

**BEFORE THE HON'BLE GREEN TRIBUNAL
SOUTHERN ZONAL BENCH
CHENNAI**

**APPLICATION NO.14 OF 2017 (SZ)
AND
APPLICATION NO.16 OF 2017 (SZ)**

Meenava Thanthai K.R.Selvaraj Kumar
Meenavar Nala Sangam represented by its
President

... Applicant in Application No.14 of 2017 (SZ)

Saravanan Dhakshinamurthy
Selaiyur, Chennai

... Applicant in Application No.16 of 2017 (SZ)

Vs

The Chairman
National Coastal Zone Management
Authority
Government of India and others

- Respondents

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Certified that the above are the true copies of the respective originals.

Dated at Chennai on 9th Day of December, 2021

Sharanya V
COUNSEL FOR THE RESPONDENTS 7 & 11

3. மேலே பத்தி 2-இல் உள்ள மீன்துறை ஆணையரின் கருத்துருவினை அரசு நன்கு பரிசீலித்து, திருவள்ளூர், சென்னை மற்றும் காஞ்சிபுரம் மாவட்டங்களில் எண்ணெய் கசிவின் காரணமாக வாழ்வாதாரம் பாதிக்கப்பட்டுள்ள 30,000 மீனவ குடும்பங்களுக்கு தலா ரூ.5,000/- வீதம் இடைக்கால நிவாரணம் வழங்கிட ரூ.15.00 கோடியும் (ரூபாய் பதினைந்து கோடி மட்டும்) மற்றும் கப்பல் நிறுவனத்திடமிருந்து "பெருநிறுவன சமூக பொறுப்பு நிதி" தொகுப்பிலிருந்து வழங்கப்படவுள்ள ரூ.75.00 இலட்சம் நிதியினை எதிர்நோக்கி திருவள்ளூர் மாவட்டம் எர்ணாலூர் மற்றும் சென்னை மாவட்டம் நொச்சிக்குப்பத்தில் தலா ஒரு மீன்சந்தை அமைப்பதற்கு முன்பணமாக ரூ.75.00 இலட்சம் (ரூபாய் எழுபத்தைந்து இலட்சம் மட்டும்) என மொத்தம் ரூ. 15.75 கோடி (ரூபாய் பதினைந்து கோடி எழுபத்தி ஐந்து இலட்சம் மட்டும்) ஒப்பளிப்பு செய்து ஆணை வெளியிடுகிறது.

4. மேலே பத்தி 3-இல் ஒப்பளிக்கப்பட்ட தொகை கீழ்க்கண்ட தலைப்புகளின் கீழ் பற்று வைக்கப்பட வேண்டும்:-

வ.எண்.	கணக்குத் தலைப்பு	இலட்சத்தில்
அ.	2405-00 மீனளம் - 103 கடல் மீனளம் - I. திட்டத்தில் சேராதது - AM எண்ணெய் கசிவின் காரணமாக பாதிக்கப்பட்ட மீனவ குடும்பங்களுக்கு நிவாரணத் தொகை வழங்குதல் - 09 உதவித் தொகை - 03 குறிப்பிட்ட திட்டங்களுக்கான உதவித் தொகை (த.தெ.கு 2405 00 103 AM 0934)	1500.00
ஆ.	2405-00 மீனளம் - 105 பதப்படுத்துதல், பாதுகாத்தல் விற்பனை செய்தல் - I. திட்டத்தில் சேராதது - AJ எர்ணாலூர் மற்றும் நொச்சிக்குப்பத்தில் மீன் சந்தைகள் அமைத்தல் - 09 உதவித் தொகை - 03 குறிப்பிட்ட திட்டங்களுக்கான உதவித் தொகை (த.தெ.கு 2405 00 105 AJ 0936)	75.00

5. மேலே பத்தி 3-இல் ஒப்பளிக்கப்பட்ட செலவினம் ஒரு "புதுப்பணி" (New Service) குறித்த செலவினமாகும். இதற்கு சட்டமன்றப் பேரவையில் ஒப்புதல் பின்னர் பெறப்படும். மேற்குறித்த ஒப்புதலை எதிர்நோக்கி இச்செலவினம் முதற்கண் எதிர்பாராச் செலவின நிதியிலிருந்து முன்பணம் பெறுவதன் மூலம் மேற்கொள்ளப்படும். முன்பணத்தை அனுமதிக்கின்ற ஆணைகள் நிதித் (வ.செ.பொ.1) துறையில் தனியாக பிறப்பிக்கப்படும். அடுத்து வரும் துணை மானியக் கோரிக்கையில் இச்செலவினம் சேர்க்கப்பட்டு சட்டமன்ற பேரவையின் ஒப்புதல் பெறும் வரையில் நடப்பாண்டிற்கு தேவைப்படும் செலவினத்தை சரியாகக் கணக்கிட்டு எதிர்பாரா செலவின நிதியிலிருந்து முன்பணம் பெறத் தேவையான விண்ணப்பத்தை எதிர்பாரா செலவின நிதி விதிகள் 1963-இல் உள்ள அட்டவணை "A" படிவத்துடன் இவ்வரசாணையின் நகலுடன் இணைத்து நிதி(வ.செ.பொ.1)த் துறைக்கு நேரடியாக அனுப்பி வைக்குமாறு மீன்துறை ஆணையர் அவர்கள் கேட்டுக் கொள்ளப்படுகிறார். மேலும் இக்கூடுதல் செலவினத்திற்கான உரிய கருத்துருவை 2016-2017-ஆம் ஆண்டிற்கான துணை மதிப்பீடுகளில் சேர்ப்பதற்கு தவறாது உரிய நேரத்தில் நிதி(வ.செ.பொ.1/காப.பா(ம)மீ.வ)த் துறைக்கு அனுப்பி வைக்குமாறு மீன்துறை ஆணையர் அவர்கள் கேட்டுக் கொள்ளப்படுகிறார்.

6. மேற்கண்ட புதிய கணக்கு தலைப்புகளை தொடங்கிக் கொள்ளுமாறு சம்பந்தப்பட்ட கருவூலங்களை கேட்டுக் கொள்ளலாம்.

7. மீன்வளத் துறை ஆணையர் மேற்கண்ட புதிய கணக்குத் தலைப்பின் மதிப்பீடு, சரிசுட்டல் மற்றும் கட்டுப்பாட்டு அலுவலர் ஆவார்.

5. இவ்வரசாணை நிதித் துறையின் அ.சா.கு.எண்.11107/நிதி(DS(LM)/17 நாள்.3.3.2017-இல் பெறப்பட்ட ஒப்புதலுடன் வெளியிடப்படுகிறது. மற்றும் கூடுதல் பேரேடு எண்.2246 (இரண்டாயிரத்து இருநூற்று நூற்பத்து ஆறு)

(ஆளுநரின் ஆணைப்படி)

ககன்தீப் சிங் பேடி
அரசு முதன்மைச் செயலாளர்

பெறுநர்

மீன்துறை ஆணையர், சென்னை-6
மாநில கணக்காயர், சென்னை-18/18(பெயரில்)
சம்பளம் மற்றும் கணக்கு அலுவலர், சென்னை -35
இருப்பிட தணிக்கை அலுவலர்
(முதன்மை கணக்காயர் அலுவலகம், சென்னை-9)
மாவட்ட கருவூல அலுவலர், திருவள்ளூர், காஞ்சிபுரம்

நகல்

நிதி (காப.பாவ(ம)மீ) (வ.செ.பொ.1/11)த் துறை, சென்னை-9
கால்நடை பராமரிப்பு, பால்வளம் மற்றும் மீன்வள(மீன்-5)த் துறை, சென்னை-9
(தொடர் நடவடிக்கைக்காக)
மாண்புமிகு முதலமைச்சர் அலுவலகம், சென்னை-9
மாண்புமிகு மீன்வளம், நிதி மற்றும் பணியாளர் மற்றும்
நிர்வாக சீர்திருத்தத் துறை அமைச்சரின் சிறப்பு நேர்முக உதவியாளர், சென்னை-9
தேசிய தகவல் மையம், சென்னை-9
இருப்புக் கோப்பு / உதிரி நகல்கள்

// ஆணைப்படி அனுப்பப்படுகிறது //

வ.பரிமளா
பிரிவு அலுவலர் 3/3/17

Rvcd 13/3/17

BEFORE THE NATIONAL GREEN TRIBUNAL (SOUTHERN ZONE)
CHENNAI

(4)

APPLICATION NO. 14 OF 2017

M/s Meenavar Nala Sangam.

----- APPLICANT

Vs

The Chairman , National Coastal Zone Management Authority, GoI

----- RESPONDENTS

APPLICATION NO. 16 OF 2017

Shri Saravanan Dakshinamurthy

----- APPLICANT

Vs

Union of India and 8 Ors

----- RESPONDENTS

&

APPLICATION NO. 40 OF 2017

Shri P Somasundaram

-----APPLICANT

Vs

Union of India and 3 Ors

-----RESPONDENTS

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Signed and verified on this 8th day of March, 2017 at Bengaluru .

COUNSEL FOR
CPCB



S. Suresh
8/3/2017
DEPONENT
S. SURESH
REGIONAL DIRECTOR
CENTRAL POLLUTION CONTROL BOARD
REGIONAL DIRECTORATE (SOUTH)
MIN. OF ENV, FORESTS & CC, GOVT. OF INDIA
BENGALURU-560079, MOB: 9480672128

(5)

BEFORE THE NATIONAL GREEN TRIBUNAL (SOUTHERN ZONE)
CHENNAI

APPLICATION NO. 14 OF 2017

M/s Meenavar Nala Sangam.

----- APPLICANT

Vs

The Chairman, National Coastal Zone Management Authority, GoI

----- RESPONDENTS

APPLICATION NO. 16 OF 2017

Shri Saravanan Dakshinamurthy

----- APPLICANT

Vs

Union of India and 8 Ors

----- RESPONDENTS

&

APPLICATION NO. 40 OF 2017

Shri P Somasundaram

-----APPLICANT

Vs

Union of India and 3 Ors

-----RESPONDENTS

Compliance Report filed on behalf of Central Pollution Control Board with regard to order dated 01/02/2017 of the Hon'ble National Green Tribunal, Southern Zone, Chennai.

I, S. Suresh, Son of Sh. S.R. Sathyanarayana, Hindu, aged about 54 years, having office at the Regional Directorate, Central Pollution Control Board, 1st & 2nd Floors, Nisarga Bhavan A-Block, Thimmaiah Main Road, 7th D Cross, Shivanagar, Bengaluru - 560 079 do hereby solemnly affirm and sincerely state as follows:-

2. That I am presently working as Regional Director, Regional Directorate (South), Central Pollution Control Board (hereafter called as CPCB), Bengaluru and have been authorized to file the present affidavit. I am fully conversant with the facts of the case and hence, competent and authorized to depose and swear the present report as under:

Corrn:
Initial:



S. Suresh
8/3/2017
Regional Director
Central Pollution Control Board
1st & 2nd Floors, Nisarga Bhavan
Thimmaiah Main Road, 7th D Cross
Shivanagar, Bengaluru - 560 079

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3. That the Central Pollution Control Board has been created under Section 3 of the Water (Prevention & Control of Pollution), Act 1974 and vide Section 4 of the Air (Prevention & Control of Pollution), Act 1981, provisions of that Act are also exercised by the Central Pollution Control Board. The State Pollution Control Boards have been created in all States under Section 4 of the Water (Prevention & Control of Pollution), Act 1974 and Section 6 of the Air (Prevention & Control of Pollution), Act 1981, to implement the provisions of these Acts in respect of their territorial Jurisdiction. The Tamil Nadu Pollution Control Board has been fully empowered and conferred to implement the provisions of these Acts in respect of preservation of the Environment.
4. That the averments of the petition relates to the Oil Spill due to Collision occurred between out bound Ship named LPG/C - BW MAPLE carrying LPG 27506.57 MT on board had unloaded LPG at Kamarajar Port and with an inbound petroleum products carrier ship named M.T-DAWN KANCHIPURAM at 03.45 hrs on 28.01.2017 thereto.
5. That the Central Pollution Control Board office at Bengaluru carried out assessment of Oil Spill during February 1st and 2nd 2017 along with officials of Tamil Nadu Pollution Control Board and prepared a report on the action taken by respective stakeholder organization for containment of oil spill and suggested mitigation measures for prevention of such spills in future (Annexure-I)
6. That the Direction under Section 18 (1) b of Water (P&C of Pollution) Act 1974 issued to Tamil Nadu Pollution Control Board vide letter dated 08.02.2017 (Annexure-II) inter-alia said
 - A. Continue to monitor water quality on daily basis till such time that the water quality is restored to desired levels as per sea water quality criteria.
 - B. Provide comprehensive water quality data on coastal waters, carried out either by SPCB or any other organization/laboratory.
 - C. Provide inventory of all commercial / industrial activities along with their quantity of effluent discharged to coastal waters by various operations of the Kamarajar Port Limited.
 - D. Assess the long term impact of oil spill on flora and fauna and analyse reasons for collision of ships and suggest measures to prevent recurrence of such incidents.
 - E. Analyse the preparedness of Indian Coast Guard, Kamarajar Port Limited and other stakeholders in dealing with such disasters.
 - F. Assess the capabilities of laboratories of TNPCB and other NABL accredited laboratories for analyzing the water samples for all parameters of concern.

Conn:
Initial:



S. Suresh
Regional Director
Central Pollution Control Board
1st & 2nd Floors, Nisarga Bhavan
Thimmaiah Main Road, 7th D Cross
Shivahagar, Bengaluru - 560 079

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- G. Prepare an SOP for dealing with such incidents indicating clearly the role of TNPCB and other Government/Non-Government institutions.
 - H. Suggest measures for treatment of sand/sludge collected from beaches/shoreline by port authorities, Coast Guard, NGOs etc. and to ensure that the recovered waste oil is processed by authorized recyclers in consultation with TNPCB.
 - I. Ensure safe disposal of sludge so collected from disaster site, shoreline, and beaches in accordance with Hazardous Waste Management Rules.
7. That the Chairman Central Pollution Control Board visited Kamarajar Port Limited on 12.02.2017 and reviewed the status of oil spill cleanup due to the collision of ships at Kamarajar Port on 28.01.2017 in a meeting with Chairman, TNPCB, Chairman cum Managing Director, Kamarajar Port Ltd. Ennore. Meeting was also attended by Additional Director General of Police Operations and Additional Director General of Police, Coastal Security Group, Indian Coast Guard, Indian Navy, Director of Environment, Commissioner of Revenue and Administration (CRA), District Collector, Thiruvallur, District Collector, Chennai, Greater Corporation of Chennai, State Fire Service, Metro Water, IOC, Mercantile Marine Department and International Tanker Owners Pollution Federation Ltd (ITOPF). Minutes of the meeting are at Annexure-III.

PRAYER

Any other order or directions, if any, passed by this Hon'ble Tribunal shall be complied with by the Central Pollution Control Board

S. Suresh 8/3/2017
DEPONENT
S. SURESH
 REGIONAL DIRECTOR
 CENTRAL POLLUTION CONTROL BOARD
 REGIONAL DIRECTORATE (SOUTH)
 MIN. OF ENV, FORESTS & CC. GOVT. OF INDIA
 BENGALURU-560079

VERIFICATION

It is verified that the content of this Counter affidavit which is based on official record and information available in the office are true and correct. Nothing has been concealed therein.

Signed & verified on this 8th March, 2017 at Bengaluru.

**COUNSEL FOR
CPCB**



S. Suresh 8/3/2017
DEPONENT
S. SURESH
 REGIONAL DIRECTOR
 CENTRAL POLLUTION CONTROL BOARD
 REGIONAL DIRECTORATE (SOUTH)
 MIN. OF ENV, FORESTS & CC. GOVT. OF INDIA
 BENGALURU-560079, MOB : 9480672128

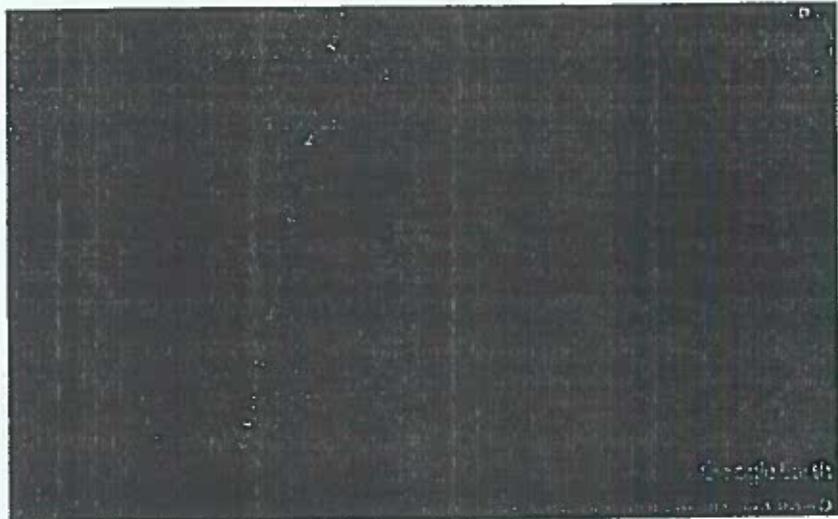
(9)

	REPORT ON OIL SPILLAGE OCCURRED DUE TO COLLISION OF TWO SHIPS AT A DISTANCE OF 2.5 NAUTICAL MILES FROM KAMARAJAR PORT, CHENNAI, TAMIL NADU	Regional Directorate (South) Bengaluru
<p>I Background</p> <p>A news item was flashed in local and National print and electronic media on January 30, 2017 and local public at Ennore in Chennai informed regarding oil spillage and marine pollution occurred due to collision of two ships carrying petroleum products at a distance of 2.5 nautical miles away from Kamarajar Port, Chennai, Tamil Nadu on 28.01.2017. In this regard, CPCB got soon in touch with Tamilnadu Pollution Control Board (TNPCB) vide CPCB letter dated January 31, 2017 to provide the status report as well as measures taken to prevent marine pollution. TNPCB officials informed about ongoing oil sludge collection from various sea shores.</p> <p>As per the directions of Competent Authority of Central Pollution Control Board (CPCB), a team comprising of Shri S. Suresh, Regional Director, Smt. H D Varalaxmi, SEE, Smt. D. Sowmya, EE, Smt. V. Anjana Kumari, EE and Sh. K Karthikeyan, Scientist B visited the site during February 1st & 2nd, 2017 along with the officials from Tamil Nadu Pollution Control Board. The objective of the site visit was to formulate suggestions and recommendations for further assessment / mitigation of environmental impact and prevention of such spills in future.</p>		
<p>II. Description about the Field visit regarding Accident of Ships and pollution caused along the sea shores :</p> <p>The CPCB team visited the following locations along with TNPCB officials to visualize the gravity of pollution occurred due to Oil spillage from accident place.</p> <ol style="list-style-type: none"> i. Kamarajar Port, Ennore ii. Ramakrishnanagar / Bharthinagar Kuppam beach, Ennore iii. Kasimedu Fishermen Port iv. Kasimedu Kadalore fish market v. Marina Beach vi. Besant Nagar Beach vii. Thiruvanniyur Beach viii. Kottivakam Beach ix. Palavakam Beach x. Neelankarai Beach xi. Enjampakkam to Vertuvankeni Beach <p>During the visit to the affected areas along the sea shore it was observed that Indian Coast Guards (ICG), Volunteers (students from marine engineering colleges), fishermen, local people and people from Greater Chennai Corporation have involved in manual cleaning of the oil sludge/slick</p>		

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collected along shore and contaminated sand in the presence of officials of District Administration and Tamil Nadu Pollution Control Board. The collected oil sludge were stored in PVC tanks of 1000 -2000 liters capacity and contaminated sand in the polythene bags of 40 kg capacity each.

The following map shows the accident spot of the ships and the affected sea shores locations.



Dispersion of Heavy Fuel Oil (HFO) from accident place to different sea shores towards South East direction

i. Kamarajar Port, Ennore

The team inspected the ship M T Dawn Kanchipuram along with the officials of Kamarajar Port and discussed with Sh. Hitesh, Ship Manager and Sh. Ankur, Chief Officer of the Ship. It was briefed by them that on *January 28, 2017 around 4 AM*, M.T. Dawn Kanchipuram Carrying High Speed Diesel and Motor Spirit as Cargo were inward to the Kamarajar Port, Ennore, Tamil Nadu for unloading. The cargo belongs to BPCL, Chennai. Meanwhile B W Maple ship containing partially filled Liquefied Petroleum Gas (LPG) was outward from the port at around 2.5 nautical miles. During this time B. W. Maple collided with M T Dawn Kanchipuram and the bulbous valve was damaged in the fuel tank of M T Dawn. Due to this Heavy Fuel Oil sludge in the bottom of the fuel tank was gushed out. The port has anchored B W Maple at 2.5 nautical miles from the port and towed MT Dawn and anchored at the port for unloading of High Speed Diesel and Motor Spirit to BPCL.

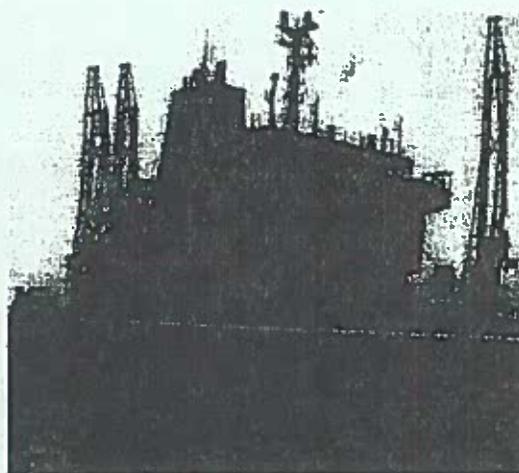
The fuel tank of M T Dawn and the cabin in the right of the ship was damaged, however cargo tank containing High Speed Diesel and Motor Spirit were intact. The ship officials informed that Heavy Fuel Oil is used in the ship as engine fuel oil in the fuel tank, the bottom storage was gushed out during the accident. During the visit, unloading of High Speed Diesel and Motor Spirit from the ship in the port was under process. The Port Authority has placed the booms around the ship to confine the further oil sludge flushing out from the fuel tank and oil stick on the ship wall, due to waves and wind movement.

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Then the CPCB team met Caption A K Gupta, G M operation, Marine Services and Sh. Saravanan, Manager, HSE, Kamarajar Port Authority. The Port authority informed that necessary instructions for navigation as per Vessel Traffic Management System (VTMS) at that time were given to both the ships. In spite of the instructions, due to misjudgment, accident might have happened. It was informed that within two hours of the incident, ICG laid the booms around the accident area to confine the oil leak. However before laying the booms, huge quantity of oil spilled floated to the shores towards southern directions due to high tidal current and wind movement.



Boom laid around the damaged ship



The photo showing the damaged portion of cabin

It was informed by the officials of the Port Authority, that the Chief Secretary, Tamil Nadu conducted the meeting with the Port Authority, Indian Coast Guards, Chennai Metropolitan Corporation, Tamil Nadu Pollution Control Board, District Administration, experts and other stakeholders on January 31, 2017 and instructed to expedite the cleaning operations. Also instructed the cleaning operations shall be carried out under the supervision of District Administration and TNPCB. The storage of collected material should be properly in a designated area in the premises of Kamarajar Port till further instructions.

The Port Authority is involved in following activities during cleaning operations:

- > The wastes such as oil sludge and contaminated sand collected from the seashore are temporarily stored in the Kamarajar Port till the suitable disposal methods are explored.
- > The related materials required for cleaning operations are procured from Chennai Port and other places and given to ICG for assisting in cleaning.
- > The coast guards informed that deployment of 2000 people for cleaning up of the oil spill hired by Port Authority for cleaning operations.
- > The food packets and water bottles are supplied to the volunteers and people involved in the cleaning activity.

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ii. Ramakarishnanagar/ Bharthinagar Kuppam Beach, Ennore

The beach is located at a distance of 9.8 km from accident place; stone embankment exists along the shore. To facilitate fisher man small boats to halt, stone structure (like jetty) exists. The dispersed oil scum/sludge from the accident place is collected in north side of the jetty; however south side of the jetty small patches of oil sleeks were found. This Jetty acts like natural containment and restricting the movement of oil scum to south side. *This site is most affected sea shore.* During the visit it was observed that the Coast Guards, Port Authority and Volunteers were engaged in the collection of oil scum accumulated along the shore and the coast guards has placed booms to confine the movement of oil scum. Two boats were engaged to push the floating oil towards shore so that it could be collected. The Volunteers, local fishermen, coast guards and port authority (300 - 500 Nos) were engaged in manual collection of oil scum/sludge in buckets and stored in PVC Sintex tanks of capacity 1000 - 2000 liters. The Sintex tanks were temporarily stored next to the shore and were in the process of transporting to the Kamarajar Port for temporary storage.

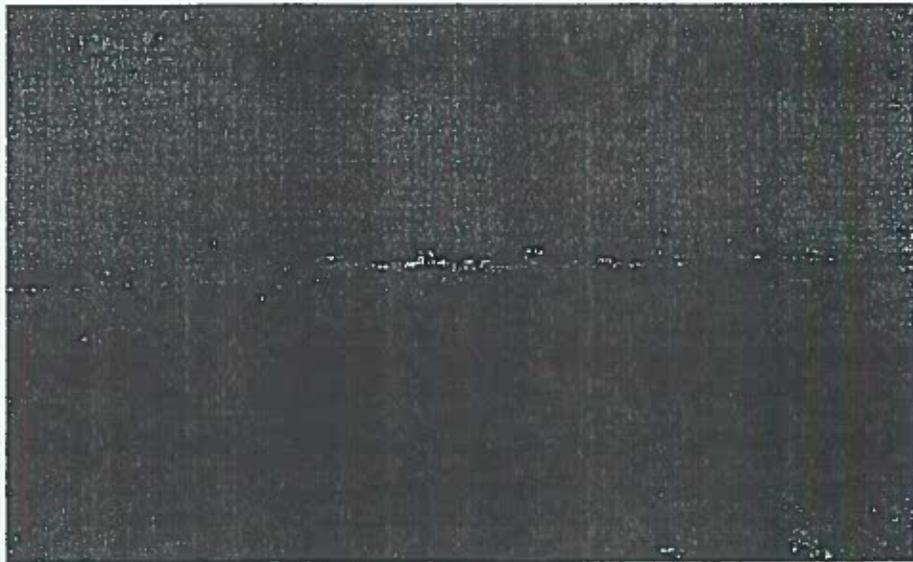
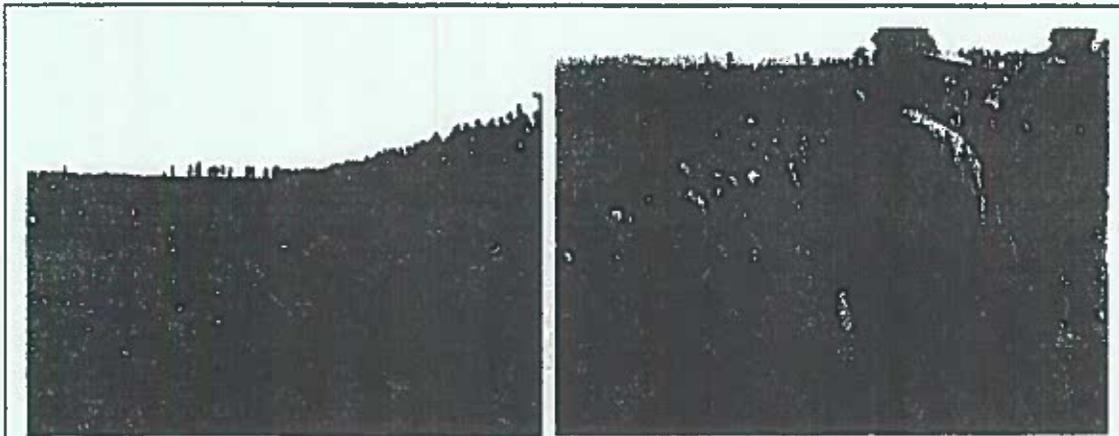


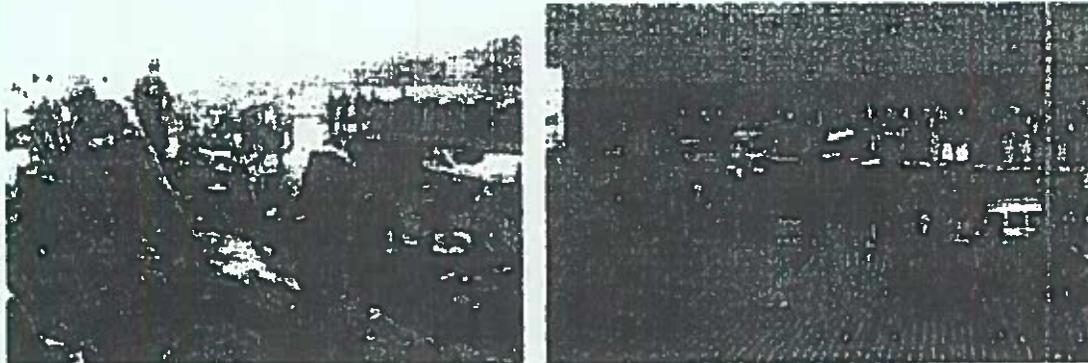
Photo showing Major Oil Scum/sludge deposition at Ramakrishna nagar Kuppam beach and peoples engaged in collection of oil scum and Boom laid to confine the Oil scum

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Workforce engaged in collection and retrieval of oily scum from R K Nagar Kuppam

Around 19.5 tons of emulsified oil sludge mixed with water was collected till February 1, 2017, noon and stored near the shore. The representative sea samples were collected from north & southern side of Oil spillage shore.



Sintex tanks used for collection of Oily Scum. Sintex tanks containing Oil sludge loaded on to Containers. The super sucker, fire tenders and the health centre shamiana is seen the background

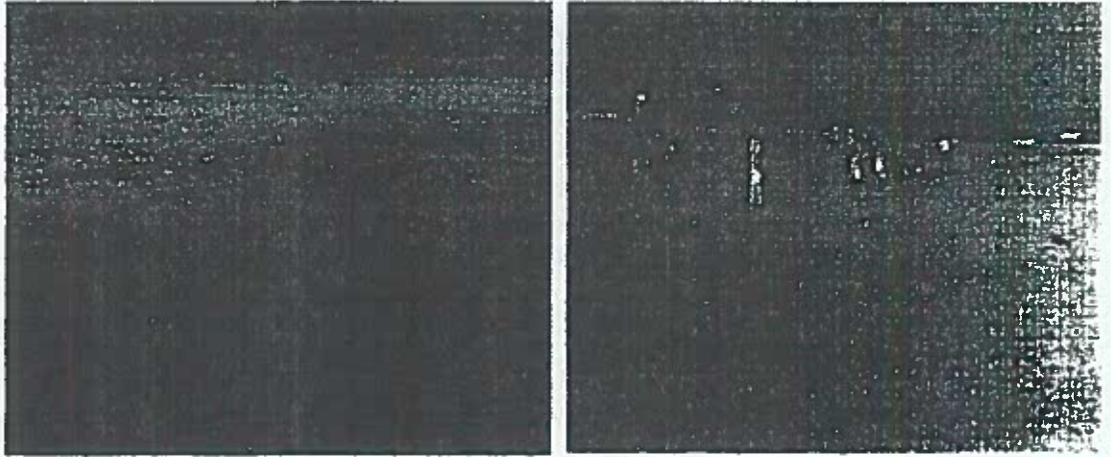
iii. Kasimedu Fishing Harbour

The Kasimedu Fishermen Port was visited on February 2, 2017. It was observed that the oil sludge was deposited on stone embankment as well as in the sandy shore of the sea. Five people from Chennai Metropolitan Corporation were involved in manual cleaning of the shore under the supervision of the Revenue Inspector of the region. The contaminated sand was moped using metallic brooms and shawls and it was collected in gunny bags and stored. The rock shore was coated with the oil sludge. Till February 1, 2017, 6 tons of contaminated sand was collected.

It was observed that oil sludge was deposited on the crab holes existing along the shore. It was informed by the people involved in cleaning that six large tortoises were washed away to the

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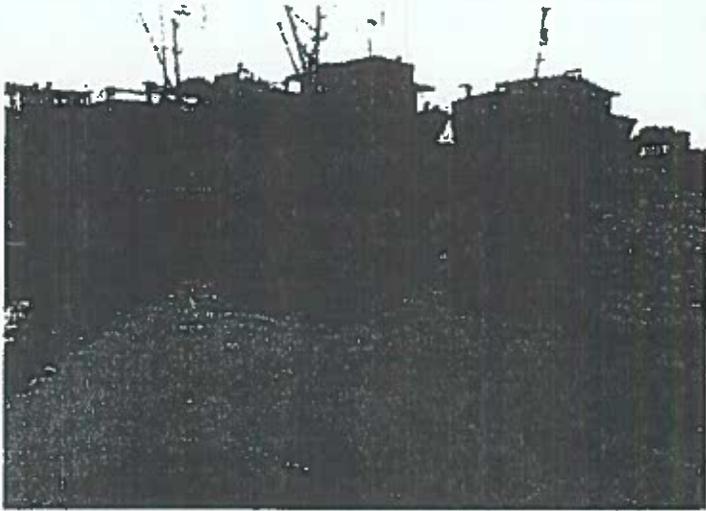
seashore and was disposed by the corporation.



Oil sludge deposition on Stone embankment and cleaning by Corporation employees

iv. Kasimedu, fish market

At Kasimedu Kadalora fish market a small quantity of oil deposits were observed along the shore.



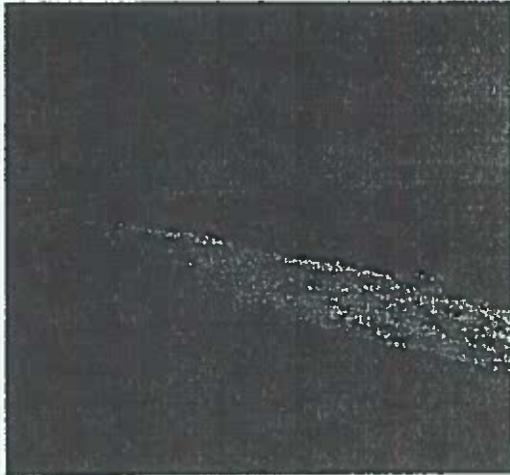
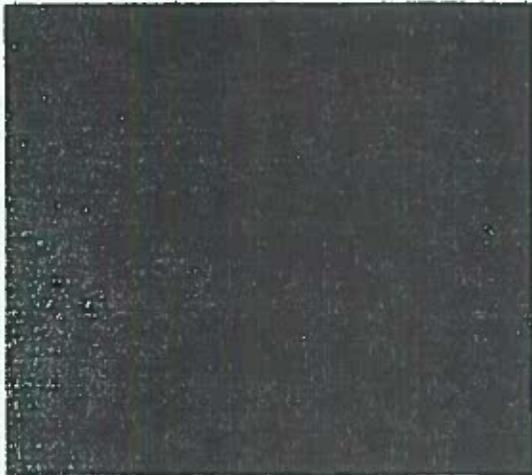
Thin deposition of Oil Scum at Kasimedu Kadalore (Fish market)

v. Marina Beach

Marina beach is longest beach in Chennai where public movement is more towards the sea shore. The cleaning work was in process in the Marina Beach since January 31, 2017 and 188 bags (50 kg each) of contaminated material was collected till February 2, 2017 and transported to Kamarajar Port for Storage. During the inspection, traces of oil sleek deposit were observed in the sandy beaches of marina. The people of CMC were involved in cleaning activity. It was advised to

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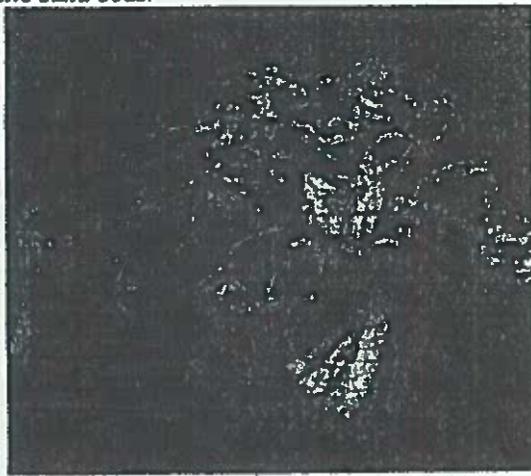
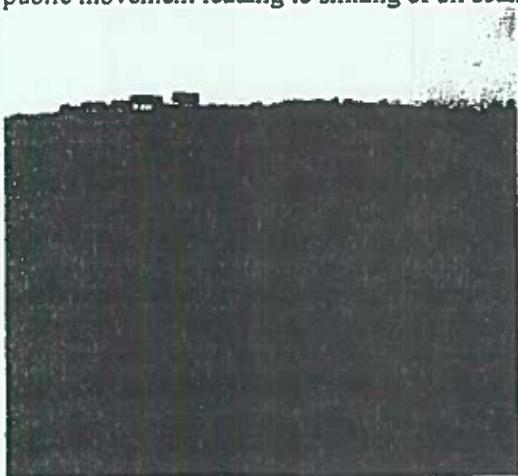
place more barricades and provide adequate security to avoid the free movement of public and local officials were instructed to take action to restrict the movements.



Traces of oil scum spots in the Marine beach and tourists movement in the beach

v. Besant Nagar Beach

During the inspection, traces of oil sleek deposit were observed in the sandy beaches of Besant Nagar. Ten Volunteers such as students from marine engineering college were involved in manual cleaning of the contaminated sand using metallic brooms and shawls under the supervision of Tahsildar. Since February 1, 2017, 216 bags (50 kg each) of contaminated sand was collected and stored. Here also it was advised to place barricade and provide adequate security to avoid the public movement leading to sinking of oil scum into sand beds.

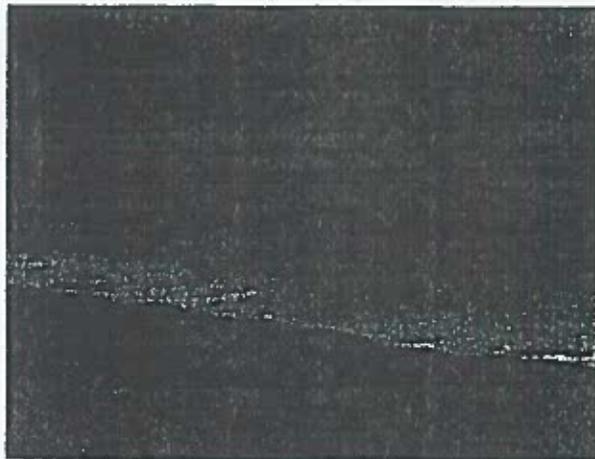


Volunteers engaged in the cleaning oil contaminated sand in Besant Nagar beach

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vi. Thiruvanniyur Beach

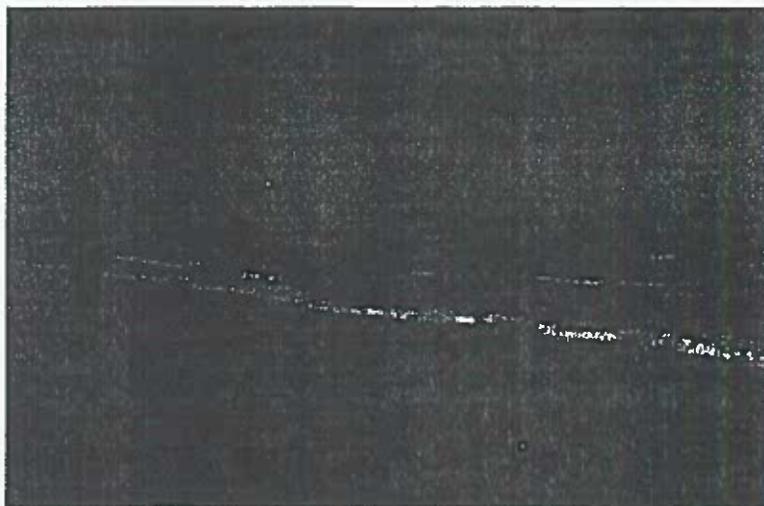
During the inspection, slight traces of oil sleek deposit were observed in the sandy beaches. The Volunteers (25 Nos) and 5 coast guards were involved in manual cleaning of the contaminated sand using metallic brooms and shovels under the super vision of deputy commandant. It was informed that the cleaning was started around 12 PM on February 2, 2017.



Traces of oil sleeks observed in Thiruvanniyur beach

vii. Kottivakam Beach

During the inspection, slight traces of oil sleek deposit were observed in the sandy beaches. Around 20 people from local bodies were assigned for manual cleaning of the contaminated sand. 90 bags of contaminated sand were collected since February 1, 2017.

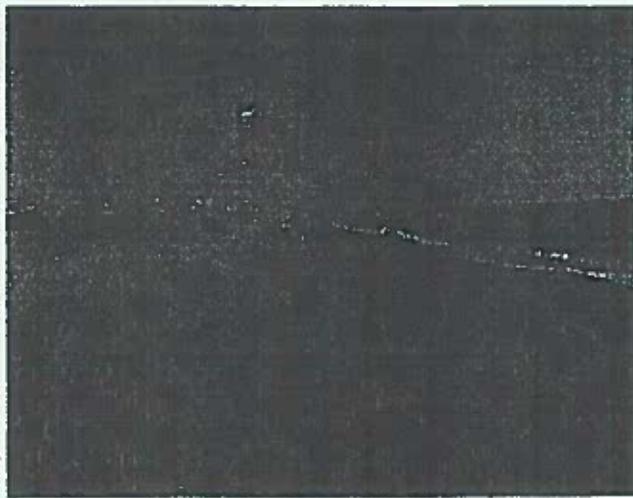


Traces of oil sleeks observed in Kottivakam beach

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viii. Palavakkam Beach

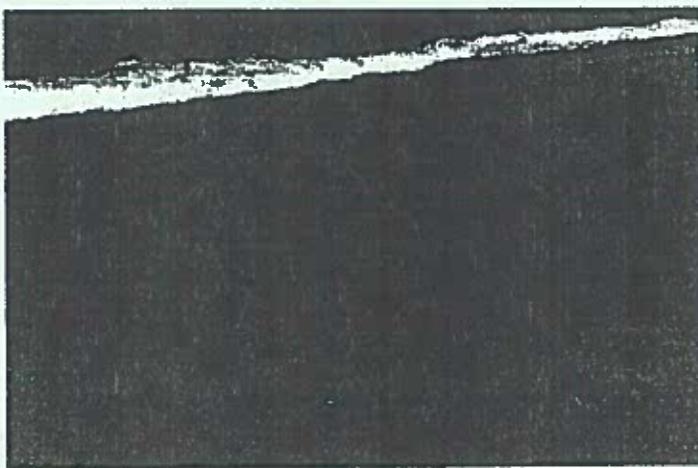
During the inspection, slight traces of oil sleek deposit were observed in the sandy beaches. About 20 people from local bodies were assigned for manual cleaning of the contaminated sand. 70 bags of contaminated sand were collected since February 1, 2017.



Traces of oil sleeks observed in Palavakkam beach

ix. Neelankarai Beach

During the inspection, slight traces of oil sleek deposit were observed in the sandy beaches. About 50 people from local bodies were assigned for manual cleaning of the contaminated sand. 25 bags of contaminated sand from Neelangari Beach and 120 bags (50 kg each) contaminated sand from Chinna Neelangari Beach were collected since February 1, 2017.



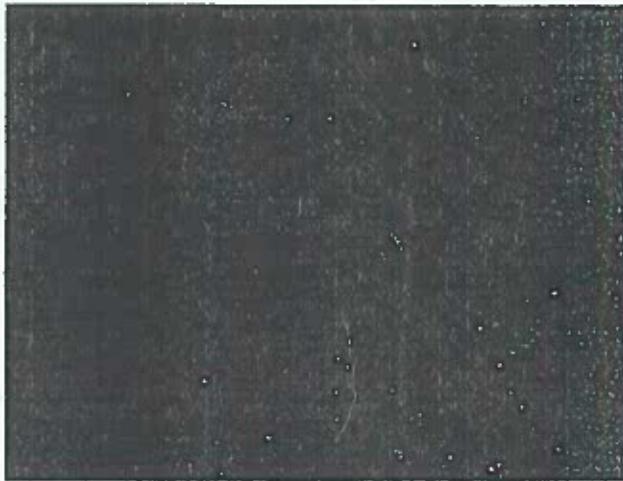
Traces of oil sleeks observed in Neelankarai beach

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x. Enjampakkam to Vettuvankeni Beach

During the inspection, slight traces of oil sleek deposit were observed in the sandy beaches. The local bodies were involved in manual cleaning of the contaminated sand. 8 bags (50 kg each) contaminated sand were collected since February 1, 2017.



Traces of oil sleeks observed in Enjampakkam beach

III. Probable causes for Ship collision and Oil Spillage into Sea Shore

- i. The inbound vessel MT Dawn Kanchipuram collided with outbound vessel MT BW Maple near fairway buoy of Kamarajar port at Ennore on 28.01.2017 at around 3.45 am at a depth of 17m, wherein MT Dawn Kanchipuram sustained damage to the heavy fuel oil tank which led to spillage of oil from the fuel tank into the Sea.
- ii. It is also learnt that the Director General (Shipping) has initiated enquiry proceedings to ascertain the cause of the accident, shifting damaged ship to the non operational berth at Kamarajar Port Limited and to confine the ship within the port limit till the case is disposed and procedures for claiming the compensation is arrived at.

IV. Observations

- i. During discussion with Port Authority, it was informed that though the Disaster management plan was taken up immediately, the spillage of oil could not be fully contained and resulted in dispersion of oil due to prevailing the wind and tidal conditions.
- ii. The port authority informed that they have approach channel of length 4.5 km to facilitate the ship movement. The authority informed that depending of the sea draft, intermittent inward and outward of ships are allowed.
- iii. Though the Port authorities have taken initiatives to contain the oil spill with the available equipments, the spillage of oil could not be contained and it resulted in dispersion of slick

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- to longer distance.
- iv. It is felt that, more number of barricades be placed to avoid people movement to prevent sinking of these oil scum into sand bed.
 - v. The team collected sea water samples from different locations of sea shore, the details of distance from accident place and quantity of oil scum & oil scum mixed with sand collected and analysis results of sea water samples taken are depicted in *Annexure -A*.
 - vi. Based on the observations and analysis results the most effected sea shore is Ramakrishna Nagar Kuppam beach, 2nd affected is Kasimedu beach (southern side of harbour).

V. Joint Inspection of Central Pollution Control Board and Tamilnadu Pollution Control Board

The Chairman, Central Pollution Control Board and the Chairman, Tamilnadu Pollution Control Board carried out a joint inspection of the affected areas along with concerned officials on 12.02.2017. The rocky shore at Ramakrishnapuram Nagar Kuppam, Bharathi Nagar Ernavoor where the major quantity of oil sludge was washed, the Kamarajar Port Limited, the damaged ship MT Dawn Kanchipuram and the bio-remediation site at Kamarajar Port Limited was inspected. After the port inspection Chairman CPCB convened a meeting with all stake holders

VI. De Contamination of Oil Sludge and Oil Contaminated Sand

- i. On receipt of characteristics of Oil Sludge collected from the sea shore, TNPCB has to lead role in exploring the decontamination options based on the techno-economic feasibility in consultation with Experts from reputed Institutions/organization.
- ii. The contaminated sand is also huge in quantity, decontamination options may be explored in consultation with experts from reputed organizations/Institutes
- iii. The expertise of premier institutes like IIT (Madras) and Anna University, Chennai and other institutes in cleaning of oil spills should be consulted immediately to initiate further necessary actions.
- iv. TNPCB or authorized laboratory shall collect the representative samples from all affected area and keep analyzing for critical parameters. This should be continued that the status is returned to original condition of the environment.
- v. The expertise of Maharashtra Pollution Control Board and other SPCBs who have handled these type of situation shall be requested to visit the site and seek further suggestions based on site condition in Chennai
- vi. As such, there are many agencies and public collecting the samples and making their own interpretations may ultimately lead to confusion.
- vii. The analysis results of various parameters could indicate the levels of pollution at various points.
- viii. TNPCB is rendering all possible assistance to the District Administration and to coordinate the entire activity with all concerned agencies
- ix. The agency having expertise in conducting marine EIA shall be engaged by Director of Environment immediately for further assessment and suggestions

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VII Directions of NGT

- i. The NGT southern bench Chennai in the matter of case application Nos. 14 & 16/2017 directs CPCB along with SPCB officials to investigate this matter and submit the status report by 20th February, 2017 and also sought information on how oil spill could be dealt with and remediated in a scientific manner.
- ii. The Regional Director (South), CPCB had discussions with Hon'ble Justice Sh. Jyothi Mani at NGT, Chennai on 2nd February, 2017 and informed about the situation of oil spill at Chennai. The supporting documents on remedial measures taken by Maharashtra Pollution Control Board and Govt. of Maharashtra in a similar accident which occurred during August, 2010 were also brought to his knowledge.
- iii. During the discussions, it was suggested to engage the services of National Institute of Ocean Technology (NIOT), NEERI & TERI who were involved in remedial works of oil spill in Maharashtra.

