

**BEFORE THE NATIONAL GREEN TRIBUNAL  
SOUTHERN ZONE, AT CHENNAI  
O.A. No. 225/2021 (SZ)**

**IN THE MATTER OF:**

Vidyadhar Durgekar

...APPLICANT

VERSUS

Chief Secretary, Govt. of Karnataka and Others

...RESPONDENTS

**STATEMENT OF OBJECTIONS ON BEHALF OF RESPONDENT NO. 6, THE  
DEPUTY COMMISSIONER, UTTARA KANNADA DISTRICT, KARWAR.**

**MOST RESPECTFULLY SHOWETH:**

1. That the applicant has filed the present petition before this Hon'ble Tribunal with the following Prayers:

- i. To direct the Respondent No. 1, 3 to 6 to cancel or withdraw draft CZMP 2019 of Karnataka Karwar coast till all the ESA & CVCA with biodiversity are marked and notified as per law conducting the study and consultation process and considering the Karwar coast as ESA & CVCA under 3.1 of CRQ notification 2019 and other zones as per all the provisions of CRZ notification-2019 and maintain the reliefs till the prayer is complied.
- ii. To direct the respondent 1, 3 to 6 of Coastal Zone Management Authority Govt. of Karnataka and District Commissioner Karwar to order demolition of all the illegal constructions in violation of CRZ laws on the Karwar beach and Kali river bank.
- iii. To direct the respondent No. 1 and 2 to withdraw the Gazette Notification No. PWD 113 PSP 2013 Bengaluru dated 21-01-2016 (Annexure A10) passed without the proper CRZ procedure and

stake holders consultation to extend the port limit in Karnataka coast.

- iv. To direct the respondents National Centers for Sustainable Coastal Management to ensure judicious effort ethically and as per law in preparing CZMP and to mark the measure of the complete distance of 500 metres on the coast of Karwar beach and divide with accuracy of measure of distance of each CRZ zones on the CZMP.
2. It is submitted that Karwar is a seaside City Taluk and it is the administrative headquarters of the Uttara Kannada District lying at the mouth of the Kali river on the Kanara coast of Karnataka. It is pertinent to note that Karwar is a popular tourist destination and has a city urban area of 10 Km<sup>2</sup> and that it is known for its beaches and tourism industry.
  3. It is submitted that in order to develop the tourism and to improve the beauty of the beaches as well as that of the city, Govt. of Karnataka had issued an order dated 16.11.2013 to reconstitute the District Committees and empowering the committee to collect revenue and maintain/manage public properties. Accordingly, a committee has been formed namely, "*Dr. Rabindranath Tagore Beach Development and Protection Committee*" in the year 2016 under the Chairmanship of District In-charge Minister and Executive Committee, under the

Chairmanship of the Deputy Commissioner of which, the Additional Deputy Commissioner as the Secretary (*'the said Committee'*).

4. It is submitted that the structures and the buildings which were already existing in the Karwar beach and were being maintained by various departments were vested in the said Committee as per the resolution for better maintenance, repairs and renovation in the interest of the tourists and public at large.
5. Accordingly, the said Committee held a meeting on 20.02.2017, when it was decided to develop Rock Garden, Food Court, a building for selling the local products prepared in the District in the Tagore beach and to develop Garden at Kodibag on Kali River Bank.
6. The Applicant herein has incorrectly contended that the above developments are in violation of CRZ Rules. This Hon'ble NGT had passed an order dated 22.11.2021 appointing a Joint Committee to ascertain about the alleged violation and to submit a report. The Joint Committee accordingly carried out a spot inspection of the subject area on 27.01.2022 and submitted a surficial report, mentioning that all the construction taken up by the District Committee is in violation of CRZ.

7. It is humbly submitted that the Joint Committee did not verify the existing old records available at the Deputy Commissioner's Office, or with other Departments such as Tourism, City Municipal Council etc., wherein various records such as the letters, corresponding, photos, documents made prior to CRZ Rules regarding the existence of building are maintained.
8. Owing to incorrect assertions in the present OA as well incorrect findings of the Joint Committee, the following facts regarding the subject are wherein the above-mentioned construction has taken place is submitted as follows.
9. It is submitted that though the entire subject area falls under CRZ-II, there were different buildings/structures already in existence prior to 1990, before the commencement of CRZ Rules.

