

**BEFORE THE NATIONAL GREEN TRIBUNAL (SZ) CHENNAI**  
(Memorandum of Application Under Section 18(1) read with 14 and 15  
of National Green Tribunal Act 2010)

Application No. 252 / 2017

**BETWEEN:**

1. Udaya Suvarna,
2. Dinesh Kunder

: APPLICANTS

**AND**

The Deputy Commissioner/  
Chairman Udupi District Sand Monitoring Committee,  
And others

: RESPONDENTS

**SUBMISSIONS ON THE COMPLIANCE REPORT OF RESPONDENT  
NO. - I**

The Applicants above named begs to submit as follows:

1. In Udupi District there are six major rivers which are perennial in nature and are flowing towards West and joining the Arabian Sea. Most part of the rivers are covered under Coastal Regulation Zone (CRZ). The applicants being the natives of coastal Udupi district of Karnataka State lives on the bank of coastal rivers since childhood. The local communities residing on the river banks, for their lively hood depend on agriculture, fishing, lime shell collection etc.
2. The Central Government in exercise of the powers conferred by provisions of The Environment (Protection) Act, 1986, with a view to ensure livelihood security to the fisher communities and other local communities, living in the coastal areas, to conserve and protect coastal stretches prohibited a few activities in the CRZ. In terms of item no 3. (x) of the above said CRZ Notification 2011, removing of sand from the rivers flowing in the CRZ area is a prohibited activity, however these activities can be carried out if it is a measure to prevent sand bars.
3. Vide Ministry of Environment and Forest, Office Memorandum dated 24th February 2011, 9<sup>th</sup> June 2011 and 8th November 2011, issued the

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detailed instructions / conditions to manage the sand bars in the CRZ area of Rivers and estuaries. The important conditions imposed by the Ministry for managing / removal of sand bars through the said memoranda are:

- a. Sand bars which pose danger to fishing boats and vessels to be identified by the concerned departments of the state.
- a. Only traditional communities to remove the sand from sandbars,
- b. sand to be collected in non - mechanised dinghies or small boats using baskets / buckets by manual method.

4. In the last decade with the active involvement of local politicians, district administration and sand businessmen, large scale sand mining (officially around 10 lakh metric tonnes per year) is taking place in the CRZ Rivers of Udupi district, taking advantage of clause no. 3(iv)(d) of CRZ notification dated 06.01.2011 and permitting extraction of sand from CRZ Rivers in the garb of sand bar removal, with the following dire consequences:

- a. It is estimated that over 200 loads of sand being extracted and transported from a village per day from CRZ Rivers. Thus, due to constant movement of Trucks inside the village atmosphere of the village is polluted and roads are damaged beyond repair.
- b. The migrant workers numbering over 200 in a village connected to any CRZ River are housed in temporary sheds / tents without any facility of toilet / bathrooms are using the fields for nature calls, creating unhygienic environment.
- c. Sand has been extracted to such an extent that the depth of the river has gone much beyond the average bed level, effecting the flora and funna of the river and people are scared and find it risky to enter the waters to collect shells and fish and for all other requirement.

5. It is pertinent to note that while quashing all the sand removal permits issued by the Udupi District administration during 2016, in OA 111/2016, Hon NGT (SZ) had critically observed as under:

- a) " 54. The very letter dated 28.03.2011 submitted by the Secretary to the Government of Forest, Ecology and Environment, State of



