area Ratio Norms and without change in present use.

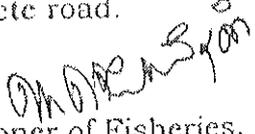
2. I humbly submit that there is no construction in the sea like Diaphragm wall, Jetties, quay wall, Breakwater and Groynes has not been proposed in this area. So, no changes will happen in coastline. No irreparable damage to a fragile coastline will happen. The version stated above, have been proved by CRZ Notification 2011, 3(IV) (a) as under declaring as not prohibited activities required for setting up, construction or modernisation or gausion of foreshore facilities like ports, harbours, jetties, curves, quays, slipways, bridges, sea link, road on stilts, and such meant for defense and security purpose and for other facilities at are essential for activities permissible under the notification:

  
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3. I humbly submit that the Construction of Concrete Road having a width of 5 m in Singithurai Fish Landing Centre falls in the outer side HTL boundary line. In this area may not be treated as ecologically positive area, because Geomorphological features has not been represented taken in to place which are specified in the CRZ Notification II Class 7 (i) 1A.

4. I humbly submit that the activities mentioned in CRZ Notification II Class 8 (ii) (a) - (g) have not taken place in the construction of Singithurai Fish Landing Centre, because the construction of toilets includes septic tank facilities with dispersion trench arrangements provided to collect the sewage and at the time of conducting fish auction, the meagre quantity washable water from the Auction hall will let out drain pipes provided in the sides of building and soaked in the sand areas. The ground water obtained in this area is saline water and which was used for domestic purpose, so this activities is not polluted the Ground water and also drainage water in any ways has not been mixed with sea water.

5. I humbly submit that the Construction of Cement Concrete Road in Singithurai Fish Landing Centre is only for the purpose of movement Transport vehicle to bring the Fish catches from sea and fishing equipment's to & from Auction hall, Net mending shed to main road, and it is not used for the purpose of movement of any vehicles other than transport of the traditional inhabitants living in this area. Moreover the Earthen road was in existence earlier to 1998, since EB post were also available during 1998 itself for the use of fishermen and the road was upgraded to concrete road.

  
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6. It is also submitted that the construction of concrete road having a width of 5m in Singithurai Fish Landing centre falls in the outer side of HTL boundary line. Moreover the Earthen road was in existence earlier to 1998, since EB post were also available during 1998 itself for the use of fishermen and the road was upgraded to concrete road. This area may not be treated as ecologically sensitive area. Hence, the averments made by the petitioners are not sustainable under law.

7. I humbly submit that the Fish Landing centre construction activities at Singithurai (i.e) Construction of Auction Hall, Net mending shed, Toilet & Road facilities are comes under the improvement of shore facilities and which does not comes under Environmental Impact Assessment (EIA) Notification 2006 mentioned in the schedule for the list of projects or activities requiring prior environmental clearance so there is no violation is taken palace vide notifications CRZ 2011.

8. Further, I humbly submit that the Construction of Fish Landing Centre and road at Singithurai, are the works to improve/develop the foreshore facilities and which are permissible under CRZ Notification 2011 in class 3 (iv-a).

9. I further humbly submit that the Hon'ble National Green Tribunal, after perusing the Counter filed by the then District Collector, 5<sup>th</sup> Respondent and after hearing the arguments made by both the parties, passed order to constitute an expert committee consisting of Technical experts in the field of Environmental and Forest Conservation and Pollution.

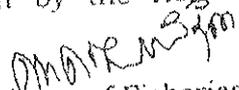
  
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I humbly submit that the Hon'ble National Green Tribunal has specifically given directions and guidelines to the expert committee to visit and thoroughly inspect the disputed site, by following due procedures of law and strictly adhere the principles of natural justice, by giving opportunity to both the parties to explain their stand with regard to CRZ Notifications-2011.

Further I humbly submit that the expert committee consisting of, the three scientific expert members had visited the disputed site on 13.3.2020 without giving any Notice to the respondents and also without giving any opportunities to them. Further the committee prepared the report and filed the same before the Hon'ble National Green Tribunal in a hurried manner without following the due process of Law.

I humbly submit that the expert committee report is erroneously prepared by violating the basic principles of natural justice and not enclosed videography of the said area to substantiate the final decision of the report. They have also not prepared observation drawings and statement of the residents - Fishermen of that area to prove that such activities affected the environmental of the site.

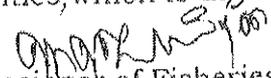
Further I humbly submit that the expert Committee, not only violated the guidelines and procedures laid down in law but also exceeded the power prescribed and recommended to impose a fine of 5% of the total estimated cost to the respondents, which is certainly against the guidelines given by the Hon'ble National Green Tribunal.

  
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Further, I humbly submit that the expert committee voluntarily admitted in the report and stated that "the Joint Committee apprehends that there is a lack of proper method/Guidelines for calculating compensation with respect to CRZ violation. The Committee is also noticed that there were no mud flats (or) Mangroves in the area where the project implementation was happened and also not affected livelihoods of fishing communities. The area in question is an active fish landing centre and associated market". The Committee has also pointed out that there is only a procedural violation by way of project activities which in no way affected the environment.

I humbly submit that the order passed basically on the erroneous report of the expert committee certainly affect the well planned project of the Government in implementing the welfare scheme which is long standing demand of the fishermen of that area that too it is completed within the ambit of due procedures of CRZ provisions.