VIII Action by MoEF&CC and CPCB

- i. Considering the gravity of the serious situation appropriate directions shall be issued to all States having coastal belt to conduct regular monitoring and also inform the status of preparedness for facing these type of incidents.
- ii. The state government and local bodies shall equip themselves to immediately act upon such kind of oil spillages.
- iii. The action plans prepared by stake holders shall be reviewed at national level to ensure the emergency preparedness is in order.

H. D. Varalaxmi

(H.D. VARALAXMI M Tech)
SCIENTIST, 'D'
CENTRAL POLLUTION CONTROL BOARD
ZONAL OFFICE (SOUTH)
MIN. OF ENV., FOREST & CC, GOVT. OF INDIA)
NISARGA BHAVAN
BENGALURU - 560 079
PH: 23233739

Annexure -A
Details of locations and its distance from Accident place, Quantity of Oil Sludge & oil contaminated sand collected and analysis results of sea water samples taken by CPCB

Sl	Location	Latitude (N)	Longitude (E)	Distance from accident site	Quantity of the oil sludge/contaminated sand collected	Analysis results of sea water samples taken by CPCB			
						PH	COD in mg/l	THC in mg/l	Oil & Grease in mg/l
1	Kamarajar Port, Ennor	-	-	2.5 nautical miles	-	-	-	-	-
2	Ramakrishnanagar/Bharthinagar Kuppam beach, Ennore	13° 11.046'	80° 19.014'	9.8 Km	169.4 MT (till 05.02.2017)	7.0 (North side)	124	0.8	2.6
3	Kasimedu Fishermen Port	13° 08.078'	80° 17.901'	14.96 Km	10.00 MT (till 03.02.2017)	7.0 (South side)	128	0.09	2.8
4	Kasimedu Kadalore fish market	13° 7.4'	80° 18.011'	15.85 Km	-	6.5	108	1.7	5.2
5	Marina Beach	13° 2.376'	80° 16.889'	24.32 Km	20.875 MT (till 05.02.2017)	7.0	132	0.3	1.3
6	Basant Nagar Beach	13° 00.053'	80° 16.398'	28.42 Km	1.55 MT (till 04.02.2017)	7.0	136	0.6	1.1
7	Thiruvanniyur Beach	12° 58.615'	80° 16.045'	31.12 Km	5.875 MT (till 04.02.2017)	7.0	100	BDL	BDL
8	Kottivakam Beach	12° 58.282'	80° 15.973'	31.80 Km	6.5 MT (till 02.02.2017)	7.0	112	BDL	BDL
9	Palavakam Beach	12° 57.902'	80° 15.897'	32.55 Km	2.8 MT (till 02.02.2017)	7.0	152	BDL	BDL
10	NeeleanKarai Beach	12° 56.976'	80° 15.715'	34.04 Km	13.4MT (till 02.02.2017)	-	-	-	-
11	Enjampakkam to Vettuvankeni Beach	12° 55.877'	80° 15.522'	36.16 Km	0.32 MT (till 02.02.2017)	7.5	108	BDL	BDL

Note : As informed by TNPCB officials, Kasimedu beach cleaning work was stopped on 03.02.2017 since no significant deposits found, similarly Marina beach cleaning was stopped on 05.02.2017, Basant nagar & Thiruvanniyur cleaning was stopped on 04.02.2017, Kottivakam, Palavakkam, Neeleankara and Enjampakkam cleaning was stopped on 02.02.2017.

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Annexure - II



केन्द्रीय प्रदूषण नियंत्रण बोर्ड
CENTRAL POLLUTION CONTROL BOARD
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय भारत सरकार
MINISTRY OF ENVIRONMENT, FOREST & CLIMATE CHANGE GOVT. OF INDIA

A-14011/1/2017-MON

Date: 07.02.2017

The Chairman,
Tamil Nadu Pollution Control Board
76, Mount Salai,
Guindy, Chennai-600032

Directions Under Section 18 (1) (b) of the Water (Prevention and Control of Pollution) Act, 1974 regarding Oil Spill near Kamarajar Port Chennai due to collision of two ships.

Whereas, amongst others, under Section 16 of the Water (Prevention and Control of Pollution) Act, 1974, one of the functions of the Central Pollution Control Board (CPCB) constituted under the Water (Prevention & Control of Pollution) Act, 1974 is to coordinate activities of the SPCBs/PCCs and to provide technical assistance and guidance to SPCBs/PCCs; and

Whereas, amongst others, under Section 17 of the Water (Prevention and Control of Pollution) Act, 1974, one of the functions of the State Pollution Control Boards (SPCBs) and Pollution Control Committees (PCCs), constituted under the Water (Prevention & Control of Pollution) Act, 1974 is to plan a comprehensive programme for prevention, control or abatement of pollution of streams and wells in the State and to secure the execution thereof;

Whereas, definition of stream also includes sea or tidal waters under section 2 (j) of Water (Prevention and Control of Pollution) Act, 1974.

Whereas, Central pollution control board has carried out assessment of sea water quality along Ennore, Kasimedu Fishermen Port, Marina Beach and Basant Nagar Beach and found Oil and Grease in the range of 1.1 mg/l to 5.2 mg/l which is in exceedance to the Primary Water Quality Criteria limit of 0.1 mg/l. The monitoring results indicate that water quality

Continue-

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Parivash Bhawan, East Arjun Nagar, Delhi-110032
दूरभाष/Tel : 43102030, 22305792, वेबसाइट/Website : www.cpcb.nic.in

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has been affected because of spillage of oil due to collision of two ships carrying petroleum products near Kamarajar Port Chennai on 28.01.2017 making the sea water unfit for designated uses.

Whereas, oil spillage deteriorated sea water quality impacting aquatic life, necessary directions are to be issued to the Kamarajar Port Limited to assess the impact on the flora and fauna and restoration of water quality of sea water by containment of oil spilled along the coast line.

Whereas, the Port Authority have been issued consents under the Water (Prevention and Control of Pollution) Act, 1974 (which is a statutory requirement) by TNPCB for regulation of port operations as well as movement of ships in the port area.

Whereas, the State Pollution Control Board under Section 17 of the Water Act has been mandated inter-alia with the following functions:

- A) to inspect trade effluents, works and port operations, movement of Ships in connection with the grant of any consent as required by this Act;
- B) lay down, modify or annul effluent standards for the trade effluents/shipping operations/marine discharges and for the quality of receiving waters (not being water in an inter-State stream) resulting from the discharge of effluents and to classify waters of the State;
- C) to lay down standards of marine discharges;

NOW THEREFORE, in view of the above stated facts and realizing that coastal water have been polluted and to prevent further deterioration of coastal waters, it is essential to issue following directions under section 18(1)(b) of the Water(Prevention and Control of Pollution) Act, 1974. The following directions are hereby issued for compliance;

SPCB shall

1. Continue to monitor water quality on daily basis till such time that the water quality is restored to desired levels as per sea water quality criteria.

Continue-

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2. Provide comprehensive water quality data on coastal waters, carried out either by SPCB or any other organization/laboratory.
3. Provide inventory of all commercial / industrial activities along with their quantity of effluent discharged to coastal waters by various operations of the Kamarajar Port Limited.
4. Assess the long term impact of oil spill on flora and fauna and analyse reasons for collision of ships and suggest measures to prevent recurrence of such incidents.
5. Analyse the preparedness of Indian Coast Guard, Kamarajar Port Limited and other stakeholders in dealing with such disasters.
6. Assess the capabilities of laboratories of TNPCB and other NABL accredited laboratories for analyzing the water samples for all parameters of concern.
7. Prepare an SOP for dealing with such incidents indicating clearly the role of TNPCB and other Government/Non Government institutions.
8. Suggest measures for treatment of sand/sludge collected from beaches/shoreline by port authorities, Coast Guard, NGOs etc. and to ensure that the recovered waste oil is processed by authorized recyclers in consultation with TNPCB.
9. Ensure safe disposal of sludge so collected from disaster site, shoreline, and beaches in accordance with Hazardous Waste Management Rules.

The State Board shall acknowledge the receipt of this direction within 10 days and shall communicate status on the actions taken.

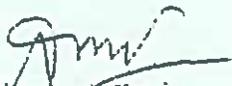
(S P Singh Parihar)

Chairman

(24)

Copy to :

1. PPS to Secretary,
Ministry of Environment, Forests, & Climate Change
Indira Bhawan, Aliganj, Jorbagh Road,
New Delhi-110003
2. Joint Secretary (CP Division),
Ministry of Environment, Forests, & Climate Change
Indira Bhawan, Aliganj, Jorbagh Road,
New Delhi 110013
3. PPS to Secretary
Ministry of Shipping
Transport Bhawan,
New Delhi-110001
4. The Regional Director
Central Pollution Control Board
1st & 2nd Floors, Nisarga Bhavan
A-Block, Thimmaiah Main Road
7th D Cross, Shivanagar,
Bengaluru -560 079
5. Incharge, IT Division, CPCB
6. Mentor, Regional Directorate-South
7. Incharge, WQM. CPCB


(A.B. Akolkar)

Member Secretary

(25)

Page No. 31

ANNEXURE-III

**CENTRAL POLLUTION CONTROL BOARD
BENGALURU**

Minutes of the Meeting held at 1500 hours on 12.02.2017 at Kamarajar Port Limited at Ennore to discuss about the follow up action with regard to oil spill clean up due to the collision of 2 ships at Kamarajar Port on 28.01.2017.

Present: As per list enclosed.

The Chairman cum Managing Director, Kamarajar Port Ltd., welcomed the participants. After the voluntary introduction by the participants, CMD made a presentation on the incident and the action taken on the mitigation measures as narrated below.

- Collision occurred between out bound Ship named LPG/C - BW MAPLE carrying LPG 27506.57 MT on board had unloaded LPG at Kamarajar Port and with an inbound petroleum products carrier ship named M.T- DAWN KANCHIPURAM at 03.45 hrs on 28.01.2017
- The ill fated ship MT Dawn Kancheepuram was isolated and encircled by a boom to prevent the spillage of floating oil from spreading.
- Indian Coast Guard was contacted and they carried out surveillance of the sea through helicopters and their vessels.
- Soon after the accident, all concerned agencies were alerted and they also responded and action has been taken to combat the pollution.
- Super suckers and manual operations were deployed for removal of oil sludge and sediments washed ashore.
- Soon after the accident, Chief Secretary of Tamil Nadu Government convened a meeting and it was followed up with co-ordination among the stake holders from State, Central Agencies, Major Ports, Public Sector Undertakings.
- Port authority had sent booms to contain further spillage if any.
- Further on obtaining advise from the International Surveyor, the ship moved to the Berth by towing "Cold Move" for discharging the cargo within 1 ½ days in order to ensure the environment safety of the ship.

Then, the officials who co-ordinated on behalf of various departments conveyed their views as follows:

Additional Director General of Police Operations and Additional Director General of Police, Coastal Security Group

The ADGP has informed that FIR has been filed in Minjur Police Station and the DSP, Ponneri is taking necessary action. The commandos of State Disaster Response Force (SDRF) 50 Nos were deployed for beach cleaning operations.

Indian Coast Guard:

The Representative of Coast Guard has informed that though the all departments had swung into action, 72 hours had passed by the time concerned departments

took co-ordinated action in mitigating the oil spill. Hence he stressed TN Govt. should notify the Disaster Oil Contingency Plan immediately so that the role of all stake holding agency is clearly defined and immediate response is ensured during such incidents in future.

Indian Navy:

The Representative of Navy stated that their ships are not designed for dealing with oil spill. However, they are willing to assist the Coast Guard in providing the manpower.

Director of Environment:

The DOE has informed that Expert Committee is being constituted to assess the ecological damage and restoration measures.

Commissioner of Revenue and Administration (CRA)

The Representative of CRA Stated that the State Disaster Management division of CRA is co-ordinating with District Collector of Thiruvallur, since 31.01.2017.

District Collector, Thiruvallur:

The Representative of District Collector informed that the District Administration was actively involved in rendering assistance to clean up the spillage of oil which was washed ashore in Ramakrishna Nagar, Kuppam, Ennore.

District Collector, Chennai:

The Representative of the District Collector, Chennai informed that the District Administration co-ordinated with Greater Chennai Corporation, Forest Dept., Coast Guard, college students and volunteers and cleaned up the beach stretch from Tondiarpet till Thiruvanmiyur. The operation was completed on 4th Feb. 2017.

Greater Corporation of Chennai:

The Representative of Greater Corporation of Chennai has informed that they have deployed manpower and ensured the safety of the volunteers and workers and provided mobile toilets.

State Fire Service :

The Representative of State Fire Service has informed that 55 vehicles were deployed in various places like, Thiruvallur, Emavoor, Mahali, etc. Apart from this, one Foam Tender and hand gloves were provided.

Metro Water :

The Representative of Metro water informed that since 11.02.2017 traces of oil was observed in the sea water and it has resulted in 20% reduction of production of de-salinated water from Minjur desalination plant.

Indian Oil Corporation (IOC) :

The Representative of IOC, R&D, Faridabad have informed that they are having an experience of around 15 years in bio-remediation process of cleaning oil bearing sludge generated in Terminal and they are confident in completing the process and review the same after 3 months.

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Mercantile Marine Department:

The representative of the Mercantile Marine Department, informed that they are investigating the accident by deploying a team of Marine Engineers, Naval Architects and Marine Surveyors to assess the damages caused to MT Dawn Kancheepuram and to estimate the exact quantity of spillage of bunker oil that had occurred and that they will revert back once the investigation is over.

ITOPF:

The representative of (International Tanker Operators Federation): Informed that they want a single point Nodal contact for dealing with the cleaning issues. It was clarified that the District Revenue Officer and Deputy Superintendent of Police, Ponneri and District Environmental Engineer, Ambattur may be contacted.

Chairman, TNPCB:

TNPCB Chairman apprised about the co-ordination role played by TNPCB. Further he instructed while use of any dispersant as cleaning agent for rock cleaning operation, the Pollution Control Board may be apprised about the nature of the chemicals to ascertain any adverse effect on the sea water during its usage.

The boom may be continued to be placed in the sea till cleaning process is completed.

Staff from Coast Guard may be posted in the area till rock cleaning operations are completed.

Chairman, CPCB

Chairman, CPCB thanked all the agencies present and observed that the salvage operations- post disaster - required extensive coordination among a number of Central and State Government agencies and for which necessary mobilisation of human and technical resources was undertaken. He also observed that the advance preparedness in dealing with such disasters would facilitate faster response and therefore contingency plan dealing with oil spill disasters, as suggested by the Indian Coast Guard, may be prepared by the State Government.

The oil 'sludge waste which has been collected and stored in the premises of Kamarajar Port Ltd, is required to be disposed in a scientific manner as per Hazardous Waste Management Rules. Therefore, necessary authorisation for disposal of this waste may be given by Tamil Nadu State Pollution Control Board.

As regards, ecological status and restoration of marine Environment, requisite steps may be immediately undertaken by the Director of Environment, Chennai. For this purpose, services of experts including those from CPCB may be enlisted. For regular monitoring of restoration efforts and comprehensive assessment of the situation, CPCB has already issued directions under section 18(1)(b) of the Water Act for compliance by the Tamil Nadu State Pollution Control Board. Therefore, Tamil Nadu State Pollution Control Board was advised to take further follow up action in this matter.

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The following were present during the meeting :-

1. Shri Singh Parihar, I.A.S., Chairman, CPCB, Delhi
2. Shri Atulya Misra, I.A.S., Pri.Secretary / Chairman, TNPCB
3. Shri.Sylender Babu,I.P.S., ADGP, Coastal Security Group (CSG), Tamil Nadu Police Department
4. Shri.Ashish Bengra, I.P.S., Additional Director General of Police (Operations)
5. Shri.Pravin P.Nair, I.A.S., Regional Deputy Commissioner (North) Greater Chennai Corporation
6. Shri.Tirunavukkarasu, Asst I.G / TN Police Dept
7. Er.N.Sungaragopal, Member Secretary, TNPCB
8. Dr.R.Kumar, Additional Chief Environmental Engineer, TNPCB
9. Dr.S.Selvan, Joint Chief Environmental Engineer, TNPCB
10. Dr.H.Malleshappa,I.F.S., Directorate of Environment, Chennai-600 015
11. Shri.Rajesh Dhaulakhandi, Commandant, Indian Coast Guard
12. Shri.M.A.Bhaskarachar, Chairman cum Managing Director, Kamarajar Port Limited
13. Shri.Purushothamman, Chief Engineer, CMWSSB
14. Shri.S.Syed Mohamed Shah, District Officer, Sub Urban District, Ambattur Representing Tamilnadu Fire & Rescue Service,
15. Shri.S.Kandasamy, DRÖ / Joint Director (DM), O/o.Commissioner Revenue Administration.
16. Cdr. Ajay Chowdhry, Staff Officer (Operations), Indian Navy, INS Adyar, Chennai
17. Shri.K.S.Rao, General Manager (O&S), IOC, Tamilnadu.
18. Shri.B.Rajshekar, Assistant Manager (Operation), Southern Regional Office, BPCL, Chennai 600 040.
19. Shri.K.Muthu, DRÖ / Tiruvallur, O/o.District Collector, Tiruvallur
20. Shri.S.Rajendran, RDO / Tambaram, O/o.District Collector, Kancheepuram
21. Ms.R.Alagumeena, DRÖ / Chennai, O/o.District Collector, Chennai.
22. Dr.G.Velmurugan, District Epidemiologist, Thiruvallur HUD, O/o.Director of Public Health & Preventive Medicine

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23. CAPT S.K.Das, Dy. Nautical Adviser, Mercantile Marine Department, Chennai

24. Shri.M.Manohar, Superintendent of Police, Coastal Security Group

25. Capt NEEZ J NAIR / Ms.Anne Reglain, ITOPF, Representing Owners of DAWN Kancheepuram.

26. Dr.S.K.Puri (DGM, SRE, BT) / Dr.Manoj Kumar Upreti, Indian Oil Corporation R & D Centre Faridabad.

27. Ms.Sumathy Mohan, Indian Oil Corporation, Foreshore Terminal

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BEFORE THE NATIONAL GREEN
TRIBUNAL (SOUTHERN ZONE)
CHENNAI

APPLICATION NO. 14 OF 2017

M/s Meenavar Nala Sangam

APPLICANT

VERSUS

The Chairman, National Coastal Zone
Management Authority, GoI

RESPONDENTS

APPLICATION NO. 16 OF 2017

Shri Saravanan Dakshinamurthy

APPLICANT

VERSUS

Union of India and 8 Ors

RESPONDENTS

&

APPLICATION NO. 40 OF 2017

Shri P Somasundaram

-----APPLICANT

Vs

Union of India and 3 Ors

-----RESPONDENTS

COMPLIANCE REPORT FILED ON
BEHALF OF CENTRAL POLLUTION
CONTROL BOARD

Advocate D. S. Ekambram

&

Advocate P. Jayalakshmi

COUNSELS FOR CPCB



(31)

TAMIL NADU FISHERIES DEVELOPMENT CORPORATION LTD.
(A Govt. of Tamil Nadu Undertaking)

Rc.No.Cash/F&A-II/2017
Date: 27.03.2017

The Commissioner of Fisheries,
Teynampet,
Chennai - 600 006.

Sub: Fisheries Department - Chennai and Thiruvallur Districts -
Construction of Fish Markets at Nochikuppam and Eranavoor -
Transfer of Corporate Social Responsibility Funds from Oil
Polluter Companies - Details of funds received - Informing of -
Regarding.

- Ref:** 1. G.O. (Rt.) No.44, Animal Husbandry Dairying and Fisheries
(FSV) Department, dated 03-03-2017 and Erratum
G.O. dated 23-03-2017.
2. Copy of Letter of Govt. of India, F.No.2 NT(2)/2017 Vol.II.,
dated: 14.03.2017.
3. TNFDC Ltd., IOB, Teynampet, Chennai SB Account
No.069801000026306.

In continuation of the Government orders cited, we wish to inform
that a sum of Rs.97,95,682/- (Rupees ninety seven lakh ninety five
thousand six hundred and eighty two only) which is equivalent to
USD150000 (US \$ One lakh fifty thousand only) has been credited in to
Tamil Nadu Fisheries Development Corporation's Indian Overseas Bank,
Teynampet SB Account No.069801000026306 on 24.03.2017 by BW LPG
Trading Limited, Singapore.

This is for kind information.

Thanking you,

Yours faithfully,
for TNFDC Ltd.,

for MANAGING DIRECTOR

FISHERIES DEPARTMENT

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From
Dr (Tmt) Beela Rajesh, IAS.,
Commissioner of Fisheries,
Administrative Office Buildings,
Teyhampet, Chennai - 600 006

To
The Principal Secretary to Government,
Animal Husbandry, Dairying and
Fisheries Department, Secretariat,
Chennai - 600 009

Rc.No. 2836/P1/2017 Dated: 10.04.2017

Sir

Sub: Marine Fisheries-Collision of ships off Ennore Kamarajar port- Oil spill spread over in the seashore of Thiruvallur, Chennai and Kancheepuram Districts - Teams constituted to assess and quantify the loss of livelihood of the fishers due to oil spillage - issued - report submission -regarding

- Ref:
1. Proposal for interim compensation from Commissioner of Fisheries dated 7.2.2017
 2. Commissioner of Fisheries, Chennai-6 Proceedings no 2836/P1/2017 dated:16.02.17
 3. Government Order(Ms).No.58, Animal Husbandry Dairying and Fisheries (FS3) Department dated 3.3.2017
 4. Joint Director of Fisheries (Regional) Chennai letter No.405/A2/2017 dated 20.03.17
 5. T.O letter even No 2836/P1/2017 dated: 21.03.2017
 6. F.No PO25/12781 dt.04.04.2017, of the Ministry of Shipping, Mercantile Marine Department, GOI, Chennai.
 7. Joint Director of Fisheries (Regional) Chennai letter No.405/A2/2017 dated 09.04.2017

In continuation to the proposal sent in the reference 5th cited, the revised proposal with the consolidated report on Assessment and Quantification of total loss on livelihood of fishers, based on the report furnished by the Joint Director of Fisheries (Regional) Chennai is submitted as per the details given below.

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Sl.No	Name of the District	Name of the Category		Total Loss claim (in lakhs)
		Details	Nos.	
1	Thiruvallur	Men FCS*	19822	4999.05
		Women FCS*	17410	3768.09
		Vendors	1611	380.05
		Allied Activities	1499	357.87
Total			40342	9505.06
2.	Chennai	Men FCS*	21855	3535.37
		Women FCS*	22227	3176.83
		Vendors	3100	590.90
		Allied Activities	3534	503.89
		Mechanized fishing Boat	571	1661.46
Total			51287	9468.45
3.	Kancheepuram	Men FCS*	10000	1872.22
		Women FCS*	8210	1713.40
		Vendors	2207	384.14
		Allied Activities	4	0.71
Total			20421	3970.47
4.	TNFDC		1	63.40
Total			112051	23007.38

* FCS - Fisheries Co-operative society

TNFDC- Tamilnadu Fisheries Development Corporation

Operational Cost:

The estimated operational cost for the fishing crafts of Thiruvallur, Chennai and Kancheepuram Districts are given below

a)Operational Cost for FRP Boats

Name of the District	No. of Boats	Days of Voyage	Cost of Diesel (@ Rs 49/ L)	Cost of Ice (Rs 120/ 50 Kg Bar)	Total Operational Cost/ Boat (Rs)	All Boats Operational Cost for 20 days (Rs)
Thiruvallur	3640	1	343	60	403	2,93,38,400
	46	3	1470	240	1710	5,24,400
Kancheepuram	3126	1	392	60	452	2,82,59,040
Chennai	1330	1	392	60	452	1,20,23,200
	46	7	7350	1200	8550	11,23,714
Total	8188					7,12,68,754

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Operational Cost for Mechanised Boats

Name of the District	No. of Boats	Days of Voyage	Cost of Diesel (@ Rs 59/ L)	Cost of Ice (Rs 120/ 50 Kg Bar)	Total Operational Cost/ Boat (Rs)	All Boats Operational Cost for 20 days (Rs)
Kancheepuram	9	1	2950	400	3350	6,03,000
Chennai	60	1	11800	400	12200	1,46,40,000
	130	3	47200	2400	49600	4,29,86,000
	104	7	129800	5600	135400	4,02,33,000
	182	10	177000	8000	185000	6,73,40,000
	95	15	236000	12000	248000	3,14,13,000
Total	580				248000	19,72,16,100

Total Operational Cost for FRP Boats	7,12,68,754
Total Operational Cost for Mechanised Boats	19,72,16,143
Total Operational Cost for all boats(3 districts)	26,84,84,897

Oil Spill Loss Claim excluding Operational Cost

S. No.	Name of the District	Total Loss Claim in Lakh	Operation Cost for fishing craft (in Lakh)	Net Loss Claim (in Lakh)
1	Thiruvallur	9505.06	298.63	9206.43
2	Chennai	9468.45	2097.60	7370.85
3	Kancheepuram	3970.47	288.62	3681.85
4	TNFDC	63.40	0	63.40
Total		23007.38	2684.85	20322.53

Therefore, the total loss claim due to oil spill in Thiruvallur, Chennai and Kancheepuram District is Rs 230.07 Crore. The Operational cost for the fishing crafts operated in the above three districts amounts to Rs 26.85 Crore. Thus, the net loss claim for impact of oil spill on fishers after deducting the operational cost is Rs. 203.22 Crores.

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Therefore, the Government is requested to kindly consider the claim proposal and do the obtain the same from the insurance companies so as to provide necessary relief assistance to the affected fisher folk.

Sd/- Beela Rajesh,
Commissioner of Fisheries.

[Signature]
for Commissioner of Fisheries.

[Signature]
10/4/17

P. No. 3927/FS/17

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SECY TO GOVT
AHD & F DEPT.
10 MAY 2017
Secretary,
Chennai-600 009

BEFORE THE NATIONAL GREEN TRIBUNAL

SOUTHERN ZONE, CHENNAI

Application Nos.14, 16, 38 & 40 of 2017 (SZ)

Applicant(s)

Meenava Thanthai
K.R. Selvaraj Kumar
Rep. by its President

M.R. Thiyagarajan
Royapuram, Chennai

Respondents

Application No.14 of 2017

1. The Chairman
National Coastal Zone Management
Authority, MoEF & C, New Delhi
2. The State of Tamil Nadu
rep. by its Secretary to Govt
Environment & Forest Dept, Chennai
3. The State of Tamil Nadu
Rep. by its Secretary to Govt PWD, Chennai
4. The Member Secretary,
State Coastal Zone Management Authority
Chennai
5. The District Collector, Thiruvallur
6. The Chairman
Tamil Nadu Pollution Control Board
Chennai
7. The ADGP, Coastal Security Group
D.P. Office Complex, Mylapore, Chennai
8. The Tahsildar, Ponner
M/s. Karajayar Pon Ltd, rep. by its
Chairman, Chennai
9. M.T. Dawar, Kancheepuram
Arya Voyagers Pvt. Ltd.,
Rep. by its Managing Director, Mumbai
10. M.T. Dawar, Kancheepuram
Arya Voyagers Pvt. Ltd.,
Rep. by its Managing Director, Mumbai
11. M.T. BW Maple, rep. by its Chairman
Chennai
12. The Member Secretary, Central
Pollution Control Board, New Delhi
13. The Director General
Ministry of Shipping, New Delhi.
14. MoEF, New Delhi (suo motu)

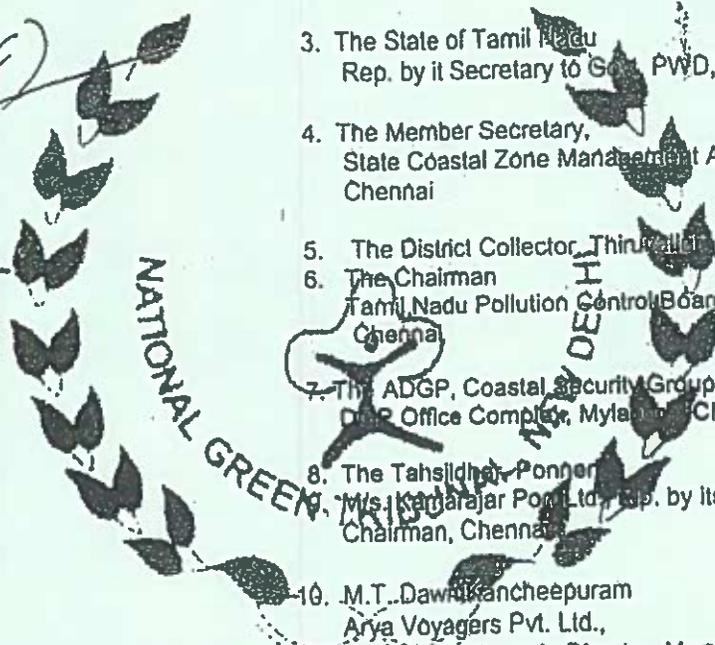
Joint Secretary to Govt.
12 MAY 2017
Joint Secy to Govt.
AHD & F Dept. Ch-9.

JS(F)

Pl get draft
for COF

Santhosh
COF
11/5/17

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Counsel appearing for applicant

Mr. K. Mageshwaran

Counsel appearing for respondent/s

Mr. G.M. Syed Nurullah Sheriff for R1&14
M/s. M.K. Subramanian,
E. Manoharan &
P. Velmani for R2 to R5, R7 & R8
Mrs.H. Yasmeen Ali for R6
M/s.Krishna Ravindran
A.Charles Darwin & S.Praveen
Kumar for R9
Mr.S. Vasudevan for R10
Mr. Raghunathan, T.Poornam,
Sharanya Vaidyanathan for R11
M/s. D.S Ekambarm & P. Jayalakshmi for R12
Mr.Su. Srinivasan for R13

Applicant (s)

Saravanan Dakshinamurthy
No.11A, Nambhallamman Kovil Stre
Selaiyur, Chennai 73

Application No.16 of 2017 (SZ)

Respondents

1. Vs. The Union of India
rep.by its Secretary, Ministry of
Environment and Forests,
Climate Change, Jorhagh,
New Delhi

2. The Union of India, rep. by its
Secretary, Ministry of Shipping
New Delhi

3. The Indian Coast Guard, rep by
Its Director General, Chennai

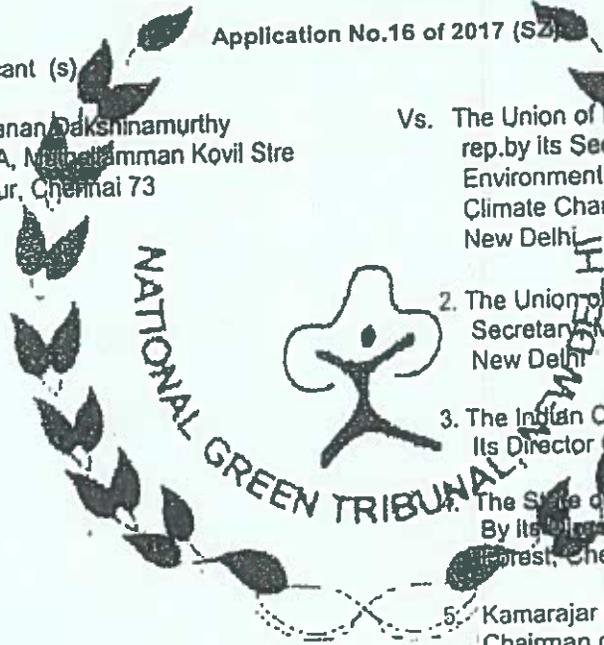
4. The State of Tamil Nadu, rep.
By its Director, Dept of Env &
Forest, Chennai

5. Kamarajar Port Ltd. Rep. by its
Chairman cum M.D, Chennai

6. M.T. Dawn Kanchipuram
Arya Voyagers , rep. by its M.D
Mumbai

7. M.T. BW Maple, rep. by its
Chairman, Chennai

8. The Central Pollution Control Bd
Rep. by its authorised officer



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9. The Tamil Nadu Pollution Control Board, Delhi

Legal Practitioners for Applicant (s)

Yogeshwaran A,
Neha Miriam Kurian

Legal Practitioners for Respondents

Mr.Syed Nurullah Sheriff for R1
Mr.Su Srinivasan for R2 & R3
Mr.M.K.Subramanian for R4
M/s.Krishna Ravindran
A.Charles Darwin &
S.Praveen Kumar for R5
Mr. S. Vasudevan for R6
Mr. Raghunathan, T.Poornam,
& Sharanya Vaidyanathan for R7
Mr.D.S.Ekambaram &
P. Jayalakshmi for R8
Mr.H.Yasmeen Ali for R9

Application No.38 of 2017 (SZ)

Applicant(s)

Ashwini Kumar
R/o. E-3, Greenwood City
Sector - 46, Gurgaon - 122003

Respondent(s)

1. Union of India
Ministry of Environment and Forests
New Delhi, through Secretary
2. Ministry of Shipping, through its
Director, New Delhi
3. State of Tamil Nadu
Through Chief Secretary, Chennai
4. Tamil Nadu State Pollution Control Board
Thro. Its Member Secretary, Chennai
5. Kamarajar Port Ltd., Chennai
6. Tamil Nadu Maritime Board, Chennai
7. Indian Oil Corporation, New Delhi
8. Tokio Marine Holdings Inc
Rep.in India thro
M/s.IFFCO - Tokio General Ins.Co
Owners of MV Maple Galaxy
Gurgaon, Haryana
9. M.T. Dawn Kanchipuram
Arya Voyagers, rep. by its M.D
Mumbai



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Counsel appearing for applicant

M/s. VSA Legal Advocates

Counsel appearing for respondent/s

Mrs. Me. Saraswathy for R1
Mr. Su. Srinivasan for R2
Mr. M.K. Subramanian for R3
Mrs. Yasmeen Ali for R4 & R6
M/s. Krishna Ravindran
A. Charles Darwin &
S. Praveen Kumar for R5
Mr. S. Vasudevan for R9

Application No.40 of 2017 (SZ)

Applicant(s)

P. Somasundaram
Advocate
Delhi

Respondent(s)

1. Union of India
Ministry of Environment and Forests
New Delhi, through Secretary
2. Union of India, rep. by its Secretary
Ministry of Shipping & Road Transport
And Highways, New Delhi
3. Director General of Shipping
Bombay
4. Central Pollution Control Board
Through its Chairman, New Delhi

Counsel appearing for applicant

M/s. P.V. Yogeswari
K. Maysamy

Counsel appearing for respondent/s

Mrs. Me. Saraswathi for R1
Mr. Su. Srinivasan R2 & R3
Mr. M.K. Subramanian &
Mrs. P. Jayalakshmi for R4

M.A. No.32 of 2017

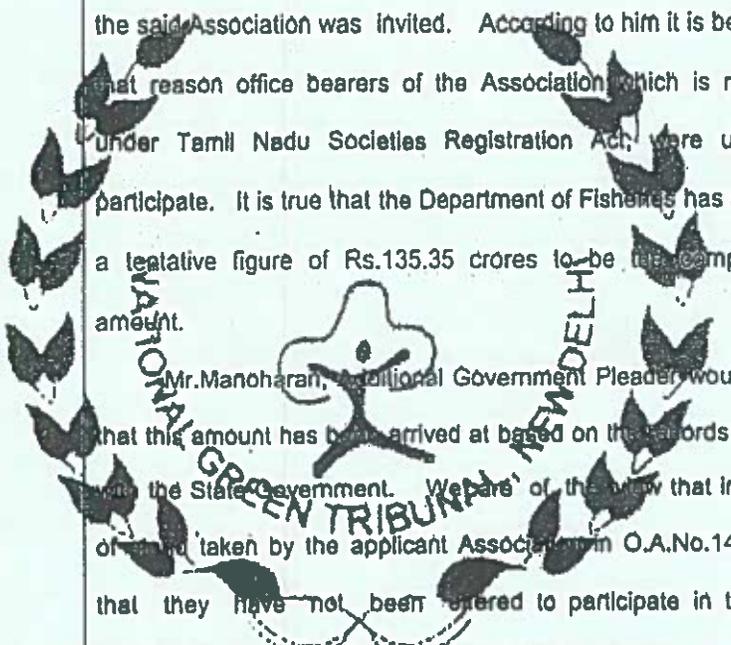
Note of the Registry	Orders of the Tribunal
Item No.18 to 19	<p>Date: 26th April, 2017</p> <p>We have heard learned counsel appearing for the parties. The Director General of Shipping, Government of India has filed a consolidated & comprehensive additional affidavit as well as typed set of papers containing the particulars relating to the steps taken</p>

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towards remediation as well as the cleaning up of the oil spillage in the affected area on behalf of 13th respondent in O.A.No.14 of 2017, 2nd respondent in O.A.Nos.16 & 38 of 2017 and 2nd and 3rd respondents in O.A.No.40 of 2017.

The learned counsel appearing for the applicant in Application No.14 of 2017 viz., Meenava Thanthai K.R.Selvaraj Kumar, Meenavar Nala Sangam would submit that in none of the meetings conducted either by the Department of Fisheries or by D.G.Shipping the said Association was invited. According to him it is because of that reason office bearers of the Association which is registered under Tamil Nadu Societies Registration Act, were unable to participate. It is true that the Department of Fisheries has arrived at a tentative figure of Rs.135.35 crores to be the compensation amount.

Mr.Manoharan, Additional Government Pleader would submit that this amount has been arrived at based on the records available with the State Government. We are of the view that in the light of the order taken by the applicant Association in O.A.No.14 of 2017 that they have not been offered to participate in the public hearing to explain their grievances, the Department of Fisheries shall permit the said Association also to putforth their claim. We make it clear that the said Society shall through the Authorised Representative, make its claim to the Department of Fisheries within a period of 2 weeks from today. After receipt of the said claim, the Department of Fisheries after making study, shall fix a date and



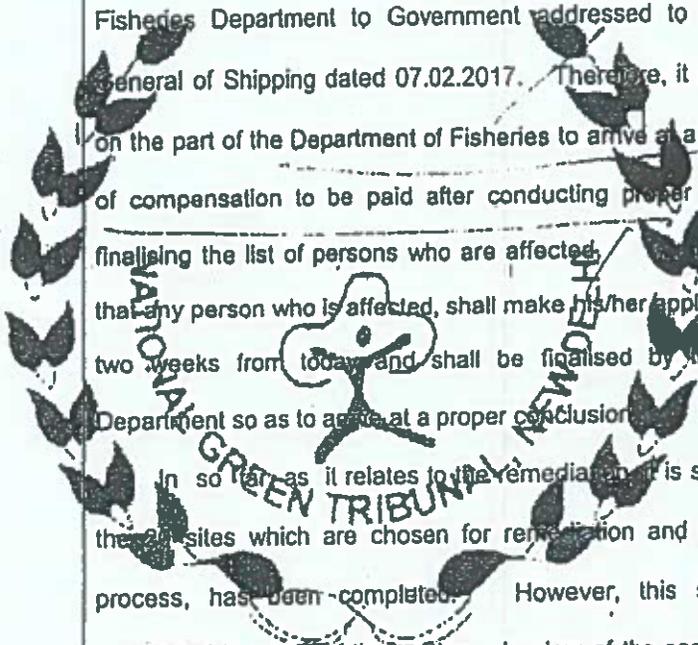
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make an enquiry so as to arrive at an appropriate quantum of compensation to be recovered from the Ship Owners. Needless to state that such claims which may be made by the said Association or any other person shall be substantiated with records.

It is pertinent to note that the aforesaid amount of Rs.135.35 crores has been arrived at by the Department of Fisheries immediately after the occurrence of the incident as it is seen in the letter of Principal Secretary, Animal Husbandary, Dairying & Fisheries Department to Government addressed to the Director General of Shipping dated 07.02.2017. Therefore, it is incumbent on the part of the Department of Fisheries to arrive at a final amount of compensation to be paid after conducting proper enquiry and finalising the list of persons who are affected. It is made clear that any person who is affected, shall make his/her application within two weeks from today and shall be finalised by the Fisheries Department so as to arrive at a proper conclusion.

In so far as it relates to the remediation, it is stated that all the 21 sites which are chosen for remediation and cleaning the process, has been completed. However, this statement is repudiated by some of the parties. In view of the same, we direct the MoEF & CC along with Tamil Nadu State Pollution Control Board to inspect various sites mentioned and file a Report as to whether the remediation and cleaning process has been done in a proper manner and whether any other activity is to be followed.

In this connection, certain other relevant points have been



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raised by Mrs. Vaishnavi Jayakumar, Member of Civil Society which are as follows:

1. Whether the entire 200 to 300 Metric tonnes of sludge which is stated to have been recovered has been disposed in an environmental friendly manner?
2. After the accident took place, what steps have been taken for the purpose of investigation by the Police Department as well as Director General of Shipping ?.

As stated above, we have already directed the MoEF & CC along with the Board to inspect and find out the 20 sites which are stated to have been cleaned up.

We direct the MoEF & CC and the Board to ascertain about the deposit of 200 to 300 Mts. of sludge recovered and find out whether all the required environmental safeguards are taken and inform the same in the Report on the next date of hearing.

It is stated that FIR has been lodged with Minor Police Station and it is also stated by the learned Assistant Solicitor General appearing for D.G., Shipping that a Committee has been constituted to conduct an enquiry about the cause of the said accident and as soon as the investigation is completed and a report is submitted to the DG Shipping, appropriate decision will be taken within a period of 3 months and a Report will be filed before this Tribunal.

Incidentally, we also observe that since the FIR is lodged with the Police, the State Government shall make proper investigation by a team consisting of a properly trained officer and find out the real

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cause of the accident and persons responsible.

It is also informed that on a Public Interest Litigation Petition filed before the Hon'ble High Court of Madras claiming compensation on 'Polluter pays principle' the High Court has observed that the matter is seized by the National Green Tribunal and in any event the State Government shall take appropriate steps in that regard.

An issue is also raised about the investigation to be done from all angles in respect of the circumstances leading to fuel spillage and a study must be made at the National level in respect of the disaster so as to find out the reasons and to avoid such incidents in future.

Regarding the fuel spillage, D.G., Shipping has already constituted a Committee and has received Report from various Agencies regarding cleaning of operation stated to have been completed on 13.04.2017 and the remaining activity will be completed by May, 2017 as per the affidavit of D.G. Shipping and a decision will be taken which is in the form of a Report filed in the typed set of papers.

The issue of public health getting affected due to consumption of affected sea food, It is stated that the IIT, Madras has given some opinion about the sea food. However, learned Government Pleader would submit that Tamil Nadu Veterinary and Animal Sciences University (TANUVAS) has already certified that investigation about the nature of sea food has been done after analysing the samples

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and the same is found to be within the permissible limits.

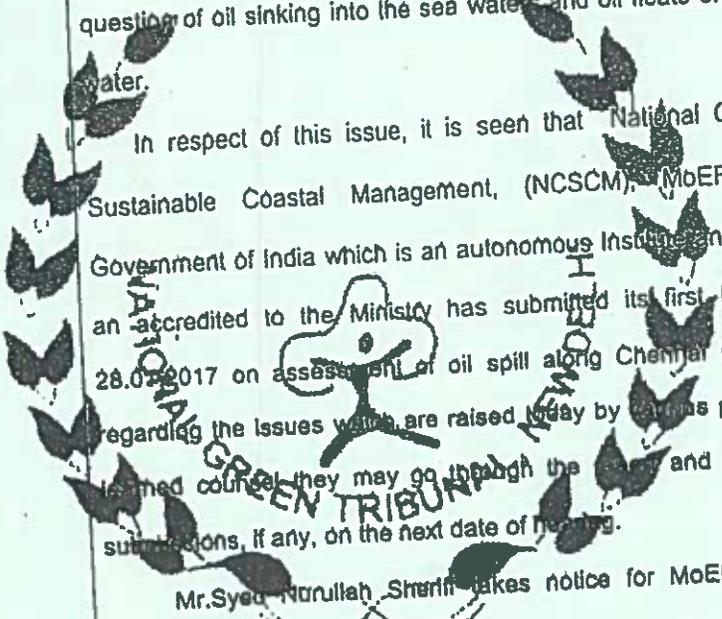
Further, the Department of Fisheries Processing Technology has also concluded that the quality of sea food is maintained within the permissible limits.

The next issue which has been raised is relating to the possibility of any oil spill having gone deep and settled on the sea bed and that aspect has not been studied and the report is awaited. However, the counsel for D.G., Shipping stated that there is no question of oil sinking into the sea waters and oil floats only on the water.

In respect of this issue, it is seen that National Centre for Sustainable Coastal Management, (NCSCM), MoEF & CC Government of India which is an autonomous Institute and which is an accredited to the Ministry has submitted its first Report on 28.07.2017 on assessment of oil spill along Chennai Coast and regarding the issues which are raised today by various parties, the learned counsel they may go through the report and make their submissions, if any, on the next date of hearing.

Mr. Syed Nurullah Sherif takes notice for MoEF & CC in Application Nbs. 14 and 16 of 2017. Mrs. Saraswathi takes notice for MoEF & CC in Application Nos. 38 & 40 of 2017.

The respondents who have not filed their reply shall file their reply within 2 weeks after Fisheries Department finalises the approximate quantity and forward the same to the Insurance Company which insured the ship M.T. Dawn Kancheepuram.



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Nariman Point, Mumbai.

Considering the issue involved in this case and directions issued to the Department, we direct the impleadment of Principal Secretary to Government, Department of Animal Husbandary, Dairying and Fisheries Department, Secretariat, Chennai as respondent No.15 in Application No.14 of 2017. The Registry shall make necessary amendment in this regard. The learned counsel appearing for the applicant shall file their memo of parties.

Post these applications on 06.07.2017



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Most Urgent / Personal Attention

Rc.No. 4021 /P1 /2017

Office of the Commissioner of
Fisheries, Chennai - 600 006

Dated: 15.05.2017

Express Memorandum

Sub : O.A.No.14/2017 before the National Green Tribunal (SZ) at Chennai - Request to implement the order of the Hon'ble National Green Tribunal - Reg.

Ref : Petition dated 08.05.2017 of Thiru. M.R.Thiyagarajan, President, Meenava Thanthai K.R.Selvarajkumar Meenavar Nala Sangam, Chennai-13.

The attention of the Joint Director of Fisheries (Regional) Chennai is drawn to the references cited.

It is informed that one Thiru. M.R.Thiyagarajan, President, Meenava Thanthai K.R.Selvarajkumar Meenavar Nala Sangam, Chennai has filed a case (OA no.14/2017) before the National Green Tribunal (Southern Zone) at Chennai requesting to direct the respondents to consider their claim petition of the fishermen affected due to oil spillage across the coast of Chennai.

The above said case came up for hearing before the National Green Tribunal (Southern Zone) at Chennai on 26.4.2017. After hearing the arguments, National Green Tribunal (Southern Zone) at Chennai has issued orders as follows:-

"We are of the view that in the light of stand taken by the applicant association in O.A.No.14 of 2017 that they have not been offered to participated in the public hearing to explain their grievances, the Department of Fisheries shall permit the said Association also to putforth their claim and the said society shall through the Authorized Representative, make its claim to the Department of Fisheries within a period of 2 weeks from today. After receipt of the said claim, the Department of Fisheries after making study, shall fix a date and make an enquiry so as to arrive at an appropriate quantum of compensation to be recovered from the ship owners"

In continuation, the petitioner of the case has submitted a representation to implement the orders of National Green Tribunal (Southern Zone) early. In this regard, a copy of the representation along with a copy of the order dated 26.4.2017 issued by the National Green Tribunal (Southern Zone) are enclosed herewith.

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As directed by the National Green Tribunal (Southern Zone), the Joint Director of Fisheries (Regional), Chennai is requested to make necessary arrangements to conduct a meeting with the petitioner and give an opportunity to submit claims of the members of the petitioner association whose livelihood was affected due to oil spillage across the coast of Tiruvallur, Chennai and Kanchipuram.

On receipt of individual applications from the petitioner, the Joint Director of Fisheries (Regional), Chennai is requested to verify the genuineness of the claims and ensure whether the claims of petitioner association was taken into account and included in the assessment already made and claim sought from the ship owners. If not, the claims has to be thoroughly verified and quantum of compensation now sought has to be arrived in detail and send a detailed report to this office, so as to file compliance report to the National Green Tribunal (SZ) at Chennai.

The receipt of the memo shall be acknowledged by return of post.

Encl: Two

sd/- Beela Rajesh,
for Commissioner of Fisheries

To
The Joint Director of Fisheries (Regional), Chennai

Copy o the Assistant Director of Fisheries, FHMW, Chennai

Copy to:

Thiru M.R.Thiyagarajan, President,
Meenava Thanthai K.R.Selvarajkumar Meenavar Nala Sangam,
Chennai-13

- with a request to contact the Joint Director of Fisheries (Regional) chennai and arrange to furnish individual wise compensation claim with supporting documents for loss of livelihood of the individual immediately.