Karnataka, to the MoEF&CC establishes that the intention behind the request seeking amendment to CRZ Notification, 2011 was not for the protection of the livelihood of fishermen communities or for the smooth navigation but for removal of the sand. The letter shows that several representations have been received by the State Government to reconsider the prohibition for removal of sand mining in the CRZ area of the rivers as by the prohibition, mining of sea shell and sand, have come to a standstill. The State Government contending that sand mining and sea shell mining could be done in the conventional method without causing any damage to the environment, submitted the request seeking amendment to the CRZ Notification, 2011. To justify the request, in addition to the contention that such mining of sand and sea shell done on conventional methods without using any machineries will not cause any damage to the environment, it was additionally contended that it is beneficial as sand and sea shell could be supplied for local consumption, provides good employment opportunity to the local people and if not removed, the river course get silted up and result in inundation of the neighbouring agricultural land and more over if not removed, the sand deposit will obstruct the navigation channel of the fishing boats and result in accidents. If the State Government has to permit sand mining, necessarily the provision of EIA Notification, 2006 would apply, even if the sand mining is to be undertaken on non-CRZ area of the rivers. **When sand mining is expressly prohibited from the rivers coming under CRZ area under CRZ Notification, 2011, sand mining can never be permitted as sought for by the State of Karnataka within the CRZ area of the rivers flowing in Udupi District. It is to get over this impediment, case of obstruction caused to navigation and fishing by the local fishermen have been projected as a ground to get exemption to remove the sand bars, so that the sand could be extracted from the river which is otherwise prohibited. We cannot support the blatant attempt to circumvent the provisions of CRZ Notification, 2011, as has been done in this case, which are detrimental to the environment and ecology. True, as the measures to prevent sandbars, which may include removal of sandbars also, is not a prohibited activity in view of clause (d) of Para (3) (iv) of CRZ Notification, 2011 and**



**therefore removal of sandbars is permissible. But it shall be strictly in accordance with the guidelines and the conditions provided in OMs dated 24th February, 2011, 9th June, 2011 and 8th November, 2011. "**

b) It is noteworthy that while upholding the plea of villagers in OA 111 /2016 Hon NGT (SZ) had made the following concluding observations:

" Therefore, the permits to be granted for removal of sandbars can never be to circumvent the prohibition of sand mining under the name of removal of sandbars. If any sandbar is to be removed, a proposal is to be submitted by the State Government, as provided in the OM, in consultation with the departments provided therein. Such a proposal should originate, on account of the existence of sandbars causing obstruction to the fishing or navigation. If no such obstruction is caused by any sandbars, no proposal for removal of such sandbars shall be made. If any such sandbars exist causing obstruction to the navigation or fishing, the proposal for their removal shall be made strictly, as provided in the OM. Thereafter, the proposal shall be examined by one of the institutions provided in the OM. It is for the said Institute and not a retired expert to consider the proposal and give the technical opinion. Based on that technical opinion, the proposal shall be examined by the Seven Member Committee headed by the District Collector as provided in the OM. The Monitoring Committee shall be constituted not in violation of the guidelines, but strictly in compliance with the guidelines including the representatives of the local fishermen community and the local civil society. It is based on the decision of the Monitoring Committee the proposal is to be examined by the KCZMA. It is thereafter, the Department of Environment, State of Karnataka to examine the proposals and decide whether the permission is to be granted or not. The order of granting such permission or rejecting such permission shall necessarily show the reasons for such permission or rejection as the case may be. We grant liberty to the State of Karnataka to decide the question of removal of sandbars from the coastal rivers of Karnataka strictly in compliance of the guidelines and conditions provided in the Office Memorandums of the MoEF&CC but making it clear that in any event it shall not be for sand mining in the name of removal of sandbars.



We hold that based on the disputed permits granted for the period 2016 -2017, no sand shall be extracted from the rivers of Udupi District.

6. Now Sand Removal permits are being issued without even Environment Clearance from SEIAA:

a) Same Rivers, same set of permit holders, same batch of immigrant workers, same Mines and Geology and other connected department officials are again at play this year also. Illegal sand mining in the guise of sand bar removal being carried out in the nonexistent sand bars at Udupi district, causing enormous environmental degradation. Some vested interests have organised a few sand businessmen to submit memorandum to Deputy Commissioner / Mines and Geology Department stating that there are sand bars in the CRZ Rivers of the District which are causing hindrance to fishing boats. Officials of concerned departments have identified the sand bars on paper which are nonexistent in reality. This process is followed by obtention of technical report from NITK Suratkal and then recommendation from KCZMA is obtained.

b) In total departure from the past process / procedures mandated by MOEF, observations of Hon, NGT (SZ), the Karnataka State Coastal Zone Management Authority has dispensing with the requirement Environment Clearance from SEIAA through the following resolve:

" As there is no involvement of sand mining and the present proposal is for removal of sand bar there is no need to obtain Environment Clearance separately ".