I humbly file this remarks on the Minutes of the Joint Committee report before the Hon'ble National Green Tribunal with a prayer to favourably consider my contention and direct the expert member Joint Committee to revisit the disputed area by following due procedures of law giving opportunities to the respondents to represent the facts of the scheme and their activities, which is under

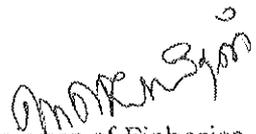
  
Commissioner of Fisheries.

the permissible provisions of CRZ Notification 2011 (or) The Hon'ble National Green Tribunal may be pleased to form a New Expert Joint Committee to inspect the said area under due process of law, and file a report for just decision of the case and the Hon'ble National Green Tribunal may be pleased to pass order as it deems fit.

Further it is pertinent to mention that the Government of India, Ministry of Environment, Forest and Climate change has issued a office memorandum vide F.No.19-27/250-1A.III, dated 19.02.2020-21 categorically stated that even if prior approval not been obtained and under CRZ notification 2011, it can be ratified through proper examination without taking severe action, such as closing the unit or subject the Government for penal action.

However, in this case the Earthern road was in existence and usage by fishermen and EB post was also available in the road from 1998 itself. The road was upgraded to concrete road.

Hence, it is humbly prayed to dismiss the petition and the Hon'ble National Green Tribunal may be pleased to pass order as it deems fit.

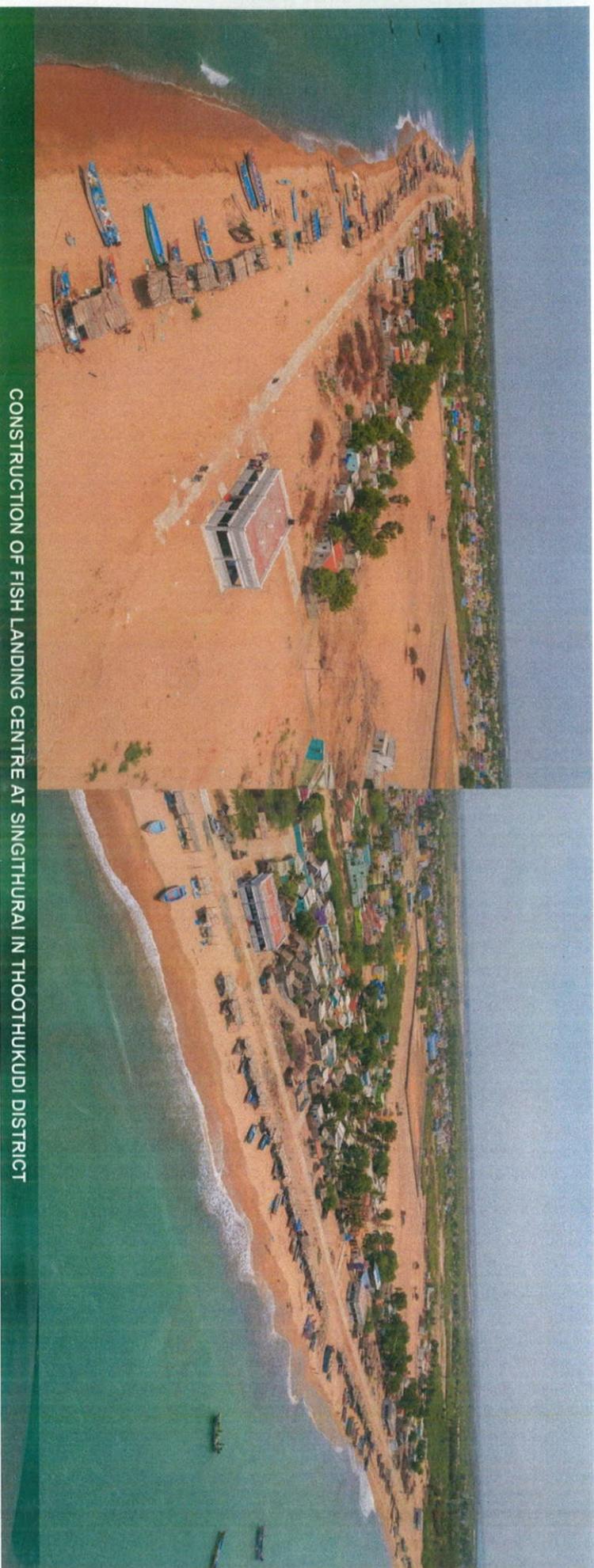
  
Commissioner of Fisheries.

Solemnly affirmed at Chennai  
on this the 15<sup>th</sup> day of April 2021  
and signed his name in my presence.

✓/ BEFORE ME/



**GOVERNMENT OF TAMILNADU  
FISHERIES DEPARTMENT  
CONSTRUCTION OF FISH LANDING CENTRE AT  
SINGITHURAI IN THOOTHUKUDI DISTRICT.**



CONSTRUCTION OF FISH LANDING CENTRE AT SINGITHURAI IN THOOTHUKUDI DISTRICT

**Estimate Amount: Rs. 450.00 Lakhs.**

**FISHING HARBOUR PROJECT DIVISION, THOOTHUKUDI.**