// Forwarded by order //


Superintendent

(18)

IN THE HIGH COURT OF JUDICATURE AT MADRAS

SPECIAL ORIGINAL JURISDICTION

W.P. No. 25813 of 2017

M. E. Raja,
President,

... Petitioner

Vs.

1. The Inspector General of Coast Guard
The Indian Coast Guard, and 6 others

... Respondents

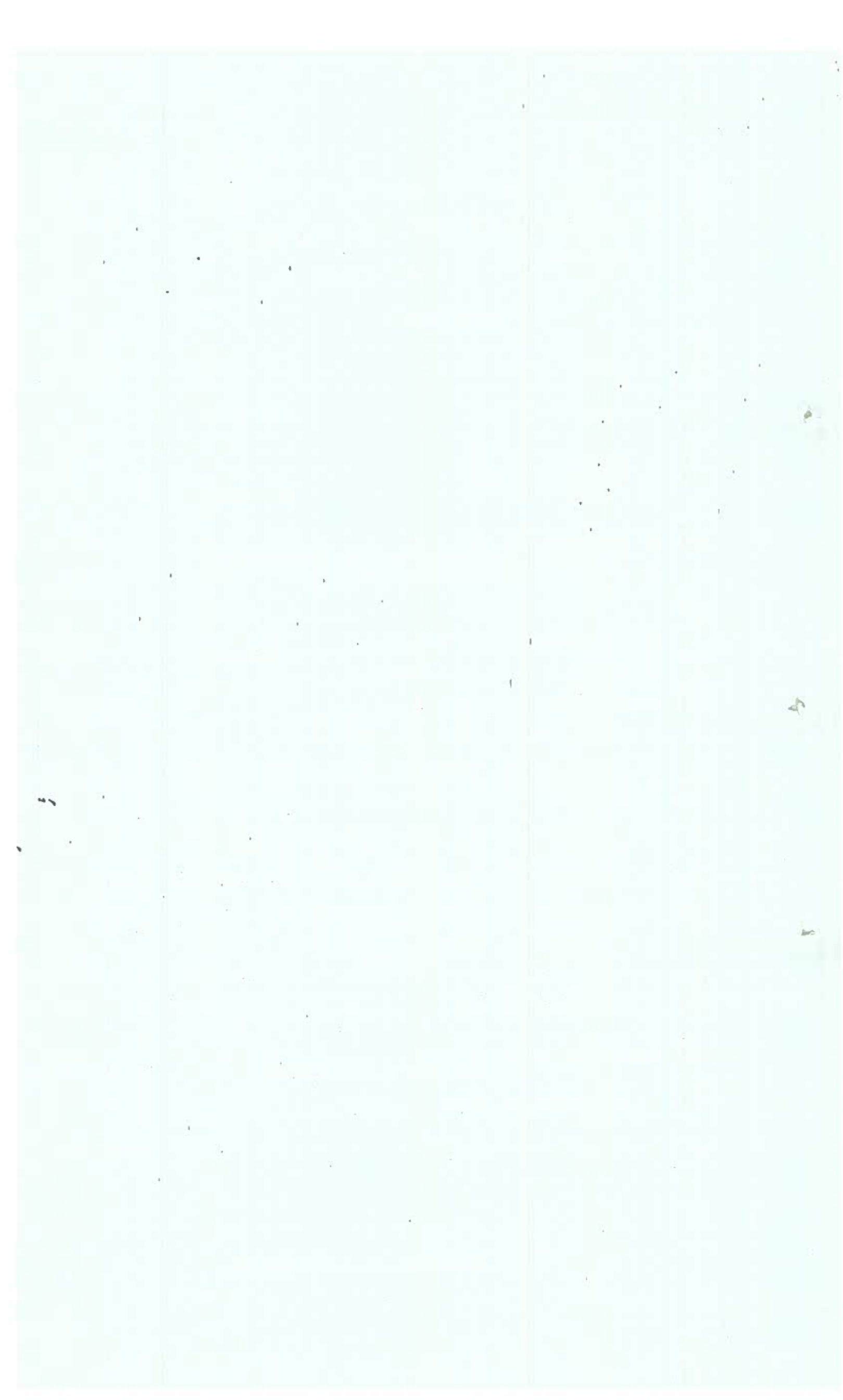
INDEX TO THE ADDITIONAL TYPED SET OF DOCUMENTS (II)
FILED BY THE SEVENTH RESPONDENT

S.No	Date	Parties	Description of the Document	Page No.
1.	08.05.2017	Kamarajar Port Limited & Capt. S. Prabhakaran	Copy of Letter addressed by the Kamarajar Port Limited to Capt. S. Prabhakaran	1
2.	03.05.2017	Principal Secretary to the GoI & Chairman, Kamarajar Port Limited	Copy of Letter addressed by the Principal Secretary to the GoI, Animal Husbandry, Dairying and Fisheries Department to the Chairman, Kamarajar Port Limited	2-8

Certified that the above Documents are true copies of their Originals

Dated at Chennai on this the 10th day of October, 2017

Sharanya V
COUNSEL FOR THE SEVENTH RESPONDENT



Ha



காமராஜர் துறைமுக நிறுவனம்

कामराजर पोर्ट लिमिटेड

Kamarajar Port Limited

(erstwhile Ennore Port Limited)

(A Mini Ratna Government of India Undertaking)

KPL/FIN/OII SP11/2017

8th May, 2017

Capt.S. Prabhakaran,
Dy. General Manager,
Crowe Boda & Company Pvt. Ltd.
M.L.M. Building
No.9, Wallajah Road,
Chennai - 600 002.
Email:- crowebodachennai@jbbodamail.com

Sir,

Sub:- Forwarding of compensation claims to Fishermen in Chennai, Tiruvallur and Kanchipuram Districts received from the Animal Husbandry, Dairying and Fisheries Department, Secretariat, Chennai- reg.

Kindly refer to the various discussions held in the Board Room of Chennai Port Trust chaired by DG (Shipping) and Additional DG (Shipping), New Delhi. In line with the said discussions and decisions taken in the Meetings, we have forwarded the claim received from the Principal Secretary, Animal Husbandry, Dairying and Fisheries Department, as received (vide letter No.3937/FS-3/2017 dt. 03.05.2017) along with I to V Annexures for a sum of Rs.203.22 crores towards compensation claims to Fishermen from three Districts, viz. Tiruvallur, Chennai and Kancheepuram. You are hereby requested to reimburse the same immediately by way of DD in favour of Principal Secretary, Animal Husbandry, Dairying and Fisheries Department, for an amount of Rs.203.22 crores under intimation to the undersigned.

Yours sincerely,

7th 8.5.2017

(M. GUNASEKARAN)

General Manager (Finance)

for Chairman cum Managing Director

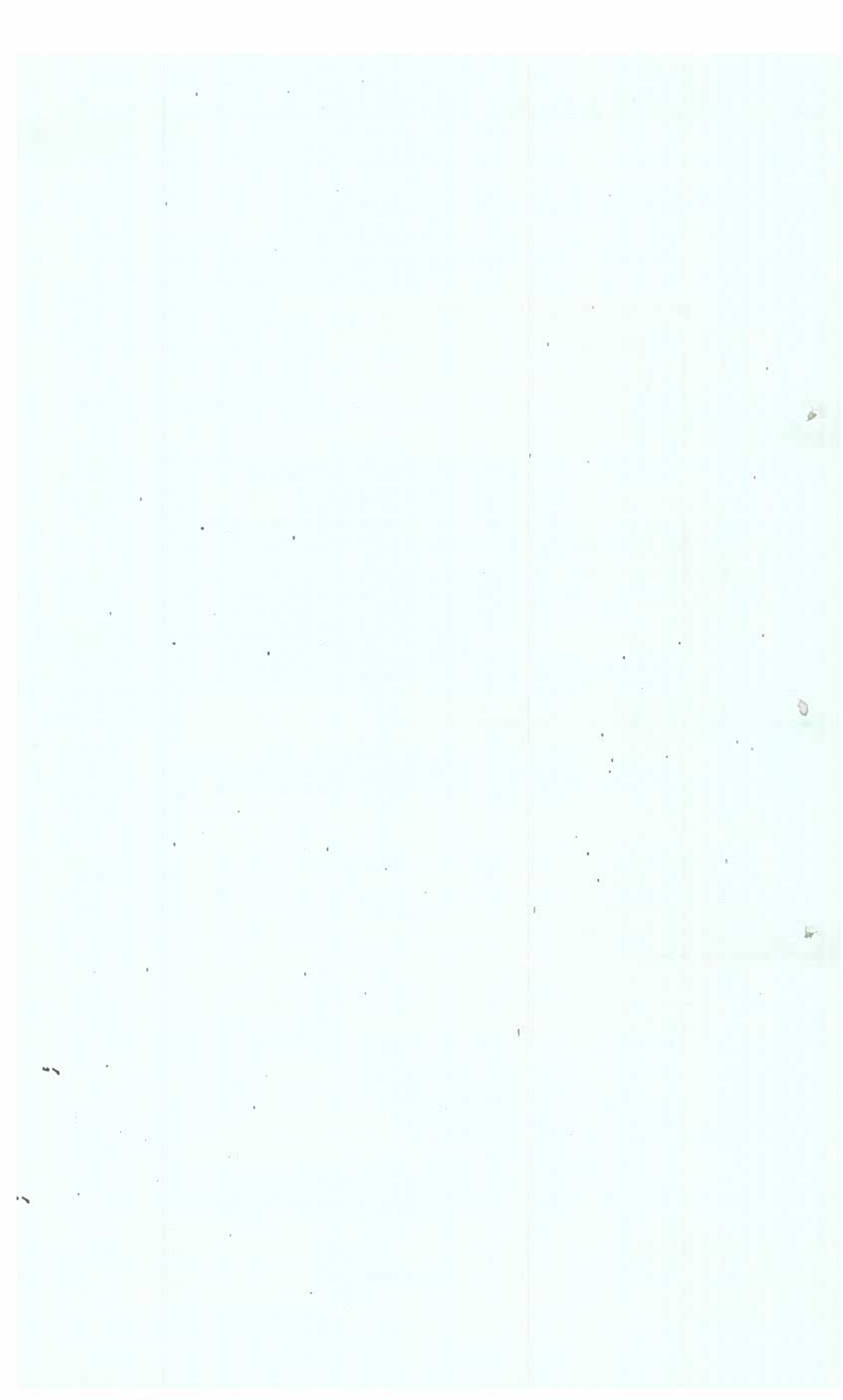
Registered Office & Trade Facilitation Centre
4th Floor, Super Speciality Diabetic Centre
(erstwhile DLB Building)
Rajaji Salai, Chennai - 600 001.
Ph : 044-25251886-70 Fax : 044-25251665
CIN: U45203TN1999G0043322

பதிவுகூறிய கார்ப்பரேஷன் & வர்த்தமைய முவியா கென்ட்
வாய்லி மென்ட்ரி, சூப்பர் ச்பெசலிட்டி டயாபெட்டிக் சென்ட்ரல்
(ஓ ஈல் லி பில்டிங்)
ராஜாஜி சலாடி, சென்ட்ரி-600 001
ஃபோன் : 044-25251886-70 ஃக்சு : 044-25251665

website : www.ennoreport.gov.in e-mail : info@epi.gov.in
Kamarajar Port - India's Port of the Millennium

Port Office : Vallur Post, Chennai - 600 120
Ph : 044-27950030-40 Fax : 044-27950002

புர்ட் கார்ப்பரேஷன் : வல்லூர் புர்ட், சென்ட்ரி - 600 120
ஃபோன் : 044-27950030-40 ஃக்சு : 044-27950002



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Animal Husbandry, Dairying and
Fisheries Department,
Secretariat
Chennai 600 009.

Letter No.3937/FS-3/2017 Dated:03.05.2017

From

Thiru Gagandeep Singh Bedi, IAS.,
Principal Secretary to Government.

To

The Chairman,
Kamaraj Port Limited,
4th Floor, Super Specialty Diabetic Centre,
Rajaji Salai,
Chennai-600001.(w.e.)

San (K)
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5/5

Sir,

Sub: Fisheries -Ship collision of Kamarajar Port,
Ennore on 28.1.2017- Oil spillage compensation
claims for the loss sustained by the fishermen
of Tiruvallur, Chennai and Kancheepuram
districts, Tamil Nadu- Reg.

Ref: Letter received from Commissioner of Fisheries
RC.No.2836/P1/2017, dated.10.4.2017.

I invite your kind attention on the Captioned Subject.

2. Two Merchant ships viz. M.T. BW Maple and M.T Dawn Kancheepuram accidentally collided off the Kamrajar Port, Ennore, Tamil Nadu in the early hours of 28.1.2017. Due to this accident, there was an oil spill of bunker oil which spread across the sea and the seashores of Thiruvallur, Chennai and Kancheepuram districts, Tamil Nadu. This resulted in severe livelihood loss to the fisherfolk in this area due to loss of fishing and due to loss of livelihood to related professions etc. The fishermen also incurred additional losses due to the non acceptance of seafood, fearing contamination from the oil pollution. An intensive survey was conducted by the Department to assess the extent and areas affected by the oil spill. The Department also assessed the impact of oil spill on the fishing and allied

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activities. A total of 104 kms. of coastal area viz. 28 kms. in Thiruvallur District, 19 kms. in Chennai District and 57 kms. in Kancheepuram District was directly affected by the Oil spill. Oil spill was also noticed as far as Cuddalore District. Many fishing implements kept on the shore also became unusable due to oil coating. The fishermen of these three Districts did not venture into sea for fishing since 28.1.2017 for over 15 days and were unable to market their catches. When they resumed fishing also, the fall in demand for fish further aggravated the situation.

3. Various confidence building measures were undertaken to inform the public through electronic and print media that the fish caught from these Districts was safe for consumption. However it took a long time for the fish sale to pick up. In order to assess the exact quantum of loss sustained by the fishermen, **Claim Forms** duly approved by the Insurance company, Officials (of the ship concerned) were distributed to fishermen through the Fishermen Co-operative Societies concerned. 18 teams with more than 65 officials of Department of Fisheries by the Commissioner of Fisheries were constituted to collect and collate the claims preferred by the fishermen. The entire exercise of distributing the forms and collecting these back and compiling the data took about 45 days in the field.

4. Considering the time delay in getting compensation from insurance companies and also considering the seriousness of livelihood loss of the fishermen, **the State Government sanctioned a sum of Rs.15 crore out of its own funds at the rate of Rs.5000/- each to the 30,000 affected fishermen families as an interim relief assistance. The same has been directly credited into the bank account of the affected fishermen.**

5. The Commissioner of Fisheries has, now, submitted the following consolidated report on Assessment and Quantification of total loss on livelihood of fishers from Thiruvallur, Chennai and Kancheepuram Districts due to the oil spill.

Sl. No	Name of the District	Name of the Category		Total Loss claim (Rs. in lakh)
		Details	Nos.	
1	Thiruvallur	Men FCS*	19822	4999.05
		Women FCS*	17410	3768.09
		Vendors	1611	380.05
		Allied Activities	1499	357.87
	Total		40342	9505.06

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2.	Chennai	Men FCS*	21855	3535.37
		Women FCS*	22227	3176.83
		Vendors	3100	590.90
		Allied Activities	3534	503.89
		Mechanized fishing Boat Owners	571	1661.46
Total			51287	9468.45
4.	Kancheepuram	Men FCS*	10000	1872.22
		Women FCS*	8210	1713.40
		Vendors	2207	384.14
		Allied Activities	4	0.71
Total			20421	3970.47
5	TNFDC		1	63.40

* FCS - Fisheries Co-operative society
TNFDC- Tamil Nadu Fisheries Development Corporation

Abstract

Sl.No.	Name of the Category		Total Loss (Rs.in lakhs)
	Details	Nos.	
1.	Men FCS	51677	10406.64
2.	Women FCS	47847	8658.32
3.	Vendors	6918	1355.09
4.	Allied Activities	5037	862.47
5.	Mechanised Fishing boat Owners	571	3855.03
6.	TNFDC	1	63.40
	Grand Total	112051	23007.38 or Rs.230.07 crore

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6. The Actual loss in fishing operations has to be estimated only after deducting the tentative operational costs of fishing. The Commissioner of Fisheries was also requested to calculate the operational costs and give the final loss figures. The estimated operational cost for the fishing crafts of Thiruvallur, Chennai and Kancheepuram Districts as calculated by Fisheries officials, is given below:-

a) Operational Cost for Fibre Reinforced Plastic (FRP) Boats						
Name of the District	No. of Boats	Days of Voyage	Cost of Diesel (@ Rs 49/ L)	Cost of Ice (Rs 120/ 50 Kg Bar)	Total Operational Cost/ Boat (Rs)	All Boats Operational Cost for 20 days (Rs)
Thiruvallur	3,640	1	343	60	403	2,93,38,400
	46	3	1,470	240	1,710	5,24,400
Kancheepuram	3,126	1	392	60	452	2,82,59,040
Chennai	1,330	1	392	60	452	1,20,23,200
	46	7	7,350	1,200	8,550	11,23,714
Total	8188					7,12,68,754

b) Operational Cost for Mechanised Boats						
Name of the District	No. of Boats	Days of Voyage	Cost of Diesel (@ Rs 59/ L)	Cost of Ice (Rs 120/ 50 Kg Bar)	Total Opera. tional Cost/ Boat (Rs)	All Boats Operational Cost for 20 days (Rs)
Kancheepuram	9	1	2,950	400	3,350	6,03,000
Chennai	60	1	11,800	400	12,200	1,46,40,000
	130	3	47,200	2,400	49,600	4,29,86,667
	104	7	1,29,800	5,600	1,35,400	4,02,33,143
	182	10	1,77,000	8,000	1,8,5000	6,73,40,000
	95	15	2,36,000	12,000	2,48,000	3,14,13,333
Total	580					19,72,16,143

Total Operational Cost for FRP Boats (Rs. in crore)	7,12,68,754
Total Operational Cost for Mechanised Boats (Rs. in crore)	19,72,16,143
Total Operational Cost for all boats(3 districts) (Rs. in crore)	26,84,84,897

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Oil Spill Loss Compensation Claim excluding Operational Cost

S. No.	Name of the District	Total Loss Claim in lakh	Operation Cost for fishing craft (in lakh)	Net Loss Claim (in lakh) (Rs.)
1	Thiruvallur	9,505.06	298.63	9,206.43
2	Chennai	9,468.45	2,097.60	7,370.85
3	Kancheepuram	3,970.47	288.62	3,681.85
4	TNFDC	63.40	0	63.40
Total		23,007.38	2,684.85	20,322.53 (or) 203.22 crore

Exercise to check the veracity of loss data furnished:-

7. In order to assess the veracity of the data given by the Fishermen / Fisherwomen through the Societies concerned and through individual claims, data was sought from Commissioner of Fisheries about variation in Fish catch statistics as observed from various fish landing centres, Fish Sales statistics as observed from fish markets, Diesel sale and Ice sale in January, February and March of 2017 and comparison of data with the data of 2015 and 2016. Analysis was done to corroborate the loss statement given by the Fishermen Co-operative Societies, on account of oil spillage based on the fish landing and sales data along with the ice and diesel sales data, etc., This report reveals the following:-

- i. Fish catch has drastically reduced in the oil spill affected region and a significant revenue loss has occurred only due to poor catch.
- ii. Due to low catch of quality fish from the oil spill affected region, fishers have reduced their venture into the sea. There is sudden drastic reduction in diesel sales in the aforesaid three districts as an immediate effect of oil spillage in the region. The decline in diesel sales during February, 2017 substantiates with the loss of fishing and fish landings.
- iii. A wide misunderstanding and fear emerged among the people especially through social media regarding the consumption of fish

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caught from the oil spilled region. This misconception existed even after the recovery operations and drastically reduced fish consumption in the affected region and subsequently fish sales came down drastically.

- iv. As a combined effect of less sea venture and poor fish sales, ice sales have also come down. The reduction with the sales confirms the loss due to low fish landings.
- v. Overall oil spill has caused a 'Negative snowballing Impact' on fish and fisherfolk of Tiruvallur, Chennai and Kancheepuram Districts.

- **The Chennai, Tiruvallur and Kancheepuram Districts reported a landing of 6344 tonnes during February 2016, which was reduced to 2101 tonnes during February, 2017 due to the oil spill. The sale of Fish reduced from Rs.188.26 crore in February, 2016 to Rs.28.28 crore to February, 2017, the sale of ice reduced from 213.58 tonnes in February, 2016 to barely 39.47 tonnes in February, 2017. In consonance, the offtake of subsidized diesel in these three districts during the month of February, 2017 came down by 25% when compared to February 2016. All the above substantiate loss of market for fish in these three districts which had a cascading impact on the livelihood loss to fishermen and allied sectors depending on fishing for their livelihood due to oil spill.**

8. **Summary:** Based on the individual claims preferred by the fishermen and other beneficiaries through Fisheries Co-operative Societies of three districts viz., Tiruvallur, Chennai and Kancheepuram, the compensation works out to be Rs.23007.38 lakh or Rs.230.07 crore. The operational cost for FRP and Mechanised boats in the above three districts works out to be Rs.26,84,84,897/-. By excluding the operational cost of Rs.26.85 crore, the loss sustained by the fisherfolk works out to be **Rs.203.22 crore**. The Commissioner of Fisheries has also requested a claim of Rs.203.22 crore from the Insurance Company based on the individual claim preferred by the fishermen beneficiaries. Further as explained, the in-depth analysis of the data on fish sales provided by the Commissioner of Fisheries at the macro-level indicates the reduction of fish sale to the tune of Rs.159.98 crore or Rs.160.00 crore (Rounded off) in February 2017. By excluding the operational cost of Rs.26.85 crore the loss sustained works out at macro-level to Rs.133.15 crore. The individual losses, when aggregated at the Fishermen Society level and summed up, indicate the total loss of Rs.203.22 crore as already referred to the above.

9. I am therefore directed to request you to forward the claims above and the reports sent by Commissioner of Fisheries to the Insurance Companies

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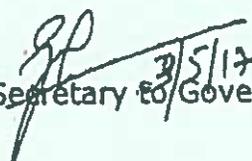
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concerned and request the Insurance Companies to scrutinize the claims and sanction the compensation claims immediately through the Fishermen Co-operative Societies so that the affected fishermen and fish vendors etc., of the three Coastal districts of Tamil Nadu can be provided with the relief assistance. The compensation claims arrived at after the scrutiny by the Insurance Companies, can be released to Commissioner of Fisheries, who will release these to the Fishermen Co-operative Societies to disburse to the individual affected persons. The Additional Director of Fisheries / Joint Director of Fisheries Thiru G. Arumugam, Tmt. N. Chandra, Thiru S. Jude Armstrong will liaise with the Insurance Company of the Shipping firms to arrive at the compensation claims for the affected fishermen. The compensation may be sent to the Commissioner of Fisheries who will disburse the sanctioned amount to the Fishermen through Fishermen Co-operative Societies after the compensation is arrived at.

10. The detailed claim proposal of the Commissioner of Fisheries along with the data and statistics on the impact on fishing, landing fish sales, ice sales and diesel sales for the month of January, February and March and the report of TNFU are enclosed for your reference.

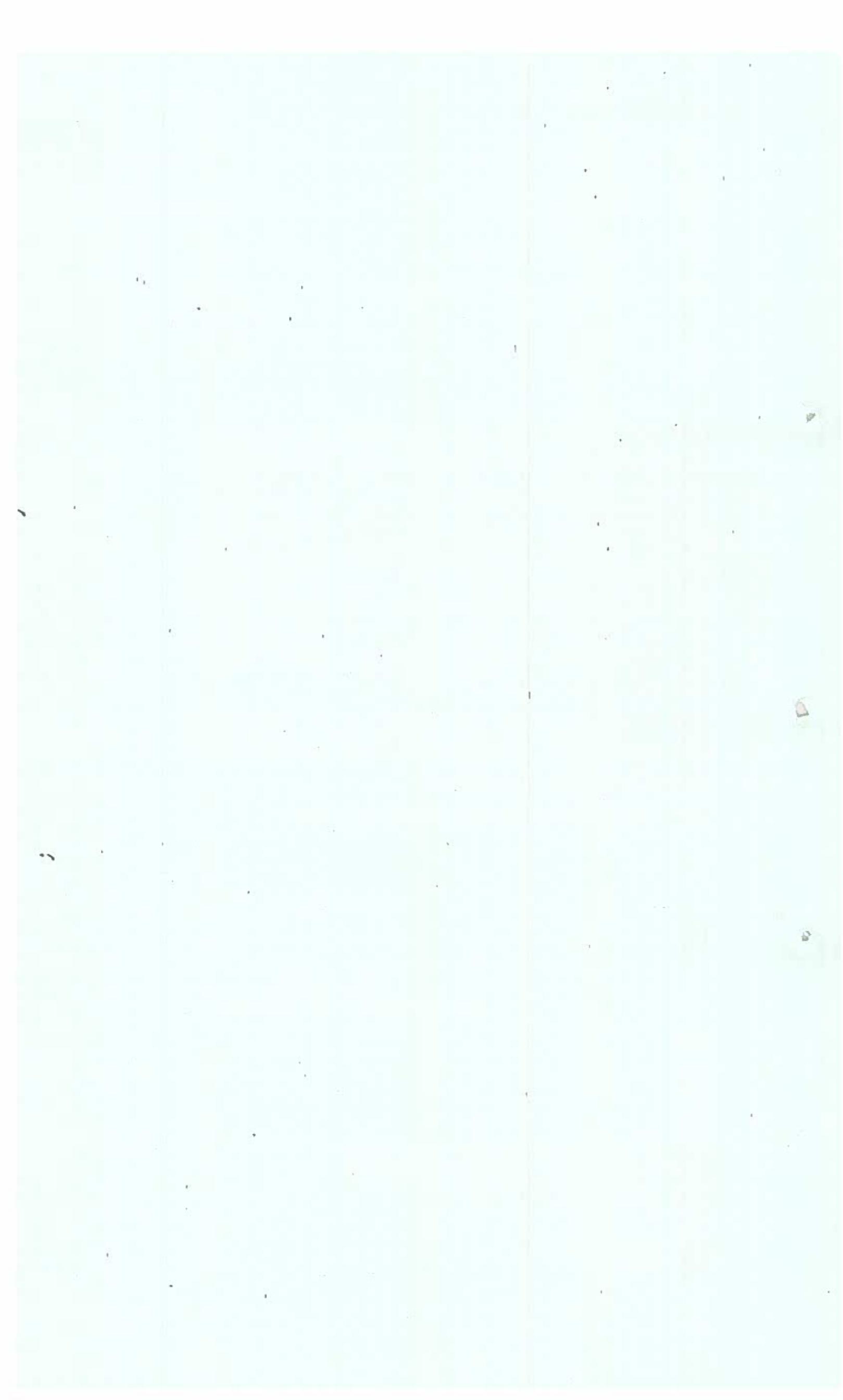
11. An early approval in this regard will be highly appreciated.

Yours faithfully,


Principal Secretary to Government

Copy to:

1. The Directorate General of Shipping, Govt. of India
9th Floor, Beta Building, i-Think Techno Campus,
Kanjurmarg (East), Mumbai - 400 042
2. The Commissioner of Fisheries,
Chennai-600 006.



(57)

IN THE HIGH COURT OF JUDICATURE
AT MADRAS
(Special Original Jurisdiction)

W.P.No. 25813 of 2017

M.E.Raja,

... Petitioner

Vs

The Inspector General of Coast Guard
The Indian Coast Guard,
And 6 others

... Respondents

INDEX TO THE ADDITIONAL
TYPED SET OF DOCUMENTS (II)
FILED BY THE SEVENTH
RESPONDENT

M/s S.Raghunathan
(M.S.No. 318/1977)

R.Sahana &
(M.S.No. 1847/2013)
Sharanya Vaidyanathan
(M.S.No. 1686/2014)

Counsel for the Seventh Respondent

(60)

DEPARTMENT OF FISHERIES

From
Thiru.V.P.Thandapani, IAS.,
Director of Fisheries,
Administrative Office Buildings,
Teynampet, Chennai-600 006.

To
Steamship Mutual

Represented by

Capt S Prabhakaran,
Deputy General Manager,
Crowe Boda & Co Pvt Ltd
M L M Building
No.9, Wallajah Road,
Chennai - 600 002

R.c.No. 2836/P1/2017 dated: 17.1.2018

Sir,

- Sub : Fisheries - Collision of Ships off, Kamarajar Port, Ennore on 28.01.2017 - claim settlement offer made by the insurers of MT Dawn Kanchipuram "Steamship Mutual" - Regarding.
- Ref : 1. G.O.(Rt)No.44 Animal Husbandry Dairying and Fisheries (Fs-V)Department, Chennai dated: 03.03.2017 and Erratum to G.O. dated 17.03.2017
2. Director General of Shipping letter No. 2 - NT (02) / 2017 Vol III dated 08.09.2017
3. Government letter No. 3937 / Fs-3 / 2017-8 dated: 14.09.2017.
4. Government letter No. 3937 / Fs-3 / 2017-10 dated: 11.10.2017.
5. Letter from the "Steamship Mutual dated 13.12.2017
6. This office letter Rc.No.2836/P1/2017 addressed to the Principal Secretary to Government, Animal Husbandry Dairying and Fisheries Department dated: 14.12.2017
7. Government Letter No 3937/F53/2017-15, Animal Husbandry Dairying and Fisheries Department Dated: 17.01.2018

I invite your attention to the references cited.

2. In the reference 5th cited, the M/s Steamship Mutual, the P&I Insurers of Dawn Kancheepuram conveyed their willingness either to settle or secure the fisheries claim directly in a total sum of Rs.141 crore subject to condition that the fisheries department confirms a claim amount of Rs.121cr and the

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restoration claim of Rs.10 Crore during the hearing on the 14th December 2017 at the Hon'ble National Green Tribunal, Southern Zone.

3. In this regard, In the reference 7th cited, the Government has directed the following:

- i. To accept the payment of Rs.141 crores including the restoration claim of Rs.10 crore strictly without prejudice to the claims relating to livelihood loss due to the oil spill caused by the collision between MT Dawn Kanchipuram and I.P.C.C BW Maple and not foregoing the liability of the shipping companies and without prejudice to the compensation claim for a sum of Rs.240 crore, preferred by the Government of Tamil Nadu, whatsoever on the part of the ships involved in the accident and her owners.
- ii. To secure the remaining claim amount of Rs.99 crore out of the total claim of Rs.240 crore preferred by the Government of Tamil Nadu in the National Green Tribunal, Southern Zone by way of an Irrevocable and unconditional Bank Guarantee from Steamship Mutual Underwriting Association Limited and P&I clubs of both Dawn Kancheepuram and BW Maple.
- iii. To remit the amount into the Government account for subsequent settlement of claims to fishermen.

Accordingly, I request you to impress upon your principals "Steamship Mutuels" the P&I Insurers of the Dawn Kancheepuram to take appropriate actions as stated above for the due settlement and securing of the claim as directed by the Government to process the request to provide No Objection Certificate for Dawn Kancheepuram to sail out from Chennai.

Sd/- V.P.Thandapani,
Director of Fisheries.


for Director of Fisheries.

Copy Submitted to

1. The Director General of Shipping, Mumbai
2. The Principal Secretary / Commissioner of Revenue Administration Chennai.
3. The Principal Secretary to Government, Animal Husbandry Dairying and Fisheries Department, Chennai -09.
4. The Chairman, Kamarajar Port, Chennai.


17/11/18

(62)

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR.JUSTICE S.VAIDYANATHANW.A.No.537 of 2018
and
C.M.P.No.5302 of 2018

Indianocean Shipping Pvt. Ltd.,
Rep. by its Head of Insurance and Legal,
Mr.Anil T.Salgal,
15-B, Chandermukhi,
Nariman Point,
Mumbai-400 021.
India.

.. Appellant

Vs.

1. The Kamarajar Port Limited,
Ennore,
Rep. by its Chairman,
4th Floor, Super Speciality Diabetic Centre,
Rajaji Salai, Chennai-600 001.
2. The District Collector, Tiruvallur.
3. The Director of Fisheries,
Teynampet, Chennai-600 006.

(Respondents 2 and 3 are suo motu impleaded
as per order dated 12.02.2018 in W.P.No.2979 of 2018)

4. Owners of BW MAPLE,
BW VLGC Limited,
Clarendon House,
2, Church Street, Hamilton HM 11,

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Bermuda.

5. The Director General of Shipping,
9th Floor, Beta Building,
Kanjur Marg (East),
Mumbai-400 042.

(Respondents 4 and 5 are impleaded
as per order dated 13.03.2018 in
C.M.P.No.5301 of 2018 In W.A.No.537 of 2018)

.. Respondents

Writ Appeal filed Clause 15 of the Letters Patent against the order dated
13.02.2018 passed by the learned Single Judge in W.P.No.2979 of 2018 on the
file of this Court.

For appellant : Mr.AR.L.Sundaresan, Senior Counsel for Mr.S.Vasudevan

For respondents: Mr.Siddharth for Mr.Krishna Ravindran for R-1

Mr.Vijay Narayan, Advocate General, assisted by
Mr.E.Manoharan, Addl.G.P. and
Mr.Gautham Venkatesh and Mr.C.Vigneswaran for RR-2 & 3

Mr.S.K.Rakhunathan for R-4

Mr.G.Rajagopal, Addl. Solicitor General, assisted by
Mr.V.Venkatesan, SCGSC for R-5

JUDGMENT

(The Judgment of the Court was delivered by M.Venugopal, J)

Heard the Learned counsel appearing for both parties and perused the
materials available on record.

2. According to the appellant, Writ Petition in W.P.No.2979 of 2018 was
filed before this Court by the owners of M.T.DAWN KANCHIPURAM for grant of

(6k)

Port Clearance to allow the Vessel MT DAWN KANCHIPURAM lying at the Ennore Port, to be towed to Vishakapatnam to carry out the repairs. In the said Writ Petition, ultimately, this Court passed final order on 13.02.2018 permitting the release of the said Vessel, subject to terms set out in paragraph 14 of the said order, including inter-alia, furnishing of unconditional and irrevocable Bank Guarantee for a sum of Rs.188 Crores-in favour of the Director of Fisheries within a period of seven days.

3. The Learned Senior Counsel appearing for the Appellant/writ petitioner-Company submits that U.K. P & I Club, the Insurers of BW MAPLE, had brought to the notice of the Fisheries Department, Government of Tamil Nadu, the communication dated 17.01.2018 addressed by the Director of Fisheries to the Steamship Mutual Underwriting Association Limited, by which, the Government of Tamil Nadu had agreed to accept the payment of Rs.141 Crores including the restoration claims of Rs.10 Crores, strictly without prejudice to the claims relating to livelihood loss due to the oil spill caused by the collision between MT DAWN KANCHIPURAM and LPGC BW MAPLE and to secure the remaining claim amount of Rs.99 Crores out of the total claim of Rs.240 Crores preferred by the Government of Tamil Nadu.

4. The stand of the Appellant/writ petitioner is that U.K. P & I Club and the Steamship Mutual Underwriting Association Limited, had also had meetings with the officials concerned and brought to their notice that a sum of Rs.15 Crores

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had already been paid to the Government of Tamil Nadu towards the claims of fishermen and therefore, credit should be given for such payment and the petitioner as well as the Owners of LPGC BW MAPLE and their respective insurers are desirous of amicably resolving the claims arising out of the said collision, made the following proposal of compromise for consideration by this Court and prayed for modification of the order passed by this Court on 13.02.2018 in W.P.No.2979 of 2018.

5. Be that as it may, the Appellant and the Fourth Respondent have arrived at a compromise and accordingly, C.M.P.No.5302 of 2018 in W.A.No.537 of 2018 is filed to record the Joint Memo of Compromise, dated 02.03.2018. The terms of the said compromise read as follows:

1. The U.K. P & I Club, on behalf of the Owners of LPGC BW Maple and the M.T.Dawn Kanchipuram, shall deposit a sum of Rs.141 Crores, strictly without prejudice, towards the various claims lodged by the fishermen and their Associations for a sum of Rs.240 Crores, preferred by the Government of Tamil Nadu, including the restoration claims of Rs.10 Crores, with such deposit being made within 14 days from the date on which an order is passed by this Hon'ble Court in this Memo.

2. To secure the remaining claims out of the total claim of Rs.240 Crores preferred by the Government of Tamil Nadu before the Hon'ble National Green Tribunal, Southern Zonal Bench and in addition to what is stated in paragraph 1 above, the U.K. P & I Club and the Steamship Mutual Underwriting Association Limited, shall, on behalf of the Owners of both the LPGC BW Maple and M.T.Dawn Kanchipuram, also arrange for the execution of a Bank Guarantee for a sum of Rs.84

(6)

Crores (Rs.99 Crores less Rs.15 Crores paid earlier by the Steamship Mutual Underwriting Association Limited) in favour of Government of Tamil Nadu represented by the Director of Fisheries within 21 days from the terms of such Bank Guarantee being mutually agreed.

3. The petitioner shall comply with the condition stipulated by the 1st respondent herein the Memo filed before this Hon'ble Court dated 13.02.2018. The petitioner shall furnish a Bank Guarantee of Rs.5.68 Crores towards the claim of the Department of Environment paid by Kamarajar Port Ltd., as stated in the said memo within 7 days from the date of receipt of the copy of the order of this Hon'ble Court passed on the memo filed herein and keep the said Bank Guarantee alive until the claim secured by the said guarantee is finally decided by a competent court or settled.

4. Upon compliance of clauses 1, 2 and 3 above, the Director General of Shipping shall return to the U.K P & I Club the Bank Guarantee dated 31.08.2017 executed by Kotak Mahindra Bank Ltd., along with the covering letter confirming the return/discharge of the said Bank Guarantee at the earliest.

5. Upon compliance with clauses 1, 2 and 3 above, the Vessel Dawn Kanchipuram shall be permitted to immediately sail out from Kamarajar Port Ltd., Ennore, and the 2nd and 3rd respondents shall on demand provide their clearance and consent to the 1st respondent so as to enable the Dawn Kanchipuram to sail.

6. Since the Hon'ble National Green Tribunal, Southern Zonal Bench has directed, in Application Nos.14, 16, 38 and 40 of 2017, the Fisheries Department, Government of Tamil Nadu, to entertain, appraise and disburse the claims of the fishermen and their Associations, the Government of Tamil Nadu would do so upon the sum of Rs.141 Crores being deposited with them."

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6. It is to be noted that for recording the said Joint Memo of Compromise, dated 02.03.2018 entered into between the respective parties in C.M.P.No.5302 of 2018 in W.A.No.537 of 2018, the fifth respondent has no objection. Accordingly, this Court, while recording the abovesaid Memo of Compromise entered into between the respective parties in C.M.P.No.5302 of 2018 in W.A.No.537 of 2018, modifies the order passed by the learned Single Judge in W.P.No.2979 of 2018, dated 13.02.2018, by substituting the terms of compromise extracted supra.

7. It is made clear that the judgment of this Court rendered in this Writ Appeal shall come into effect within two weeks from the date of receipt of a copy of this judgment.

8. With the abovesaid observations and also stating that the Memo of Compromise dated 02.03.2018 arrived at between the respective parties, shall form part and parcel of the judgment rendered in this Writ Appeal, the present Writ Appeal in W.A.No.537 of 2018 and C.M.P.No.5302 of 2018 stand disposed of. No costs.

(M.V.J) (S.V.N.J)
13.03.2018

Index: Yes/no

Internet: Yes/no

Speaking / Non-speaking Judgment

CS

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To

1. The District Collector, Tiruvallur.
2. The Director of Fisheries,
Teynampet, Chennai-600 006.
3. The Director General of Shipping,
9th Floor, Beta Building,
Kanjur Marg (East),
Mumbai-400 042.

M.VENUGOPAL, J
and

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S.VAIDYANATHAN, J

CS

W.A.No.537 of 2018

13.03.2018

(70)

12/03/19
4-D

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

W.P.No.11623 of 2018

M.E.Raja,
Secretary , National Union of Fishermen Petitioner

- Vs -

1 State of Tamil Nadu,
Represented by Secretary,
Department of Animal Husbandry,
Dairying and Fisheries,
Tamil Nadu. Respondent

STATUS REPORT FILED BY THE DEPARTMENT OF FISHERIES

1, G.Arumugam, S/o Ganapathy, age 53, Additional Director of Fisheries (Marine) Department of Fisheries, Integrated Office Buildings, Nandanam, Chennai-35 do hereby solemnly affirm and sincerely state as follows :-

2) I am well acquainted with the facts and circumstances of the case from the available records. I am filing this Status Report on the direction of the Hon'ble High Court of Judicature at Madras dated 07.03.2019.

3) It is respectfully submitted that two Merchant ships viz. M.T. BW Maple and M.T. Dawn Kancheepuram accidentally collided off the Kamarajar Port, Ennore, Tamil Nadu on 28.1.2017. Due to this accident, there was an oil spill of bunker oil which spread across the sea and the seashores of Thiruvallur, Chennai and Kancheepuram districts of Tamil Nadu.

4) It is respectfully submitted that, In order to assess the exact quantum of loss sustained by the fishermen, claim forms duly approved by the Insurance company of the Shipping companies were distributed to fishermen through the Fishermen Cooperative Societies and also from various sectors such as Fishing Labourer, Fisherwomen in Fisheries allied activities, Allied Activity Labourer, Fish Vendors from the owners of Motorised Boats, Non Motorised Boat Owner and Mechanized Boats. Applications were collected from 22.02.2017 to 30.03.2017. by teams comprising than 65 Department of Fisheries officials. The claims were consolidated for each fishermen co operative society.

5) It is respectfully submitted that, The team reports were consolidated and the proposal was sent to Government for Rs. 203.225 Crore for providing compensation to 1,12,051 affected fishermen. Accordingly the Government of


Additional Director of Fisheries,
Marine
Chennai 600 000

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Tamil Nadu preferred a claim for compensation relief assistance of Rs.203.225 Crore.

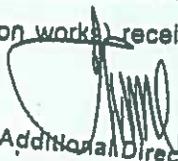
6) It is respectfully submitted that , Considering the time delay in getting compensation from insurance companies and in view of livelihood loss of the fisherman and to provide immediate relief, the State Government vide Government Order (Ms.) No.58, Animal Husbandry Dairying and Fisheries (FS3) Department dated 03.03.2017, sanctioned a sum of Rs.15 crore at the rate of Rs.5000/- each to the 30,000 affected fishermen families. The same has been disbursed to bank accounts of 29,769 beneficiaries.

7) It is respectfully submitted that , Apart from this, a sum of Rs.75.00 lakh has been sanctioned by the Govt. of Tamil Nadu as advance in anticipation of release of funds under Corporate Social Responsibility (CSR) fund as agreed by the shipping companies towards the construction of fish markets at 2 places. The shipping companies has released a sum of Rs.97,95,682/- (Rupees ninety seven lakhs ninety five thousand six hundred and eighty two only) on 24.03.2017 under Corporate Social Responsibility Fund as agreed by the shipping companies.

8) It is respectfully submitted that, In the meantime, petitions were filled before the Hon'ble National Green Tribunal, Southern Zone at Chennai by Meenavarthanthal Selvarajkumar with application O.A. no.14 of 2017. The Hon'ble Tribunal directed the Department to permit the affected persons to make their claim up to 10.8.2017 and make required study; conduct enquiries to arrive at an appropriate quantum of compensation to be recovered from the ship owners.

9) It is respectfully submitted that, On the directions of the Hon'ble Tribunal, a team with the officials of the Fisheries Department was constituted to receive the applications from the affected fishermen who have not filed their claim earlier. Based on the scrutiny of applications received on the direction of Hon'ble National Green Tribunal, Southern Zone out of 21,382 claims received from petitioner 18,416 number of applications were already received through cooperative societies and found duplicate and 524 application rejected and 2,442 applications were accepted and a revised claim of Rs.240 Crore has been submitted to the Hon'ble National Green Tribunal, Southern Zone.

10) It is respectfully submitted that , As per the orders of Hon'ble High Court, Madras in W.P. No.2979 of 2018 and W.P. No.2979.of 2018 an amount of Rs.141 Crores (Including Rs.10 Crore for restoration works) received from


Additional Director of Fisheries,
Marine
Chennai-600 035

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steamship on 28.03.2018. An Irrevocable B.G. worth 84 crore also obtained from the Shipping company as per the court directive.

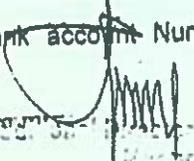
11) It is respectfully submitted that so far, A Relief Recommendation Committee with 6 members under the Chairmanship of Additional Director of Fisheries was formed to suggest suitable ways to calculate the compensation amount to different categories of fisher folk affected by oil spill.

Sl.No	Name of the Officer	
1.	Additional Director of Fisheries/ Managing Director -TAFCOFED	Member
2.	Joint Director of Fisheries(Regional), Chennai	Member
3.	Assistant Director of Fisheries, Thiruvallur	Member
4.	Assistant Director of Fisheries, Chennai	Member
5.	Assistant Director of Fisheries, Fishing Harbour Management Wing, Chennai	Member
6.	Assistant Director of Fisheries, Kancheepuram	Member

12) It is respectfully submitted that, The Relief Recommendation Committee recommended seven categories to give compensation amount as given below:

Sl.No	Name of the Category	Recommended amount by committee (Rs)
1.	Fishing Laborer	12,000
2.	Fisherwomen in Fisheries allied activities	10,000
3.	Allied Activity Laborer	10,000
4.	Fish Vendors	10,000
5.	Motorised Boat Owner	20,000
6.	Non Motorised Boat Owner	15,000
7.	Mechanized Boat Owner	35,000

13). It is respectfully submitted that, Bank data format with all the details i.e. with society number, ration card number, Bank account Number and


Secretary

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Aadhar number was prepared and completed deduplication process was done to eliminated multiple entries. After deduplication process the relief amount has been disbursed directly to the bank accounts of claimants though ECS.

21. It is respectfully submitted that, The disbursement of relief amount to claimants started from 25.04.2018. As on date, the relief amount disbursed to the claimants is detailed below:

Name of the Category	No. of persons received relief amount	Amount released per head	Total Relief amount (in lakhs)
Fishing Laborer	43,564	12,000	5,227.68
Fisherwomen in Fisheries allied activities	44,719	10,000	4,471.90
Allied Activity Laborer	1,691	10,000	169.10
Fish Vendors	8,737	10,000	873.70
Motorised Boat Owner	5,024	20,000	1,004.80
Non Motorised Boat Owner	323	15,000	48.45
Mechanized Boat Owner	914	35000	319.90
Total	1,04,972		12,115.53

14). It is respectfully submitted that, the remaining 6,475 beneficiaries relief will be disbursed after the receipt of Aadhar details and bank details from them.

15). It is respectfully submitted that , Out of total 1,11,447 Oil spill relief claimants, 45,032 Fishermen Cooperative society members, 46,525 fisherwomen Co operative society members who are all involved in Fisheries allied activities, 5,372 Motorised and Non Motorised owners.

16). It is respectfully submitted that , 11,342 non cooperative society members in the following category have been applied for compensation and included in the list.


Additional Director of Fisheries,
Marine
Chennai-600 035

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Relief Disbursement Details of Non Co-operative Members as on date (09.03.2019) :

Sl.No	Name of the Category	No of Beneficiaries	Total Relief amount (in Lakhs)
1.	Vendors	8,737	873.70
2.	Allied activities	1,691	169.10
3.	Mechanized boat owners	914	319.90
	Total	11,342	1,362.7

17). It is submitted that co-operative society members and all non-cooperative society members who suffered loss due to oil spill are covered. Sufficient time from 22.02.2017 to 30.03.2017 and as per the Honourable Green Tribunal direction applications were received up to 10.8.2017. Hence the petitioner contention that non- society members were not considered for compensation is not correct.

18). As per the census of 2010, a total number of 37,829 families has been recorded in Thiruvallur, Chennai and Kancheepuram Districts. Oil spill compensation application has been received from 1,11,448 fishers. Hence, the petitioner contention fishermen were excluded in Thiruvallur, Chennai and Kancheepuram district is not correct. Wide and ample opportunity was given to all to file claims to all the fishermen affected by oil spill and the entire process was monitored by Honourable NGT and the process was updated to Honourable NGT.

Hence based on the facts explained above, it is humbly prayed that this Hon'ble Court may please accept the affidavit and thus render justice.

Solemnly affirmed and signed his name in my presence at Chennai, this the _____ day of February 2019


Additional District Collector
Chennai

Before me

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DISTRICT

HIGH COURT, MADRAS

W.P. No. of 20

COUNTER - AFFIDAVIT

*Dr
in
com*

**GOVERNMENT PLEADER
(WRITS)**

11/09/19
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IN THE HIGH COURT OF JUDICATURE AT MADRAS
(SPECIAL ORIGINAL JURISDICTION)
W.P.NO. 11623 OF 2018

1. M.E.Raja,
National Secretary,
National Union of Fishermen (Regd no.1512/1985)
No.26, A.J.Colony, 2nd street,
Royapuram, Chennai-13.