7. Sand Bar – Size of sand bar viz a viz breadth of the river:

It is a fact that sand will be there in any river specially in CRZ area. The quantum of sand, the thickness of the sand deposits vary from place to place and from river to river depending upon the meandering of the river and flow of water. Mere deposit of some quantity of sand in the river cannot be termed as sand bar. Unless the sand bar has grown to such an extent that it is visible over the level of water in the sea. Even if there exists a sand bar in a river grown above the water level still it need not obstruct the movement of fishing vessels / boats. It all depends on the length of the river as well as the size of the sand bar and number of



fishing boats moving in the concerned river. For example if the breadth of the river is over 1 K.M., a sand bar of 200 x 300 meters, even it has grown a meter above the water level, it may not obstruct the movement of boats. It is pertinent to note that in many CRZ rivers there are quite a few Kudrus (Island / islet) which are in existence for centuries without causing any obstruction to fishing boats / vessels.

8. Average breadth of Sand bars identified by Udupi District administration is around 100 meters, whereas the average breadth of the Rivers is much more than the breadth of these sand bars. It is beyond our imagination that even if we presume the existence of sand bars in the identified locations, how this 100 meter sand bar will obstruct the movement of small fisherman boat (with a maximum breadth of one meter) when the breadth of the River is substantially bigger than the breadth of the sand bar. We have enclosed to our OA, chart showing length and breadth of sand bars and the breadth of River along with respective Google images of identified sand bars captured using given GPS readings as annexure - 14. Perusal of the chart and the images clearly show that the identified sand bars can never cause obstruction to fishing boats. The real project, here in operation is the prohibited activity of sand mining, in CRZ area, in the garb of sand bar removal.

9. It is impossible to extract 9,87,179 metric tonnes (i.e around 1 lakh lorry loads) of sand from the river by a manual methods, in one year, using buckets and baskets by around 170 permit holders, without employing ineligible labourers and resorting to prohibited machineries, such as JCB / Drudging equipment. It would amount to one person removing 16 lorry loads of sand per day, if he works for 365 days. Here precautionary principle should come in to play.

10. a) It is stated in the **COMPLIANCE REPORT OF RESPONDENT -I**, that Removal of Sand from the identified sandbars in CRZ area of Udupi District is done as per the Office Memorandum dated: 24.02.2011, 09.06.2011 and 08.11.2011 and also as per the sustainable Sand Mining guidelines issued by Ministry of Environment, Ecology and Forest and Climate Change Notification No. 11-83/2005-IA -III (VOL.111). It is also submitted in the report that as per the sustainable sand mining guidelines, the seven

member committee has adopted Scientific and systematic methods like, to conduct river wise/ Stream wise Bathymetric Survey annually to identify the sand bars and to estimate the quantity of sand available as well as to know the rate of replenishment of sand in CRZ area. This method helps us to establish a long term monitoring program. This Bathymetric survey data is analyzed by the NITK, Surathkal keeping environment and ecology in focus and it deliberates on the demarcation level of sand extraction in the river to be allowed. Further, upon scrutiny of the report, it is forwarded to the KSCZMA through District CZMA recommendation. After obtaining approval from KSCZMA, Seven Member Sand Monitoring Committee grants Temporary permits for the removal of sand by the 170 registered members of the Traditional Community for a period of One Year.

b) Report further states that only three boats (for each temporary sand permit holder) which are installed with GPS only are allowed to remove sand. If any violations with respect to the removal of sand outside the sanctioned sand bars or more number of boats are found using removal of sand, Penalty is levied as per the 7 Member Sand Monitoring Committee decisions and cases filed depending upon the gravity of violation. It is further submitted that, the district administration made mandatory to install GPS for the vehicles to carry sand.

