

BEFORE THE NATIONAL GREEN TRIBUNAL (SOUTHER ZONE)
AT CHENNAI
(Special Original Jurisdiction)

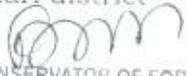
Original Application No.278 of 2017 (SZ)

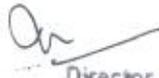
S. John Fernandez,
S/o Susai,
Inayam, Inayam Post,
Kanyakumari district

..... Applicant

Versus

1. The Chairman,
Tamil Nadu Pollution Control Board,
76, Mount Salai, Guindy, Chennai.32
2. The Member-Secretary,
TNSCZMA & Director of Environment,
No.1, Jennies Road,
Panagal Building, Saidapet, Chennai.15
3. The District Environmental Engineer,
Tamil Nadu Pollution Control Board,
Nagercoil, Kanyakumari district.
4. The District Collector,
Kanyakumari District,
Nagercoil - 629 001.
5. The Superintending Engineer,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Parvathipuram, Nagercoil, Kanyakumari dist.
6. The Asst. Engineer,
Tamil Nadu Generation and Distribution Corporation Ltd.,
Pudukkadai, Kanyakumari district.
7. The Revenue Divisional Officer,
Padmanabhapuram,
Thuckalay, Kanyakumari district.
8. The Special Officer,
Panaikulam Village Panchayat,
Panaikulam Post,
Kanyakumari district.
9. The Village Administrative Officer,
Thengaipattinam Village,
Vilavancode Taluk,
Kanyakumari district


ASSISTANT CONSERVATOR OF FORESTS
GREEN SQUAD,
O/o. DIRECTOR OF ENVIRONMENT
PANAGAL MALIGAI,
SAIDAPET, CHENNAI-600 015.


Director
Department of Environment
Chennai - 15.

10. The Deputy Director,
Sanitary Department,
Krishankoil, Kanyakumari district.

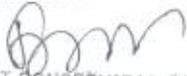
11. M/s. Nanjil Sea Foods,
Rep. by its Proprietor,
Thiru G. Antony Kenselin,
No.24/251, Mulluthurai, Thengapattinam Post,
Kanyakumari district

..... Respondents

REPLY AFFIDAVIT FILED BY THE 2nd RESPONDENT

I, K.V. Giridhar, I.F.S, S/o K. Seetharama Rao about 57 years and having office at Ground Floor, Panagal Buildings, Saidapet, Chennai - 600 015 solemnly affirm and sincerely state as follows.

1. I humbly submit that I am the Director, Department of Environment and also the Member Secretary, Tamil Nadu State Coastal Zone Management Authority and I am well acquainted with the facts of the case from the records available and I am filing this reply in my official capacity on behalf of 5th and 6th respondents.
2. I humbly submit that I have gone through the averments contained in the affidavit filed by the Applicant and I deny all the averments except those that are specifically admitted herein and the Applicant is put to strict proof of the same.
3. I humbly submit that the Applicant has filed this application against the establishment and operation of the 11th respondent unit of M/s. Nanjil Sea Food located at D.No.24/251, Mulluthurai, Araiyanthoppu, Vilavancode, Kanyakumari District and requested the Hon'ble NGT (SZ) to grant permanent injunction restraining the 11th respondent from running an illegal jelly Fish Processing Unit.
4. I humbly submit that the Hon'ble NGT has appointed a Joint Committee to the inspect the area in question and ascertain as to whether the construction if any is in violation of the CRZ regulations and if any action is required and what action taken is taken, vide order dated 11.12.2019.
5. I humbly submit that as per the above order, the Expert Member from the Tamil Nadu State Coastal Zone Management Authority has been deputed for inspection.


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Director
Department of Environment
Chennai - 15.