..... Petitioner

Versus

1. The State of Tamil Nadu
Represented by its Principal, Secretary to Government,
Environment and Forest Department,
Fort St. George, Secretariat, Chennai
2. The Director of Fisheries,
Integrated Office Building,
571, Anna Salai, Nandanam,
Chennai 600 035
3. The Director General of Shipping,
Beta Building, 9th Floor,
I-Think Techno Campus,
Kanjurmarg (East)
Mumbai - 400 042.

..... Respondents

COUNTER AFFIDAVIT FILED BY THE 2ND RESPONDENT

I, Dr. G.S. Sameeran, S/o T.K.Suresh Kumar, being the Director of Fisheries, DMS complex, Nandanam, Chennai - 600 035 do hereby solemnly affirm and sincerely state as follows:-

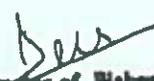
I am the second respondent herein and the second defendant in the above writ petition and as such I am well acquainted with the facts of this case from the available records. I am filing this status report on the directions of the Hon'ble High Court of Judicature at Madras dated:13.03.2019.

It is humbly submitted that the original application is not at all maintainable either in law or on facts.

1. I submit that, two Merchant ships viz. M.T. BW Maple and M.T. Dawn Kancheepuram accidentally collided off the Kamarajar Port, Ennore, Tamil Nadu on 28.1.2017. Due to this accident, there was an oil spill of bunker oil which spread across the sea and the seashores of Thiruvallur, Chennai and Kancheepuram districts of Tamil Nadu.

2. I submit that, teams have been constituted with Fisheries Department officials in order to assess the exact quantum of loss sustained by the fishermen, claim forms duly approved by the Insurance company of the Shipping companies were distributed to fishermen Cooperative Society members and to various sectors such as Fishing labourer, Fisherwomen in


Additional Director of Fisheries
Marine
Chennai-600 035


Director of Fisheries
Chennai - 600 035

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Fisheries allied activities, Allied activity labourer, Fish vendors, owners of Motorized boats, Non-motorized boats and Mechanized boats.

3. I submit that, based on the team report, claims were consolidated for each fishermen co-operative society and a proposal was sent to Government for Rs.203.225 Crore for providing compensation to 1,12,051 affected fishermen. Accordingly the Government of Tamil Nadu preferred a claim for compensation relief assistance of Rs.203.225 Crore.

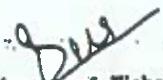
4. I submit that, meantime, petitions were filed before the Hon'ble National Green Tribunal, Southern Zone at Chennai by Meenavar Thanthai Selvaraj kumar with application O.A. No.14 of 2017. The Hon'ble National Green Tribunal directed the Department to permit the affected persons to make their claim up to 10.8.2017 and make required study, conduct enquiries to arrive at an appropriate quantum of compensation to be recovered from the ship owners.

5. I submit that, based on the directions of the Hon'ble National Green Tribunal, a team with the officials of the Fisheries Department was constituted to receive the applications from the affected fishermen who have not filed their claim earlier. Based on the scrutiny of applications received on the direction of Hon'ble National Green Tribunal, Southern Zone, 2,442 applications were accepted and revised compensation proposal for Rs.240.07 crore to the affected 1,11,448 fishermen of Tiruvallur, Chennai and Kanchipuram coastal districts including 11,342 non co-operative society members in the category of mechanized boat owners, vendors and allied activities have been arrived and submitted to the Hon'ble National Green Tribunal, Southern Zone.

6. I submit that, as per the orders of Hon'ble High Court, Madras in W.P. No.2979 of 2018 and W.P. No.2979 of 2018 an amount of Rs.141 Crores (Including Rs.10 Crore for restoration works) received from steamship on 28.03.2018. An irrevocable Bank Guarantee worth Rs.84 crore was also obtained from the Shipping company as per the court directions.

7. I submit that, based on the recommendations of the Relief Recommendation Committee constituted under the chairmanship of Additional Director of Fisheries / Managing Director, TAFCOFED, the relief amount was disbursed to the applicants is detailed below:


Additional Director of Fisheries
Marine
Chennai - 600 035


Director of Fisheries
Chennai - 600 035

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Name of the Category	No. of persons received relief amount	Amount released per head	Total Relief amount (in lakhs)
Fishing Laborer	43,564	12,000-	5,227.68
Fisherwomen in Fisheries allied activities	44,719	10,000-	4,471.90
Allied activity Labours	1,691	10,000-	169.10
Fish Vendors	8,737	10,000-	873.70
Motorised Boat Owner	5,024	20,000-	1,004.80
Non-Motorised Boat Owner	323	15,000-	48.45
Mechanized Boat Owner	914	35,000-	319.90
Total	1,04,972		12,115.53

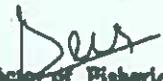
8. It is respectfully submitted that, out of 1,11,448 beneficiaries relief assistance of Rs.12115.53 lakh has been disbursed to 1,04,972 beneficiaries including 11,342 non- society members, for remaining 6,475 beneficiaries relief assistance will be disbursed after the receipt of Aadhar details and bank details from them. Oil spill compensation application has been received from 1,11,448 fishers.

9. I submit that, meanwhile, Thiru M.E.Raja, National Secretary, National Union of Fishermen, Royapuram, Chennai has filed a Writ petition (No.11623 of 2018) before the Hon'ble High Court of Madras seeking directions to the respondents to grant compensation to the fishermen from the three district of Chennai, Kanchipuram and tiruvallur affected by the Oil spill caused on 28.1.2017 without insisting for membership from Fishermen Societies.

10. With reference to the above case, I submit that, the Hon'ble High Court of Madras in its order dated:13.03.2019, has directed Director of Fisheries, Chennai "to carry out cross verification of the applications to be received with the particulars already available with them duly assisted by the Assistant Director of Fisheries, Royapuram with the details of the names of the erstwhile members of National Union of Fishermen NUF in pages from 58 to 140 of the typed set of papers filed along with the Writ Petition."

Further, the Hon'ble High Court has further directed the Petitioner to furnish the details of the applicants, so as to facilitate the exercise to be done within a period of one week from today i.e., 13.03.2019 and also directed the Director of Fisheries, to file a detailed report, after due verification within a period of 3 weeks thereafter.


Additional Director of Fisheries
Marine
Chennai - 600 035
9 00m


Director of Fisheries
Chennai - 600 035

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11. I submit that, in accordance with the directions of the Hon'ble High Court, the petitioner has to furnish the details / applications of the affected fishermen of Thiruvallur, Chennai and Kanchipuram Districts by 19.03.2019. Though the Petitioner's association has submitted list of 7077 new members for relief to Hon'ble High Court of Madras, the petitioner's association has submitted only 6112 nos of applications to this department for cross verification on various dates mentioned below:-

Sl.No	Date	No. of application received
1.	19.03.2019	2,099
2.	25.03.2019	3,362
3.	26.03.2019	651
	Total	6,112

12. I submit that, enactment of the directions of the Hon'ble High Court, 3 verification teams have been constituted under the monitoring of Joint Director of Fisheries (Regional) Chennai for cross verification of the applications received from the members of the petitioner's association with the particulars already available with the Assistant Director of Fisheries Chennai, Thiruvallur and Kanchipuram. The teams have verified the applications and reported that out of 6112 applications received, 3171 applicants have already obtained oil spill relief assistance. But, there are 2941 fresh applications seeking oil spill relief assistance. Hence, out of 6112 applications, 3171 applications have to be rejected.

Though 2941 individual applications have been received, the applicant or the said petitioner association has failed to furnish the proof of details of applicants engaged in fish trade/ allied activities at the time of oil spill incident and about their loss due to oil spill incident. Merely details of names of the applicants, address, Aadhar no and bank account details have been provided in the application and hence the genuineness of the above said 2941 applications couldn't be ascertained.

The District wise status report of applications received from the members of the petitioner's association is given below:-

Sl.No	Name of the District	Applications Received	Already Benefited	New beneficiaries
1.	Thiruvallur	983	283	700
2.	Chennai	5082	2884	2198
3.	Kanchipuram	33	4	29
4.	Others	14	0	14
	Total	6112	3171	2941

Additional Director of Fisheries
Marine

Director of Fisheries
Chennai - 600 035

(30)

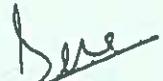
13. I submit that, more than 50% of the total applicants have already received relief assistance under oil spill compensation, it is evident that the contention of the petitioner to get relief assistance from the Government to ineligible person and misleading the Hon'ble High Court of Madras by suppressing the facts.

14. I submit that, in order to assess the exact quantum of loss sustained by the fishermen, extensive publicity were provided towards issuance of claim forms duly approved by the Insurance company of the Shipping companies. Wide publicity was made through announcement in auto rickshaw by the staff of Fisheries Department.

15. I submit that, sufficient time from 22.02.2017 to 30.03.2017 and as per the direction of the Hon'ble National Green Tribunal, Southern Zone, applications were received upto 10.08.2017. Applications from the affected fishermen / persons were received for more than a period of 6 months. Claim forms were distributed to Fishermen/fisherwomen Cooperative Society members and to various sectors such as Fishing Labourer, Fisherwomen in Fisheries allied activities, Allied Activity Labourer, Fish Vendors from the owners of motorised boats, Non - motorised boat and Mechanized boats. Wide and ample opportunity was given to file the claims to all fishermen affected by oil spill and the entire process was monitored by Hon'ble National Green Tribunal and the process was updated to Hon'ble National Green Tribunal. It is submitted that the oil spill compensation has been given in a fair and transparent way.

16. It is respectfully submitted to the kind notice of the Hon'ble High Court that since wide publicity was given among the fisherfolk of three districts about submission of claim applications for a period of more than 6 months and 3171 members from the Petitioner's association have already been applied and received oil spill relief assistance, there is no possibility of omission of claim from affected fisherfolk, as alleged by the petitioner. The request of the petitioner to grant compensation to the fishermen/ person affected by oil spill without the proof of details of applicants engaged in fish trade/ allied activities at the time of oil spill incident and about their loss due to oil spill incident will lead to submission of more and more applications from ineligible persons which is totally against the directions of the Hon'ble National Green Tribunal.


Additional Director of Fisheries
Marine
Chennai - 600 035


Director of Fisheries
Chennai - 600 035

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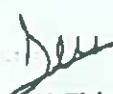
17. I submit that the disbursement of relief amount to the fishermen affected due to oil spill had commenced since 25.4.2018 and as on date Rs.12115.53 lakh has been disbursed to 1,04,972 beneficiaries including 11,342 non-society members. It is also evident that the petitioner has submitted new applications after a period of 11 months from the date of disbursement of oil spill relief with an intention to receive relief to the applicants who are not at all related to fishing activity and to misappropriate Government funds. Hence there is no chance of leaving any affected fishers within the stipulated time (more than six months) and as much as the new applicants may not be related to fishing activity. Hence, it is not feasible to consider the request of the fresh applicants and to accept the demand of the petitioner after the completion of more than two years from the date of incident.

18. Further, I submit that, since this issue is being closely monitored by the Hon'ble National Green Tribunal and progress of disbursement of relief assistance to fishermen affected due to oil spill incidents are reported to Hon'ble NGT, the claim of the petitioner should be summarily rejected.

It is submitted that, in the circumstances and reasons stated above, it is humbly prayed that this Hon'ble Court may be please to dismiss the Writ Petition which is devoid of facts and merits and thus render justice.

Solemnly affirmed at Chennai
on this Tenth day of April
2019 and signed his name in
my presence

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Director of Fisheries
Chennai - 600 035

BEFORE ME,
ADVOCATE, CHENNAI


Additional Director of Fisheries
Marine
Chennai-600 035

Director of Fisheries
Chennai - 600 035

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IN THE HIGH COURT OF
JUDICATURE AT MADRAS
(SPECIAL ORIGINAL JURISDICTION)
W.P.NO. 11623 OF 2018

COUNTER AFFIDAVIT

COUNSEL FOR RESPONDENTS

Status Report on Oil Spill

- > Two Merchant ships viz. M.T. BW Maple and M.T. Dawn Kancheepuram accidentally collided off the Kamarajar Port, Ennore, Tamil Nadu on 28.1.2017. Due to this accident, there was an oil spill of bunker oil which spread across the sea and the seashores of Thiruvallur, Chennai and Kancheepuram districts, Tamil Nadu.
- > In order to assess the exact quantum loss sustain by the fishermen, claim forms duly approved by the insurance company were distributed to fishermen through the fishermen co operative societies concerned. Applications were collected from 22.02.2017 to 30.03.2017. 18 teams with more than 65 officials of Department of Fisheries were constituted to collect and collate the claim preferred by the fishermen. The claim was consolidated for each fishermen co operative society.
- > The team reports were consolidated and the proposal was sent to Government for Rs.230.07 crore for providing compensation to 1,12,051 affected fishermen. However, the estimated operational cost of Rs.26.85 Crore for Mechanised boat and country craft was reduced from total claim of Rs.230.07 Crore. Accordingly the Government of Tamil Nadu preferred a claim for compensation relief assistance of Rs.203.225 Crore.
- > Considering the time delay in getting compensation from insurance companies and in view of livelihood loss of the fisherman and to provide immediate relief, the State Government vide Government Order (Ms.) No.58, Animal Husbandry Dairying and Fisheries (FS3) Department dated 03.03.2017, sanctioned a sum of Rs.15 crore at the rate of Rs.5000/- each to the 30,000 affected fishermen families. The same has been disbursed to bank accounts of 29769 beneficiaries.
- > Apart from this, a sum of Rs.75.00 lakh has been sanctioned by the Govt. of Tamil Nadu as advance in anticipation of release of funds under corporate social responsibility as agreed by the shipping companies towards the construction of fish markets at Ernavoor in Thiruvallur district and Nochikuppam in Chennai district. The shipping companies has released a sum of Rs.97,95,682/- (Rupees ninety seven lakhs ninety five thousand six hundred and eighty two only) on 24.03.2017 under Corporate Social Responsibility as agreed by the shipping companies.
- > In addition the P&I insurers of MT Dawn Kancheepuram had released an advance amount of Rs.15 Crore and the same has been remitted into Government's account.

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- > In the mean time, petitions were filled before the Hon'ble National Green Tribunal, Southern Zone at Chennai by Meenavarthanthai Selvarajkumar with application O.A. no.14 of 2017. The Hon'ble Tribunal impleaded the principal secretary, AHD&F as respondent in the original application OA No 14. The Hon'ble Tribunal directed the Department to permit the affected persons to make their claim up to 10.8.2017 and make required study, conduct enquiries to arrive at an appropriate quantum of compensation to be recovered from the ship owners.
- > On the directions of the Hon'ble Tribunal, a team with the officials of the Fisheries Department was constituted to receive the applications from the affected fishermen who have not filed their claim earlier. Based on the scrutiny of applications received on the direction of Hon'ble National Green Tribunal, Southern Zone out of 21382 claims received from petitioner 18416 number of applications found to be duplication with the application already received through cooperative societies and 524 application rejected due to various reasons and 2442 applications accepted and a revised claim of Rs.240 Crore has been submitted to the Hon'ble National Green Tribunal, Southern Zone. The case is pending before the Hon'ble National Green Tribunal, Southern Zone.
- > Thiru.M.Vijesh, General Secretary, Chennai-Chengai Singaravelar Visaipadagu, Vurimaiyalargal Sangam filed W.P No.5820/2017 before Hon'ble High Court, Madras. The Hon'ble Madras High Court has disposed the petition with a direction to prefer their claim with Department of Fisheries, in accordance with the orders of the Hon'ble National Green Tribunal.
- > The Owners of M.T.Dawn Kancheepuram filed W.P. No.2979 of 2018 before Hon'ble High Court, Madras for grants of Port clearance to allow the vessel M.T.Dawn Kancheepuram to be towed to Vishakapattinam to carry out the repairs. Final order was passed by the court on 13.02.2018 permitting the release of the ship, subject to furnishing of conditional and irrevocable bank guarantee for a sum of Rs.188 Crore in favour of the Director of Fisheries within a period of seven days.
- > The Steam ship Mutual, the P&I insurers of Dawn Kancheepuram in its letter dated 13.12.2017, offered to secure the fisheries claim directly for a total amount of Rs.141 Crore with a condition that the fisheries department confirm a claim amount of Rs.131 Crore including the restoration claim of Rs.10 Crore during the hearing on the 14th December 2017 at the Hon'ble National Green Tribunal,

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Southern Zone. The case came up for hearing on 14.12.2017 and adjourned till 30.01.2017.

- > The writ petitioner U.K.P & I club and the steamship mutual under writing association prayed for modification of the order passed by the court on 13.02.2018 in W.P.No.2979 of 2018.
- > Accordingly the court modifies the order passed by the learned single Judge in W.P. No.2979 of 2018 dated 13.02.2018 as follows in C.M.P. No.5302 of 2018 in W.A.No.537 of 2018.
- > The U.K. P&I Club, on behalf of the owners of LPGC BW Maple and the M.T.Dawn Kanchipuram, shall deposit a sum of rs.141, crores, strictly without prejudice, towards the various claims lodged by the fishermen and their Associations for a sum of Rs.240 Crores, preferred by the Government of Tamil Nadu, including the restoration claims of Rs.10 Crores, with such deposit being made within the 14 days from the date on which an order is passed and also arrange for the execution of a Bank Guarantee for a sum of Rs.84 Crores (Rs.99 crores less Rs.15 crores paid earlier by the steamship Mutual Underwriting Association Limited) in favour of Government of Tamil Nadu represented by the Director of Fisheries within 21 days and as per the direction of Hon'ble Green Tribunal, Southern Zonal Bench in Application Nos.14,16,38 and 40 of 2017, the Fisheries Department, Government of Tamil Nadu, to entertain, appraise and disburse the claims of the fishermen and their Associations, the Government of Tamil Nadu would do so upon the sum of Rs.141 Crores being deposited with them.
- > As per the orders of Hon'ble High Court, Madras an amount of Rs.141 Crores received from steamship on 28.03.2018. An irrevocable B.G. worth 84 crore will also be obtained from the Ship company as per the court directive.
- > A committee with 6 members under the Chairmanship of Additional Director of Fisheries was formed to suggest suitable ways to calculate the compensation amount to different categories of fisher folk affected by oil spill viz., Fishing labourers, Fisherwomen engaged in fishing allied activities, fish vendors, Fisheries allied activity labourer, Mechanized fishing boat owner, Motorized country craft owner and non motorized country craft owner.
- > Fisheries Department, Government of Tamil Nadu is taking appropriate steps to disburse the amount of Rs.131 Crores to the Oil spill affected claimants through their Bank Account.

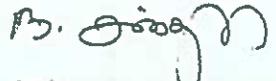
(86)

> Meanwhile a committee was formed to prepare bank data format. Bank data format with all the details i.e. with society number, ration card number, Bank account Number and Aadhar number was prepared for the deduplication process. After deduplication process the relief amount has been disbursed to the claimants as follows:

Name of the Category	No. of persons received relief amount	Amount released per head	Total Relief amount
Fishing Laborer	41598	12000	499176000
Fisherwomen in allied	39195	10000	391950000
Allied Activity Laborer	1373	10000	13730000
Fish Vendors	6168	10000	61680000
Motorised Boat Owner	3955	20000	79100000
Non Motorised Boat Owner	270	15000	4050000
Mechanized Boat Owner	775	35000	27125000
Total	92844		1076611000

The remaining beneficiaries relief will be disbursed as soon as we get bank data details from them. Out of total 1,11,447 beneficiaries 44,719 Fishermen Cooperative society members, 47,145 fisherwomen allied activities Co operative members and 14,340 non cooperative society members in the category mechanized boat owners, vendors and allied activities have been applied for compensation and included in the list.

Out of 14,340 beneficiaries list. 6168 no. of vendors, 775 mechanized boat owners, 1373 no. of allied activities labourers in all three districts have been received appropriate relief amount till date. The remaining will also get the relief amount after the submission of aadhar number and deduplication process through NEFT.


Joint Director of Fisheries
(Regional), Chennai-29

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IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 07.06.2019
CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.11623 of 2018
and WMP No.13628 of 2018

M.E.Raja
National Secretary,
National Union of Fishermen (Regd.No.1542/P985)
No.26, A.J.Colony,
2nd Street, Royapuram,
Chennai - 600 013.
Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
Environment and Forest Department,
Fort St. George Secretariat, Chennai.
2. The Director of Fisheries,
485, 5th Floor, MTB Building,
Anna Salai, Anna Colony,
Nandanam, Chennai.
3. The Director General of Fisheries,
Beta Building, 9th Floor,
I-Think Techno Campus,
Kanjurmarg (East)
Mumbai - 400 042.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the
Constitution of India, issuance of a writ of mandamus,
directing the respondents 1 and 2 to grant compensation to
the fishermen from the three districts of Chennai,
Kanchipuram, Thiruvallur affected by the Oil Spill caused on
28.01.2017 without insisting for Membership from Fishermen
Societies.

For Petitioners : Mr.M.Nandakumar
For Respondents : Mr.E.Manoharan
R1 and R2 Additional Government Pleader

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O R D E R

(Order of this Court was made by S.MANIKUMAR, J.)

Claiming to be the Secretary of the National Union of Fishermen, Mr.E.Raja, has filed the instant writ petition for a writ of mandamus, directing the Principal Secretary to the Government, Environment and Forest Department, Chennai and the Director of Fisheries, Chennai, respondents 1 and 2 respectively, to grant compensation to the fishermen from three districts, viz., Chennai, Kanchipuram, Thiruvallur, said to be affected by the Oil Spill caused on 28.01.2017 without insisting for the Membership from Fishermen Societies.

(2) Supporting the prayer sought for in the affidavit to the writ petition, the petitioner has averred as follows:

(i) As per the information obtained through various press releases and on direct investigation, on 28th January 2017, two ships/vessel collided near Ennore Port, Chennai within the territorial waters of India and this resulted in leakage of crude oil from the vessel 'DANA KANCHIPURAM', which is reported to be a fully loaded tanker vessel carrying tonnes of oil and the said vessel is weighing a Gross Tonnage of 29141 tonnes.

(ii) Collision resulted in leakage of oil, which the authorities initially claimed as One-tonne of oil that started spreading on the sea water and within the day, it reached the shores of Ennore beach and Port resulting in death of many turtles and other organisms. Leaking oil on the sea water makes it difficult for the fishes and other organisms to breath, as the oil spill on the water will not allow oxygen to mix with water, resulting in suffocation for marine lives. Also, the viscosity and high adhesive nature of the oil causes it to attach instantly onto all matters except water and remains very difficult to remove from such matters even with the help of soap or other such washing agents. Further, this has completely stopped the fishermen in the region to venture out in the sea, as almost all the fish in sea covered with the oil spill have either died due to oil spill or ran fled away into deep sea. Statutory authorities either had incompetent machines or no machines at all, for cleaning out the oil spill. But it is everyone's knowledge that public spirited citizens have participated in the cleaning operations by using bare hands and water buckets.

(iii) It is revealed that Indian authorities lack even the basic and rudimentary facilities to pump out oil spill and all the measures taken were totally haphazard and they have infact resulted in blowing out the proportions of oil spill to various regions. The workers who had little or no experience faced an Himalayan task of clearing the oil and

the workers also faced life hazard, as they are not equipped with protective measures for themselves to keep safe from the hazards that may arise while cleaning the oil spill. It is also noted that the submersible pumps used by the authorities have broken down due to the heavy and excessive oil spill. The workers were forced to use small pipe hoses to suck oil spill and they were seen using shovel to remove the thick oil spills.

(iv) The respondents ought to have taken cognizance of the accident in pursuance of the clear dictum of Hon'ble Supreme Court of India in Vellore Citizen's Welfare Forum's case on the principle of "polluter pays". Further, as the collision caused very minimal damage to the 7th respondent vessel and at any time it could free away from the Indian waters, hence on 01.02.2017, petitioner filed a writ petition in W.P.No.2662 of 2017 to pass an order of direction to the official respondents to take steps against the ships and to take steps for initiating the prosecution and to recover costs from the erring parties and protect the interests of Indian fishermen and to save sea lives.

(v) When the writ petition was listed before this Court on 03.02.2017 it was reported in the news channels that FIR was registered by the Minjur Police Station against the ships and the official respondents have taken custody of the two ships. Taking cognizance of the public interest involved in the case, this Court passed the following order on 03.02.2017.

"We are of the view that no direction can be issued in the matter except to observe that the State Government may look into the issue urgently to take such steps as deemed proper in the given situation, especially keeping in mind that as per the petitioner there have been some recent developments in terms of registration of FIR and some action post filing of the petition."

(vi) The magnitude of the oil spill is so huge that it can even affect the marine life for many years. For instance, the Florida Oil Spill (known as BP spill) in the year 2010 still had effects on the fishes caught in the area in the year 2015. It is pertinent that Department of Justice had agreed to a record-setting 4.525 billion US Dollars in fines and other payments. The petitioner has further stated that on par with United States, the respondents also should have initiated emergent action to prevent any mischief by oil spill, so that the owners and other parties interested in the vessel can be brought before justice system in India, as the fish catching in the area was reduced, to an extent of 80%, and resulted in loss of livelihood for all the fishermen in the area.

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(vii) In the mean time, the Director General of Shipping, Mumbai, 3rd respondent has granted no objection certificate to release the vessel BW MAPLE, which necessitated the petitioner to file W.P.No.25813 of 2017, challenging the No Objection certificate and this Court disposed of the above writ petition with the following observations,

"21.A report has also been submitted by the Directorate General of Shipping, wherefrom it appears that the collision between the vessels MT DAWN KANCHIPURAM and BW MAPLE resulted in rupture of the tanks on the portside of the vessel MT DAWN KANCHIPURAM, which resulted in oil spill. Both the vessels had been restrained from leaving the Port without permission. In view of the oil spill incident, teams had been mobilised for clean up operations by various authorities and agencies including the Ports, Oil companies, Coast Guard, various departments of the State Government as well as the owner of the vessel MT DAWN KANCHIPURAM. From the report, it appears that the vessel BW MAPLE have provided a bank guarantee of an amount of Rs.203,22,00,000/- (Rupees two hundred and three crore and twenty two lacs only) which, as per this report, covers the sum total of the claims of the fishermen."

27. On the prayer made on behalf of the petitioner as also the vessels, we direct the respective authorities, namely, the police and the Directorate General of Shipping to complete the investigation, including the internal investigation, for fixing the responsibility for the oil spillage, at the earliest, preferably within four (4) weeks commencing from the date of this order."

(viii) Cases are pending against the vessels, before the National Green Tribunal, Chennai for compensation claimed on behalf of fishermen. In the meantime, NGT Southern Bench is not functioning as the office of Presiding Officer fell vacant. In the meantime, owners of the vessel DAWN KANCHIPURAM seemed to have filed a writ petition praying for the release of the vessel and orders were passed in WP.No.2979 of 2018/as against which the writ petitioner therein had preferred a writ appeal in WA No.537 of 2018.

(ix) The petitioner has contended that it seems that a compromise was entered into between the two vessels and thereby a deposit of Rs.141 crores was made to Government of Tamilnadu. From the orders passed in W.A.No.537 of 2018, it transpired that the state government seemed to have written a letter dated 17.01.2018 wherein, Government have agreed to accept the payment of Rs.141 crores without prejudice to the claims of fishermen affected due to oil spill and on making such payment, the bank guarantee made by BW MAPLE for a sum

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of Rs.203,22,00,000/- (Rupees two hundred and three crore and twenty two lakhs only) would be released. The petitioner has contended that he fails to understand as to how in the writ proceedings initiated by the Owners of Dawn Kanchipuram to release their vessel, Bank Guarantee furnished by BW MAPLE, has been directed to be released. In the mean time, another W.P.No.8249 of 2018 was filed, for distribution of compensation to the fishermen and this Court on 12.04.2018 passed the following orders.

"20. Inasmuch as the report has already been submitted by the Secretary to the Department, Fisheries Department, second respondent, we direct scrutiny and approval be granted, as expeditiously as possible. Preparation of de-duplication process be completed as expeditiously as possible. Disbursement of due compensation to those eligible be done by the Director of Fisheries, Chennai, within four weeks from today."

(x) According to the petitioner, even as on the date of the abovesaid orders, the stand of the State Government was that they have yet to finalise the claims of the fishermen and this makes a reasonable apprehension by any prudent man as to how in the month of January 2018, the State Government have agreed to accept a sum of Rs.100 crores as compensation. Be that as it may, on 21.04.2018, the state government have started distribution of compensation.

(xi) Even as on today, respondents 1 and 2 have not published the names of the fishermen entitled for compensation and there is no transparent method followed by the respondents 1 and 2. The petitioner fails to understand as to how the list was prepared without even hearing the grievances of the fishermen. There was no public notice for any public hearing or public opinion to spell out the grievances of the fishermen. Hence there is imminent need for transparency in awarding compensation to the fishermen.

(xii) The Director of Fisheries, Chennai, 2nd respondent has informed the writ petitioner and other officer bearers that the fishermen holding membership in the Fishermen Societies alone will be given compensation, but boat owners, even without membership were given compensation. It is pertinent to point out that the membership to the Societies have been stopped for eight years and therefore, as on today, all the fishermen aged from 18 to 23 are not the members of the society and all of them have been denied compensation. Further, there is a age limit, to become a member, in the society and anyone crossing the age of 60 will be stripped off their membership. However, it is a ground reality that fishermen continue to do their work even after 60 years of age as it is their only livelihood and there is no benefit for their old age. All the fishermen aged more than 60 are also not given compensation.

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(xiii) On 20.04.2018, on hearing the news about the disbursement of compensation in the news channels, the petitioner has submitted a memorandum of representation to the Director of Fisheries, Chennai, 2nd respondent, in person to consider the grant of compensation to the fishermen who are not members of the fishermen societies. There are more than one lakh fishermen in the three districts of Chennai, Thiruvallur and Kanchipuram, without Membership of the Fishermen Societies, whereas all of them have their Fishermen Cards issued by the authorities. Therefore there is no reason to exclude the fishermen from grant of compensation who are not holding the membership of the fishermen societies.

③. Status reports were filed by the Joint Director of Fisheries (Regional), Chennai, and Additional Director of Fisheries, Marine, Chennai. Thereafter, on 13.03.2019, this Court passed the following orders.

"In a public interest writ petition No. 8249 of 2018, filed by one Meenava Thathai K.R. Selvaraj Kumar, represented by its President Mr. M.R. Thiagarajan, but subsequently vide order, dated 12/4/2018, treated as suo motu writ petition and taking note of an earlier order of this Court made in W.A. No. 537 of 2018 dated 13/3/2018, the Hon'ble Division Bench of this Court, to which one of the parties Mr. Justice S. Manikumar, passed the following order:-

"On writing the objection of this Court to a decision of the Hon'ble Division Bench, in W.A. No. 537 of 2018, dated 13/3/2018, learned Additional Government Pleader submitted that Indian Ocean Shipping Private Limited, Mumbai and Owners of BW MAPLE, Appellant, and fourth respondent, respectively, in W.A. No. 537 of 2018, have entered into a compromise, dated 2/3/2018. Joint Memo of Compromise dated 2/3/2018, reads as follows:-

"1. The U.K. P & I Club, on behalf of the Owners of LPGC BW Maple and the M.T. Dawn Kanchipuram, shall deposit a sum of Rs. 141 Crores, strictly without prejudice, towards the various claims lodged by the fishermen and their Associations for a sum of Rs. 240 Crores, preferred by the Government of Tamil Nadu, including the restoration claims of Rs. 10 Crores, with such deposit being made within 14 days from the date on which an order is passed by this Hon'ble Court in this Memo.

2. To secure the remaining claims out of the total claim of Rs. 240 Crores preferred by the Government of Tamil Nadu before the Hon'ble National Green Tribunal, Southern Zonal Bench and in addition to what is stated in paragraph 1

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above, the U.K. P & I Club and the Steamship Mutual Underwriting Association Limited, shall, on behalf of the Owners of both the LPGC BW Maple and M.T.Dawn Kanchipuram, also arrange for the execution of a Bank Guarantee for a sum of Rs.84 Crores (Rs.99 Crores less Rs.15 Crores paid earlier by the Steamship Mutual Underwriting Association Limited) in favour of Government of Tamil Nadu represented by the Director of Fisheries within 21 days from the terms of such Bank Guarantee being mutually agreed.

3. The petitioner shall comply with the condition stipulated by the 1st respondent herein the Memo filed before this Hon'ble Court dated 13.02.2018. The petitioner shall furnish a Bank Guarantee of Rs.5.68 Crores towards the claim of the Department of Environment paid by Kamarajar Port Ltd., as stated in the said memo, within 7 days from the date of receipt of the copy of the order of this Hon'ble Court passed on the memo filed herein and keep the said Bank Guarantee alive until the claim secured by the said guarantee is finally decided by a competent court or settled.

X (the para) 4. Upon compliance of clauses 1, 2 and 3 above, the Director General of Shipping, shall return to the U.K. P & I Club the Bank Guarantee dated 31.08.2017 executed by Kotak Mahindra Bank Ltd., along with the accompanying letter confirming the return/discharge of the said Bank Guarantee at the earliest.

5. Upon compliance with clauses 1, 2 and 3 above, the vessel Dawn Kanchipuram shall be permitted to immediately sail out from Kamarajar Port Ltd., Ennore, and the 2nd and 3rd respondents shall on demand provide their clearance and consent to the 1st respondent so as to enable the Dawn Kanchipuram to sail.

6. Since the Hon'ble National Green Tribunal, Southern Zonal Bench has directed, in Application Nos.14, 15, 38 and 40 of 2017, the Fisheries Department, Government of Tamil Nadu, to entertain, appraise and disburse the claims of the fishermen and their Associations, the Government of Tamil Nadu would do so upon the sum of Rs.141 Crores being deposited with them."

10. Learned Additional Government Pleader further submitted that interim deposit of Rs.15 crores was made. Pursuant to the order of the Hon'ble Division Bench, in W.A.No.537 of 2018, dated 13/3/2018, on 19/3/2018, a Committee with six members under the Chairmanship of Additional Director of Fisheries was formed to suggest suitable ways to calculate the compensation

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amount to be given to different categories of fisher folk affected by Oil spill, viz., fishing labourers, fisherwomen, engaged in fishing allied activities, fish vendors, fisheries allied activity labourer, mechanised fishing boat owner, motorized country craft owner and non motorized country craft owner.

11. Learned Additional Government Pleader further submitted that the said Committee has submitted a report. It is also his further submission that a Committee has been formed to prepare blank data format, which contains the details of Society number, ration card number, Bank Account number and Adhar number. De-duplication process is also under preparation. Fisheries Department, Government of Tamil Nadu is taking appropriate steps to disburse the amount of Rs.141 crores to the oil spill affected eligible claimants through their Bank accounts. He further submitted that considering the innumerable applications, reasonable time be granted for disbursement of compensation amount to the eligible category of persons.

12. Heard the learned counsel for the parties and perused the materials available on record.

13. Fact that National Green Tribunal (South Zone, Chennai) is functioning, is admitted. Periodical orders passed by the National Green Tribunal (South Zone), Chennai, in Application Nos. 14, 26, 38 and 40 of 2015, are extracted hereunder.

Order dated 26/4/2015.

"The learned counsel appearing for the applicant in Application No.14/2015 viz., Meenava Thanthai K.R.Selvarajkumar, Meenavar Nala Sangam would submit that in none of the meetings conducted either by the Department of Fisheries or by D.G.Shipping, the said Association was invited. According to him it is because of that reason office bearers of the Association which is registered under Tamil Nadu Societies Registration Act, were unable to participate. It is true that the Department of Fisheries has arrived at a tentative figure of Rs.135.35 crores to be the compensation amount.

Mr.Manoharan, Additional Government Pleader would submit that this amount has been arrived at based on the records available with the State Government. We are of the view that in the light of stand taken by the applicant Association in O.A.No.14 of 2017 that they have not been offered to participate in the public hearing to explain their grievances, the Department of Fisheries

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shall permit the said Association also to putforth their claim. We make it clear that the said Society shall through the Authorised Representative, make it claim to the Department of Fisheries within a period of 2 weeks from today. After receipt of the said claim, the Department of Fisheries after making study, shall fix a date and make an enquiry so as to arrive at an appropriate quantum of compensation to be recovered from the ship owners. Needless to state such claims which may be made by the said Association or any other person shall be substantiated with records.

It is pertinent to note that the aforesaid amount of Rs 135.35 crores has been arrived at by the Department of Fisheries immediately after the occurrence of the incident as it is seen in the letter of Principal Secretary, Animal Husbandry, Dairying & Fisheries Department to Government addressed to the Director General of Shipping, dated 7/2/2017. Therefore, it is incumbent on the part of the Department of Fisheries to arrive at a final amount of compensation to be paid after conducting proper enquiry and finalising the list of person who are affected. We make it clear that any person who is affected shall make his/her application within two weeks from today and shall be finalised by the Fisheries Department so as to arrive at a proper conclusion.

Order dated 12/9/2017

"We have heard the learned counsel appearing for the parties.

Mr. Manoharan, learned Additional Government Pleader submits that around 1,21,051 applications have been received and the process of categorisation and approving of the claims are pending. He also submits that by the next date of hearing the entire particulars relating to the list of persons affected etc., will be furnished before the Tribunal.

We make it clear that the Department of Fisheries shall nominate suitable officers for the purpose of scrutinising and finalising the claims of the applicants and it has to be categorically stated in respect of each of the applicants viz., the nature of claim, amount received so far and other particulars relating to their identify etc., and such particulars shall be expedited and furnished in respect of all the claimants by the next date of hearing. If required, special cell may be created and officers from other Districts may be deputed for the purpose.

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In so far as it relates to the investigation regarding the accident, we have already directed in our letter dated 26/4/2017 that the Government should take appropriate steps for the purpose of conducting investigation by properly trained police officers. In our subsequent order dated 6/7/2017, we have also clarified that the Government should get the assistance from the experts specialised in the field and file a status report on the next date of hearing. The learned Additional Government Pleader would submit that the status report in this regard will be filed on the next date of hearing."

Order dated 8/11/2017

"The learned counsel appearing for the applicant submits that as 10 months have already elapsed from the date of the incident, at least part of the compensation may be paid. When there is a dispute with regard to the identity of the applicants and the details of the damages claimed, we cannot direct payments of interim compensation at this stage. At the same time, taking into consideration of the fact that the incident occurred 10 months earlier, necessary interim payment could be paid where there is no dispute with regard to the identity of the applicants as well as the quantum of damages sustained. The State Government is directed to consider this aspect and decide on the issue of payment of interim compensation, if interim compensation is not so far disbursed."

Order dated 11/12/2017

"It is submitted by Mr. Karan Servan, learned counsel appearing for the applicant that by order, dated 26/4/2017 that a Committee has been constituted to conduct an enquiry about the cause of the accident and a FIR has already been registered and a report would be submitted to the D.G. Shipping and appropriate decision will be taken and report would be filed. A team consisting of properly trained officers were directed to inspect and nothing has been revealed about it before this Tribunal. Respondent No.2 is directed to furnish the stage of the investigation and file the report before the next date of posting.

It is pointed out by Mr. Yogeshwaran, learned counsel appearing for the applicant that the National Oil Spill Disaster Contingencies Plan has to be reviewed by the D.G. Shipping and nothing is done thereafter."

14. On 14/12/2017, Registry of the National Green Tribunal (South Zone), has been directed to place the matter on 30/1/2018. However, for the

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reasons stated supra, there was no hearing thereafter.

15. Section 26 of the National Green Tribunal Act, 2010, reads thus:-

Penalty for failure to comply with orders of Tribunal.

(1) Whoever, fails to comply with any order or award or decision of the Tribunal under this Act, he shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to ten crore rupees, or with both and in case the failure or contravention continues, with additional fine which may extend to twenty-five thousand rupees for every day during which such failure or contravention continues after conviction for the first such failure or contravention: Provided that in case a company fails to comply with any order or award or a decision of the Tribunal under this Act, such company shall be punishable with fine which may extend to twenty-five crore rupees, and in case the failure or contravention continues, with additional fine which may extend to one lakh rupees for every day during which such failure or contravention continues after conviction for the first such failure or contravention. (2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 every offence under this Act shall be deemed to be non-cognizable within the meaning of the said Code.

16. Contention of the petitioner is that his representation dated 10/5/2017 has not been considered and thus, left with no other alternate remedy, he has approached this Court, for the issuance of a writ of mandamus.

17. As rightly pointed out by the learned Additional Government Pleader, after 10/5/2017, National Green Tribunal (South Zone) has passed several orders.

18. Non-disbursement of compensation has been brought to the notice of this Court. Though Section 26 of the National Green Tribunal Act, 2010, envisages penal action for non-compliance of the order or decision of the National Green Tribunal (South Zone), Rs.141 crores has now been deposited with the Government by the insurers of the ships involved and meant for disbursing the same to the above said category of persons. As on date, National Green Tribunal (South Zone) is not functioning. About 1,12,051 applications have been received. We cannot expect all the applicants to move the Principal Bench at Delhi, for suitable orders. Government have already constituted a Committee, which has

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submitted its report. Government is stated to be scrutinising the report of the committee. Blank data format has already been prepared for de-duplication. Taking note of the orders of the National Green Tribunal (South Zone), extracted supra and of the fact that responding to the directions, steps have been taken, though claim of the petitioner is in the nature of public interest, on the basis of the representation, dated 10/5/2017, mandamus cannot be issued. However, having regard to the fact that large number of fishermen are affected, due to the collision of the ships and oil spillage, this Court, in exercise of the powers under Article 226 of the Constitution of India, entertains the suo motu Public-Interest Litigation, based on the information.

19. It is submitted that the Director of Fisheries is the competent authority to disburse the compensation to the eligible persons, and he is not a party. To enable disbursement by a competent authority, in exercise of powers under Article 226 of the Constitution of India, we suo motu implead the Director of Fisheries, Chennai, as ninth respondent.

20. Inasmuch as the report has already been submitted by the Secretary to the Department, Fisheries, Department, second respondent, we direct scrutiny and approval be granted as expeditiously as possible. Preparation of de-duplication process be completed as expeditiously as possible. Disbursement of due compensation to those eligible be done by the Director of Fisheries, Chennai, within four weeks from today.

21. With the above directions, suo motu, public interest writ petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

2. Contending inter alia that National Union of Fishermen, registered under the Trade Unions Act, 1926, had become defunct and that nearly 4000 fishermen, members of the said Society have not been paid adequate compensation, instant writ petition has been filed, to direct the respondents 1 and 2, to grant compensation to the fishermen, from the three Districts - Chennai, Kancheepuram, Thiruvallur, affected by the Oil Spill caused on 28/1/2017, without insisting for Membership from Fishermen Societies.

3. According to the petitioner, Mr.M.E.Raja, members of the said defunct society, were not aware that applications, claiming compensation should be filed within the specified

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date and hence they could not receive compensation, though they have suffered damages.

4. Additional Director of Fisheries, Marine, Chennai, has filed a status report, dated Nil, which is extracted hereunder:-

"3. It is respectfully submitted that two Merchant ships viz., M.T.BW.Maple and M.T.Dawn, Kancheepuram, accidentally collided off the Kamarajar Port, Ennore, Tamil Nadu, on 28/1/2017. Due to this accident, there was an oil spill of bunker oil which spread across the sea and the seashores of Thiruvallur, Chennai and Kancheepuram Districts of Tamil Nadu.

4. It is respectfully submitted that in order to assess the exact quantum of loss sustained by the fishermen, claim forms duly approved by the Insurance company of the Shipping Companies were distributed to fishermen through the Fishermen Cooperative Societies and also from various sectors such as Fishing Labourer, Fisherwomen in Fisheries allied activities, Allied Activity Labourer, Fish vendors from the owners of Motorised Boats, Non Motorised Boat owner and mechanised boats. Applications were collected from 22/2/2017 to 30/3/2017 by teams comprising of 65 Department of Fisheries officials. The claims were consolidated for each fishermen cooperative.

5. It is respectfully submitted that the team reports were consolidated and the proposal was sent to Government for Rs.203.225 crores for providing compensation of Rs.12.0511 affected fishermen. Accordingly, the Government of Tamil Nadu preferred a claim for compensation and relief assistance of Rs.203.225 crore.

6. It is respectfully submitted that considering the ~~4-7~~ time delay in getting compensation from insurance companies and in view of livelihood loss of the fisherman and to provide immediate relief, the State Government vide Government Order (MS) No.88 Animal Husbandry, Dairying and Fisheries (BS) Department dated 3/8/2017 sanctioned a sum of Rs.15 crore at the rate of Rs.5,000/- each to the 30,000 affected fishermen families. The same has been disbursed to bank accounts of 29,769 beneficiaries.

7. It is respectfully submitted that apart from this, a sum of Rs.75.00 lakh has been sanctioned by the Government of Tamil Nadu as advance in anticipation of release of funds under Corporate Social Responsibility (CSR) fund as agreed by the shipping companies towards the construction of fish markets at 2 places. The

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Shipping companies has released a sum of Rs.97,95,682/- (Rupees Ninety seven lakhs ninety five thousand six hundred and eighty two only) on 24/3/2017 under Corporate Social Responsibility Fund as agreed by the shipping companies.

8. It is respectfully submitted that in the meantime, petitions were filed before the Hon'ble National Green Tribunal, Southern Zone at Chennai by Meenavarthanthal Selvarajkumar with application O.A.No.14 of 2017. The Hon'ble Tribunal, directed the Department to permit the affected persons to make their claim upto 10/8/2017 and make required study, conduct enquiries to arrive at an appropriate quantum of compensation to be recovered from the ship owners.

9. It is respectfully submitted that on the directions of the Hon'ble Tribunal, a team with the officials of the Fisheries Department was constituted to receive the applications from the affected fishermen who have not filed their claim earlier. Based on the scrutiny of applications received on the direction of Hon'ble National Green Tribunal, Southern Zone out of 23,382 claims received from petitioner 18,415 number of applications were already received through Cooperative Societies and found duplicate and 524 applications rejected and 22 applications were accepted and a revised sum of Rs.240 crores has been submitted to the Hon'ble National Green Tribunal, Southern Zone.

10. It is respectfully submitted that as per the orders of Hon'ble High Court, Madras in W.P.No.2979 of 2018 and W.P.No.2979 of 2018, an amount of Rs.141 crores (including Rs.10 crore for restoration works) received from steamship on 28/3/2018. An irrevocable B/L worth 84 crore also obtained from the Shipping Company as per the Court directive.

11. It is respectfully submitted that so far, a relief recommendation Committee with 6 members under the Chairmanship of Additional Director of Fisheries was formed to suggest suitable ways to calculate the compensation amount to different categories of fisher folk affected by oil spill.

S.No.	Name of the Officer	
1	Additional Director of Fisheries/Managing Director - TAFCOFED	Member
2	Joint Director of Fisheries (Regional), Chennai	Member

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S.No.	Name of the Officer	
3	Assistant Director of Fisheries, Thiruvallur	Member
4	Assistant Director of Fisheries, Chennai	Member
5	Assistant Director of Fisheries, Fishing Harbour Management Wing, Chennai	Member
6	Assistant Director of Fisheries, Kancheepuram	Member

12. It is respectfully submitted that the Relief Recommendation Committee recommended seven categories to give compensation amount, as given below:-

S.No.	Name of the Category	Recommended amount by Committee (Rs.)
1	Fishing Laborer	12,000
2	Fisherwomen in Fisheries Allied activities	10,000
3	Allied Activity Laborer	10,000
4	Fish Vender	10,000
5	Motorised Boat Owner	20,000
6	Non Motorised Boat Owner	15,000
7	Mechanised Boat Owner	35,000

13. It is respectfully submitted that Bank data format with all the details i.e., with society number, ration card number, Bank account number and Aadhar number was prepared and completed deduplication process was done to eliminate multiple entries. After deduplication process, the relief amount has been disbursed directly to the bank accounts of claimants through EGS.

It is respectfully submitted that the disbursement of relief amount to claimants started from 25/4/2018. As on date, the relief amount disbursed to the claimants is detailed below:-

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Name of the category	No. of persons received relief amount	Amount released per head	Total relief amount (in lakhs)
Fishing Laborer	43,564	12,000	5,227.68
Fisherwomen in Fisheries allied activities	44,719	10,000	4,471.90
Allied activity Laborer	1,691	10,000	169.10
Fish vendors	8,787	10,000	878.70
Motorised Boat owner	5,024	20,000	1,004.80
Non-Motorised Boat owner	323	15,000	48.45
Mechanised Boat owner	914	35,000	319.90
Total	1,04,972		12,115.23

14. It is respectfully submitted that the remaining 5,475 beneficiaries relief will be disbursed after the receipt of Aadhar details and bank details from them.

15. It is respectfully submitted that out of total 1,11,442 oil spill relief claimants, 45,032 fishermen cooperative society members, 46,525 fisherwomen Co-operative Society members who are all involved in Fisheries allied activities, 5,372 motorised and non-motorised owners.

It is respectfully submitted that 17,342 non-cooperative society members in the following category have been applied for compensation and included in the list.