#### **AQUARIUM BUILDING WAS CONSTRUCTED IN 1989**

10. It is submitted that the Aquarium Building was constructed in 1989 by Zilla Parishad and that there was a Children's Park built besides the Aquarium building, constructed by the Dept. of Police. In this regard a letter No.2272 dated 07.09.1989 was addressed by the Asst. Director, Women and Children Welfare Department, Karwar to the Deputy Commissioner Uttar Kannada District, Karwar.

11. It is submitted that the said letter clearly mentioned about the construction of the Aquarium building by Zilla Parishad and referred to the Children Park besides the Aquarium building, constructed by the Dept. of Police as well. The contents of the report submitted by the Joint Committee is denied as the mentioned works are not new constructions, but mere renovation of the existing structure including strengthening and modernization of structures existing since prior to 1990.

**SAGAR DARSHAN COMMUNITY HALL BUILT PRIOR TO CRZ NOTIFICATION, 1991**

12. It is submitted that 20 guntas of land in Sy. No.293 of Karwar Taluk was granted to District Fishermen Federation, Karwar on 18.02.1989. In the said area, "Sagar Darshan" Community hall was constructed, between 1989 to 1991. All the development works were undertaken in between Sagar Darshan and the road towards landward side. None of the development activities were taken up beyond Sagar Darshan. It is humbly submitted that these developmental activities are permissible under CRZ Notification, 2011. It is pertinent to note that MoEF&CC the CRZ Notification, 2011 provides that:

*"In exercise of powers also conferred by clause (d) and sub rule (3) of rule 5 of Environmental (Protection) Act, 1986 and in supersession of the notification of the Govt. of India in the Ministry of Environment & Forest, number S.O. 114(E), dated 19th February 1991 except as respects things done or omitted to be done before such supersession, the Central Govt. hereby declares the following area as CRZ..."*

13. As per the above notification, repair and renovation of the existing structures built prior to CRZ Notification 1991 do not come under the purview of CRZ Rules and Regulations. Hence, the allegation made in the O.A. and the report submitted by the Joint Committee is hereby denied as false, and erroneous. It is humbly submitted that the O.A. contains mere bald and vague allegations, without there being any material or documentary evidence to that effect.

#### **RENOVATION OF ROCK GARDEN EXISTING FROM PRIOR TO 1990**

14. It is submitted with respect to the "Rock Garden" as well that the same is not a new construction, but mere strengthening by way of modernization of an existing structure by the City Municipal Council. Further, the Musical Fountain in the Southern direction, the Signal tower in the Northern direction, the Children Railway in East & West directions were all existing prior to the CRZ Notification, 1991.

15. Unfortunately, because of a lack of periodical maintenance of these community buildings and the open area in the vicinity, these facilities were not being used by the public and were left in very bad condition. It is submitted that there was huge encroachment in this area and it was being misused by some of antisocial elements as well for illegal activities.
16. Hence, it was decided in DCZMA meeting held on 26.12.2017 to strengthen and modernize the facility including the area in the vicinity and to put these facilities up for public use with a modern touch and concept. It was proposed therein to give a new look to the already existing Musical Fountain. The Signal tower is also being equipped with modern technology. Priority was given to maintaining hygienic condition of the community toilets therein as well. The open area was decorated with pre-molded statues of fisherman community and their life style, as an ode to the fishing community of Karwar.
17. The entire developmental works of Rock garden was undertaken by the side of Signal Tower by the Department of Ports. It is relevant to note that the Signal Tower and public toilets were constructed before 1990 and were inaugurated by the then District Minister and Excise Minister Sri. P.S. Jaivant. While it was in a dilapidated condition due to

lack of care and maintenance, now the same has been renovated. It is submitted that during this work, saplings were planted towards the sea side to act as natural barrier/green wall. Sculptures and models depicting the life and culture of the ethnic groups of Uttar Kannada were displayed in the Rock Garden to promote ecofriendly tourism. Neither any permanent structure is built except the wall on the boundary towards National Highway nor any new facilities were incorporated or any reclamation of land was carried out. Hence, there is no violation of CRZ notification.