**c) Details of Penalty Collected with respect to illegal Sand Mining/ Transportation & GPS Violation for transporting vehicles & Boats**

Year	Sand Removal	Penalty Amount	Transportation	Penalty Amount	Total
2017-18	78	4000000	44	1125000	5125000
2018-19	116	1990000			1990000
2019-20	118	7650000	36	450000	8100000
2020-21	64	1953723	128	3684020	5637743
2021-22 (Up to Sept2021)	30	929128	43	1151976	2193464
	406	16522851	251	6410996	2,30,46,207



d) It is submitted that to reduce escalation in sand rate and for uniform distribution of sand in Udupi District, the District Administration has fixed a low price of Rs. 600/- per Metric Ton for CRZ sand and transportation charges of 3000/- (For large Vehicles upto 8 to 10 MTS), Rs. 2000/- (For Medium Vehicles upto 4 to 8 MTS) and Rs.1,500/- (For Small size Vehicles upto 1 to 4 MTS) upto 20 Kilometers and Rs. 50/- for every Additional Kilometer. It is submitted in the report that to combat leakage of royalty to the Government, The District Administration has brought the whole cycle of sand removal (excluding Fish breeding season and monsoon), transportation and delivery into e-platform the district administration has adopted the most transparent, hassle free mechanism for distribution of sand through Sand App management. In this method if a person requires specific quantity of sand for specific purpose, then he should book the sand through online using Sand App by making e-payment for the specific quantity. Thereafter an OTP is generated and sent to the registered phone number given by the person while booking the sand. Immediately, nearest to the destination address, registered sand supplier and whoever vehicle owner accepts the order will be allotted. After the delivery of sand the vehicle driver needs to obtain the OTP and upload in the Sand App to complete delivery of sand to the destination. The complaint management is also incorporated in the vehicle app of sand app as well as manual method for public is kept open.

11. From this Compliance report it is clear that the issue covered therein is only **SAND MINING** in the garb of sand bar removal. The Compliance report basically deals about Sustainable Sand Mining, fixing the rate for the extracted sand and distribution of sand. It is conspicuously salient about the number of fishing boats that operate in these CRZ rivers, the nature of hindrance the alleged sand bars pose to the movement of the fishing boats, length and breadth of the sand bars vis a vis length and breadth of the



River. The mere fact that penalty collected from the violators in the past five years amounts to over Rs. 2.3 Crores, speaks volume about the magnitude of sand mining. If the issue is only removing the sand bars by hand by around 170 traditional labourers, using buckets and small boats to facilitate navigation of fishing boats as envisaged in the Ministry of Environment and Forest, Office Memorandum dated 24th February 2011, 9<sup>th</sup> June 2011 and 8th November 2011, can there be violations of such proportion warranting penalty of Rs. 2.3 Crores.

In view of all these facts we urge the Hon. Tribunal:

(a) To issue direction the Respondent Authorities to formulate and place on record strategy/scheme to prevent illegal sand mining, by covering the following issues in tune with the spirit of Ministry of Environment and Forest, Office Memorandum dated 24th February 2011, 9<sup>th</sup> June 2011 and 8th November 2011 and to put on hold, the sand bar removal / sand mining activity, till such time:

1. Number of fishing boats that operate in these CRZ rivers.
2. The nature of hindrance the alleged sand bars poses to the movement of the fishing boats.
3. length and breadth of the sand bars vis a vis length and breadth of the concerned River at relevant stretch .
4. Whether the permit holders employ other labourers' to remove the task of sand bar removal, instead of carrying out the work themselves, contrary to guidelines.

(b) And pass such other or further order or orders as to Your Lordships may seem fit and proper.

Bangalore.  
Date:08.02.2022.

  
Ranjan Shetty  
Signature of the Counsel