Relief disbursement details of non co-operative members as on date (9/3/2019)

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S.No.	Name of the category	No. of beneficiaries	Total Relief amount (in lakhs)
1	Vendors	8,737	873.70
2	Allied activities	1,691	169.10
3	Mechanised boat owners	914	319.90
	Total	11,342	1,362.70

17. It is submitted that co-operative society members and all non-cooperative society members who suffered loss due to oil spill are covered. Sufficient time from 22/2/2017 to 30/3/2017 and as per the Hon'ble Green Tribunal, direction applications were received upto 10/8/2017. Hence the petitioner contention that non-society members were not considered for compensation is not correct.

18. As per the census of 2010, a total number of 77,829 families has been recorded in Thiruvallur, Chennai and Kancheepuram Districts. Oil Spill compensation application has been received from 1,11,448 members. Hence, the petitioner contention fishermen were excluded in Thiruvallur, Chennai and Kancheepuram District is not correct. Wide and ample opportunity was given to all to file claims to all the fishermen affected by oil spill and the entire process was monitored by Hon'ble NGT and the process was updated to Hon'ble NGT " 5. That apart, Mr. E. Manoharan, learned Additional Government Pleader submitted that applications from non co-operative Society members numbering 14,510 were also received, processed and 11,342 non-cooperative members who have submitted proof of damages suffered, along with ration card number, bank account number, Aadhar card number have been paid compensation, after scrutinising the applications. He further submitted that 2168 beneficiaries are yet to be paid the relief fund through NEFT, after verification of other details to avoid duplication.

6. Status report and summary of the status report, as on 11/3/2019 submitted by the Assistant Director of Fisheries, Royapuram, Chennai, is reproduced and the same be treated as part of the record.

Status Report on Oil Spill - 11/3/2019

14,510 Non-Co-operative Society members in the

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category as below

S. No.	Name of the category	Total No. of beneficiaries	Relief amount received by beneficiaries	Balance beneficiaries to be released
1	Fish vendors	11711	8737	2974
2	Allied activities	1885	1691	194
3	Mechanised boat owners	914	914	0
Total		14510	11342	3168

* 3168 beneficiaries remaining will also get the relief amount through NEFT after the submission of Aadhar number and deduplication process.
Relief Disbursement details of Non Co-operative members as on date

S. No.	Name of the category	No. of beneficiaries	Total Relief amount (in Lakhs)
1	Fish vendors	8737	873.70
2	Allied activities	1691	169.10
3	Mechanised boat owners	914	91.90
Total		11342	1132.70

7. Yesterday, when the matter came up for hearing, we directed Mr. E. Manoharan, learned Additional Government Pleader to ascertain as to whether the claimants enclosed as page Nos. 68 to 140 of the typed set of papers filed along with the writ petition would be permitted to file fresh applications as to their entitlement for payment of compensation under NEFT.

8. Reverting, learned Additional Government Pleader submitted that time has already been fixed by the National Green Tribunal, for submission of applications, from those who have suffered damages, due to oil spill and the time was also extended, after giving due publicity in the affected areas, Committees were constituted for the purpose of ascertaining the eligibility of the applicants, extent of damages and thereafter, amount arrived was disbursed, avoiding duplication and cross verification with Aadhar card, ration card and bank account. He

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further submitted that it would be difficult, at this juncture, to reconstitute the Committees and redo the entire exercise, for fresh applicants. He however, submitted that with the names available, in the typed set of papers filed along with the writ petition, cross verification could be done, with the details of those who are yet to be granted the relief fund, numbering 3,168, as per the summary report, submitted by the Assistant Director of Fisheries, Royapuram, Chennai.

9. In the light of the above submission, we only direct the Director of Fisheries, Chennai, second respondent, shall do the cross verification of the particulars already available with them duly assisted by the Assistant Director of Fisheries, Royapuram, with the details of the names of the erstwhile members of National Union of Fishermen, NUF, dated 15/12/1985, enclosed in pages from 11 to 140 of the typed set of papers filed along with the writ petition.

10. Petitioner is also directed to furnish the details of the applicants, as to facilitate the exercise to be done, within a period of one week, from today. The Director of Fisheries is directed to file a detailed report, after due verification, within a period of three weeks thereafter.

(4) Director of Fisheries, Chennai, the 2nd respondent, in the counter affidavit, has stated thus:

(i) Two Merchant ships viz. M.T. BW Maple and M.T. Dawn Kancheepuram, accidentally collided near Kamarajar Port, Ennore, Tamil Nadu on 28.1.2017. Due to this accident, there was an oil spill of bunker oil which spread across the sea and seashores of Thiruvallur, Chennai and Kancheepuram districts of Tamil Nadu.

(ii) Thiru M.E.Raja, National Secretary, National Union of Fishermen, Royapuram, Chennai has filed a writ petition (No. 1123 of 2018) before the Hon'ble High Court of Madras seeking for directions to the respondents, to grant compensation to the fishermen, from the three districts of Chennai, Kanchipuram and Tiruvallur, affected by the Oil spill, caused on 28.1.2017, without insisting for membership from Fishermen Societies.

(iii) He has further submitted that since wide publicity was given among the fisherfolk of three districts about the submission of claim applications for a period of more than 6 months and 3171 members from the Petitioner's Association have already been applied and

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received the oil spill relief assistance, there is no possibility of omission of claim from the affected fisherfolk, as alleged by the petitioner. The request of the petitioner to grant compensation to the fishermen/ person affected by oil spill without the proof of details of applicants engaged in fish trade/ allied activities at the time of oil spill incident and about their loss due to oil spill incident will lead to submission of more and more applications from ineligible persons which is totally against the directions of the National Green Tribunal.

(iv) He further submitted that disbursement of relief amount to the fishermen affected due to oil spill had commenced since 25.4.2018 and as on date Rs. 12115.53 lakh has been disbursed to 1,04,972 beneficiaries including 11,342 non-society members. It is also evident that the petitioner has submitted new applications after a period of 18 months from the date of disbursement of oil spill relief with an intention to receive relief to the applicants who are not at all related to fishing activity and to misappropriate Government funds. Hence there is no chance of leaving any affected fishers within the stipulated time (more than six months) and as much as the new applications may not relate to fishing activity. Hence it is not feasible to consider the request of the fisher applicants and to accept the demand of the petitioner after the completion of more than two years from the date of incident.

(v) He has further submitted that since this issue is being closely monitored by the National Green Tribunal and progress of disbursement of relief assistance to fishermen affected due to oil spill incidents are reported to NGT, the claim of the petitioner should be summarily rejected. For the abovesaid reasons, the respondents have prayed for dismissal of the writ petition.

5. Heard the learned counsel appearing for the parties and perused the materials available on record.

6. On 28.01.2017, two ships collided near Ennore Port, Chennai and that there was oil spillage. W.P.No.2662 of 2017, has been filed by the petitioner for a Mandamus, directing the respondents 1 to 3 therein, to take action, against the two ships, respondents 4 and 5 therein, by initiating prosecution and to recover the costs, from the erring parties and protect the interests of the fishermen. After hearing the parties and taking note of the fact that

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FIR has been registered and National Green Tribunal, Chennai Bench, a Hon'ble Division Bench of this Court, had already been approached, vide order, dated 03.03.2017, disposed of W.P.No.2662 of 2017, as hereunder:

"3. On hearing learned counsel for parties, it transpires that the apprehension of the petitioner is that on a principle of "polluter pay", if the Iranian Ship crosses the territorial waters, the Government may not be able to recover anything. This, of course, in no manner absolves the Government of the responsibility to take necessary steps to remove the pollutant, for which the National Green Tribunal, Chennai Bench, is already stated to have been approached.

4. We are of the view that no direction can be issued in the matter, except to observe that the State Government may look into the issue urgently to take such steps as deemed proper in the given situation, especially keeping in mind that as per the petitioner there have been some recent developments in terms of registration of FIR and some action post filing of the petition."

7. Challenging the order of the Director General of Shipping, Mumbai, the 3rd respondent herein, W.P.No.25813 of 2017, has been disposed of and the same has been disposed of on 10.10.2017, with the following directions,

"21.A report has also been submitted by the Directorate General of Shipping, wherein it appears that the collision between the vessels MT DAWN KANCHIPURAM and BW MAPLE resulted in rupture of the tanks on the portside of the vessel MT DAWN KANCHIPURAM, which resulted in oil spill. Both the vessels had been restrained from leaving the Port without permission. In view of the oil spill incident, teams had been mobilised for clean up operations by various authorities and agencies including the Ports, Oil companies, Coast Guard, various departments of the State Government as well as the owner of the vessel MT DAWN KANCHIPURAM. From the report, it appears that the vessel BW MAPLE have provided a bank guarantee of an amount of Rs.203,22,00,000/- (Rupees two hundred and three crore and twenty two lakhs only) which, as per this report, covers the sum total of the claims of the fishermen.

27. On the prayer made on behalf of the petitioner as also the two vessels, we direct the respective authorities, namely, the police and the Directorate General of Shipping to complete the investigation, including the internal investigation for fixing the responsibility for the oil spillage, at the earliest, preferably within four (4) weeks from date."

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8. The petitioner has admitted that cases are pending before the Green Tribunal for compensation, claimed on behalf of fishermen. Owners have filed W.A.No.537 of 2018 and taking note of the compromise entered into between the two vessels, with a deposit of Rs.141 Crores, without prejudice to the claims of fishermen affected due to oil spill, a Hon'ble Division Bench of this Court, vide order, dated 13.03.2018, has directed that on making such payment, bank guarantee made by the vessel BW MAPLE, for a sum of Rs.203,22,00,000/-, would be released.

9. In W.P.No.8249 of 2018, filed for distribution of compensation to the fishermen, on 12.04.2018, this Court passed the following orders,

"20. Inasmuch as the report has already been submitted by the Secretary to the Department, Fisheries Department, second respondent, we direct scrutiny and approval be granted, as expeditiously as possible. Preparation of de-duplication process be completed as expeditiously as possible. Disbursement of due compensation to those eligible be done by the Director of Fisheries, Chennai, within four weeks from today."

10. The petitioner has contended that even as on date of filing the present W.P.No.8249 of 2018, there was no notice or public hearing about the payment of compensation to the fishermen affected by the oil spill. There was no transparency. Per contra, the Director of Fisheries, Chennai, has made following contentions:

(i) Teams have been constituted with Fisheries Department officials in order to assess the exact quantum of loss sustained by the fishermen, claim forms duly approved by the Insurance company of the Shipping companies were distributed to the fishermen Cooperative Society members and to various sectors such as, Fishing labourers, Fisherwomen in Fisheries allied activities, Allied activity labourer, Fish vendors, owners of Motorized boats, Non-motorized boats and Mechanized Boats.

(ii) Based on the team report, claims were consolidated for each fishermen co-operative society and a proposal was sent to the Government for Rs.203.225 Crore, for providing compensation to 1,12,051 affected fishermen. Accordingly, Government of Tamil Nadu preferred a claim for compensation relief assistance of Rs.203.225 Crore.

(iii) In the meantime, petitions were filed before the National Green Tribunal, Southern Zone at Chennai, by Meenavar Thanthai Selvaraj kumar, in O.A.No.14 of 2017. The Hon'ble National Green Tribunal directed the department to permit the

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affected persons to make their claim upto 10.8.2017 and to make required study, conduct enquiries, to arrive at an appropriate quantum of compensation to be recovered from the ship owners.

(iv) Based on the directions of the National Green Tribunal, a team with the officials of the Fisheries Department was constituted to receive the applications from the affected fishermen who have not filed their claim earlier. Based on the scrutiny of the applications received, on the direction of National Green Tribunal, Southern Zone, 2,442 applications were accepted and revised compensation proposal for Rs.240.07 crore to the affected 1,11,448 fishermen of Tiruvallur, Chennai and Kanchipuram coastal districts including 11,342 non co-operative society members, in the category of mechanized boat owners, vendors and allied activities, was arrived at and submitted to the Hon'ble National Green Tribunal, Southern Zone.

(v) As per the orders of this Court, Madras in W.P. No. 2979 of 2018 and W.P. No. 2978 of 2018, an amount of Rs.141 Crores (Including Rs.10 Crore for restoration works) was received from Steamship on 28.03.2018. An irrevocable Bank Guarantee worth Rs.84 crore was also obtained from the Shipping company, as per the Hon'ble Court's directions.

(vi) Based on the recommendations of the Relief Recommendation Committee constituted under the chairmanship of the Additional Director of Fisheries, Managing Director, TAFCOFED, relief amount was disbursed to the applicants as detailed below:

Name of the Category	No. of persons received	Amount released per Head	Total Relief amount (in lakhs)
Fishing Laborer	43,564	12,000-	5,227.68
Fisherwomen in Fisheries allied activities	4,719	1,000-	4,719.90
Allied activity Labours	1,691	10,000-	169.10
Fish Vendors	8,737	10,000-	873.70
Motorised Boat Owner	5,024	20,000-	1,004.80
Non-Motorised Boat Owner	323	15,000-	48.45
Mechanized Boat Owner	914	35,000-	319.90
Total	1,04,972		12,115.53

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(vii) Out of 1,11,448 beneficiaries, relief assistance of Rs. 12115.53 lakh has been disbursed to 1,04,972 beneficiaries, including 11,342 non- society members, for the remaining 6,475 beneficiaries relief assistance, would be disbursed after the receipt of Aadhar details and bank details from them. Oil spill compensation application has been received from 1,11,448 fisherman and others.

11. As regards publicity and notice, the Director of Fisheries, Chennai, has stated that in order to assess the exact quantum of loss sustained by the fishermen, extensive publicity was given for issuance of claim forms duly approved by the insurance company of the Shipping companies. Wide publicity was made through announcement, in autorickshaws, by the staff of Fisheries Department. The Director of Fisheries has further submitted that though sufficient time from 22.02.2017 to 30.03.2017 was given, as per the directions of the National Green Tribunal, Southern Zone, applications were received upto 10.08.2017. Applications from the affected fishermen/ persons were received for more than a period of 6 months. Claim forms were distributed to Fishermen/fisherwomen, Cooperative Society members, and to various sectors such as Fishing Labourers, Fisherwomen, allied activities, Allied Activity Labourer, Fish vendors, from the owners of motorised boats, Non-motorised boat and Mechanized boats. Wide and ample opportunity was given to file the claims to all the fishermen affected by oil spill and the entire process was monitored by the National Green Tribunal and the process was updated to National Green Tribunal. Director of Fisheries, Chennai, has submitted that oil spill compensation has been given in a fair and transparent way.

12. From the above, it could be deduced that though the National Green Tribunal, Chennai Branch, has granted time upto 30.03.2017, but the department has received applications, upto 10.08.2017, for more than a period of six months, claim forms have been distributed to fishermen/fisherwomen, co-operative society members, and to various sectors, such as, Fishing labourers, Fisherwomen in Fisheries allied activities, Allied activity labourer, Fish vendors, owners of Motorized boats, Non-motorized boats and Mechanized boats. About 1,04,972 applications have been submitted by fishermen, representing various sectors and a sum of Rs.12115.53 lakh has been released.

13. Tabular column extracted supra, would prove that the statement of the petitioner that there was no notice or opportunity to the fishermen, affected by the oil spill to claim for compensation, is incorrect. Contention to the contra, is rejected.

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14. One of the contentions made in the present writ petition is that the society had become defunct and non-society members were not awarded any compensation. From the averments made in the counter affidavit, it could be deduced that out of 1,11,448 applications received, compensation has been disbursed to 1,04,972 applicants, which include 11,342 non-society members. Therefore, the contention of the petitioner, on the above aspect is factually erroneous.

15. Instant writ petition has been filed on an erroneous premise and thus, the prayer for directions to the respondents herein, to grant compensation to the fishermen from the three districts of Chennai, Kancheepuram and Tiruvellore, without insisting for membership from fishermen societies. As stated supra, non-members of the societies have also been granted compensation, provided they satisfied that they were affected by the oil spill and produced Aadhar and Bank details.

16. However, on 13.03.2019, we directed the Director of Fisheries, Chennai to carry out cross verification of the applications to be received with the particulars already available with them duly assisted by the Assistant Director of Fisheries, Royapuram with the details of the names of the erstwhile members of National Union of Fishermen, NUF in pages from 68 to 140 of the typed set of papers filed along with the Writ Petition. Further, this Court has directed the Petitioner to furnish the details of the applicants, so as to facilitate the exercise to be done within a period of one week from today i.e. 13.03.2019 and also directed the Director of Fisheries to file a detailed report, after due verification within a period of 3 weeks thereafter.

17. After cross verification, the Director of Fisheries, Chennai, has stated that in accordance with the directions of this Court, the petitioner has to furnish the details / applications of the affected fishermen of Thiruvallur, Chennai and Kanchipuram Districts, by 19.03.2019. Though the Petitioner's association submitted list of 7079 new members for relief, to this Court, the petitioner's association has submitted only 6112 nos of applications to the Fisheries Department, for cross verification, on various dates, mentioned below:-

Sl.No	Date	No. of application received
1.	19.03.2019	2,099
2.	25.03.2019	3,362
3.	26.03.2019	651
	Total	6,112

18. Pursuant to the directions of this Court, verification teams have been constituted, monitored by the

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Joint Director of Fisheries (Regional), Chennai, for cross verification of the applications, received from the members of the petitioner's association, with the particulars already available with the Assistant Director of Fisheries Chennai, Thiruvallur and Kanchipuram. The teams constituted have duly verified the applications and reported that out of 6112 applications received, 3171 applicants have already obtained oil spill relief assistance. But, there are 2941 fresh applications, seeking for oil spill relief assistance. Hence, out of 6112 applications, 3171 applications have to be rejected. Though 2941 individual applications have been received, neither the petitioner nor the members of the association, failed to furnish the proof of details of applicants engaged in fish trade/allied activities, at the time of oil spill incident and about their loss due to oil spill incident.

19. Details of the names of the applicants, addresses, Aadhar numbers and bank account details, have not been provided, in the applications and hence, genuineness of the above said 2941 applications, could not be ascertained. District wise status report of the applications received from the members of the petitioner's association is given below:-

Sl. No.	Name of the District	Application Received	Already Benefited	New Beneficial Cases
1.	Thiruvallur	983	283	700
2.	Chennai	5082	2884	2198
3.	Kanchipuram	13	14	29
4.	Other			14
Total		6112	3171	2941

20. Director of Fisheries, Chennai, has further contended that More than 50% of the total applications have already received the relief assistance under oil spill compensation and that petitioner's association who has sought for the relief assistance from the Government, is only to ineligible persons and hence, mislead this Court, by suppressing the facts.

21. At this juncture, it is relevant to extract the application given by the members of the petitioner's association, to the department,

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Already in paid list

No.27/ 11. சென்னை

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Date : 20/04/2018

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23. At this juncture, it is to be noted that there cannot be a double claim for compensation and thus, cross-verification, ordered by this Court and done by the Department has proved that the claim of the individual applicants, as projected by the petitioner's association, is erroneous. About 2941 applications received through the petitioner's association, have been rejected for the reasons extracted supra.

24. Remedy under Article 226 of the Constitution of India is based on the doctrine, "equity, justice and good conscience", which is explained by the Hon'ble Supreme Court in *Shri Rat v. Shri Vardesh Chander and Others*, reported in 1976 (2) SCC 103, and in the words of Hon'ble Mr. Justice Krishna Iyer, the concept of 'justice, equity and good conscience' and observed that it comes into play in the absence of any specific legislative provision. Further, the Apex Court, while considering the abovesaid concept of 'justice, equity and goconscience' an English common law, at paragraph No.21 held as follows:-

"This is the genesis of the idea that Indian 'good conscience' is English Common Law during the reign of Empress Victoria. The imperatives of Independence and the jural postulates based on the value system of a developing country must break off from the borrowed law of England received as 'justice, equity and good conscience'. We have to do away with the precedent British-Indian period tying our non-statutory area of law to vintage English law christening it 'justice, equity and good conscience'. After all, conscience is the finer texture of norms woven into the ethos and lifestyle of a community and since British and Indian ways of life vary so much the validity of an anglophilic bias in Bharat's justice, equity and good conscience is questionabtoday. The great values that bind law to life spell out the text of justice, equity, and good conscand Cardozo has crystallised the concept thus:

Life casts the mould of conduct which will some day become fixed as law.

Free India has to find its conscience in our rugged realities and no more in alien legal thoughtlarger sense, the insignia of creativity in law, as in life, is freedom from subtle alien bondage, silent spring nor hot-house flower."

25. As rightly contended by the learned Additional Government Pleader, the petitioner has not only approached this Court with incorrect particulars, but also filed this writ petition belatedly, after the date fixed by the tribunal and beyond the period permitted by the Director of

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Fisheries, Chennai, ie, upto 10.08.2017. About 2941 applicants have not furnished any details. The petitioner has made out a case for issuance of the writ, as prayed for.

26. With the above, this writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

ars/skm
To

1. The Principal Secretary to Government,
State of Tamil Nadu,
Environment and Forest Department,
Fort St. George, Secretariat, Chennai.

2. The Director of Fisheries,
485, 5th Floor, MBB Building,
Anna Salai, Anna Colony,
Nandanam, Chennai.

3. The Director General of Shipping,
Beta Building, 9th Floor,
I-Think Techno Campus,
Kanjurmarg (East),
Mumbai - 400 042.

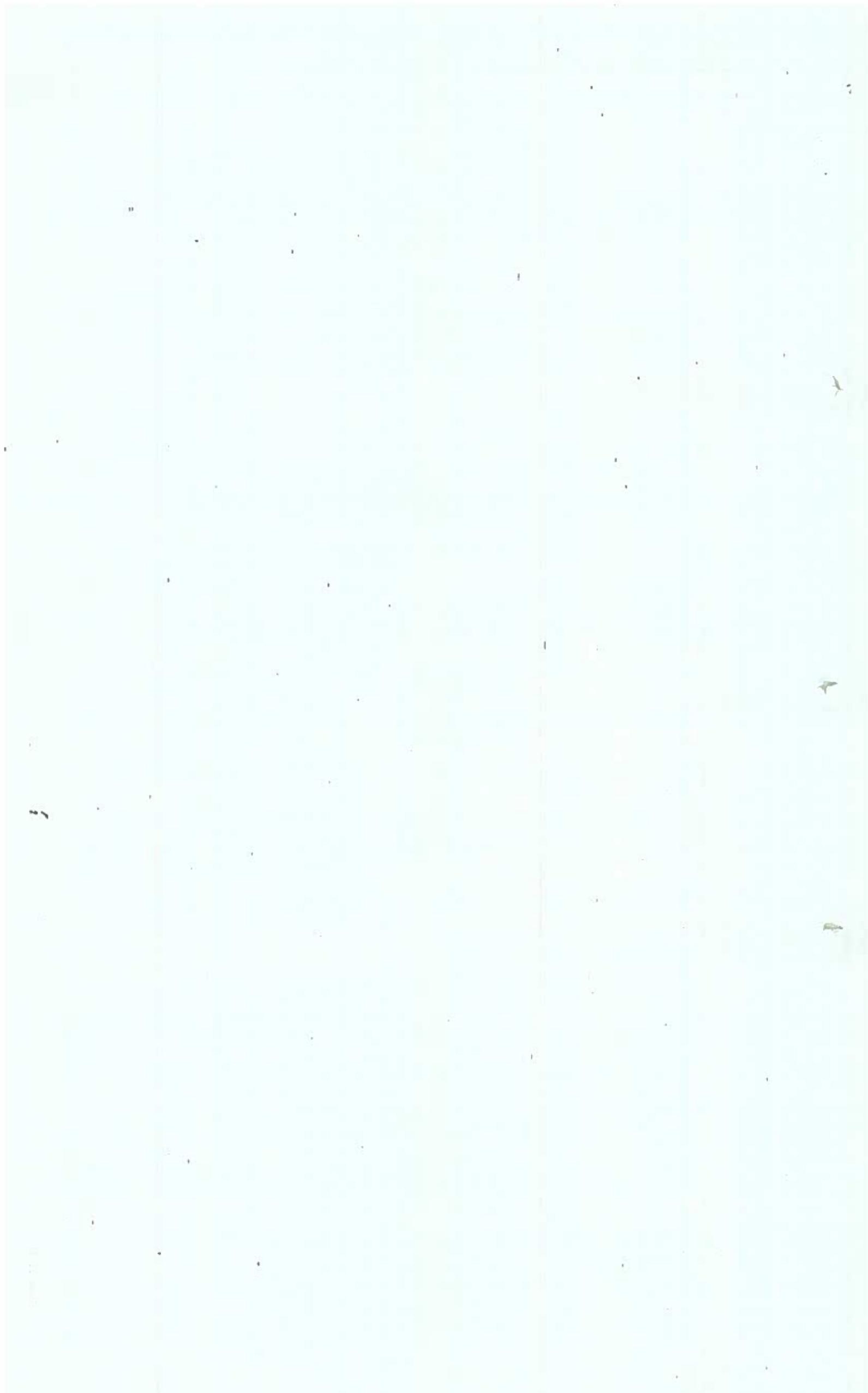
+1cc to Mr. T.Niramleswar, Advocate SR.No. 45790

+1 cc to Government Pleader SR.No. 46176

W.P.No.11623 of 2018
and WMP No.13628 of 2018

pm (CO)
A.SK(15/07/2019)

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

W.P.No. 31047 of 2019

116-01
- 37
- 29/10/19

1. BW VLGC Limited
Having its Registered Office at
Clarendon House,
2nd Church Street, Hamilton HM 11,
Bermuda
represented herein by its
Power of Attorney Agent Captain Mukesh Sharan

2. The United Kingdom Mutual Steam
Ship Assurance Association (Europe)
through their Managers
Thomas Miller P & I (Europe) Ltd.
(UK P & I Club)
Having their Office at
90 Fenchurch Street, London- EC3M 4ST
Represented herein by its Power & Attorney Agent Mr S. Ramamoorthy
... Petitioners 1 and

2

Vs.

1. The Government of Tamil Nadu
represented by its Principal Secretary
Animal Husbandary, Dairying & Fisheries Department,
Fort St. George, Chennai 600009
2. The Director of Fisheries,
Government of Tamil Nadu,
Integrated Complex, 571, Anna Salai,
Nandanam, Chennai 600 035 ... Respondents 1 and 2

AFFIDAVIT OF MUKESH SHARAN

I, Captain Mukesh Sharan, son of Mr. Bhawani Sharan, aged about 59 years

and having my Office at BW Maritime Pte. Ltd., 1031/1032, Solitaire
Corporate Park, 167 Guru Hargovindji Marg, Chakala, Andheri(East),



do hereby solemnly affirm and state as follows:

11/10/19

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1. The First Petitioner herein is BW VLGC Limited having its registered office at Clarendon House, 2nd Church Street, Hamilton HM 11, Bermuda. I am the Power of Attorney Agent of the First Petitioner herein and I am well acquainted with the facts of the case. The Power of Attorney dated 15th December 2017 issued in my favour is still in force and has not been revoked.
2. The Second Petitioner is the Protection and Indemnity Club, at the relevant time of filing this petition. This Affidavit is being sworn in on behalf of both the Petitioners herein.
3. The First Respondent is the Government of Tamil Nadu represented by its Principal Secretary, Animal Husbandry, Dairying and Fisheries Department and the Second Respondent is the Director of Fisheries, functioning under the administrative supervision and control of the First Respondent.
4. The Petitioner states that the First Petitioner is the owner of a Motor Tanker BW Maple, registered at the port of Douglas (Isle Of Man) with IMO No. 9320752 and call sign of 2GXX8 (hereinafter referred to as the said vessel). The said vessel is a bulk Liquefied Petroleum Gas (LPG) carrier and carries large consignments of LPG from and to various Ports globally. During one of such voyages, the said Vessel carried LPG from Ras Laffan in Qatar for being discharged in India and in particular at the Kamarajar Port, near Ennore. The said vessel, having discharged that cargo parcel, was in the process of departing from Kamarajar Port, Ennore on the 28th January, 2017, under the command and control of the "Port Pilot" of the Kamarajar Port,

M. J. [Signature]

another tanker vessel MT Dawn Kanchipuram, came in contact/collided with the said Vessel as a result of which, there was a significant oil spillage and resultant pollution from MT Dawn Kanchipuram. The incident was immediately notified to the Port Control and other authorities by the Master of the said vessel.

5. Consequent to such collision and the oil spill, several Statutory investigations and enquiries were instituted by various Authorities including the Director General of Shipping, Government of India, Tamil Nadu Pollution Control Board, etc. Both the tankers were detained by the Authorities concerned including by the Mercantile Marine Department.
6. The Petitioners state that since the detention of the said vessel was causing huge financial loss to the First Petitioner herein, they had approached the Director General of Shipping as well as the Government of Tamil Nadu, Tamil Nadu Pollution Control Board and other Statutory Authorities and had several rounds of meetings with all the Authorities. Certain Fishermen's Associations had approached the Hon'ble National Green Tribunal, Southern Regional Bench at Chennai (hereinafter referred to as the said Tribunal) by filing Application Nos.14,16, 38 and 40 of 2017 seeking appropriate directions for taking remedial measures and to ensure that similar incidents do not take place in future. The said Applications are still pending before the said Tribunal.

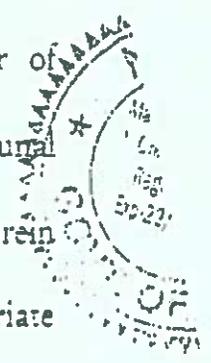
7. It is relevant to state that none of the Applicants in the said Applications has either quantified their claims or claimed any



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monetary reliefs. Notwithstanding the same, owing to the pendency of the Applications before the said Tribunal, a large number of Fishermen were present during the hearings before the said Tribunal praying for being compensated through the Second Respondent herein by the owners of both the Vessels involved. Upon appropriate directions being passed by the said Tribunal, the Second Respondent herein had directed the Fishermen and Fishermen's Association to submit the Applications for compensation for the losses allegedly suffered by them. The Tribunal had fixed a timeline for submission of the claims, by the affected Fishermen. It appears that all the affected Fishermen had submitted their claims before the Second Respondent which were also scrutinized by the Department.



8. The Second Petitioners, are the Protection & Indemnity Club (P & I Club), the Insurers, and who under the contract they have with the First Petitioner covered the pollution risk arising out of such unforeseen and unfortunate incidents like collision. Such P & I Club(s), on behalf of the owners of the vessels/ tankers, insure and reimburse the shipowner's legal liabilities for any losses suffered by third parties including through payment of monetary compensation, restoration costs and relief measures undertaken by various parties including Statutory Authorities like the Collectors of the Revenue Districts involved. Similarly, the owners of the other vessel MT Dawn Kanjipuram and their P & I Club, Steamship Mutual Underwriting Association Limited had also participated in the statutory enquires and discussions with the Statutory Authorities.

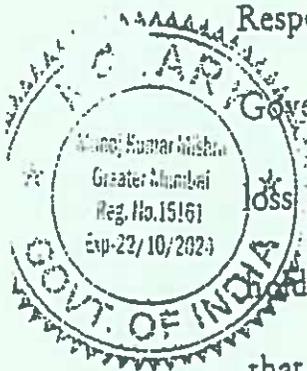


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9. It is submitted that the vessel BW Maple was permitted to sail out of Kamarajar Port only on 13th October 2017 after a Bank Guarantee for a sum of Rs.203 Crores (Rupees Two Hundred and three Crores only) was furnished on behalf of her Owners to the Second Respondent.

10. However, since the vessel MT Dawn Kanchipuram was still detained, Indian Ocean Shipping Pvt. Ltd., the owners of MT Dawn Kanchipuram had filed W.P.No.2979 of 2018, before this Hon'ble Court, seeking Port clearance for the sailing of the vessel MT Dawn Kanchipuram which had remained under detention for more than a year since the incident of collision. A sum of Rs.15 Crores had been deposited by the owners of MT Dawn Kanchipuram and/or their P & I Club, Steamship Mutual Underwriting Association Limited towards reimbursement of the costs incurred for arresting the oil spillage.

11. In the meantime, the Second Respondent, in consultation with the First Respondent had upon scrutinizing the claims submitted by various Fishermen and after considering the representations of the Petitioners herein as well as the owners of MT Dawn Kanchipuram and their P & I Club, had several rounds of negotiations with the Respondents herein as well as with the Director General of Shipping, Government of India. The Respondents had assessed the monetary loss suffered by the Fishermen and the Fishermen's Associations, holding out that the same would not exceed a sum of Rs.141 crores and that the cost of restoration on account of the environmental damage costs by collision would be about Rs.15 crore, which has already been deposited, wanted both the owners and of their respective P & I Clubs



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to deposit a sum of Rs.141 crores with the Second Respondent herein and after giving credit to the sum of Rs.15 crores already deposited by and on behalf of Owners of MT Dawn Kanchipuram, wanted a Bank Guarantee furnished for a sum of Rs.84 crores and that upon such deposit and execution of Bank Guarantee as aforesaid, the Bank Guarantee issued in favour of the Director General of Shipping for a sum of Rs.203 Crores would be discharged. Such understanding was arrived at between the Parties concerned including the Respondents herein and a Memorandum of Understanding was entered into between the First and Second Petitioners, the owners of MT Dawn Kanchipuram and their P&I Club. In the meantime, since a Writ Appeal had been preferred against the order passed in W.P.No.2979 of 2018, the said Memorandum of Compromise was filed before the Hon'ble Division Bench, in the said Writ Appeal No.537 of 2018, the terms of which are set out hereinbelow:

1. *The U.K. P & I Club, on behalf of the Owners of LPGC BW Maple and the M.T.Dawn Kanchipuram, shall deposit a sum of Rs.141 crores, strictly without prejudice, towards the various claims lodged by the fishermen and their Associations for a sum of Rs.240 crores, preferred by the Government of Tamil Nadu, including the restoration claims of Rs.10 crores, with such deposit being made within 14 days from the date on which an order is passed by this Hon'ble Court in this Memo.*

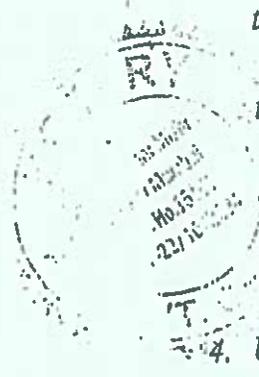
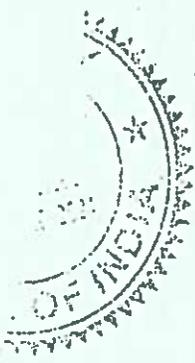


2. To secure the remaining claims out of the total claims of Rs.240 crores preferred by the Government of Tamil Nadu before the Hon'ble National Green Tribunal, Southern Zonal Bench and in addition to what is stated in paragraph 1 above, the U.K. P & I Club and the Steamship Mutual Underwriting Association Limited, shall, on behalf of the Owners of both the LPGC BW Maple and M.T.Dawn, Kanchipuram also arrange for the execution of a Bank Guarantee for a sum of Rs.84 crores (Rs.99 crores less Rs.15 Crores paid earlier by the Steamship Mutual Underwriting Association Limited) in favour of Government of Tamil Nadu represented by the Director of Fisheries within 21 days from the terms of such Bank Guarantee being mutually agreed.

3. The Petitioner shall comply with the condition stipulated by the 1st Respondent herein the Memo filed before this Hon'ble Court dated 13.02.2018. The Petitioner shall furnish a Bank Guarantee of Rs.5.68 crores towards the claim of the Department of Environment paid by the Kamarajar Port Limited as stated in the said memo within 7 days from the date of receipt of the copy of the order of this Hon'ble Court passed on the memo filed herein and keep the said Bank Guarantee alive until the claim secured by the said Guarantees is finally decided by a competent court or settled.

4. Upon compliance of Clauses 1, 2 and 3 above, the Director General of Shipping shall return to the U.K. P & I Club the Bank Guarantee dated 31.08.2017 executed by Kotak Mahindra Bank along with the covering letter confirming the return/discharge of the said Bank Guarantee at the earliest.

M. J. Khan



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5. Upon compliance with clauses 1, 2 and 3 above, the Vessel Dawn Kanchipuram shall be permitted to immediately sail out from Kamarajapur Port Limited, Ennore and the 2nd and 3rd Respondents shall on demand provide their clearance and consent to the 1st Respondent so as to enable the Dawn Kanchipuram to sail.
6. Since the Hon'ble National Green Tribunal, Southern Zonal Bench has directed, in Application No.14,16, 38 and 40 of 2017, the Fisheries Department, Government of Tamil Nadu, to entertain, appraise and disburse the claims of the fishermen and their Associations, the Government of Tamil Nadu would do so upon the sum of Rs.141 crores being deposited with them."
12. The Hon'ble Division Bench further observed that the Memorandum of Compromise dated 2nd March 2018 arrived at between the Parties shall form part and parcel of the Judgment dated 13th March 2018.
13. The Petitioners are for the purpose of the present Writ Petition, not going into the issue as to who between the two ship owners or which vessel and the crew is liable for the collision and the resultant pollution since the said issue is to be decided between the two ships' Owners, their respective P & I clubs and Hull & Machinery insurers in London in a manner which has been agreed to between those parties, and a decision on the liability and as to how compensation should be arrived at between the two ships' Owners and their insurers.
14. The First Respondent, the Director General of Shipping and the First Petitioner were parties to the said Writ Petition and the Writ Appeal.

M. J. [Signature]

The Appeal was disposed of by this Hon'ble Court on the basis of the MOU entered into between the two ship owners in terms of which certain deposit was being made and a fresh Bank Guarantee for Rs 84 Crore was being furnished to meet/cover all the claims and liabilities arising out of the incident. Such an arrangement came to be entered into with the knowledge, approval and the blessing of the authorities including the Respondents herein and the Director General of Shipping.

15. The Petitioners state that in accordance with the Memorandum of Understanding entered into between the Parties and the directions passed by the Hon'ble Division Bench, the Petitioners herein had deposited the sum of Rs.141 crores with the Second Respondent herein, which amount was credited to the account of the Second Respondent on or about the 28th March, 2018. Further, in accordance with the said order, a Bank Guarantee dated 16th May, 2018 for a sum of Rs.84 crores was furnished by the Trade Finance Branch, Chennai of Kotak Mahindra Bank bearing 8473OBG 18009588 in favour of the Second Respondent herein, which was duly acknowledged by the Second Respondent on the 17th May, 2018.

16. The Petitioners state that on the basis of the claims submitted to the Second Respondent during the pendency of the Applications before the Hon'ble National Green Tribunal, the Respondents herein assessed the compensation payable to the affected fishermen and fishermen's associations as well as the restoration costs and that such compensation would not exceed the said sum of Rs.156 crores. Taking into

M. J. Srinivasan

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consideration the deposit of Rs.15 crores already made, the Respondent herein had wanted a cash deposit of Rs.141 crores. However, on account of the pendency of the Applications filed before the Honble National Green Tribunal, both the vessels' interests were called upon to furnish the Bank Guarantee for a restricted sum of Rs 34 crores, more as a buffer since all the claims including on account of loss of ecology, restoration costs, remedial measures etc. had already been taken care of by the deposit of Rs.156 crores. Apart from the said sum, a sum of Rs. 61,88,189/- (Rupees Sixty One Lakhs Eighty Eight Thousand One Hundred And Eighty Nine Only) was also reimbursed by the owners of MT Dawn Kanchipuram to/through the Kamarajar Port Limited towards reimbursement for the remedial measures initiated by the Collectors of Revenue Districts of Chennai, Thiruvallur and Kanchipuram as well as Indian Oil Corporation Ltd. Therefore, according to the Petitioners there are no further claims which are either pending or can arise in future especially since it is almost 3 years since the incident had taken place.

17. The Petitioners state that in as much as about a year has lapsed since the sum of Rs. 141 crores has been deposited and all the affected parties had been paid the compensation either towards the damage suffered or loss of livelihood and property, the Second Petitioner had addressed a letter herein on the 15th March 2019 to the Respondents herein to furnish them with an update on the distribution of the funds to the Fishermen and their Associations in settlement of their claims including the details of such disbursement like names of the Fishermen

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or their Associations as also the amounts paid to them individually. Further, prior to sending the said letter, the representatives of the Petitioners as well as the representatives of the owners and their P & I Club of the other vessel had also personally met the officials of the Respondents herein not only for the purpose of requesting them to furnish the details of the disbursement made but also represented to them that since all the claims of different nature have been finally settled, the Respondents herein should discharge and return the Bank Guarantee dated 16th May, 2018 furnished for a sum of Rs.84 crores. This was on account of the fact that for the execution of the Bank Guarantee and for the renewal thereof, a huge sum was being expended by way of Bank Charges. The Second Petitioner is incurring a sum of US \$ 494,620 per annum equivalent about to Rs. 3.51 crores for the execution of the Bank Guarantee and for each renewal. The Second Petitioner has already incurred a sum of US\$ 989,240 so far. Every renewal of the Bank Guarantee costs a huge sum equivalent to about 4% of the quantum of the Bank Guarantee and the said amount is non-refundable.

It was only in such circumstances, the Second Petitioner had addressed the letter dated 15th March, 2019 to the Respondents herein. Finding that there was no response from the Respondents herein, the Second Petitioner had addressed a reminder on the 8th May, 2019, for also which there was no response from either or both of the Respondents. Both the said letters were sent by email as well as speed post. The Second Respondent was also reminded in person as well as through



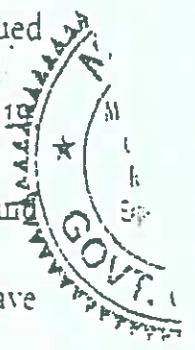
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telephonic conversations, however, no response was forthcoming.

Consequently, the Petitioners herein caused a notice to be issued through their lawyers which was done on the 13th September, 2019.

The notices addressed to both the Respondents have been hand delivered besides being sent by email and speed post. The notices have been received by both the Respondents on the 13th and 14th September, 2019 respectively and despite lapse of 15 days, the Respondents have neither acknowledged receipt of the said notices nor responded to the same.



19. The Petitioners state that the quantum of the cash deposit of Rs.141 crores was arrived at only on the basis of the assessment made by the Respondents herein which was done after scrutinizing and analyzing the various claims made by the Fishermen and their Associations pursuant to the directions given by the Hon'ble National Green Tribunal. The representatives of the Petitioners have had several meetings with all the Senior Officials besides a meeting with the Hon'ble Minister for the Fisheries Department in February, 2018, to impress upon them the need to conclude the settlement of the various claims including disbursements with the assurance of complete cooperation of both the owners and their respective clubs in doing so. Further, the quantum of cash deposit as well as the Bank Guarantee were arrived at only on the basis of such discussions and the communications exchanged pursuant thereto. Therefore, the disbursements already made by the Second Respondent would have fully satisfied the claims made by the Fishermen and their Associations

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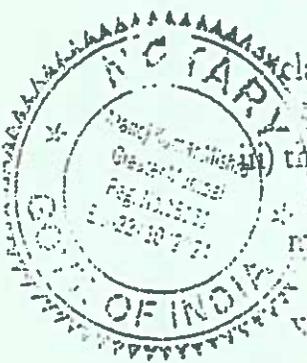
either for the damage suffered by them or for the loss of livelihood.

The Petitioners having made such large cash deposits and furnished bank guarantees for the quantum assessed by the Respondents themselves are certainly entitled to know and be informed of the details of the disbursements made. The Petitioners further submit that the Respondents are also liable to account for the disbursements made and only for such reason, the Respondents were called upon to disclose the details of disbursements made. Further, the execution and the repeated renewal of Bank Guarantee for a sum of Rs.84 crores also make a huge dent on the finances of the Petitioners which they can ill-afford. It is further submitted that the lack of response from the Respondents to the letters written by the Second Petitioner and the notice recently issued on behalf of both the Petitioners would make the following clear:

- i) that there is no scope for the lodging of any further claims;
- ii) that the sum of Rs.141 Crores deposited by and behalf of the Petitioners would be more than sufficient to meet/cover all the

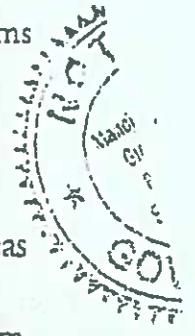
claims made and

that need for the Bank Guarantee to be kept alive does not exist any more. Consequently, the Respondents, being Statutory Authorities vested with the duty to discharge statutory functions are bound to return the bank guarantee for being discharged by the Bank which had issued it. The Respondents thus have a duty to not only act in a fair and reasonable manner but should refrain from acting arbitrarily. The Respondents also have a duty to discharge to the



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Petitioners by accounting for the amounts deposited but also disclose the details of the disbursements made out of such deposit since it would enable/ facilitate the early resolution of the claims between the two ship owners.



23. It is clear that the interest of all the affected fishermen in all the areas affected in three Districts of Chennai, Thiruvallur and Kanchipuram have been well protected and fully compensated. The Respondents are therefore liable to not only disclose all the details of the disbursements made out of the deposit of Rs.141 crores in March, 2018 and for discharge and return of the bank guarantee dated 16th May, 2018. Even while issuing the notice dated 13th September, 2019, the Respondents were put on notice that should there be no response from them within a week from the date of receipt thereof, the Petitioners would have no option but to initiate appropriate proceedings for protecting their interest and rights. While the petitioners did not want to resort to any litigation in this regard, considering the complete lack of response from the Respondent, the Petitioners have no options but to approach this Hon'ble Court under Article 226 of the Constitution of India for appropriate reliefs, for the following among other grounds.

GROUNDS

- i. The action of the Respondents is contrary to law and violative of Article 21 and 19 of the Constitution of India.
- ii. The Respondents herein, having compelled the Petitioners to deposit a sum of Rs.141 crores, as a pre-condition for the release of the ships, are

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liable to disclose and account for the disbursements made out of the said sum.

iii. The Respondents herein have erred and failed to appreciate that the Bank Guarantee that had been furnished to cover all the claims and liabilities arising out of the said incident, has been kept alive by the Petitioner herein for over a period of two years, despite the fact that all the claims of the affected parties have been duly settled.

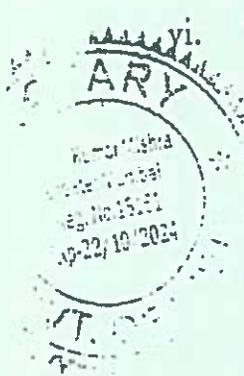
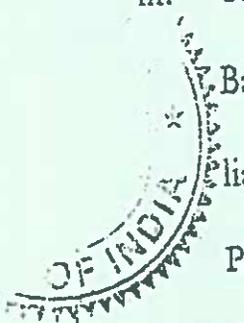
iv. The Respondents had failed to appreciate that the Petitioners herein had only submitted the Bank Guarantee to secure the claims, which had been raised by the fishermen and those effected by the said incident and since all such claims have been settled by the Respondents, the bank guarantee is required to be cancelled and returned to the Petitioners.

v. The Respondents herein failed to appreciate that the said Vessel was permitted to sail only after a Bank Guarantee for a sum of Rs.203 Crores, was furnished on behalf of the First Petitioner, to secure the claims that arose out of the said incident.

vi. The Respondents herein had despite holding out that the monetary loss suffered by the Fishermen and the Fishermens' Associations would not exceed a sum of Rs.141 crores and that the cost of restoration on account of the environmental damage costs by collision would be about Rs.15 crores were obliged to return the bank guarantee for being cancelled.

vii. The Respondents have erred in compelling the Petitioner in submitting a Bank Guarantee in addition to a sum of Rs.156 crores, which was the

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- sum that had been assessed to cover all the claims including on account of loss of ecology, restoration costs, remedial measures etc.
- viii. The Respondents have erred in failing to discharge the bank guarantee despite the claims made by the affected parties either towards the damage suffered or loss of livelihood and property, have been settled in its entirety.
- ix. The Respondents have failed to furnish the Petitioners with details of the manner in which the funds deposited by the Petitioners had been utilized towards distributing the funds to the Fishermen and their Associations towards settlement of their claims.
- x. The Respondents herein despite repeated requests made by the Petitioner, have failed to discharge and return the Bank Guarantee dated 15th May, 2018 furnished for a sum of Rs.84 crores
- xi. The Respondents herein, despite being fully aware that the Petitioners are incurring a sum of US \$ 494,620 per annum equivalent about to Rs. 3.51 crores for the execution of the Bank Guarantee and for each renewal has failed to not only respond to the requests made by the Petitioners to permit it to discharge the same, but is also failing to take into account that its inaction is also causing severe financial hardship to the Petitioners in the nature of exorbitant costs towards renewing the same.
- xii. The Respondent have despite having settled the claims of the affected parties and in the absence of any further claim being preferred ought to permit the Petitioner to discharge and have the Bank Guarantee dated 16th May, 2018 returned.