#### **ALREADY EXISTING TEMPORARY STRUCTURES MODIFIED INTO FOOD COURT**

18. As far as branded food court is concerned, the said area had fish aquarium and planetarium built before 1990. These buildings were very old and required immediate repairing and strengthening. Hence, as stated above, with and the intention of strengthening of an already existing facility by way of modernization, renovation of fish aquarium and planetarium with modern equipment and technology were carried out.
19. It is submitted that there was an old restaurant by the name of "Horizon" by the side of the planetarium. The hotel building was a well before the existence of CRZ notification. It was not a new building and was

temporary structure built with iron fabrication. It was in dilapidated and unusable condition. Therefore, with the intention to provide clean and hygienic food to the tourists and other public, and to increase the beauty of the beach, it was proposed to renovate the existing buildings and convert the same in to a Branded food court which is also of temporary nature. Accordingly, the tender was called for and as per the tender conditions, tender of Shri Rajesh Kamat was accepted and he was permitted to renovate the existing open-air café into temporary Branded Food Court and issued work order with conditions.

20. It is submitted that predominantly local and branded food products are being served to the public at the Food Court. Further, as per condition No. 19 and 22, he was expected to raise garden for children, plants and trees behind the Food Court up to High Tide Line. All these constructions were required to be built by using easily removable materials. Hence, there is no violation of CRZ notification since, earlier structures were renovated.
21. Further, as far as the construction of the building adjacent to the existing "Drive-In" Hotel i.e. "Nesiri" building is concerned, it was a children's toy train station with public toilets. It was also constructed well before the existence of CRZ notification. It was not in use and was

in dilapidated condition. Hence, the said area was renovated by converting the existing old constructions in to "Nelesiri" building where in tribal and local products of the District are being displayed to encourage tourism in the District. This is not a new building and therefore there is no violation of CRZ Notification.

22. In light of the above submissions, it is stated that the Applicant herein has made averments which are contrary to facts and completely baseless, for reasons best known to him. The Applicant is put to strict proof of all the averments in the OA. It is submitted that no illegality has been committed whatsoever by the society as alleged in the OA.
23. The above works are being carried out legally in the interest of the tourists and public without violating CRZ Rules and Regulations. These works were being carried out in implementing the object of the society constituted as per Govt. order, and not for making any illegal or undue gains as alleged in the OA.
24. It is further submitted that the said Society took the onerous task of maintaining and developing the various coastal beaches in Uttar Kannada District which is improving the beaches immensely. It is submitted that earlier, the coastal beaches in Uttar Kannada were neglected and hence were in pathetic unclean and unhygienic

condition. For the said reason, the tourists were hesitant to visit the beaches.

25. The said situation has now changed. The cleaning and maintenance works have been carried out in the interest of the public and of the tourists visiting from various places of the country and abroad. It is only due to the sincere efforts of the committee with a sense of dedication, the Rabindranath Tagore Beach is regarded as one of the best beaches of India.

26. Lastly, it is submitted that the Joint Committee formed by this Hon'ble Tribunal has itself noted as follows:

*"The committee observed that there was no destruction of any trees, no existence of sand dunes as per approved CZMP and loss of ecology due to the illegal constructions. Hence there is no question of damage caused to environment on account of such illegal constructions".*

27. In view of the facts narrated above, it is respectfully submitted that the entire developmental activities referred above were carried out in accordance with rules and regulations of CRZ and in the interest of the development of ecofriendly tourism of Uttar Kannada District without violating any of the provision of CRZ notification 2011 as per Para 8 I CRZ I (i) and para 8 II CRZ II (i).

28. It is therefore humbly prayed that the present Application may be dismissed with costs.

Place : Karwar

Date: 17/12/2022

  
Deputy Commissioner  
Uttara Kannada, Karwar  
Uttara Kannada, Karwar  
(Respondent No. 6)

THROUGH



Darpan KM  
Advocate for Respondent No. 6