6. The Joint Committee has inspected the site and submitted the report to the Hon'ble NGT and after considering the report, the Hon'ble NGT has directed the Tamil Nadu Pollution Control Board to submit the action taken report for imposition of environmental compensation assessed on the 11th respondent in accordance with law.
7. I humbly submit that the Ministry of Environment and Forests, GoI have promulgated CRZ Notification 2011 on 06.01.2011 in supersession of CRZ Notification 1991 in the notification S.O.No.19(E) dated 06.01.2011. In the said notification, classification of different coastal zones are stipulated as follows.
- a) **CRZ-I, areas viz.,** Mangroves, Corals and coral reefs and associated biodiversity, Sand Dunes, Mudflats which are biologically active, National parks, marine parks, sanctuaries, reserve forests, wildlife habitats and other protected areas, Salt Marshes, Turtle nesting grounds, Horse shoe crabs habitats, Sea grass beds, Nesting grounds of birds, areas or structures of archaeological importance and heritage sites and the area between the Low Tide Line and the High Tide Line;
 - b) **CRZ-II areas viz.,** the areas that have been developed upto or close to the shoreline.
 - c) **CRZ-III areas viz.,** area that are relatively undisturbed and those do not belong to either CRZ-I or II which include coastal zone in the rural area (developed and undeveloped) and also area within the municipal limits or in other legally designated urban area, which are not substantially builtup.
 - d) **CRZ-IV areas viz.,** the water area from the Low Tide Line to twelve nautical miles on the seaward side and also the water area of the tidal influenced water body from the mouth of the water body at the sea upto the influence of tide which is measured as five parts per thousand during the driest season of the year.
8. I humbly submit that as per the CRZ Notification 2011, vide para 3, (iii) "Setting up and expansion of fish processing units including warehousing is prohibited activity". However, "facilities required for local fishing communities such as fish drying yards, auction halls, net mending yards, traditional boat building yards, ice plant, ice crushing units, fish curing facilities and the like" were permissible activities in CRZ-III-No Development Zone, as per CRZ Notification 2011, vide para 8 III (iii) (l).


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9. I humbly submit that no proposal has been received from the 11th respondent / District Coastal Zone Management Authority for Kanyakumari district, for the Clearance under the CRZ Notification, 2011.

10. I humbly submit that the Government of Tamil Nadu constituted District Coastal Zone Management Authorities (DCZMA) for all the Coastal districts in G.O.Ms.No.163, Environment and Forests Department dated 09.06.1998. The District Environmental Engineer of the Tamil Nadu Pollution Control Board is the Convener of the District Coastal Zone Management Authority and is the appropriate authority to take action in this regard.

11. I humbly submit that the DCZMAs are entrusted with the following responsibilities, in their respective jurisdictions, as per the said G.O.

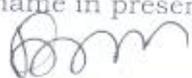
- a) to be responsible for monitoring and enforcement / Implementation of the provisions of the Coastal Regulation Zone Notification.
- b) to ensure that the activities within Coastal Regulation Zone take place as per the approved Management Plan.
- c) to advise the State Government on any matter relating to protection and control of pollution in Coastal areas.
- d) to act as an Authority under Sec. 4 of Coastal Regulation Zone Notification, 1991 dated 19.02.1991 for taking action on Coastal Regulation Zone Plan violations.

12. It is necessary to state that to take action on violation under the CRZ Notification, as discussed in the 79th meeting of the TNSCZMA, dt. 18.08.2014, it was resolved that all the District Collectors, District Coastal Zone Management Authorities, CMDA, Corporation of Chennai are responsible for identification of violations and to take action on the violators, by following the procedures, laid down under the Environment (Protection) Act, 1986.

It is therefore humbly prayed that this Hon'ble Tribunal may be pleased to pass appropriate orders as this Hon'ble Tribunal may deem fit and thus render justice.


Director
Department of Environment
Chennai - 15.

Solemnly affirmed at Chennai
This the day of January 202
and Signed his name in presence
Signed his name in presence


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GREEN SQUAD,
O/o. DIRECTOR OF ENVIRONMENT
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SAIDAPET, CHENNAI-600 015.

BEFORE ME