M. J. Khan

xiii. The Respondent is deliberately compelling the Petitioner to incur extortionate costs towards renewal of the Bank Guarantee, which costs are non-refundable and is severely impacting the financial health of the Petitioners.

xiv. The Respondents as statutory authorities have failed in their duty, while abstaining from responding to the letter addressed by the Second Petitioner dated 15th March, 2019 and 8th May, 2019.

xv. The Respondents' willful and wanton inaction, in failing to permit the Petitioners to discharge the Bank Guarantee, continues to cause grave injustice and monetary loss to the Petitioners herein, especially when the said Guarantee is of no use and all charges, compensations and costs that arose on account of the said incident has already been paid for by the Petitioner.

xvi. The inaction of the Respondents in either responding to the personal requests and/or the letters addressed by the Petitioners to furnish a true account of the amounts paid by them to the affected parties and in failing to permit the discharge of the bank guarantee is causing severe financial loss to the Petitioner, accounting for 4% of the cost of the said Bank Guarantee, per annum.

xvii. The Respondents' deliberate attempt in compelling the Petitioner to keep the Bank Guarantee alive is perforce leading the Petitioners to a situation where the Petitioner is unable to utilize said sum of Rs.84 crores towards its business, which undoubtedly is affecting the right of the Petitioner to carry on its business, which right has been duly guaranteed under the Constitution of India.



M. Mishra

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- xviii. The considered inaction of the Respondents in failing to permit the Petitioner to discharge the Bank Guarantee while on the one hand is severely prejudicing the right and the financial health of the Petitioner is on the other hand, allowing the bank to unjustly enrich in the nature of costs incurred by the Petitioner towards renewing the Bank Guarantee from time to time.
- xix. The Respondents have failed to furnish a record of the manner in which the said sums already disbursed by the First Respondent towards full satisfaction of the claims made by the Fishermen and their Associations have been utilized, which inertia on the part of a statutory authority ought not to be countenanced.
- xx. The Respondents have failed in their duty, in their capacity of statutory authorities functioning under the Government of Tamil Nadu, while discharging their official duties towards a private entity, more particularly, while dealing with an incident of huge magnitude and importance.
- xxi. The Respondents after having led the Petitioners to believe that the said Bank Guarantee would be discharged, has erred in compelling the Petitioners to continue to renew the same, without any reason or showing any cause for such renewal, thereby, continuing to act unreasonably.
- xxii. The Petitioners had a legitimate expectation that the said bank Guarantee would be discharged as soon as the claims, which even according to the Respondents had been crystalized at a sum of Rs. 156 crores, would be duly paid and settled.

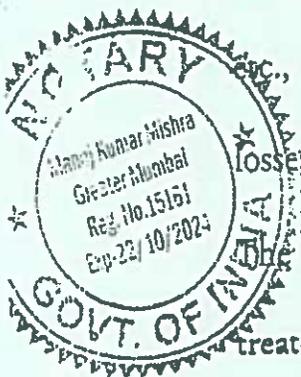



xxiii. The Respondents fail to understand that the said act of prejudice directed against the Petitioners, is adversely affecting the business and the financial burden that the Petitioners are compelled to bear in the nature of procedural costs, namely renewal of bank guarantee charges and bank charges has a direct impact on the liquidity of the Petitioner.

21. The Respondents are Public Authorities which are required to discharge their functions and duties equitably and conscionably. The Respondents while failing to adhere to the commitment held out to the Petitioners have undoubtedly breached their Public Duty. Furthermore, having been entrusted with substantial funds towards settling the reasonable and legitimate claims made by and on behalf of the fishermen and their associations, towards losses suffered ought to have maintained a through report/statement setting out the manner in which the said sums had been disbursed, the nature of disbursements, the names and details of the persons to which the same had been made, particularly when such sums had been paid to compensate for losses that had been suffered on account of an environmental disaster. The Petitioner has a constitutional right under Article 19 (1)(g) to be treated justly and to protect its business from any form of prejudice caused by statutory authorities and/or instrumentalities of the state.

22. The repeated request being made by the Petitioners in the form of calling for the details of the disbursements made to the fishermen and their associations, in the nature of compensation/claims, from and out of the deposit of Rs.141 crores that had been made in March, 2018 and

11/1/2024



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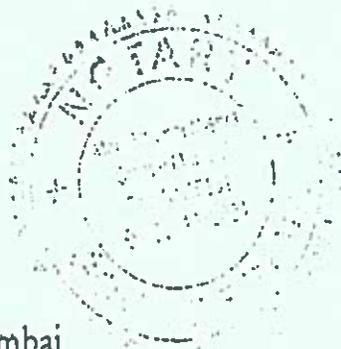
for discharge and return of the bank guarantee dated 15th May, 2018 is not only legitimate but also just and reasonable. Having been entrusted with substantial sums of monies and the duty to disburse the same, the Respondents have an inherent duty to act judiciously and astutely, which duty is not only owed to the state but also to the Petitioners who had expended the said sums.

23. The Petitioners further submit that the Respondents are also liable to return the Bank Guarantee for the sum of Rs.84 crores so that it could be returned to the issuing Bank for being cancelled. Considering the fact that the Petitioners are incurring about 3.51 crores for every renewal of the said Bank Guarantee, the Respondents should immediately return the said Bank Guarantee which they have not done despite being repeatedly called upon to do so. The Petitioners are aware that considering the nature of the reliefs in the above Writ Petition it may not be proper for them to seek interim relief of the same nature. The Petitioners are therefore being advised to approach this Hon'ble Court to fix an early date for the hearing of the Writ Petition so that the grievances are redressed without any further delay. It is submitted that unless the Writ Petition is heard and decided at an early date, irreparable loss, hardship and prejudice would be caused to the Petitioners.

24. It is therefore prayed that this Court may be pleased to fix an early date for the hearing of the above Writ Petition and pass further or other orders as this Hon'ble Court may deem fit and proper and thus render justice.

M. J. Prasad

25. It is therefore prayed that this Hon'ble Court may be pleased to issue a Writ of Mandamus or any other Writ, Order or direction of a like nature directing the Respondents herein their men, agents and servants to render accounts for the sum of Rs.141 Crores deposited by or on behalf of the Petitioners and credited to the account of the 2nd Respondent's Bank Account on or about the 28th March, 2018, including details of the disbursements made and to consequently direct the 2nd Respondent to return to the Petitioners or to their Nominees/Representatives the original Bank Guarantee dated 16th May, 2018 for a sum of Rs.84 crores issued by the Trade Finance Branch, Chennai of Kotak Mahindran Bank Limited bearing No.84730 BG 180095588 in favour of the 2nd Respondent herein for being discharged and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

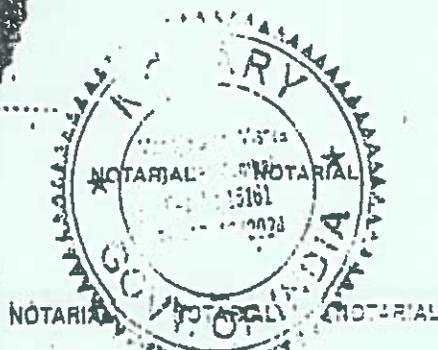
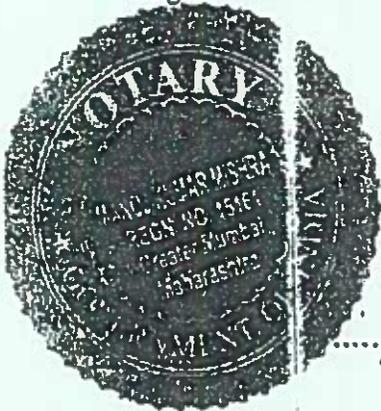


[Signature]
BEFORE ME



Solemnly affirmed at Mumbai on this the ^{29th} October 2019 and signed his name in my presence.

NOTARY PUBLIC: MUMBAI



[Signature]
29/10/19
MANOJ KUMAR MISHRA
(B.A. LL.B)
ADVOCATE & NOTARY GOVT. OF INDIA
Reg. No. 15161
Chandrabali Yadav Chawl, J. M. Road,
J. M. Road, Andheri (East) Mumbai-400 093

Reg. No. - 01
Sr. No. - 37
Dt. - 29/10/19

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IN THE HIGH COURT OF JUDICATURE
AT MADRAS

(Special Original Jurisdiction)

W.P.No. 3104⁵ of 2019

1. BW VLGC Limited
Bermuda
represented herein by its
Power of Attorney Agent Captain Mukesh Sharan
2. The United Kingdom Mutual Steam
Ship Assurance Association (Europe)
UK P & I Club)
Having their Office at
99 Fenchurch Street, London- EC3M 4ST
Represented herein by its Power & Attorney
Agent Mr S. Ramamoorthy

... Petitioners 1 and 2

Vs.

1. The Government of Tamil Nadu
Fort St. George, Chennai 600009
 2. The Director of Fisheries,
Nandanam, Chennai 600 035
- ... Respondents 1 and 2

AFFIDAVIT OF MUKESH SHARAN

M/s S. Raghunathan,
(Ms. 318/1977)
Sharanya Vaidhiyanthan
(Ms. 1686/2014)
V.Kamala Kannan
(Ms.1624/2018)

Counsel for the Petitioners

(138)

MEMORANDUM OF WRIT PETITION
Under Article 226 of the Constitution of India, 1950
IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

W.P.No. 3104⁵ of 2019

1. BW VLGC Limited
Having its Registered Office at
Clarendon House,
2nd Church Street, Hamilton HM 11,
Bermuda
represented herein by its
Power of Attorney Agent Captain Mukesh Sharan

 2. The United Kingdom Mutual Steam
Ship Assurance Association (Europe)
through their Managers
Thomas Miller P & I (Europe) Ltd.
(UK P & I Club)
Having their Office at
90 Fenchurch Street, London- EC3M 4ST
Represented herein by its Power & Attorney Agent Mr S. Ramamoorthy
... Petitioners 1 and 2
- Vs.
1. The Government of Tamil Nadu
represented by its Principal Secretary
Animal Husbandary, Dairying & Fisheries Department,
Fort St. George, Chennai 600009

 2. The Director of Fisheries,
Government of Tamil Nadu,
Integrated Complex, 571, Anna Salai,
Nandanam, Chennai 600 035
... Respondents 1 and 2

MEMORANDUM OF WRIT PETITION FILED UNDER ARTICLE 226
OF THE CONSTITUTION OF INDIA, 1950

The First Petitioner herein is BW VLGC Limited having its registered office at
Clarendon House, 2nd Church Street, Hamilton HM 11, Bermuda.

The address for service of notices and processes from this Hon'ble Court is that of their Counsel M/s. Raghunathan, Sharanya Vaidhiyanathan and Kamala Kannan, having their office at "Haji S.Madharsha & Sons Building", 5th Floor, No.148 (Old No.44), Second Line Beach, Chennai – 600 001.

The Second Petitioner is the Protection and Indemnity Club, having its office at 90, Fenchurch Street, London- EC3M 4ST Represented herein by its Power & Attorney Agent Mr S. Ramamoorthy.

The First Respondent is the Government of Tamil Nadu represented by its Principal Secretary, Animal Husbandry, Dairying and Fisheries Department, Fort St.George, Chennai 600009.

The Second Respondent is the Director of Fisheries Government of Tamil Nadu, Integrated Complex, 571, Anna Salai, Nandanam, Chennai 600 035.

The address for service of notices and processes on the Respondents are as set out above.

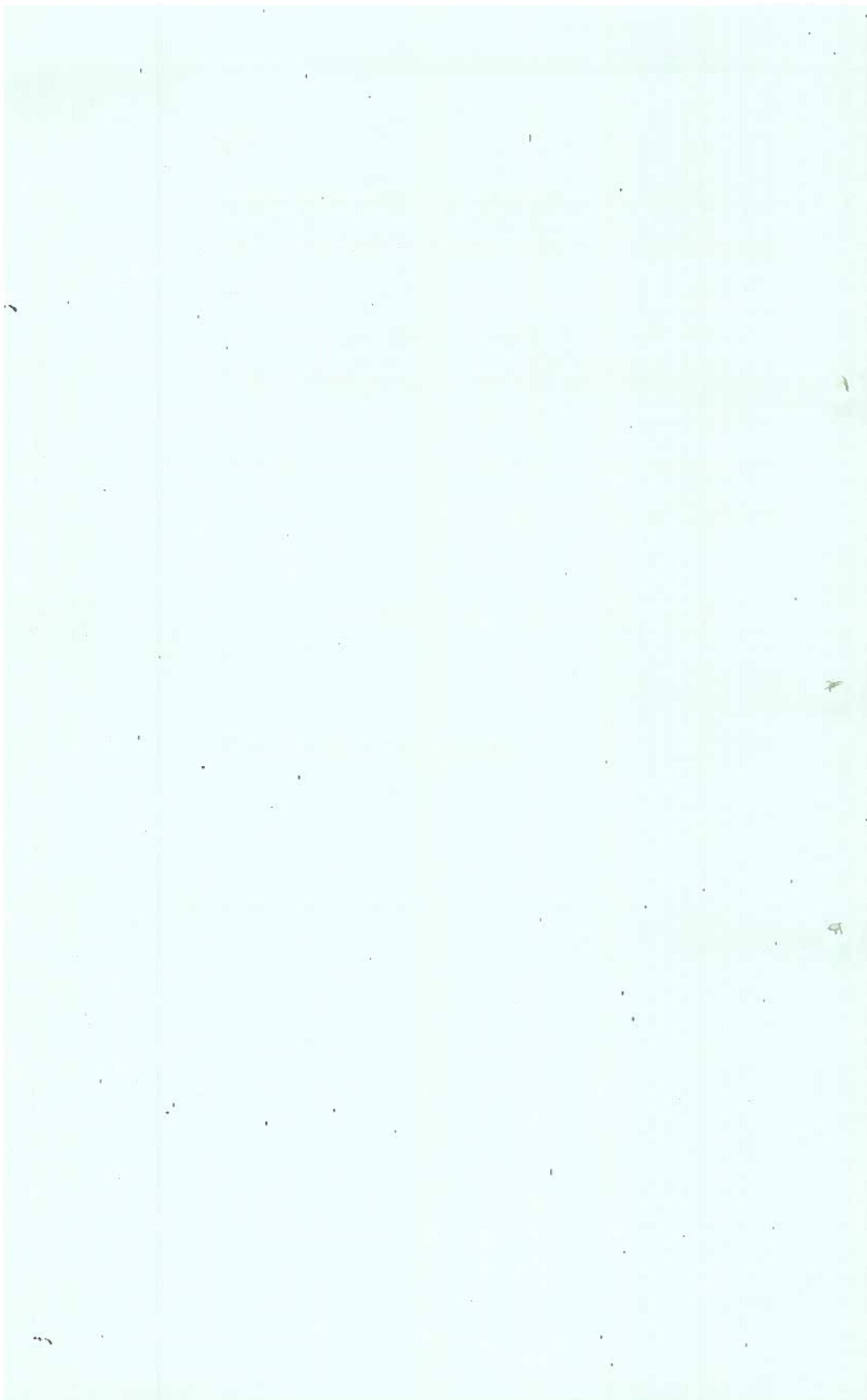
For the reasons stated in the accompanying affidavit, it is most humbly prayed that this Hon'ble Court may be pleased to issue a Writ of Mandamus or any other Writ, Order or direction of a like nature directing the Respondents herein their men, agents and servants to render accounts for the sum of Rs.141 Crores deposited by or on behalf of the Petitioners and credited to the account of the 2nd

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Respondent's Bank Account on or about the 28th March, 2018, including details of the disbursements made and to consequently direct the 2nd Respondent to return to the Petitioners or to their Nominees/Representatives the original Bank Guarantee dated 16th May, 2018 for a sum of Rs.84 crores issued by the Trade Finance Branch, Chennai of Kotak Mahindran Bank Limited bearing No.84730 BG 180095588 in favour of the 2nd Respondent herein for being discharged and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

Dated at Chennai on this day of October 2019

COUNSEL FOR THE PETITIONER



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MEMORANDUM OF WRIT
MISCELLANEOUS PETITION
under Article 226 ff The Constitution Of India
IN THE HIGH COURT OF JUDICATURE
AT MADRAS
(Special Original Jurisdiction)

W.P.No. 3104 of 2019

1. BW VLGC Limited
Bermuda
represented herein by its
Power of Attorney Agent Captain Mukesh Sharan

2. The United Kingdom Mutual Steam
Ship Assurance Association (Europe)
(UK P & I Club)
Having their Office at
90 Fenchurch Street , London- EC3M 4ST
Represented herein by its Power & Attorney
Agent Mr S. Ramamoorthy

... Petitioners /Petitioners

Vs.

1. The Government of Tamil Nadu
Fort St.George, Chennai 600009

2. The Director of Fisheries,
Nandanam, Chennai 600 035

... Respondents/Respondents

MEMORANDUM OF WRIT PETITION
FILED UNDER ARTICLE 22 OF THE
CONSTITUTION OF INDIA, 1950

M/s S. Raghunathan,
(Ms. 318/1977)

Sharanya Vaidhiyanthan
(Ms. 1686/2014)

V.Kamala Kannan
(Ms.1624/2018)

Counsel for the Petitioners

(142)

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

W.P.No. 31045 of 2019

1. BW VLGC Limited
Having its Registered Office at
Clarendon House, 2nd Church Street,
Hamilton HM 11, Bermuda
represented herein by its
Power of Attorney Agent Captain Mukesh Sharan

2. The United Kingdom Mutual Steam
Ship Assurance Association (Europe)
through their Managers
Thomas Miller P & I (Europe) Ltd.
(UK P & I Club)
Having their Office at
90 Fenchurch Street, London- EC3M 4ST
Represented herein by its Agents ... Petitioners 1 and 2

Vs.

1. The Government of Tamil Nadu
represented by its Principal Secretary
Animal Husbandary, Dairying & Fisheries
Department, Fort St. George,
Chennai - 600 009

2. The Director of Fisheries,
Government of Tamil Nadu,
Integrated Complex, 571, Anna Salai,
Nandanam, Chennai - 600 035 ... Respondents 1 and 2

INDEX TO THE TYPED SET OF DOCUMENTS FILED BY THE PETITIONER

Sl. No.	Date	Particulars	Page No.
1.	31.08.2017	Copy of the Bank Guarantee bearing No. 12884B/G1/7014697 furnished by the Petitioners in favour of the Director General of Shipping.	1-3

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2.	14.09.2017	Letter addressed by the Principal Officer, Mercantile Marine Department permitting release of the Second Petitioner's vessel.	4
3.	10.10.2017	Order passed by the Hon'ble Madras High Court in W.P. No. 25813 of 2017.	5-15
4.	13.03.2018	Copy of the order passed by the Hon'ble Division Bench of the Madras High Court in W.A. No. 537 of 2018.	16-22
5.	16.05.2018	Copy of the letter addressed by the Agent of the Second Petitioner to the Second Respondent.	23
6.	16.05.2018	Copy of the Bank Guarantee bearing No. 84730BG 18009577 furnished by the Kotak Mahindra Bank in favour of the Second Respondent.	24-27
7.	15.03.2019	Letter addressed by the Second Petitioner to the Respondent	28-37
8.	08.05.2019	Letter addressed by the Second Petitioner to the Respondent	38
9.	09.05.2019	Letter addressed by the Counsel for the Second Petitioner to the Respondent	39-41
10.	13.09.2019	Letter addressed by the Counsel for the Petitioner to the Respondents.	42-47
11.	May 2018- April 2019	Copies of the invoices raised against the Second Petitioner, in relation to amounts expended towards extension of Bank Guarantee	48-53
12.	-	Copy of the Power of Attorney executed by the 1 st Petitioner	54-56
13.	-	Copy of the Power of Attorney executed by the 2 nd Petitioner	57-61

Certified that the above documents are true copies of their Originals.

Dated at Chennai on this the 30th day of October 2019.

COUNSEL FOR THE PETITIONER

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EXHIBIT - 5

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PANDI
CORRESPONDENTS PVT. LTD.

FLAT NO. 123, III FLOOR
GEE GEE PLAZA
NO. 1, WHEATCROFTS ROAD
MURGAMBAKKAM
CHENNAI - 600 034
TEL : 044-28282672, 28229954, 28229963
RES : 044-24740751 MOBILE : 98410 44752
FAX : 91-44-28282691
E.MAIL : chennai@pandiindia.in
WEBSITE: www.pandiindia.in

Our Ref: 19287/UK/CHEN/2017/SR

16th MAY 2018

THE DIRECTOR OF FISHERIES
FISHERIES DEPARTMENT
GOVERNMENT OF TAMIL NADU
CHENNAI
=====

Dear Sirs,

BW MAPLE at Ennor: 28.1.2017 -
Collision with "DAWN KANCHIPURAM"
.....

On behalf of the Owners of the vessel, BW MAPLE and DAWN KANCHIPURAM,
we attach herewith the original of the Bank Guarantee No. **84730BG18001588**
dt. 16.5.2018 for Rs. 84,00,00,000/- (Rupees Eighty Four Crores only) issued by
Kotak Mahindra Bank Ltd

Kindly acknowledge receipt.

Thanking you,

Yours faithfully
for PANDI CORRESPONDENTS PVT. LTD.
(AS CORRESPONDENTS ONLY)

(S. RAMAMOORTHY)

Encl: Original Bank Guarantee for Rs.84 Crores.

KCS

Received
M. Subramanian
17/5/18
(Per to 309)



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 **kotak**

Kotak Mahindra Bank Ltd.

Sr. No. BG 240224



Date: 16th May, 2018

TO
THE DIRECTOR OF FISHERIES,
FOR AND ON BEHALF OF FISHERIES
DEPARTMENT, GOVERNMENT OF
TAMIL NADU, CHENNAI

Dear Sir,

Bank Guarantee No. 8473OBG18009588 Dated 16-May-2018

We are forwarding herewith our BG No.8473OBG18009588 dated 16-May-2018 for INR 84,00,00,000/- (Indian Rupees Eighty Four Crore Only)

We confirm that the signatories of the Bank Guarantee are authorized to do so on behalf of the bank. Please note that all the correspondence related to this Bank Guarantee should be addressed to:

Branch Manager, Kotak Mahindra Bank Ltd,
Chennai Capitale Anna Salai Branch

Please note that confirmation related to this Bank Guarantee can be obtained from:

Trade Finance - RPC Trade,
Bank Guarantee Dept (BGBC Team),
Corporate Banking Operations (PC),
8th Floor, Zone-II, TVH Agniti Park,
121, Old Mahabalipuram Road,
Kandanchavadi, Chennai,
Tamil Nadu, 600 060, INDIA
Tel no -044-002-8260 8264
Email address: BG RPCCHENNAI@KOTAK.COM

Claims if any, under this guarantee should be made in writing and retain in original at the branch address and a copy of the same to be sent to Bank Guarantee Dept's Address as mentioned above.

Thanking you,
Yours faithfully,

For Kotak Mahindra Bank Ltd.

Authorised Signatory,
Bank Stamp

ARUN S - A 88347
Kotak Mahindra Bank Limited
Trade Finance, Chennai



Kotak Mahindra Bank Ltd

Gowthamaraj
Authorised Signatory

GOWTHAMARAJ A 88091
Kotak Mahindra Bank Limited
Trade Finance, Chennai



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भारत गैर न्यायिक

एक सौ रुपये

Rs. 100

₹. 100



ONE HUNDRED RUPEES

भारत INDIA
INDIA NON JUDICIAL

தமிழ்நாடு தபிலிநாடு TAMILNADU

BY 462188

Kotak Mahindra Bank Ltd.
Chennai-600 014.

P.G. MURALI KRISHNAN
STAMP ENDORSE
NO. 22, LALESHWAR STREET, CHENNAI
TELEPHONE: 28240000
FAX: 28240000
PHONE: 28240000

Rs: 100/-
No: 1346
Date: 04/05/2017

BANK GUARANTEE

BANK GUARANTEE NO. 84730BG18009388 DATED 16-MAY-2017

TO: THE DIRECTOR OF FISHERIES, FOR AND ON BEHALF OF FISHERIES DEPARTMENT, GOVERNMENT OF TAMIL NADU, CHENNAI

SHIP: 'DAWN KANCHIPURAM' AND 'BW MAPLE'

INCIDENT: 'BW MAPLE' COLLISION WITH 'MT DAWN KANCHIPURAM' ON 15TH JANUARY 2017 RESULTING IN POLLUTION FROM THE 'MT DAWN KANCHIPURAM'

CLAIM: COLLISION OF SHIP 'DAWN KANCHIPURAM' AND 'BW MAPLE' OCCURRED OFF KAMARAJE PORT, ENDRAPURAM, CHENNAI. LOSSES ARISING OUT OF THE INCIDENT AS SUBMITTED BY THE FISHERMAN AND FISHERMEN MEMBERS OF TAMIL NADU FISHERIES COMMISSIONER OF FISHERIES, GOVERNMENT OF TAMIL NADU, CHENNAI. THE SHIP 'DAWN KANCHIPURAM' WAS OPERATED BY GREEN INTERNATIONAL SHIPPING COMPANY. THE SHIP 'BW MAPLE' WAS OPERATED BY BANGS & BANGS. THE CLAIMANT REQUESTS THE BANK TO PAY THE CLAIMANT THE AMOUNT OF LOSS AS SUBMITTED BY THE FISHERMAN AND FISHERMEN MEMBERS OF TAMIL NADU FISHERIES COMMISSIONER OF FISHERIES, GOVERNMENT OF TAMIL NADU, CHENNAI.

For Kotak Mahindra Bank Ltd.

For Kotak Mahindra Bank Ltd.

Authorised Signatory

Authorised Signatory

ARUN S - A 85347
Kotak Mahindra Bank Limited
Trade Finance, Chennai



GOWTANARAJ K. A 65093
Kotak Mahindra Bank Limited
Trade Finance, Chennai

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 **kotak**

Kotak Mahindra Bank Ltd.

Sr No.: BG 240225



BANK GUARANTEE NO. 84730BG18009588 DATED 16-MAY-2018

DEAR SIRs.

I, IN CONSIDERATION OF YOU AND THE DIRECTOR OF FISHERIES, GOVERNMENT OF TAMIL NADU, REPRESENTING THE FISHERY INTERESTS OF THE STATE OF TAMIL NADU, RELEASING AND/OR REFRAINING FROM ARRESTING OR OTHERWISE DETAINING EITHER THE 'DAWN KANCHIPURAM' OR THE 'BW MAPLE' OR ANY OTHER VESSEL ASSET OR PROPERTY IN THE SAME OR ASSOCIATED OWNERSHIP, MANAGEMENT, POSSESSION OR CONTROL FOR THE PURPOSE OF OBTAINING SECURITY IN RESPECT OF THE ABOVE CLAIM ARISING OUT OF THE ABOVE INCIDENT, WE KOTAK MAHINDRA BANK LTD. HAVING OUR REGISTERED OFFICE AT 27 BKC, C 27, G BLOCK, BANDRA KURLA COMPLEX, BANDRA (E), MUMBAI -400051 AND BRANCH OFFICE AT CHENNAI CAPITALE ANNA SALAI BRANCH HEREBY IRREVOCABLY AND UNCONDITIONALLY UNDERTAKE AND GUARANTEE TO PAY TO YOU, OR TO SUCH NOMINATED ACCOUNT AS INTIMATED BY YOU TO THE BANK IN WRITING, IMMEDIATELY ON YOUR FIRST WRITTEN DEMAND, WITHOUT DEMUR OR PROTEST AND IRRESPECTIVE OF ANY CONTENTIONS OR DISPUTES RAISED BY EITHER THE OWNERS OF THE 'DAWN KANCHIPURAM' OR 'BW MAPLE' AND WAIVING ALL RIGHTS OF OBJECTION AND DEFENCE, UP TO A MAXIMUM SUM OF INR 84,00,00,000/- (INDIAN RUPEES EIGHTY FOUR CRORE ONLY) WITHOUT PREJUDICE TO THE CLAIMS RELATING TO LIVELIHOOD LOSS DUE TO THE OIL SPILL CAUSED BY THE COLLISION BETWEEN MT DAWN KANCHIPURAM AND LPGC BW MAPLE AND NOT FOREGOING THE LIABILITY OF THE SHIPPING COMPANIES AND WITHOUT PREJUDICE TO THE COMPENSATION CLAIM FOR A SUM OF RS.240 CRORE, PREFERRED BY THE GOVERNMENT OF TAMIL NADU, WHATSOEVER ON THE PART OF THE SHIPS INVOLVED IN THE ACCIDENT AND HER OWNERS, SUCH SUM:

1. AS MAY EITHER BE FOUND TO BE DUE TO YOU FROM THE OWNER OF THE 'DAWN KANCHIPURAM' AND/OR THE OWNER OF THE 'BW MAPLE' BY A FINAL UNAPPEALABLE JUDGMENT OF THE MADRAS HIGH COURT AT CHENNAI OR A FINAL JUDGMENT OF THE NATIONAL GREEN TRIBUNAL BENCH, BUT SUBJECT TO ANY JUDICIAL STAY OR EXECUTION THAT MAY BE GRANTED PENDING APPEALS; OR

2. AS MAY BE AGREED IN WRITING BETWEEN YOU AND THE OWNERS OF BOTH THE 'DAWN KANCHIPURAM' AND THE OWNER OF THE 'BW MAPLE' TO BE RECOGNIZABLE FROM OWNERS OF THE 'DAWN KANCHIPURAM' AND THE OWNERS OF THE 'BW MAPLE' IN RESPECT OF THE ABOVE CLAIM ARISING OUT OF THE ABOVE INCIDENT AS SETTLEMENT AGREEMENT

3. PROVIDED ALWAYS THAT YOUR TOTAL LIABILITY UNDER THIS GUARANTEE SHALL NOT IN ANY CIRCUMSTANCES EXCEED THE TOTAL SUM OF OF INR 84,00,00,000/- (INDIAN RUPEES EIGHTY FOUR CRORE ONLY).

4. THIS GUARANTEE IS NOT TO BE CONSIDERED AS AN ADMISSION OF LIABILITY AND IS GIVEN ENTIRELY WITHOUT PREJUDICE TO ANY AND ALL LEGAL OR OTHER RIGHTS AND DEFENCES AVAILABLE TO EITHER AND/OR BOTH THE OWNERS OF THE 'DAWN KANCHIPURAM' AND THE OWNER OF THE 'BW MAPLE'

For Kotak Mahindra Bank Ltd

Authorized Signator

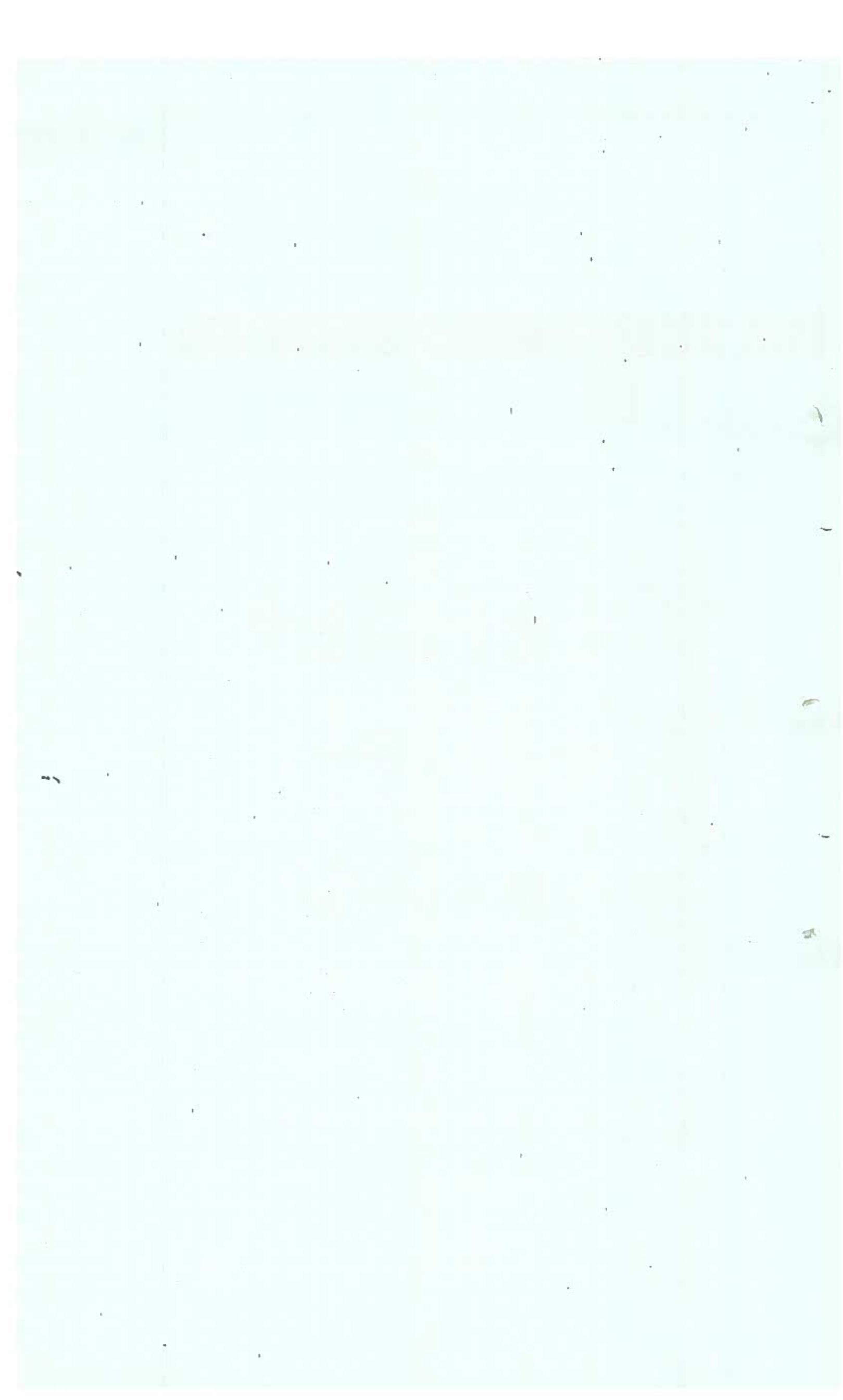
ARUN S - A 68347
Kotak Mahindra Bank Limited
Trade Finance - Chennai



For Kotak Mahindra Bank -

Authorized Signator

GOWTHAM RAO K...
Kotak Mahindra Bank Ltd
Trade Finance - Chennai



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 **kotak**

Kotak Mahindra Bank Ltd.

Sr. No.: BG 240226

(3)

BANK GUARANTEE NO. 84730BG18009588 DATED 16-MAY-2018

3. THE GUARANTEES TO PAY SUCH SUM AS ABOVE WITHIN A PERIOD AS MUTUALLY AGREED OR AS ORDERED BY ANY COMPETENT AUTHORITY. ANY DELAY IN PAYING SUCH SUM WILL ATTRACT AN INTEREST OF 18 PERCENT PER ANNUM FOR SUCH PERIOD OF DELAY.

4. THIS GUARANTEE SHALL BE VALID UNTIL THE FINAL DISPOSAL OF THE CLAIM AND SUCH PERIOD SHALL BE COVERED BY RENEWAL OF THE BANK GUARANTEE IN ONE YEAR FROM THE DATE HEREOF AND SHALL BE AUTOMATICALLY RENEWED ON THE SAME TERMS BY US BEFORE OR UPON THE EXPIRY OF EACH SUCCESSIVE YEAR ON THE SAME TERMS.

5. THIS GUARANTEE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH INDIAN LAW AND SHALL BE SUBJECT TO THE EXCLUSIVE JURISDICTION OF THE HIGH COURT OF JUDICATURE, MADRAS, TAMIL NADU INDIA.

EXECUTED THIS ON 16th DAY OF MAY, 2018 AT CHENNAI

FOR KOTAK MAHINDRA BANK LTD

AUTHORIZED SIGNATORIS.
BANK SEAL

ARUN S - A 88347
Kotak Mahindra Bank Limited
Trade Finance, Chennai



For Kotak Mahindra Bank Ltd.

Gowthamraj
Authorized Signatory

GOWTHAMRAJ K - A 66093
Kotak Mahindra Bank Limited
Trade Finance, Chennai



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EXHIBIT - 7

UK P&I CLUB



The Managers
Thomas Miller P&I (Europe) Ltd.
80 Fenchurch Street
London
EC3M 4ST
T +44 (0)20 7283 4646
F +44 (0)20 7549 4243
ukpandi@thomasml.com
www.ukpandl.com

PLEASE REPLY DIRECT TO:
Email :Lance Hebert@thomasml.com

- To: The Principal Secretary
Animal Husbandry, Dairying and Fisheries Department
The Government of Tamil Nadu
Fort St. George
Chennai - 600009
- CC: The Director of Fisheries
Animal Husbandry, Dairying and Fisheries Department
The Government of Tamil Nadu
Fort St. George
Chennai - 600009
- CC: Shri Amitabh Kumar, IRS - Director General of Shipping
Directorate General of Shipping
Government of India,
Beta Building, 9th Floor,
I-Think Techno Campus
Kanjur Village Road
Kanjur Marg (East)
Mumbai - 400042
- CC: Capt. K.P. Jayakumar
Dy. Nautical Adviser to the Govt. of India

15th March 2019

Dear Sir,

Re: Collision between M/V BW MAPLE and M/V DAWN KANCHIPURAM at Ennore on 28th January 2017 resulting in pollution from the M/V DAWN KANCHIPURAM.

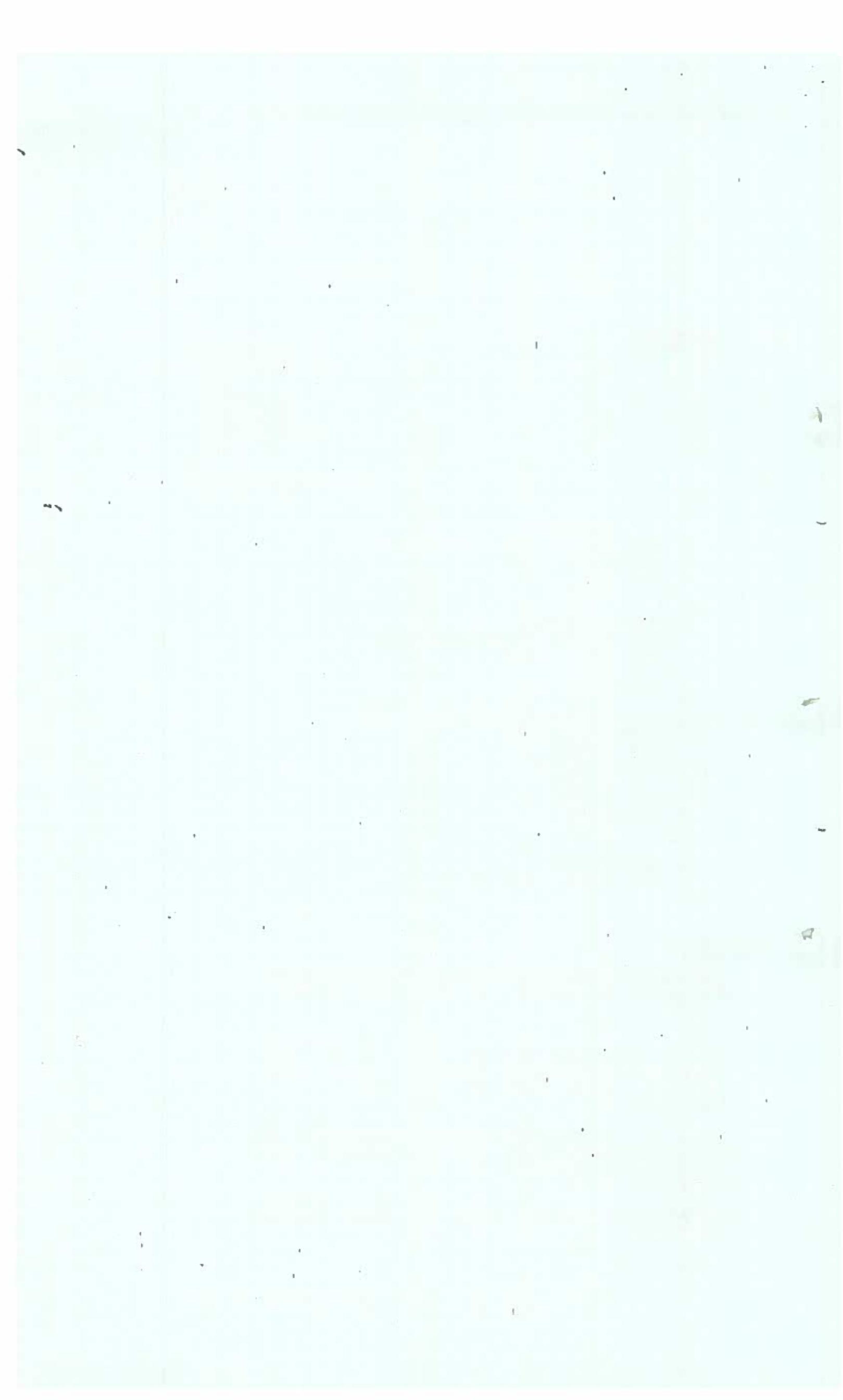
We, the United Kingdom Mutual Steam Ship Assurance Association (Europe) Limited, write to you on behalf of BW VLGC Limited, the Owners of the then M/V BW MAPLE, which was entered with this Association for protection and indemnity insurance cover at the time of the incident mentioned above.

As you may recall we had a series of meetings between August 2017 and March 2018 to discuss an appropriate approach and response to the claims raised by the Fishermen of the regions impacted by the bunker spill from the M/V DAWN KANCHIPURAM arising as a result of the aforementioned collision.

These discussions culminated with the High Court proceedings in the High Court of Judicature at Madras, which concluded with the order of that court dated 13th March 2018.

UK P&I CLUB
IS MANAGED
BY THOMAS
MILLER

The United Kingdom Mutual Steam Ship Assurance Association (Europe) Limited. Registered in England No. 22215.
Thomas Miller P&I (Europe) Ltd. Registered in England No. 2920387. Registered offices as above.



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UK P&I CLUB

We attach a copy of that court order for your reference. Pursuant to the terms of this order it was ordered that *inter alia*;

QUOTE

1. The U.K. P&I Club, on behalf of the Owners of LPGC BW Maple and the M.T. Dawn Kanchipuram, shall deposit a sum of Rs. 141 Crores, strictly without prejudice, towards the various claims lodged by the fishermen and their Associations for a sum of Rs.240 Crores, preferred by the Government of Tamil Nadu.
2. To secure the remaining claims out of the total claim of Rs. 240 Crores preferred by the Government of Tamil Nadu before the Hon'ble National Green Tribunal, Southern Zonal Bench ... the U.K. P&I Club and the Steamship Mutual Underwriting Association Limited, shall, on behalf of the Owners of both the LPGC Bw Maple and M.T. Dawn Kanchipuram, also arrange for the execution of a Bank Guarantee for a sum of Rs.84crores.
3. /...
6. Since the Hon'ble National Green Tribunal, Southern Zonal Bench has directed, in Application Nos.14, 16, 38 and 40 of 2017, the Fisheries Department, Government of Tamil Nadu, to entertain, appraise and disburse the claims of the fishermen and their Associations, the Government of Tamil Nadu would do so upon the sum of Rs.141 Crores being deposited with them.

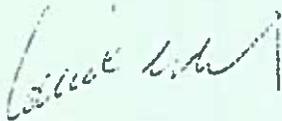
UNQUOTE

In compliance with this order the payment of Rs.141 Crores was made, and received by the Government of Tamil Nadu on or about 28th March 2018. The bank guarantee for Rs.88Crores was received by the Office of the Director of Fisheries for the Government of Tamil Nadu on 17th May 2018. Attached is a copy of the Bank Guarantee, marked "received".

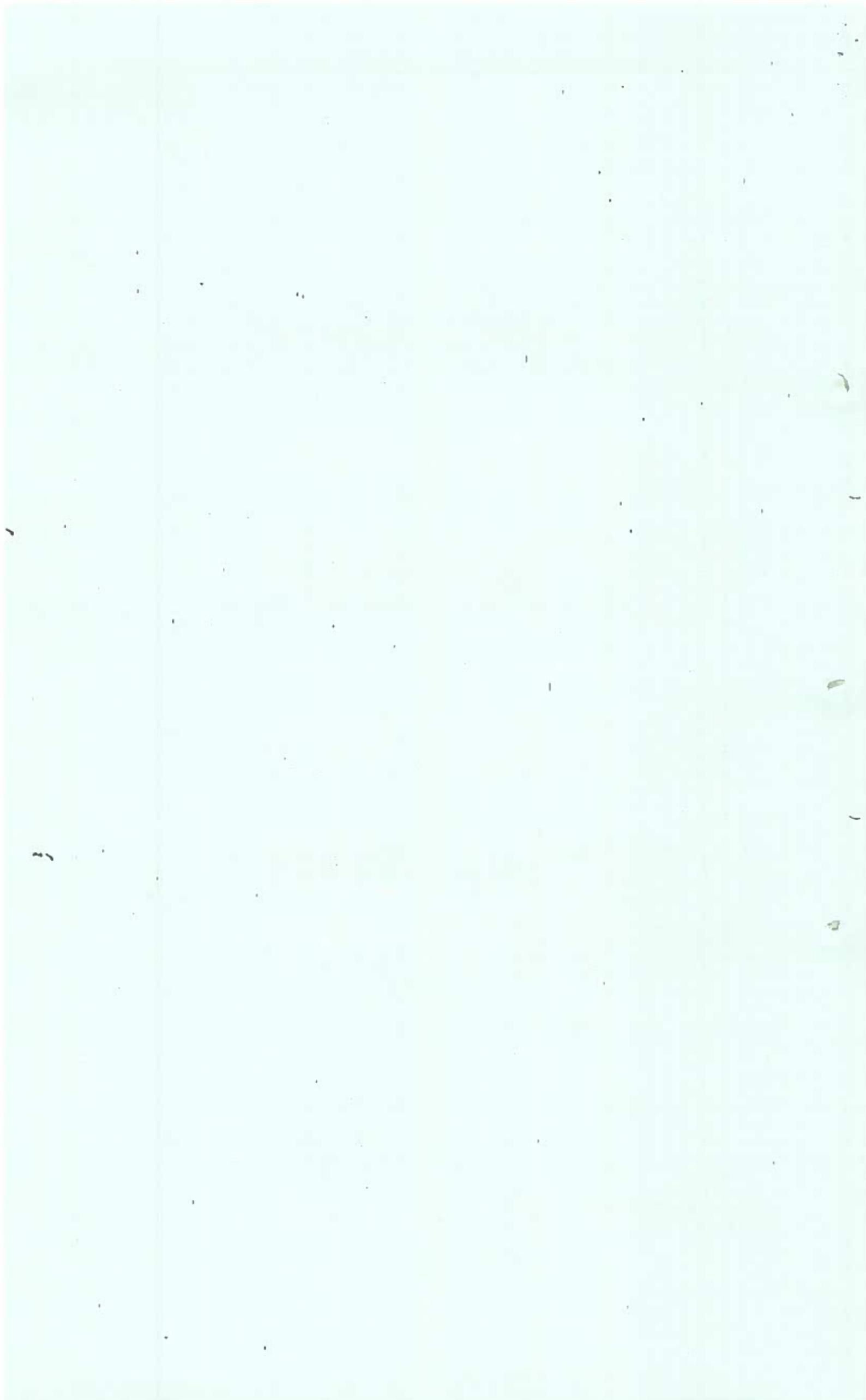
We write now to respectfully request an update on the distribution of the above mentioned funds to the Fishermen and their Associations in settlement of their claims. Furthermore, as no further request for funds has been received in relation to these claims, we would be grateful if the aforementioned Bank Guarantee could returned to us, or our appointed representative at your earliest convenience.

We look forward to receiving your response.

Yours faithfully,



Lance Hebert
Senior Claims Director
For and on behalf of Thomas Miller P&I (Europe Ltd)
Managers of the United Kingdom Mutual Steam Ship Assurance Association (Europe)
Limited



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.A.No.537 of 2018
and
C.M.P.No.5302 of 2018

Indianocean Shipping Pvt. Ltd.,
Rep. by its Head of Insurance and Legal,
Mr.Anil T.Saigal,
15-B, Chandermukhi,
Nariman Point,
Mumbai-400 021.
India.

.. Appellant

Vs.

1. The Kamarajar Port Limited,
Ennore,
Rep. by its Chairman,
4th Floor, Super Speciality Diabetic Centre,
Rajaji Salai, Chennai-600 001.
2. The District Collector, Tiruvallur.
3. The Director of Fisheries,
Ternampet, Chennai-600 006.

(Respondents 2 and 3 are suo motu impleaded
as per order dated 12.02.2018 in W.P.No.2979 of 2018)

4. Owners of BW MAPLE,
BW VLGC Limited,
Clarendon House,
2, Church Street, Hamilton HI 11.

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Bermuda.

5. The Director General of Shipping,
9th Floor, Beta Building,
Kanjur Marg (East),
Mumbai-400 042.

(Respondents 4 and 5 are impleaded
as per order dated 13.03.2018 in
C.M.P.No.5301 of 2018 in W.A.No.537 of 2018)

... Respondents

Writ Appeal filed Clause 15 of the Letters Patent against the order dated
13.02.2018 passed by the learned Single Judge in W.P.No.2979 of 2018 on the
file of this Court.

For appellant : Mr.AR.L.Sundaresan, Senior Counsel for Mr.S.Vasudevan

For respondents: Mr.Siddharth for Mr.Krishna Ravindran for R-1

Mr.Vijay Narayan, Advocate General, assisted by
Mr.E.Manoharan, Addl.G.P. and
Mr.Gautham Venkatesh and Mr.C.Vigneswaran for RR-2 & 3

Mr.S.K.Rakhunathan for R-4

Mr.G.Rajagopal, Addl. Solicitor General, assisted by
Mr.V.Venkatesan, SCGSC for R-5

JUDGMENT

(The Judgment of the Court was delivered by M.Venugopal, J)

Heard the Learned counsel appearing for both parties and perused the
materials available on record.

2. According to the appellant, Writ Petition In W.P.No.2979 of 2018 was
filed before this Court by the owners of M.T.DAWN KANCHIPURAM for grant of

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Port Clearance to allow the Vessel MT DAWN KANCHIPURAM lying at the Ennore Port, to be towed to Vishakapatnam to carry out the repairs. In the said Writ Petition, ultimately, this Court passed final order on 13.02.2018 permitting the release of the said Vessel, subject to terms set out in paragraph 14 of the said order, including inter-alia, furnishing of unconditional and irrevocable Bank Guarantee for a sum of Rs.188 Crores in favour of the Director of Fisheries within a period of seven days.

3. The Learned Senior Counsel appearing for the Appellant/writ petitioner-Company submits that U.K. P & I Club, the Insurers of BW MAPLE, had brought to the notice of the Fisheries Department, Government of Tamil Nadu, the communication dated 17.01.2018 addressed by the Director of Fisheries to the Steamship Mutual Underwriting Association Limited, by which, the Government of Tamil Nadu had agreed to accept the payment of Rs.141 Crores including the restoration claims of Rs.10 Crores, strictly without prejudice to the claims relating to livelihood loss due to the oil spill caused by the collision between MT DAWN KANCHIPURAM and LPGC BW MAPLE and to secure the remaining claim amount of Rs.99 Crores out of the total claim of Rs.240 Crores preferred by the Government of Tamil Nadu.

4. The stand of the Appellant/writ petitioner is that U.K. P & I Club and the Steamship Mutual Underwriting Association Limited, had also had meetings with the officials concerned and brought to their notice that a sum of Rs.15 Crores



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had already been paid to the Government of Tamil Nadu towards the claims of fishermen and therefore, credit should be given for such payment and the petitioner as well as the Owners of LPGC BW MAPLE and their respective insurers are desirous of amicably resolving the claims arising out of the said collision, made the following proposal of compromise for consideration by this Court and prayed for modification of the order passed by this Court on 13.02.2018 in W.P.No.2979 of 2018.

5. Be that as it may, the Appellant and the Fourth Respondent have arrived at a compromise and accordingly, C.M.P.No.5302 of 2018 in W.A.No.537 of 2018 is filed to record the Joint Memo of Compromise, dated 02.03.2018. The terms of the said compromise read as follows:

1. The U.K. P & I Club, on behalf of the Owners of LPGC BW Maple and the M.T.Dawn Kanchipuram, shall deposit a sum of Rs.141 Crores, strictly without prejudice, towards the various claims lodged by the fishermen and their Associations for a sum of Rs.240 Crores, preferred by the Government of Tamil Nadu, including the restoration claims of Rs.10 Crores, with such deposit being made within 14 days from the date on which an order is passed by this Hon'ble Court in this Memo.

2. To secure the remaining claims out of the total claim of Rs.240 Crores preferred by the Government of Tamil Nadu before the Hon'ble National Green Tribunal, Southern Zonal Bench and in addition to what is stated in paragraph 1 above, the U.K. P & I Club and the Steamship Mutual Underwriting Association Limited, shall, on behalf of the Owners of both the LPGC BW Maple and M.T.Dawn Kanchipuram, also arrange for the execution of a Bank Guarantee for a sum of Rs.84



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Crores (Rs.99 Crores less Rs.15 Crores paid earlier by the Steamship Mutual Underwriting Association Limited) in favour of Government of Tamil Nadu represented by the Director of Fisheries within 21 days from the terms of such Bank Guarantee being mutually agreed.

3. The petitioner shall comply with the condition stipulated by the 1st respondent herein the Memo filed before this Hon'ble Court dated 13.02.2018. The petitioner shall furnish a Bank Guarantee of Rs.5.68 Crores towards the claim of the Department of Environment paid by Kamarajar Port Ltd., as stated in the said memo within 7 days from the date of receipt of the copy of the order of this Hon'ble Court passed on the memo filed herein and keep the said Bank Guarantee alive until the claim secured by the said guarantee is finally decided by a competent court or settled.

4. Upon compliance of clauses 1, 2 and 3 above, the Director General of Shipping shall return to the U.K. S & I Club the Bank Guarantee dated 31.08.2017 executed by Kotak Mahindra Bank Ltd., along with the covering letter confirming the return/discharge of the said Bank Guarantee at the earliest.

5. Upon compliance with clauses 1, 2 and 3 above, the Vessel Dawn Kanchipuram shall be permitted to immediately sail out from Kamarajar Port Ltd., Ennore, and the 2nd and 3rd respondents shall on demand provide their clearance and consent to the 1st respondent so as to enable the Dawn Kanchipuram to sail.

6. Since the Hon'ble National Green Tribunal, Southern Zonal Bench has directed, in Application Nos.14, 16, 38 and 40 of 2017, the Fisheries Department, Government of Tamil Nadu, to entertain, appraise and disburse the claims of the fishermen and their Associations, the Government of Tamil Nadu would do so upon the sum of Rs.141 Crores being deposited with them."

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5. It is to be noted that for recording the said Joint Memo of Compromise, dated 02.03.2018 entered into between the respective parties in C.M.P.No.5302 of 2018 in W.A.No.537 of 2018, the fifth respondent has no objection. Accordingly, this Court, while recording the abovesaid Memo of Compromise entered into between the respective parties in C.M.P.No.5302 of 2018 in W.A.No.537 of 2018, modifies the order passed by the learned Single Judge in W.P.No.2979 of 2018, dated 13.02.2018, by substituting the terms of compromise extracted supra.

7. It is made clear that the judgment of this Court rendered in this Writ Appeal shall come into effect within two weeks from the date of receipt of a copy of this judgment.

8. With the abovesaid observations and also stating that the Memo of Compromise dated 02.03.2018 arrived at between the respective parties, shall form part and parcel of the judgment rendered in this Writ Appeal, the present Writ Appeal in W.A.No.537 of 2018 and C.M.P.No.5302 of 2018 stand disposed of. No costs.

(M.V.J) (S.V.N.J)
13.03.2018

Index: Yes/no

Internet: Yes/no

Speaking / Non-speaking Judgment

CS

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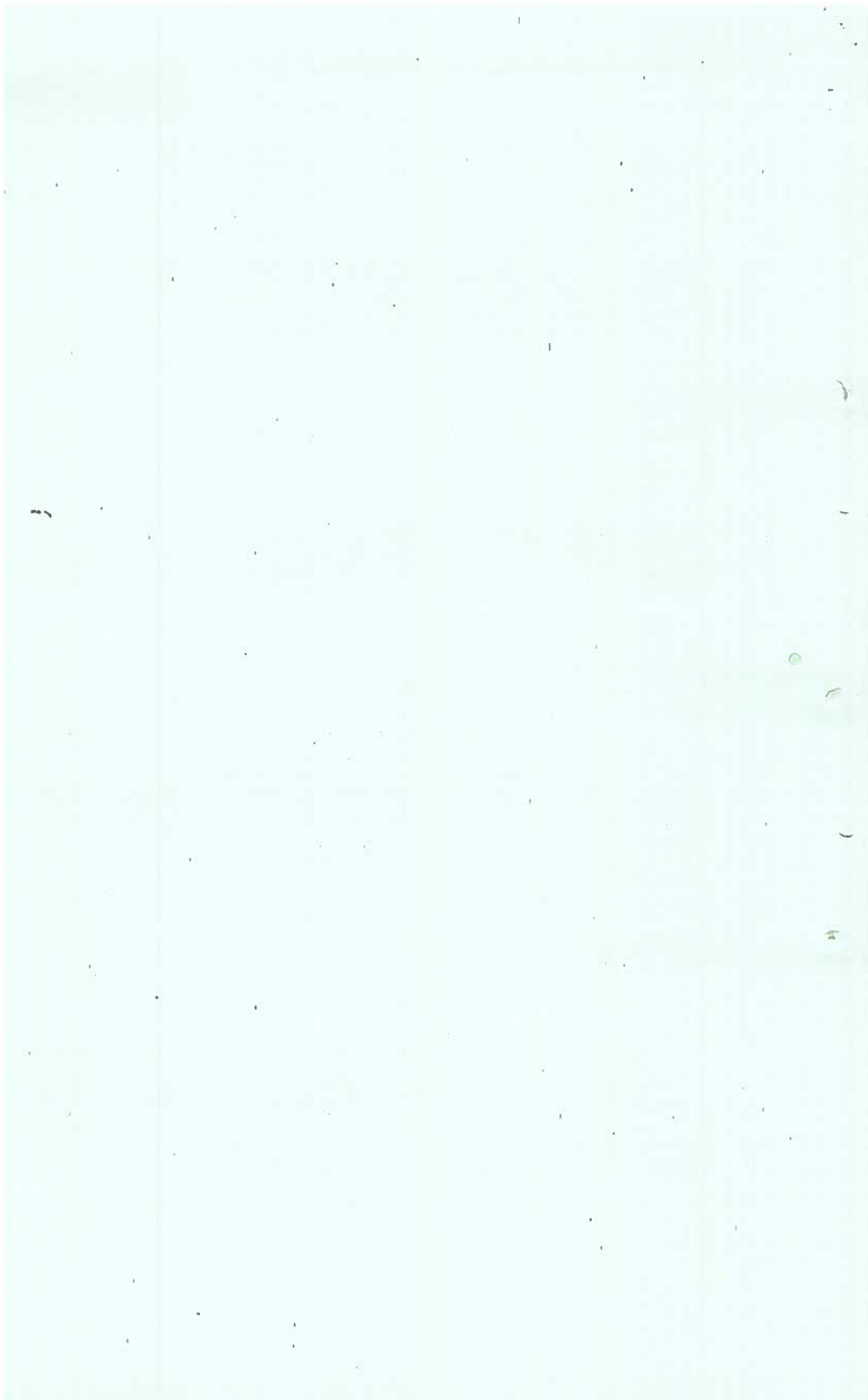
7

To

1. The District Collector, Tiruvallur.
2. The Director of Fisheries,
Teynampet, Chennai-600 006.
3. The Director General of Shipping,
9th Floor, Beta Building,
Kanjur Marg (East),
Mumbai-400 042.

M. VENUGOPAL :

and



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EXHIBIT - 8

UK P&I CLUB

The Managers
Thomas Miller P&I (Europe) Ltd.
90 Fenchurch Street
London
EC3M 4ST

To: The Principal Secretary
Animal Husbandry, Dairying and Fisheries Department
The Government of Tamil Nadu
Fort St. George
Chennai - 600009

CC: The Director of Fisheries
Animal Husbandry, Dairying and Fisheries Department
The Government of Tamil Nadu
Fort St. George
Chennai - 600009

CC: Shri Amitabh Kumar, IRS - Director General of Shipping
Directorate General of Shipping.
Government of India
Beta Building, 9th Floor,
I-Think Techno Campus
Kanjur Village Road
Kanjur Marg (East)
Mumbai - 400042

CC: Capt. K.P. Jayakumar
Dy. Nautical Adviser to the Govt. of India

8/5/19

PLEASE REPLY DIRECT TO:

Tel: +44 (0)20 7214 1100

E: london.ukclub@thomasmiller.com

Our Ref: LZL/2016/010792

Dear Sir,

Re: Collision between MV BW MAPLE and MV DAWN KANCHIPURAM at Ennore on 28th January 2017 resulting in pollution from the MV DAWN KANCHIPURAM.

We write to you in relation to our letter dated 15th March 2019, a copy of which we attach for your case of reference. Regrettably, to-date we have yet to receive a response.

Please let us know if we can be of any further assistance in relation to the matters raised in our previous letter. In the meantime, we look forward to receiving your reply at your earliest convenience.

Yours faithfully,

Lance Heaton
Senior Claims Director
For and on behalf of Thomas Miller P&I (Europe) Ltd.
Managers of the United Kingdom Mutual Steam Ship
Assurance Association (Europe) Limited

THOMAS MILLER

The United Kingdom Mutual Steam Ship Assurance Association (Europe) Limited, Registered in England No. 0001
Thomas Miller P&I (Europe) Ltd. Registered in England No. 2820007. Registered offices as above.

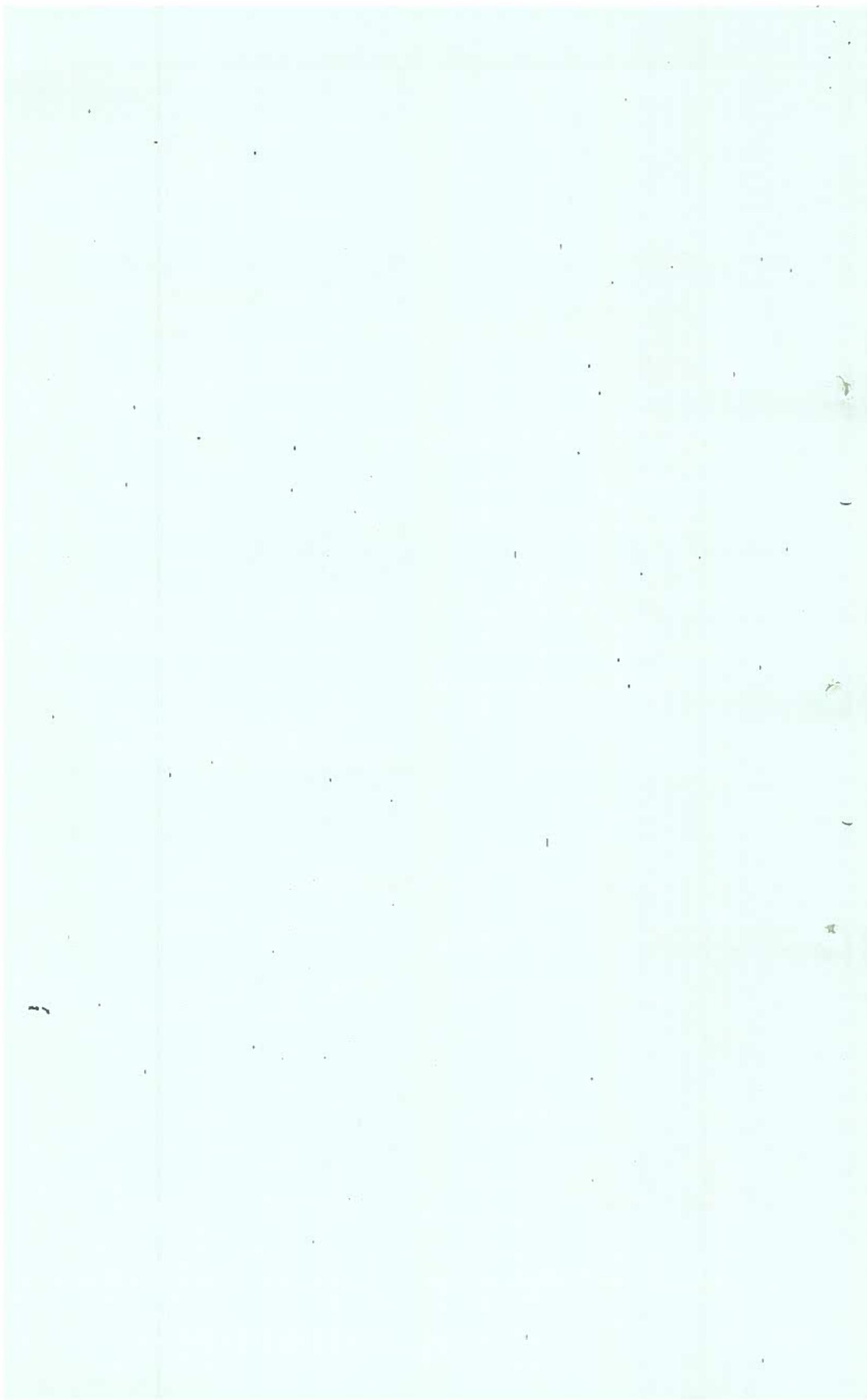


EXHIBIT - 9

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Nataraj Rao Raghu & Sundaram <nrrandschennai@gmail.com>

Collision between BW Maple and MT Dawn Kancheepuram at Ennore

Nataraj Rao Raghu & Sundaram Advocates <nrrandschennai@gmail.com> Thu, May 9, 2019 at 3:35 PM

To: Fisheries Tamil Nadu <Coffisheries@gmail.com>

Cc: ahsec@tn.gov.in, Lance Hebert <Lance.Hebert@thomasmiller.com>, Luke Lane <luke.lane@thomasmiller.com>, "Thomas Miller (SEA), Singapore" <seasia.ukclub@thomasmiller.com>, Zarir <zarir@zba.co.in>, Mumbai <mumbai@pandiindia.in>

Respected Sir,

We are writing to you in relation to the above subject.

Kindly find attached along with this email a scanned copy of our letter dated 9th May 2019 and related annexures, copies of which are also being forwarded to you by Speed Post.

Yours Faithfully,

Sharanya Vaidhiyanathan

Mr S Raghunathan

--
Nataraj, Rao, Raghu & Sundaram
Advocates
"Haji S. Madharsha & Sons Building"
5th Floor, No. 48, Old No 44
Second Line Beach,
Chennai - 600 001
Ph: 25341718, 25342012
E-mail: nrrandschennai@gmail.com

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3 attachments

LETTER DATED 9TH MAY 2019.pdf
- 491K

LETTER FROM UK P&I.pdf
- 244K

LETTER DATED 19TH MARCH 2019 ALONG WITH ENCLOSURES.pdf
- 282K



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Nataraj, Rao, Raghuvir & Sundaram
ADVOCATES

PARTNERS:

B.GIRIDHARA RAO
S.R.RAGHUVIR
S.RAGHUNATHAN,
T.POORNAM

Haji S.Madhevaraj & Sons Building,
Second Line Beach,
Chennai - 600 001
Phone: +91 -44 - 25341718,
25342012, 25356893
Email: nrrandschennai@gmail.com

SENIOR ASSOCIATES:

P.S.DEEPIKA
R.SAHANA
SHARANYA VAIDYANATHAN

9th May, 2019

1. The Director of Fisheries,
Fisheries Department,
Government of Tamil Nadu,
Nandanam,
Chennai 600035
Coffisheries @gmail.com
2. The Principal Secretary,
Animal Husbandary, Diaring &
Fisheries Department,
Government of Tamil Nadu, Chennai 600009
ahsec@tn.gov.in

By Email and Speed Post
Ack.Due

Dear Sirs,

Sub: Collision between BW MAPPLE and MT DAWN
KANCHEEPURAM at Ennore on 28.01.2017

We are writing to you on behalf of the owners of BW MAPPLE and the UK P & I Club. We refer to our letter dated 18th March, 2019 addressed to the Director of Fisheries, a copy of which was marked to the Principal Secretary, Animal Husbandary, Diaring and Fisheries Department, Government of Tamil Nadu.

By the said letter dated 18th March, 2019, which was sent by email as well as by courier, we had forwarded to you the letter, dated 15th March, 2019 addressed to both of you by the UK P & I Club by which U.K.P & I Club had requested you to update on the distribution of the sum of Rs.141 Crores

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Nataraj Rao, Raghni & Sridaram
ADVOCATES

deposited with you besides making a request for return of the Bank Guarantee for a sum of Rs.89 Crores. We enclose for your reference scanned copies of our letter dated 18th March, 2019 as well as the letter of the U.K. P & I Club dated 15th March, 2019.

Since neither we nor the U.K.P & I Club have had any response from you, the U.K. P & I Club has addressed a further letter of date to you requesting you to respond to their request conveyed by their earlier letter dated 15th March, 2019.

Since the matter has been pending for quite some time and the U.K. Club is required to spend substantial sums towards keeping the Bank Guarantee alive, they would like to have your immediate response in the matter. The undersigned can meet you on any date and time convenient to you.

Yours faithfully,



S Raghunathan

Encl: as above

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EXHIBIT - 10

Nataraj, Rao, Raghu & Sundaram
ADVOCATES

PARTNERS:
B.GIRIDHARA RAO
S.R.RAGHUVIR
S.RAGHUNATHAN
T.POORNAM

Haji S.Madharsha & Sons Building,
5th Floor, 148 (Old No. 44),
Second Line Beach
Chennai - 600 001
Phone: +91 -44 - 25341718,
25342012, 25356893
Email: nrrandschennai@gmail.com

SENIOR ASSOCIATES:
R.SAHANA
SHARANYA VAIDYANATHAN

13th September, 2019

1. The Director of Fisheries,
Government of Tamil Nadu,
Integrated Complex,
571, Anna Salai, Nandanam,
Chennai 600035
cofisheries@gmail.com

By Email and Speed Post

Ack Due

S. S. Ily

2. The Principal Secretary,
Animal Husbandary, Diarying &
Fisheries Department,
Government of Tamil Nadu,
Fort St. George, Chennai 600009
ahsec@tn.gov.in

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18/9/19

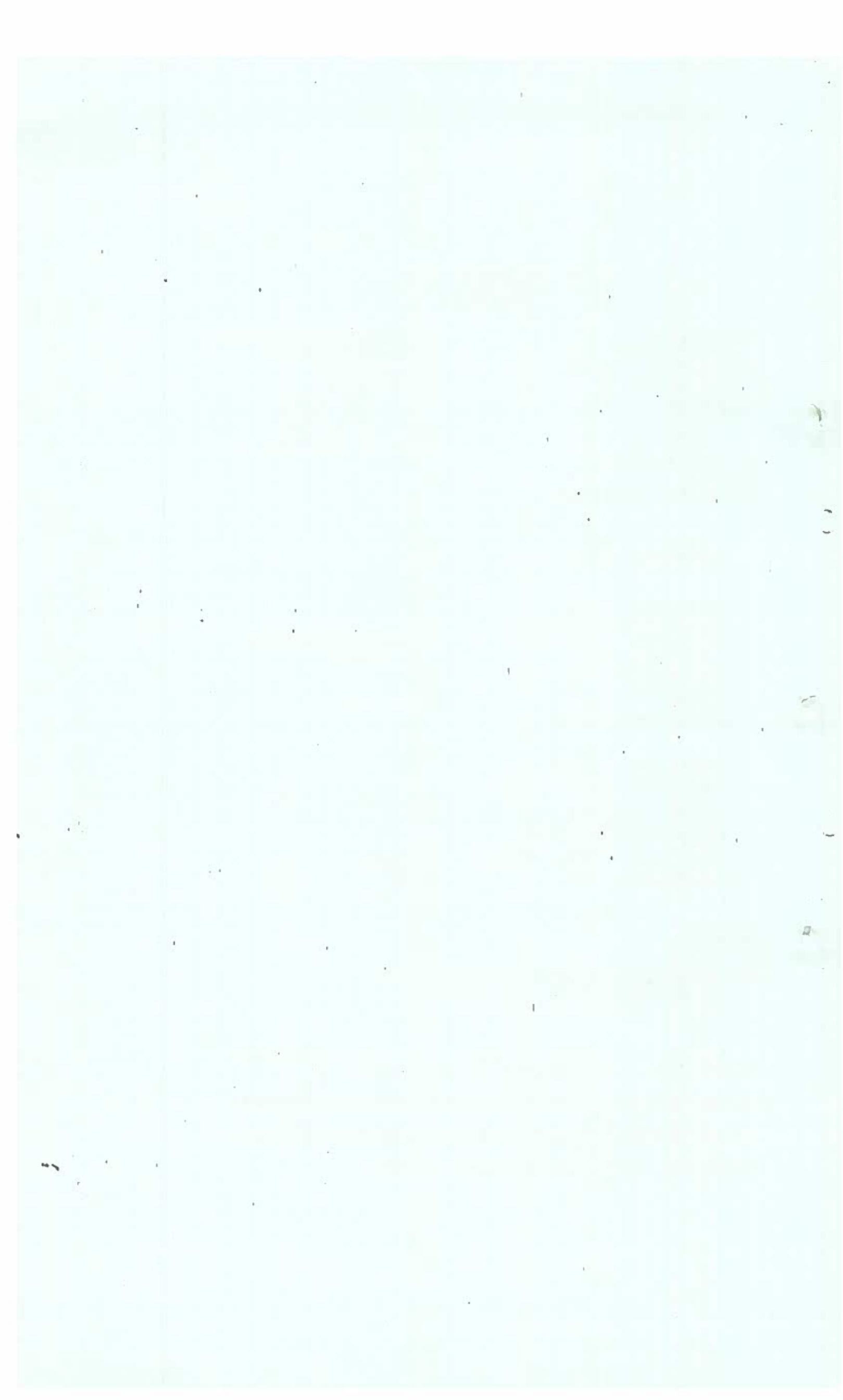


Dear Sirs,

Sub: Collision between BW MAPLE and MT DAWN
KANCHIPURAM at Ennore on 28.01.2017.

We are writing to you on behalf of The United Kingdom Mutual Steam
Ship Assurance Association (Europe) Limited through their Managers,
Thomas Miller P & I (Europe) Ltd. (UK P & I Club) EC3M 4ST and BW
VLGC Limited, the owners of the vessel BW MAPLE.

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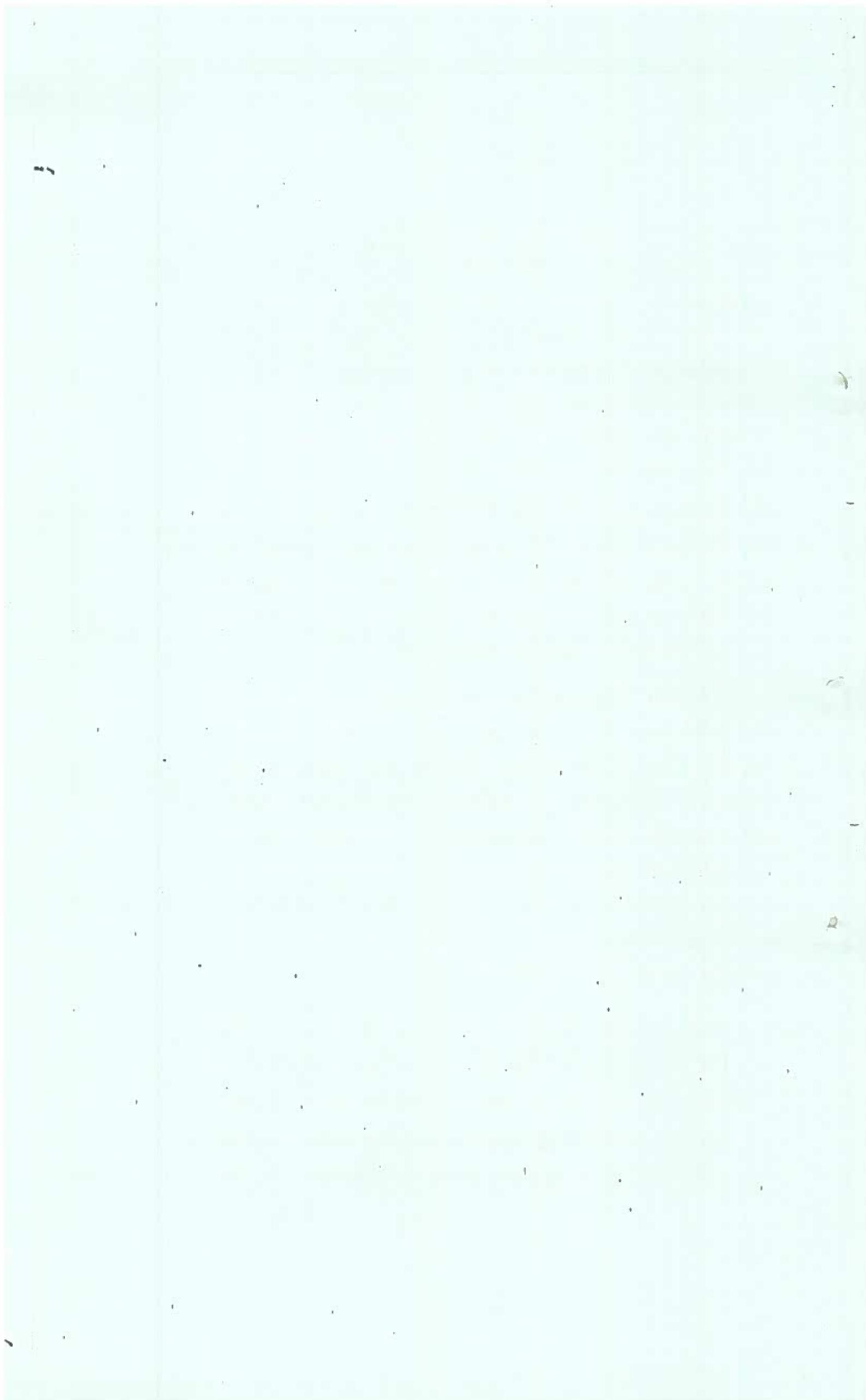


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Nataraj, Rao, Raghu & Sundaram
ADVOCATES

2. Consequent to a collision between BW Maple and MT Dawn Kanchipuram at Ennore port on 28.01.2017, there was an oil spill and the resultant pollution from MT Dawn Kanchipuram. There was a series of meetings, between August, 2017 and March 2018 amongst the owners/representatives of both the Vessels as well as their respective Protection and Indemnity Clubs pursuant to which, a Memo of Compromise was entered into on 2nd March, 2018 between Indian Ocean Shipping Pvt. Ltd. the Owners of MT Dawn Kanchipuram and BW VLGC Limited, the owners of the vessel BW Maple. The said Memorandum of Compromise was filed before a Division Bench of the Hon'ble Madras High Court in Writ Appeal No.537 of 2018.
3. The Hon'ble Court was pleased to dispose of the said Appeal on the 13th March 2018 by which the Owners of both the Vessels and their respective Protection and Indemnity Club had agreed and undertaken to deposit of a sum of Rs.141 Crores with the first of you, strictly without prejudice to their liability, towards settlement of various claims lodged by the Fishermen and their Associations. Further, the said parties had also undertaken to furnish a Bank Guarantee for a sum of Rs.84 crores in favour of the Government of Tamil Nadu represented by the Director of Fisheries.
4. In accordance with the Compromise entered into and the order passed by the Hon'ble High Court on the 13th March, 2018, the UK P & I Club had deposited a sum of Rs.141 Crores with the Director of Fisheries on or about the 28th March, 2018 and had arranged for the execution of a Bank Guarantee bearing No.84730BG18009588 dated 16th May,

B.



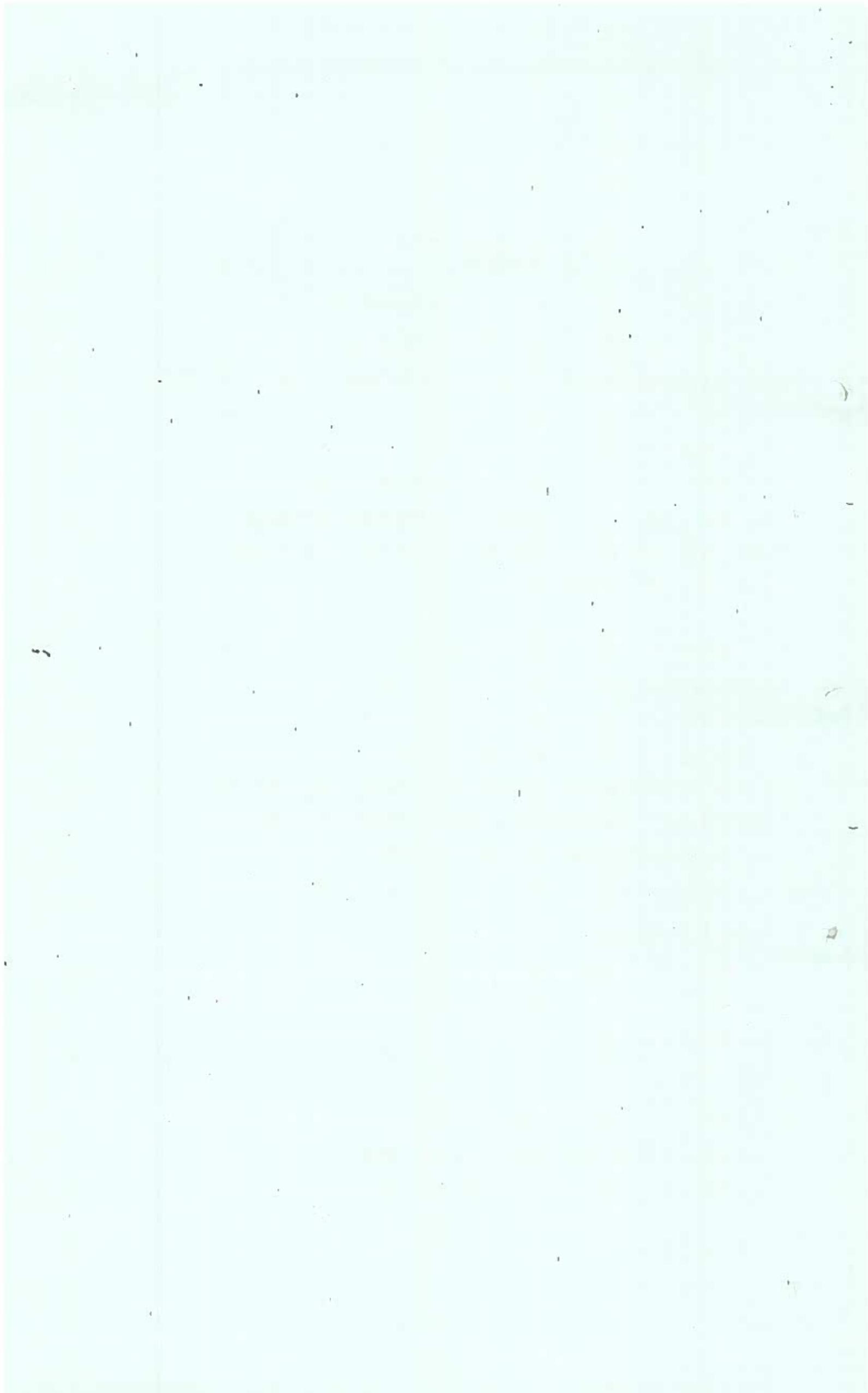
(64)

Nataraj, Rao, Raghu & Sundaram
ADVOCATES

2018 (Sr.No.BG 240225) issued by the Trade Finance Branch, Chennai of Kotak Mahindra Bank Limited in favour of the Director of Fisheries which was also handed over in person to the Director of Fisheries on the 17th May, 2018. The deposit of a sum of Rs.141 crores and the Bank Guarantee for a sum of Rs.84 Crores were in addition to a sum of Rs.15 crores deposited by the owners of MT Dawn, Kancheepuram which were done for the settlement of all the claims amounting to Rs.240 crores arising out of the said collision and the consequent pollution including restoration costs.

5. Our Clients were informed during the negotiations, prior to the cash deposit and the furnishing of the Bank Guarantee as aforesaid, that the claims made by the Fishermen as well as the Fishermen Associations including restoration costs would not exceed a sum of Rs.140 Crores. Our Clients had complied with the commitments made under the Memorandum of Compromise dated 2nd May, 2018 and the directions issued by the Hon'ble High Court, without prejudice to their liabilities. Our Clients further understand that pursuant to and subsequent to the receipt of Rs.141 crores on or about the 28th March, 2018, the Department of Fisheries, Government of Tamil Nadu had also disbursed the said sum as compensation to the various Fishermen and the Fishermen Associations on the basis of claims lodged with the said Department.
6. Consequently, the United Kingdom Mutual Steam Ship Assurance Association (Europe) Limited by their letter dated 15th March, 2019 had written to both of you to furnish them with an update on the





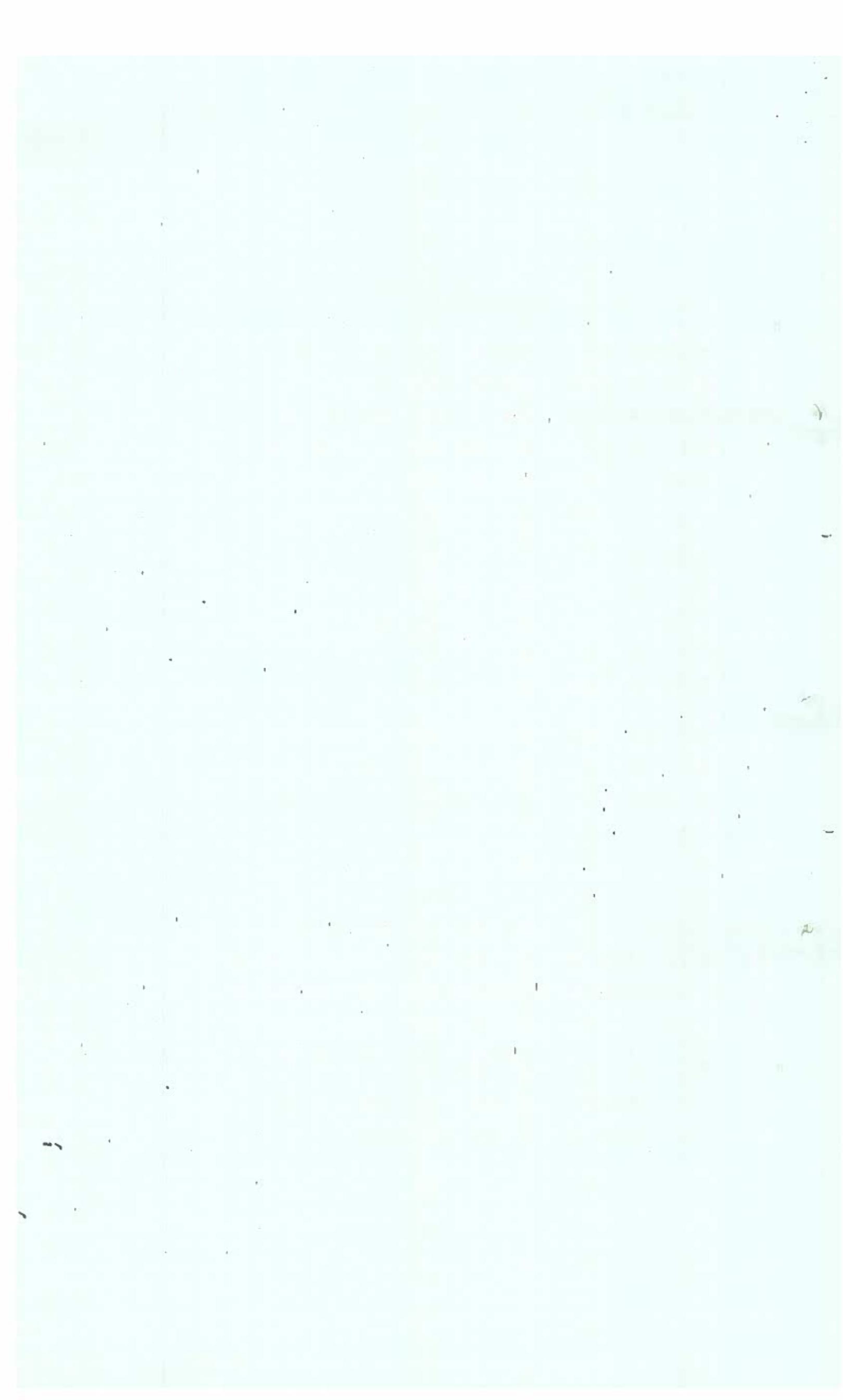
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Nataraj, Rao, Raghu & Sundaram
ADVOCATES

distribution of the funds to the Fishermen and their Associations in settlement of their claims. Further, since they were given to understand that the amounts due to various Fishermen and their Associations were paid by the Department of Fisheries, upon scrutinizing the claims made and that no further claims were made nor were the said P & I Club had been informed of any other further claims being made in relation to the unfortunate incident. They had therefore called upon both of you to discharge the Bank Guarantee dated 16th May, 2018 since a huge sum was incurred for the execution of the Bank Guarantee and a large sum is also payable for the renewal of the Bank Guarantee every time.

7. The undersigned, representing the UK P & I Club and the Owners of the BW Maple, had personally met both of you and had also spoken to both of you with a view to obtain the details of the disbursements of the amounts deposited and the discharge and return of the Bank Guarantee. During one of the telephone conversations, the first of you had informed the undersigned that he would instruct the Deputy Director, Fisheries Department to furnish our Clients with the details of the disbursements made and he was advised to contact the Deputy Director. Accordingly, the undersigned had also spoken to the Deputy Director of Fisheries subsequently. However, the details of the disbursements have not been made available to our Clients till date nor have they heard anything further from the first of you, on their request for discharge and return of the Bank Guarantee.





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Nataraj, Rao, Raghun & Sundaram
ADVOCATES

8. The U.K. P & I Club therefore addressed a further letter dated 8th May, 2019 vide reference No.LZL/2016/010792 to both of you as well as the Director General of Shipping requesting both of you to respond to their letter dated 15th March, 2019. The undersigned had also made several reminders on the telephone. However, our Clients have till date, not been furnished with the details of the disbursement made nor has the Bank Guarantee been returned.
9. Considering the fact that almost eighteen months have lapsed after the deposit of the sum of Rs.141 crores and about sixteen months since the Bank Guarantee had been furnished, we on behalf of our Clients, call upon you to furnish us immediately with the disbursement details including the names and addresses of the Fishermen and their Associations whose claims have been settled as well as the quantum paid to each of the Claimants. We may point out that our Clients were required to make the cash deposit as well as incur a large sum towards Bank charges for making/renewing the Bank Guarantee. We would hence request you to ensure that the Bank Guarantee is duly discharged by the first of you and returned to us or to our Clients.
10. We trust that you would comply with our Clients fair and reasonable requirements within a week. Considering the cordial and amicable manner in which the negotiations were held with the very senior officials of the departments concerned, our clients would prefer to avoid approaching the Hon'ble Madras High Court for appropriate reliefs.





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Nataraj, Rao, Raghu & Sundaram
ADVOCATES

We enclose for your reference copies of the letters dated 15th March, 2019 and 8th May 2019 which were also forwarded by us by emails dated 18th March, 2019 and 9th May, 2019 respectively. We also enclose a copy of the Bank Guarantee dated 16th May, 2018 with proof of receipt by the Office of the first of you and copy of the order dated 13th March, 2018 in Writ Appeal No.537 of 2018.

Thanking you,

Yours faithfully,



S.Raghunathan

CC: Director General of Shipping,
Directorate General of Shipping,
Government of India, Beta Building,
9th Floor, I- Think Techno Campus,
Kanjur Village Road, Kanjur Marg (East)
Mumbai 400 042

ET2480393853IN IPR:6984248039385

SP HIGH COURT BUILDING S.O (CHEMIST) (600009)

Counter No:2,13/09/2019,15:53

To:PRIN SECY, ANIMAL

PIN:600009, Fort St George S.O

From:NATARAJ, RAO, RAGHU, 8SU

Wt:130gms

Am:41.30(Cash)Tax:6.30

<Track on www.indiapost.gov.in>

<Dial 1800 266 6868>

ET2480393941IN IPR:6984248039394

SP HIGH COURT BUILDING S.O (CHEMIST) (600009)

Counter No:2,13/09/2019,15:53

To:DIRECTOR, FISHERS

PIN:600035, Mandana S.O

From:NATARAJ, RAO, RAGHU, 8SU

Wt:130gms

Am:41.30(Cash)Tax:6.30

<Track on www.indiapost.gov.in>

<Dial 1800 266 6868>

ET2480394031IN IPR:6984248039403

SP HIGH COURT BUILDING S.O (CHEMIST) (600009)

Counter No:2,13/09/2019,15:53

To:DIRECTOR GEN OF SHIPPING, .

PIN:400042, Bhandup East SO

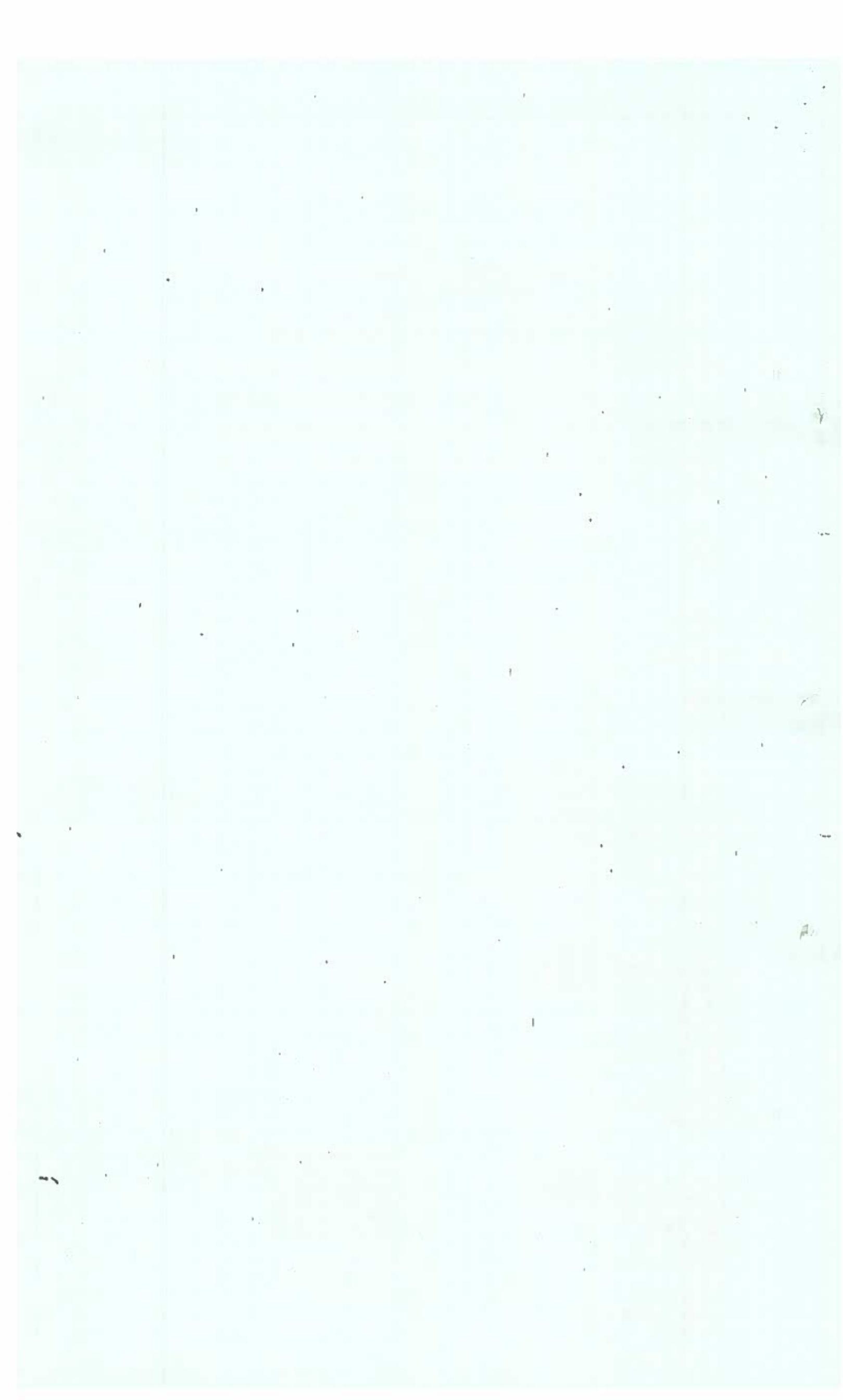
From:NATARAJ, RAO, RAGHU, 8SU

Wt:130gms

Am:82.60(Cash)Tax:12.60

<Track on www.indiapost.gov.in>

<Dial 1800 266 6868>



168

21/05 11:00



21 MAY 2019

INTERNATIONAL SURETIES, LTD.

One Shell Square
701 Poydras St., Suite 420
New Orleans, LA 70139

504)581-6404
(504)581-1876 - FAX

INVOICE April 22, 2019

The United Kingdom Mutual Steamship Assurance Association
(Europe) Ltd
As paying agents of the owner of the BW MAPLE
C/O Thomas Miller P&I
Attn: Service Dept
90 Fenchurch Street
London
EC3M 4ST
United Kingdom

BOND NUMBER: SU55687
YOUR FILE: 2016/010792
BOND AMOUNT: \$12,358,100.00 (APPROX Rs64 crores)
TERM: 5/16/19 TO 5/16/20

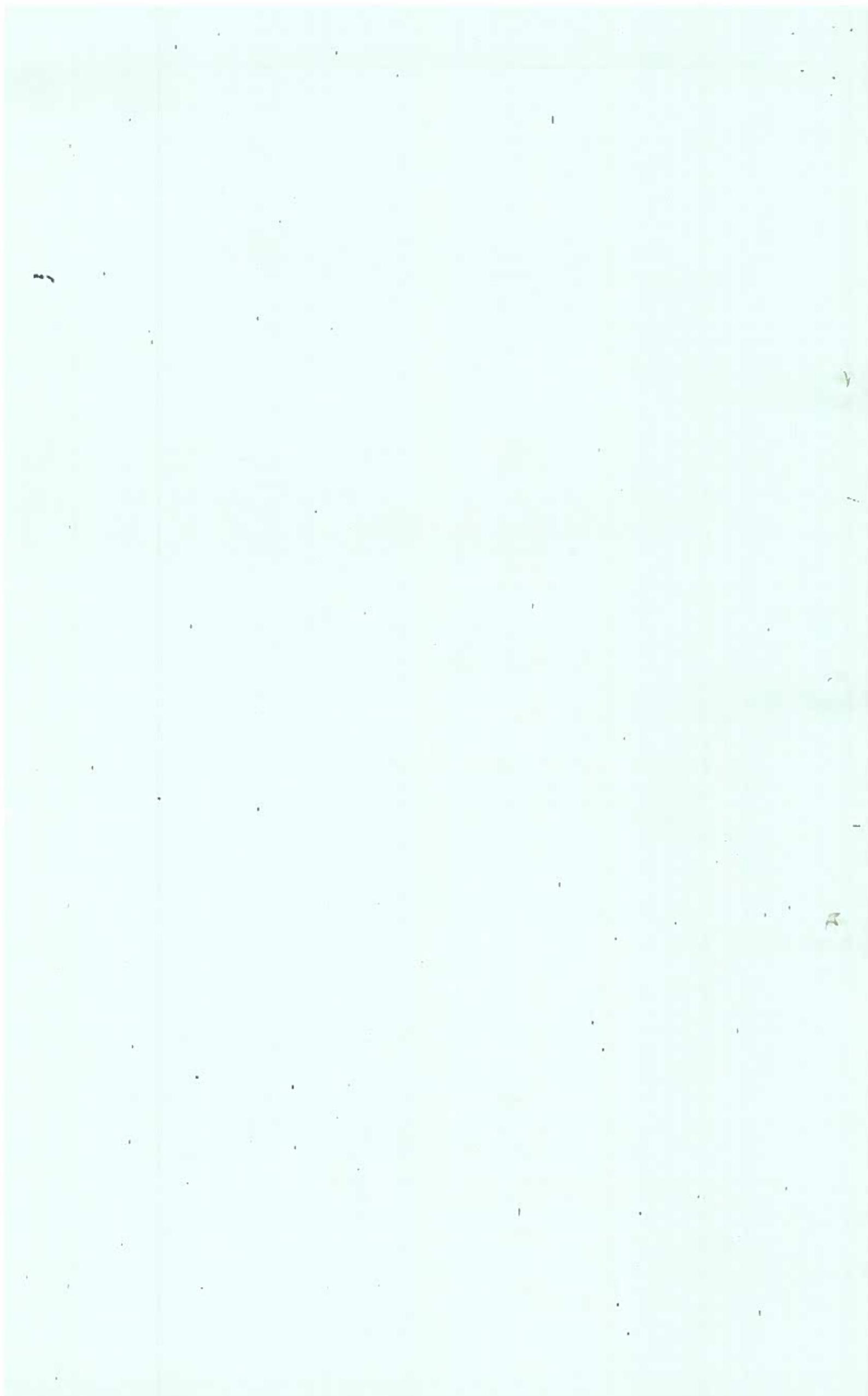
BANK GUARANTEE - BW MAPLE and DAWN KANCHIPURAM - Consequential
fishermeh's claims

PREMIUM DUE: \$494,620.00

Please remit upon receipt

IF PAYING BY CHECK, PLEASE MAKE CHECK PAYABLE TO INTERNATIONAL
SURETIES, LTD. AND BE SURE TO PUT THE BOND # ON THE CHECK.

IF PAYING BY WIRE TRANSFER, PLEASE USE THE FOLLOWING DETAILS:
WHITNEY NATIONAL BANK
NEW ORLEANS, LA
ACCOUNT NAME: INTERNATIONAL SURETIES, LTD.
ACCOUNT NUMBER 1000-900-1944
ABA NUMBER 065000171

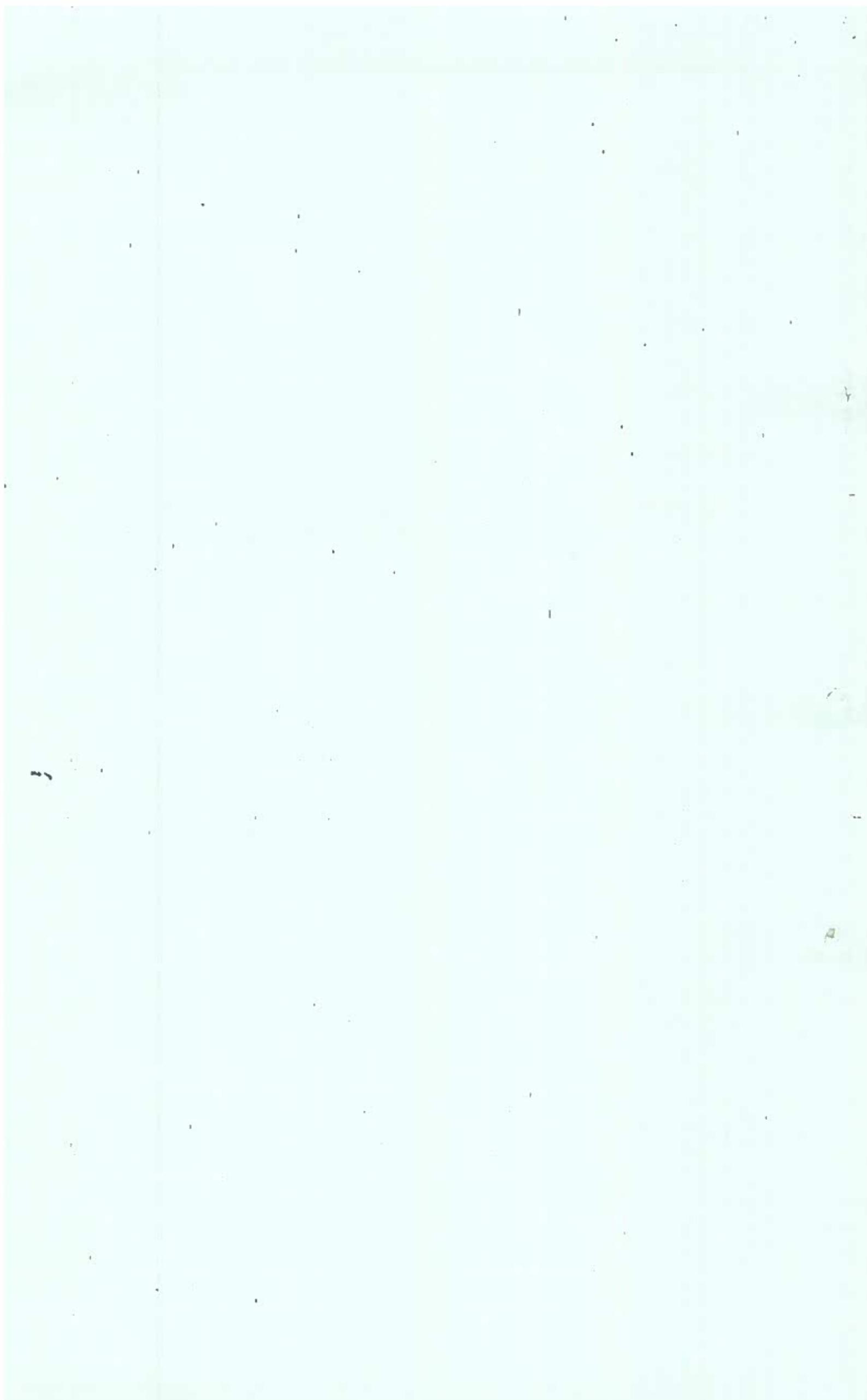


169

SWIFT CODE

WHITUS44

TAX ID # 72-0708724



170

The Managers
Thomas Miller P&I (Europe) Ltd.
90 Fenchurch Street
London
EC3M 4ST

T +44 (0)20 7283 4646
F +44 (0)20 7621 8761
E underwriting.ukclub@thomasmiller.com
www.ukpandl.com

Credit Note

Payee
WHITNEY BANK
228 ST. CHARLES AVENUE
70130
United States of America

Number 715139
Date 23rd May 2019
Payment Amount SUS 494,620.00

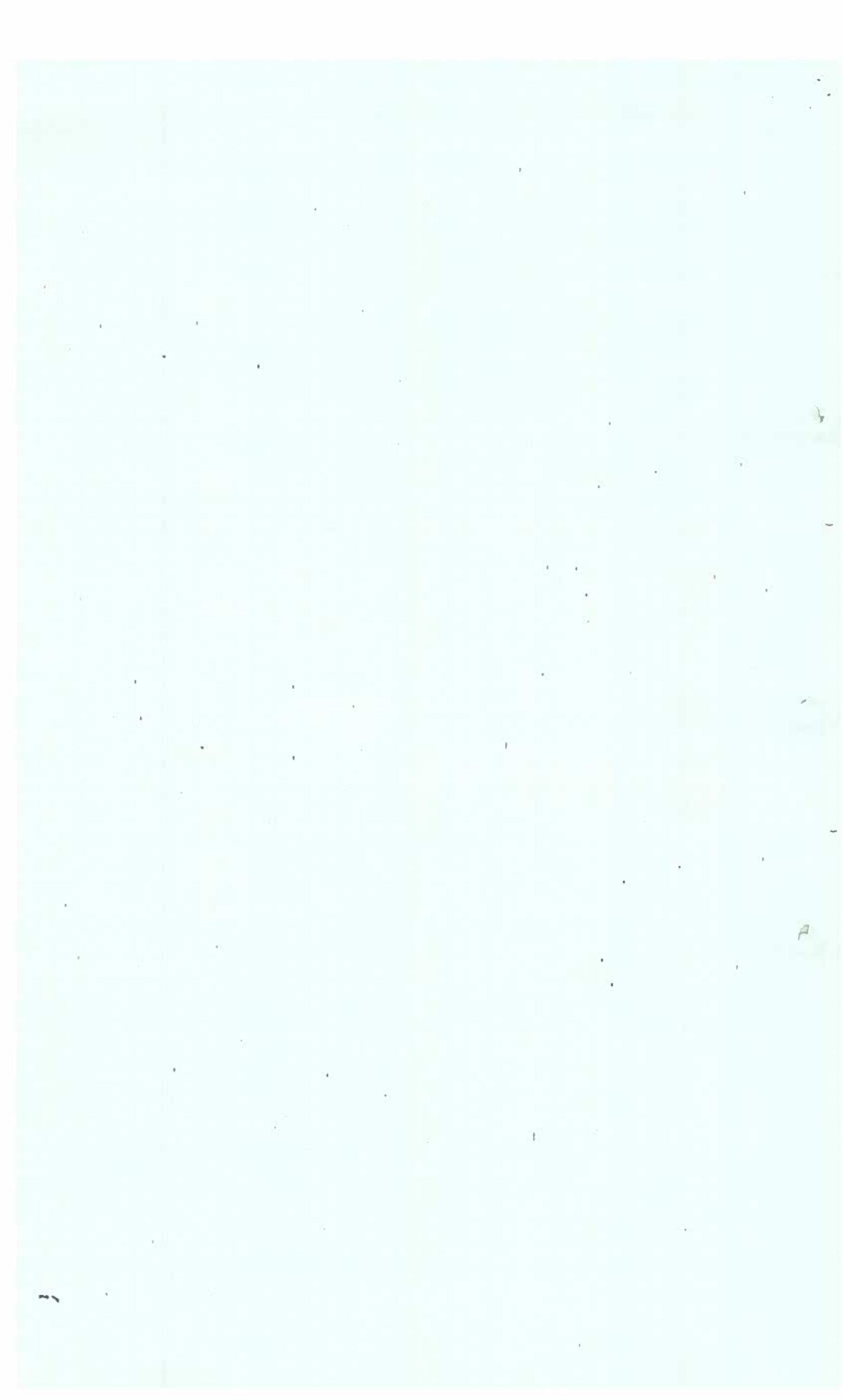
cc INTERNATIONAL SURETIES LTD

Beneficiary Account
A/C INTERNATIONAL SURETIES LTD
NO. 10009001944

Information Only

BW MAPLE 'C/W "DAWN KANCHIPURAM": pollution by Dawn Kanchipuram' 28th January 2
Club Reference LZL2016/010782

		Amount
professional fees	BW Maple	SUS 494,620.00
		Payment Total
		<u>SUS 494,620.00</u>



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INTERNATIONAL SURETIES, LTD.

One Shell Square
701 Poydras St., Suite 420
New Orleans, LA 70139

504)581-6404
(504)581-1876 - FAX

INVOICE
May 17, 2018

The United Kingdom Mutual Steamship Assurance Association
(Europe) Ltd
As paying agents of the owner of the BW MAPLE
C/O Thomas Miller P&I
Attn: Service Dept
90 Fenchurch Street
London
EC3M 4ST
United Kingdom

BOND NUMBER: SU55687
YOUR FILE:
BOND AMOUNT: \$12,358,100.00 (APPROX Rs84 crores)
TERM: 5/16/18 TO 5/16/19

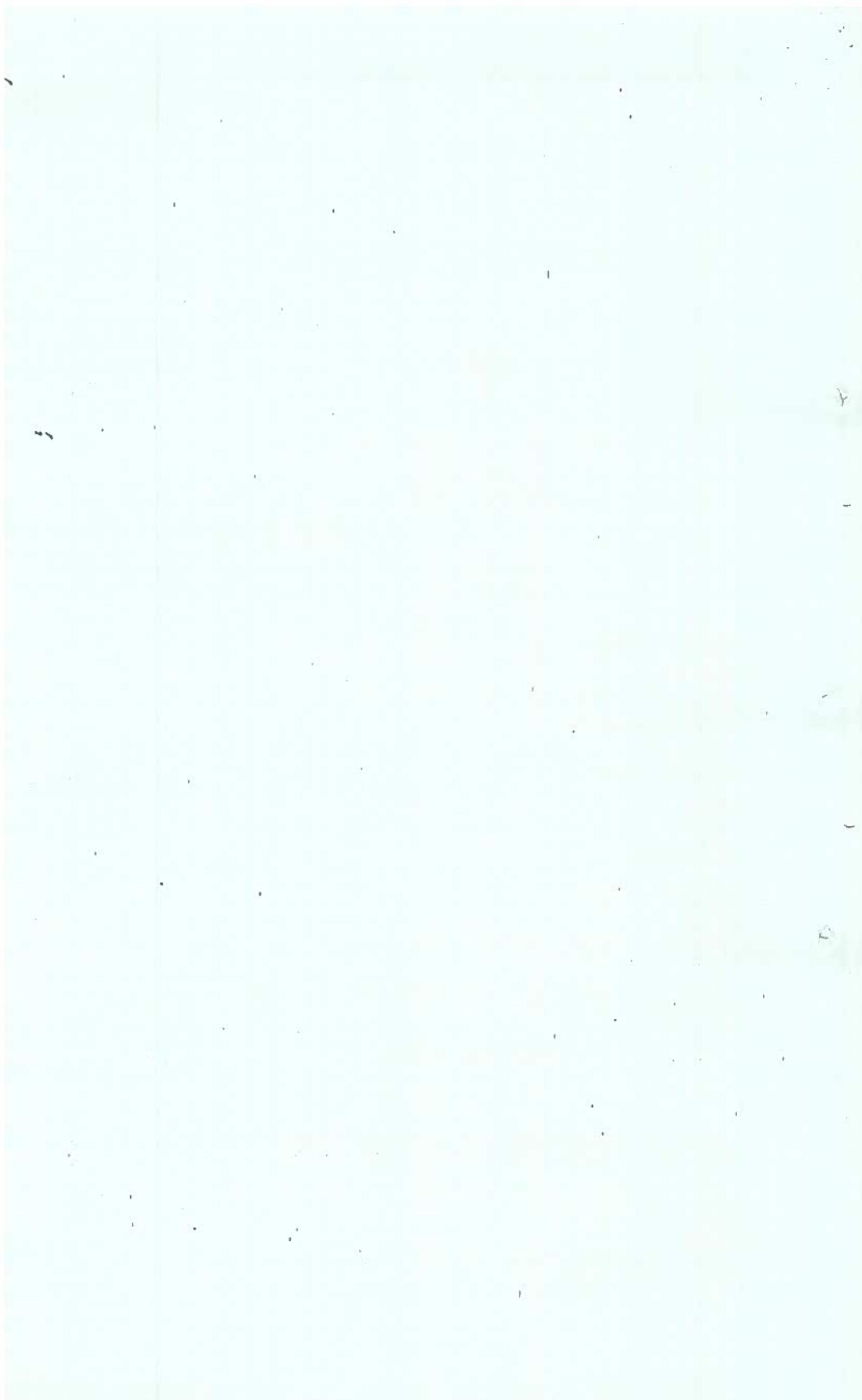
BANK GUARANTEE - BW MAPLE and DAWN KANCHIPURAM - Consequential
fishermen's claims

PREMIUM DUE: \$494,620.00

Please remit upon receipt

IF PAYING BY CHECK, PLEASE MAKE CHECK PAYABLE TO INTERNATIONAL
SURETIES, LTD. AND BE SURE TO PUT THE BOND # ON THE CHECK.

IF PAYING BY WIRE TRANSFER, PLEASE USE THE FOLLOWING DETAILS:
WHITNEY NATIONAL BANK
NEW ORLEANS, LA
ACCOUNT NAME: INTERNATIONAL SURETIES, LTD.
ACCOUNT NUMBER 1000-900-1944
ABA NUMBER 065000171



172

SWIFT CODE

WHITUS44

TAX ID # 72-0708724



173

The Managers
Thomas Miller P&I (Europe) Ltd.
90 Fenchurch Street
London
EC3M 4ST

T +44 (0)20 7263 4646
F +44 (0)20 7621 9761
E underwriting.ukclub@thomasmiller.com
www.ukpand.com

Credit Note

Payee

WHITNEY BANK
228 ST. CHARLES AVENUE
70130
United States of America

Number 705912

Date 14th June 2018

Payment Amount SUS 494,620.00

cc INTERNATIONAL SURETIES LTD

Beneficiary Account
A/C INTERNATIONAL SURETIES LTD
NO. 10009001944

Information Only

Page 1 of 1

BW MAPLE 'CW' "DAWN KANCHIPURAM": pollution by Dawn Kanchipuram' 28th January 2
Club Reference LZL/2018/010792

		Amount
Professional Fees	17/5/18	SUS 494,620.00
		Payment Total
		<u>SUS 494,620.00</u>

TO ALL TO WHOM THESE PRESENTS SHALL COME

(174)

I, CHIM HOU YAN, Notary Public duly appointed and practising in the Republic of Singapore DO HEREBY CERTIFY that annexed hereto is a POWER OF ATTORNEY made on the 15th day of December 2017 which was duly executed by BW VLGC LIMITED by affixing its Common Seal in the presence of Martin Ackermann, Authorised Signatory, BW VLGC Limited And I Further Certify that the signature appearing thereon is the proper handwriting of the said Martin Ackermann.

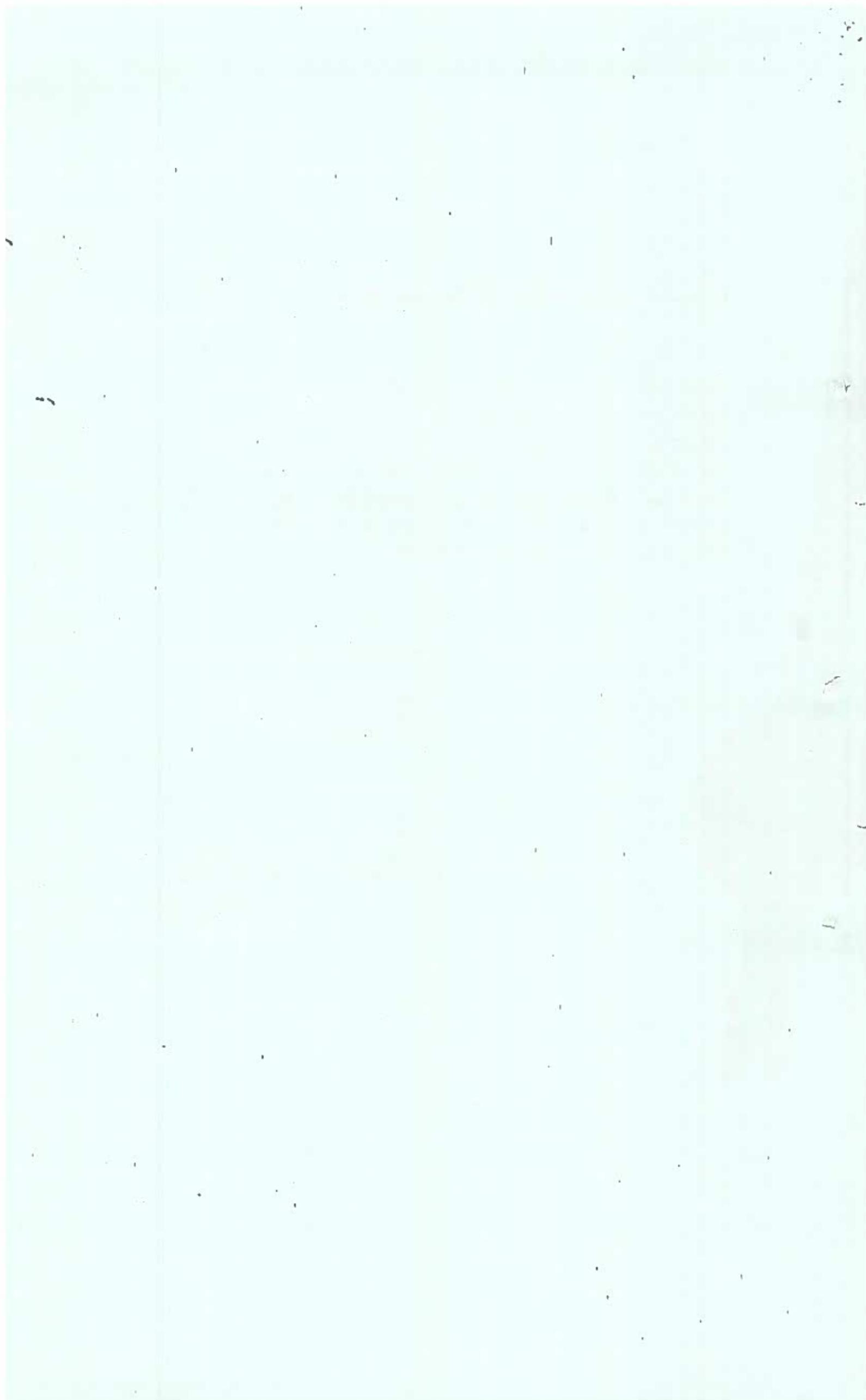
IN TESTIMONY WHEREOF, I, the said Notary Public, have hereunto subscribed my name and affixed my Seal of Office this 15th day of December 2017.

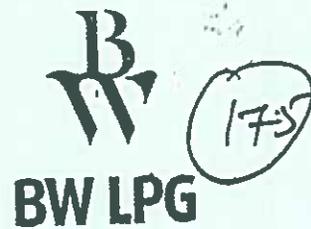
WHICH I ATTEST



NOTARY PUBLIC
SINGAPORE







POWER OF ATTORNEY

THIS POWER OF ATTORNEY is made on the 15th day of December 2017.

BY BW VLGC LIMITED, a company incorporated under the laws of Bermuda and having its registered office at Clarendon House, 2 Church Street, Hamilton HM11, Bermuda (the "Company").

1. **Appointment.** The Company appoints Mukesh Sharan, holder of Indian passport number K6991587 to be the attorney (the "Attorney") of the Company:
 - (a) To attend at Chennai, India to sign and execute one or more Deed of Release and Indemnity (the "Deeds"), whether under hand or seal, for and on behalf of the Company as the registered owner of the Very Large Gas Carrier "BW Maple", in relation to claims for services provided (including oil spill clean-up costs and expenses) by Kamarajar Port Limited, Indian Coast Guard, Chennai Petroleum Corporation Limited, Greater Chennai Corporation, Ennore Tank Terminals Private Limited, Indian Oil Corporation Limited, Bharat Petroleum Corporation Limited and Adani Kattupalli Port Private Limited following a collision that occurred between the "BW Maple" and the "Dawn Kanchipuram" at about 0342 local time on 28 January 2017 in approximate position 13° 13.86' N 080° 22.0' E off Ennore Port, India;
 - (b) To sign, deliver and/or despatch on behalf of the Company any and all other notices, letters, certifications and other communications to be given by the Company and any other documents thereafter to be given pursuant to any of the terms of the Deeds and/or all the other documents incidental to the Deeds; and
 - (c) To agree to and to make such additions, alterations or amendments and to sign, and/or deliver the Deeds with such amendments as he would in his absolute discretion consider necessary.
2. **Power to appear before certain authorities.** Without limiting the powers described in Clause 1, the Attorney may, for any or all of the purposes referred to in this Power of Attorney, appear before and make applications to any Registrar, Consul, Consular Agent, Commissioner, Deputy Commissioner, Harbour Master, Port Officer, Maritime Administrator, Public Registry Official, Notary, Customs and Excise, Court, Tribunal and any other authority.
3. **Exercise of powers.** The Attorney:

BW VLGC Limited
Correspondence Address : 10 Pasir Panjang Road, #17-02 Mapletree Business City, Singapore 117438
Registered Office : Clarendon House, 2 Church Street, Hamilton HM 11, Bermuda

(176)

(a) has absolute discretion with regard to the exercise of all powers which he has under this Power of Attorney, including as to the form and terms of every documents which he approves or signs or executes; and

(b) may act under this Power of Attorney in any country.

4. Substitution. The Attorney:

(a) has power to appoint a substitute to carry out all or any of the purposes referred to in this Power of Attorney; and

(b) has power to revoke the appointment of a substitute under paragraph (a) of this Clause.

5. Presumption of authority. In favour of any person other than the Company who is a party to a document signed or executed under this Power of Attorney or to whom any such document is delivered, it shall be conclusively presumed that the Attorney had full power to sign that document and to do everything which he may have purported to sign or execute or do under this Power of Attorney.

6. Ratification. The Company hereby ratifies and confirms and agrees to ratify and confirm whatsoever the Attorney or any substitute appointed as aforesaid may have done in anticipation of the granting of this Power of Attorney or shall do or purport to do by virtue of these presents including in such confirmation whatsoever shall be done between the time of revocation by any means of this Power of Attorney and such revocation becoming known to the Attorney and/or his substitute.

This Power of Attorney shall be governed by the laws of Bermuda.

IN WITNESS WHEREOF BW VLGC LIMITED has caused this Power of Attorney to be duly executed the day and year first written above.

THE COMMON SEAL of)
BW VLGC LIMITED)
was hereunto affixed)
in the presence of)



Martin Ackermann

Martin Ackermann
Authorised Signatory

BW VLGC Limited
Correspondence Address : 10 Pasir Panjang Road, #17-02 Mapletree Business City, Singapore 117438
Registered Office : Clarendon House, 2 Church Street, Hamilton HM 11, Bermuda

CHEESWRIGHTS

SCRIVENER NOTARIES | LLP

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TO ALL TO WHOM THESE PRESENTS SHALL COME, I
LUIS NEIL HYDE-VAAMONDE of the City of London, England
NOTARY PUBLIC by royal authority duly admitted, sworn and
holding a faculty to practise throughout England and Wales
DO HEREBY CERTIFY that on the day of the date hereof I was
present and did see ANDREW JOHN TAYLOR, director of THE
UNITED KINGDOM MUTUAL STEAM SHIP ASSURANCE
ASSOCIATION (EUROPE) LIMITED, a United Kingdom company
duly organised and existing, registered with the Registrar of
Companies for England and Wales under number 22215
(hereinafter called "the Company"), sign and as and for the
act and deed of the Company in due form of law deliver the
instrument hereunto annexed, that the signature thereto
subscribed for and on behalf of the Company is in the own,
true and proper handwriting of the said director and that the
signature subscribed to the attestation at foot thereof is in the
own, true and proper handwriting of me the said notary as
witness to the due execution of the said instrument;

AND THAT the said instrument being so signed, attested and
delivered is duly executed as a deed and binds the Company
in accordance with the provisions of the law of England and
Wales.

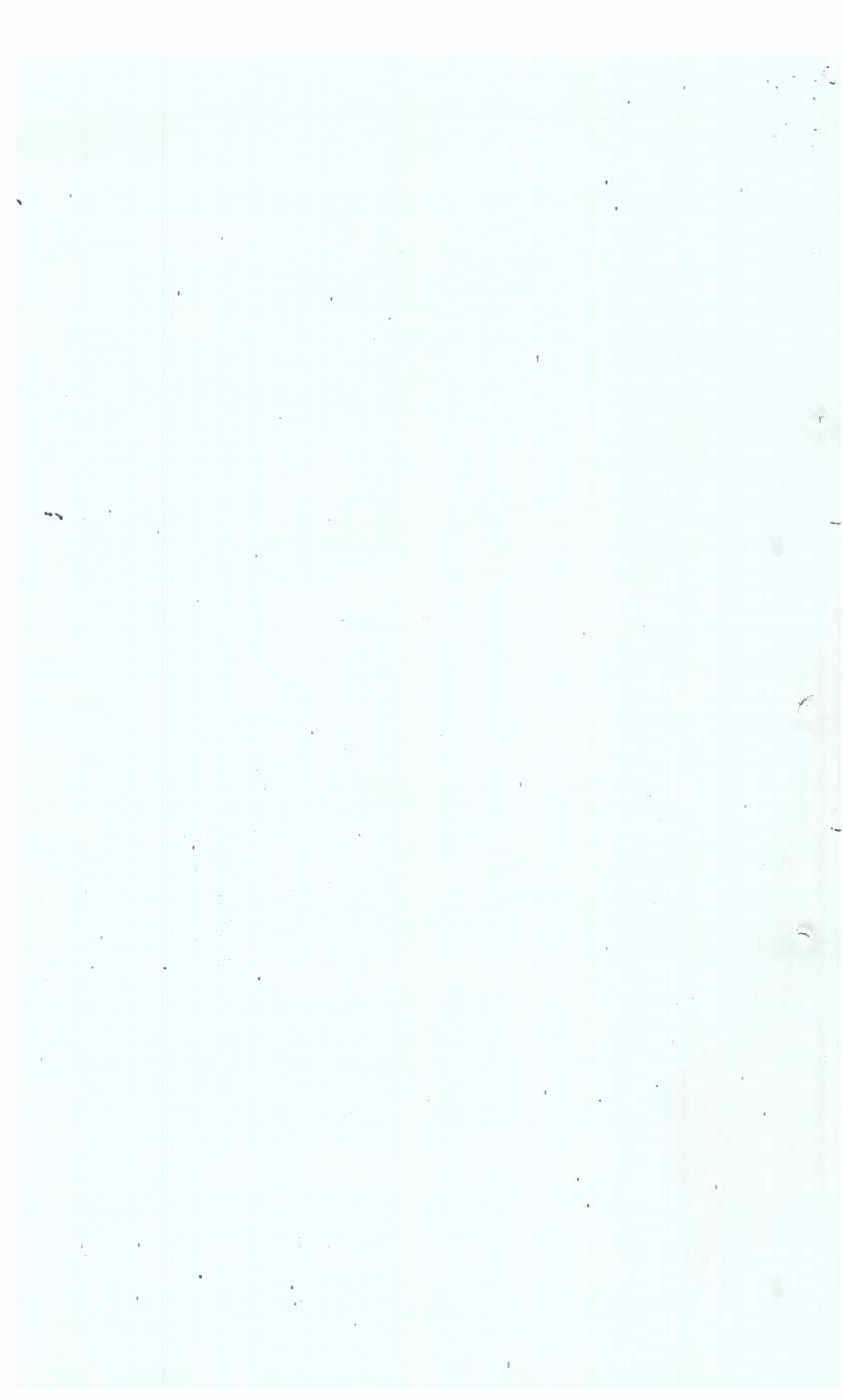
IN FAITH AND TESTIMONY WHEREOF I the said notary have
subscribed my name and set and affixed my seal of office in
London, England this fifteenth day of October in the year two
thousand and nineteen.



International
Union
of Notaries



Directorate of Citizens' Complaints
www.crestengland.com



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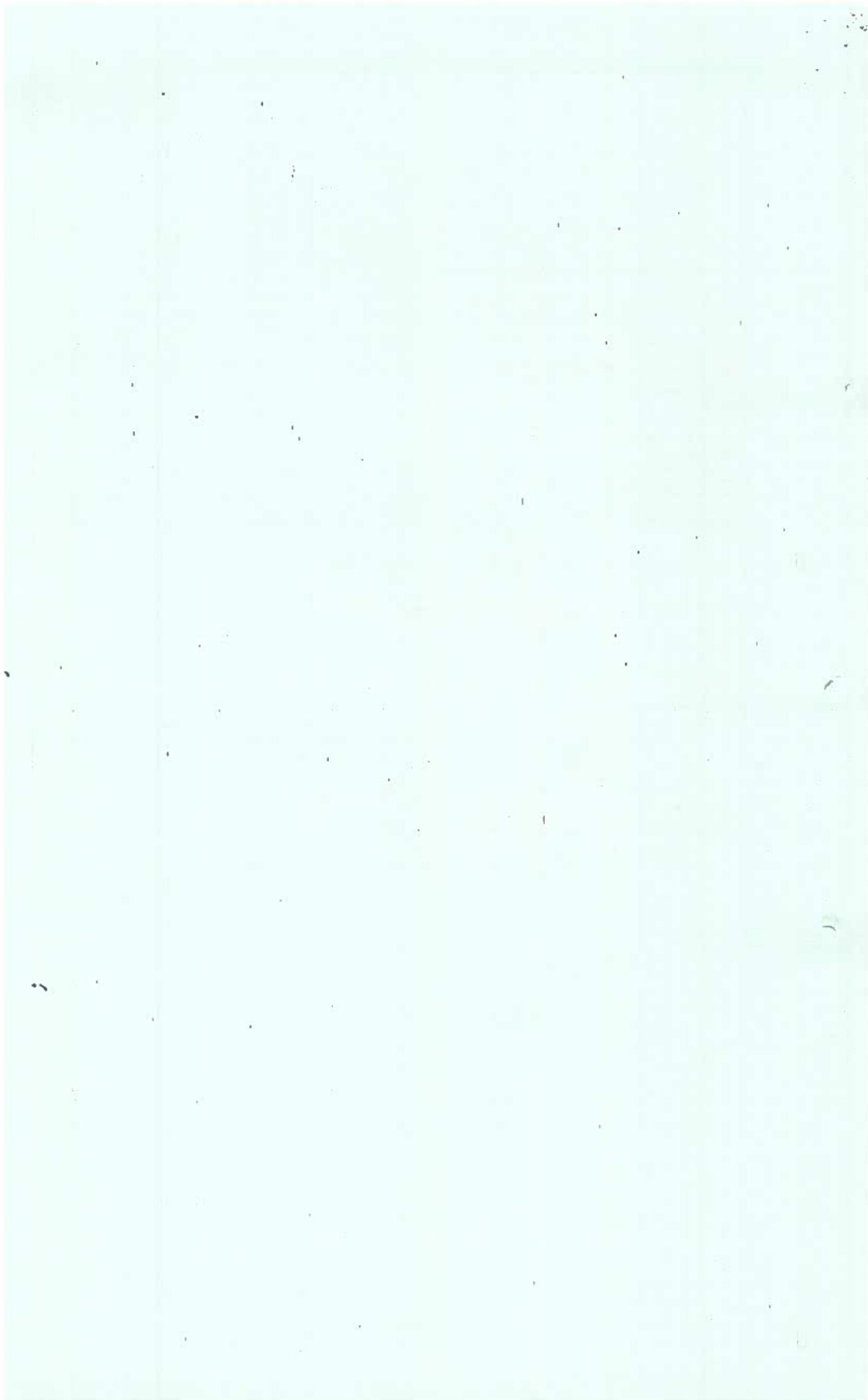
Mutu
Afr

APOSTILLE (Convention de La Haye du 5 octobre 1961)	
1. Country: Pays / País	United Kingdom of Great Britain and Northern Ireland
This public document Le présent acte public / El presente documento publico	
2. Has been signed by a été signé par ha sido firmado por	Luis Neil Hyde-Vaamonde
3. Acting in the capacity of agissant en qualité de quien actúa en calidad de	Notary Public
4. Bears the seal / stamp of est revêtu du sceau / timbre de y está revestido del sello / timbre de	The Said Notary Public
Certified Attesté / Certificado	
5. at à / en	London
6. the le / el día	18 October 2019
7. by par / por	Her Majesty's Principal Secretary of State for Foreign and Commonwealth Affairs
8. Number sous no / bajo el numero	APO-1686570
9. Seal / stamp Sceau / timbre Sello / timbre	10. Signature Signature Firma



This Apostille is not to be used in the UK and only confirms the authenticity of the signature, seal or stamp on the attached UK public document. It does not confirm the authenticity of the underlying document. Apostilles attached to documents that have been photocopied and certified in the UK confirm the signature of the UK official who conducted the certification only. It does not authenticate either the signature on the original document or the contents of the original document in any way.

If this document is to be used in a country not party to the Hague Convention of the 5th of October 1961, it should be presented to the consular section of the mission representing that country.
To verify this apostille go to www.verifyapostille.services.gov.uk



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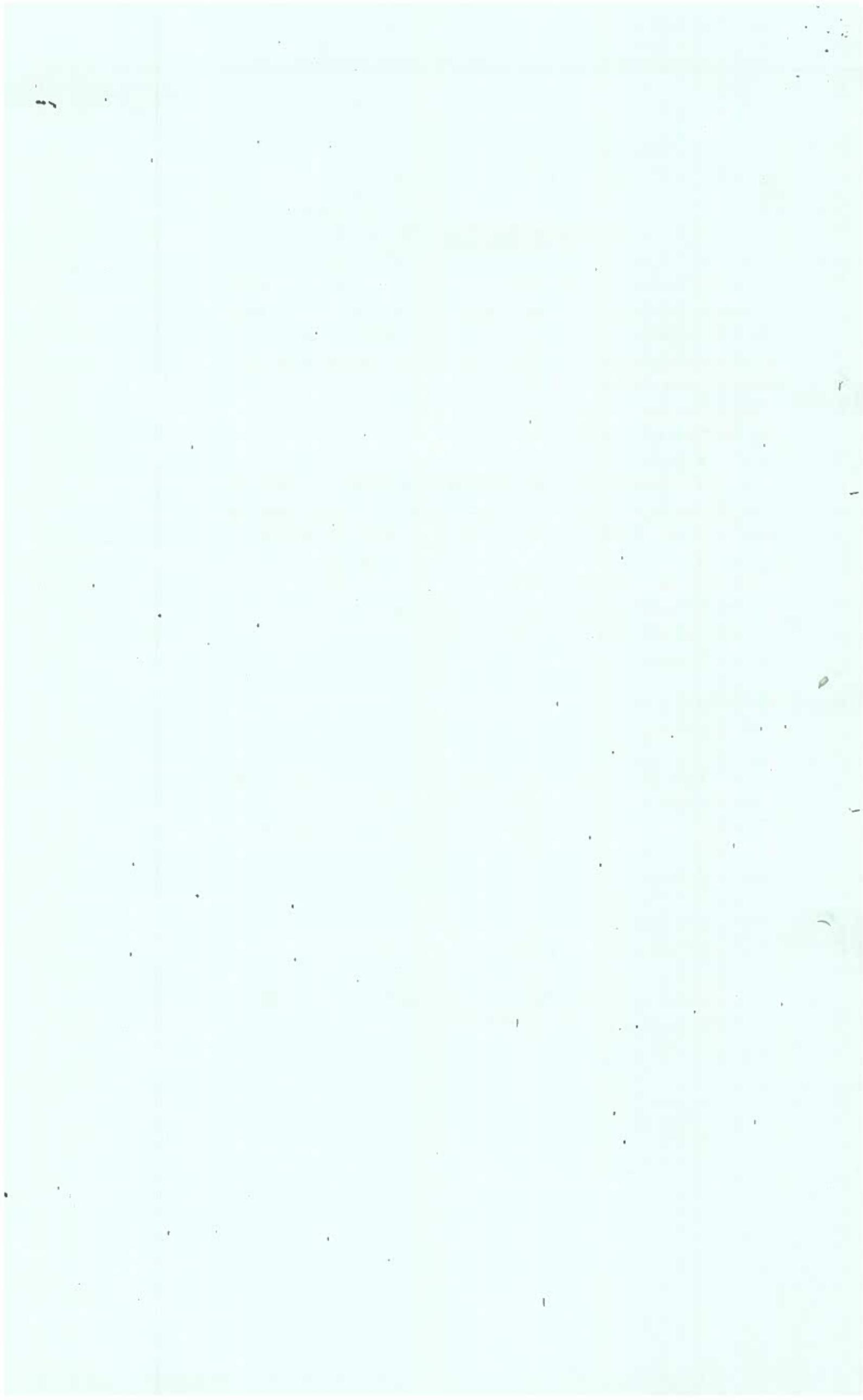
POWER OF ATTORNEY

AND WHEREAS ALL MEN by these presents shall come that We, The United Kingdom Mutual Steam Ship Assurance Association (Europe) Ltd. through our Managers Thomas Miller P & I (Europe) Ltd. (UK P & I Club), a Company incorporated under the laws of England and having its office at 90 Fenchurch Street, London- EC3M 4ST, (hereinafter referred to as the Principal) do hereby appoint, M/s. Pandi Correspondents Pvt Ltd. represented by its Mr S. Ramamoorthy and having its office at Flat No. 1/23, III Floor, 'Gee Gee Plaza', No. 1 Wheat Crofts Road, Nungambakkam, Chennai 600 034, India, as our true and lawful attorney (hereinafter referred to as the Said Attorney) in our name and on our behalf to do the following acts, deeds and things, in relation to all claims and contentions against the Department of Fisheries, State of Tamil Nadu and/or the Mercantile Marine Department/ Union of India, calling for rendition of accounts for the sum of Rs.141 Crores deposited by the Principal herein, including details of the disbursements made and to discharge and return the original Bank Guarantee bearing No 84730 BG 180095583 dated 16th May, 2018, furnished for a sum of Rs.84 crores by the Trade Finance Branch, Chennai of Kotak Mahindran Bank Limited in favour of the Director of Fisheries.

AND WHEREAS the said Attorney has also consented to act as the Power of Attorney Agent of the Principal.

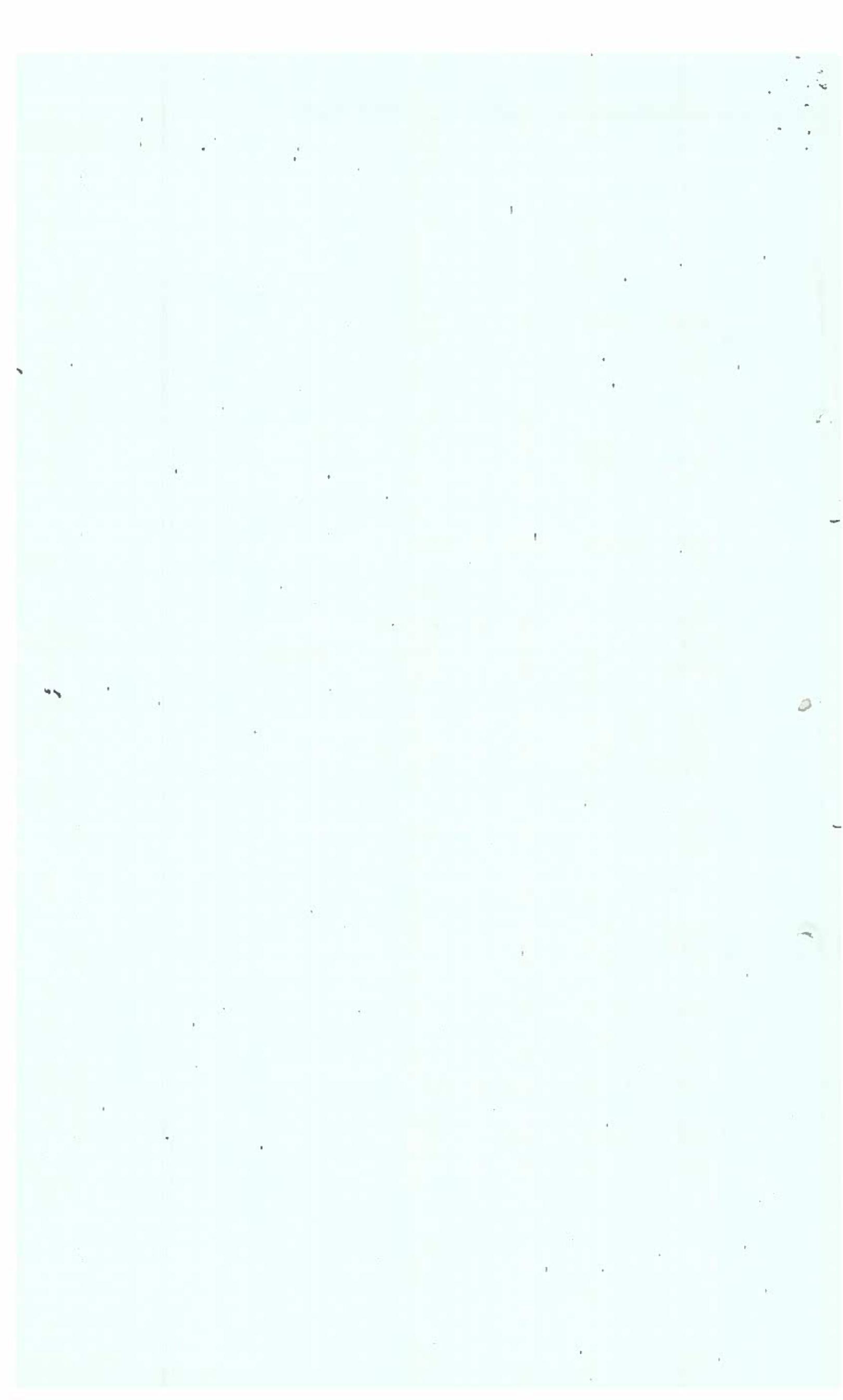
NOW BY VIRTUE OF THIS POWER OF ATTORNEY, We, The United Kingdom Mutual Steam Ship Assurance Association (Europe) Ltd through their Managers Thomas Miller P & I (Europe) Ltd. (UK P & I Club), represented by its Director, Mr Andrew Taylor do hereby authorize, nominate, constitute and appoint the SAID ATTORNEY to do any of the following acts, deeds or things:-

1. To file or withdraw, writ petitions, suits, plaints, caveats as may be necessary under the Rules, petitions, winding up petitions, appeals, revisions, arbitration proceedings, written statements, counterclaims, set-offs, complaints, applications, undertakings and/or any proceedings in any Court, Tribunal or before any authority in India as our said Attorneys may deem fit.



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2. To defend and represent us in all writ petitions, suits and proceedings filed in the Madras High Court or any other Court in India or before any other authority in India.
3. To sign, verify, affirm, declare and/or swear plaints, writ petitions, written statements, complaints, counterclaims, revisions, affidavits and appeal memos, set-off applications, caveats, undertakings and/or any proceedings referred to hereinabove.
4. To engage or appoint Advocates/Counsel for the aforesaid purposes to discharge them and/or to replace them.
5. To produce, summon or receive documents, to compromise, to compound or to refer for Arbitration any or the aforesaid proceedings and to deposit and withdraw moneys in any Court or any Tribunal or before any authority.
6. To pay court fees and to receive refund thereof and/or to authorize the Advocate/Counsel engaged by them to pay the Court fees and/or to receive the refund thereof.
7. To apply for execution of decrees or orders passed in any of the aforesaid proceedings.
8. To enter into out-of-court settlements on our behalf.
9. To receive all amounts due and payable to us from any Court or person or authority or party under any Decree and/or Order in any suit or other proceedings or in any out-of-court settlements and to give effective receipts/discharges for such payments.
10. To apply for execution of documents and to inspect documents and records and other papers in any of the aforesaid proceedings.
11. To substitute in the place of our said Attorneys and such substitutes as may be necessary to be substituted by whatever reason in the event our Attorney



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may have become incapacitated to act as Attorneys and sign and confirm similar powers hereunto granted.

- 12. To apply to the Reserve Bank of India, Exchange Control Department, for remittance of any amount which our said attorneys may receive and hold in the aforesaid proceedings or otherwise and to take all necessary steps as may be required.
- 13. AND GENERALLY, to do all other lawful acts, deeds and things necessary for the aforesaid purposes.

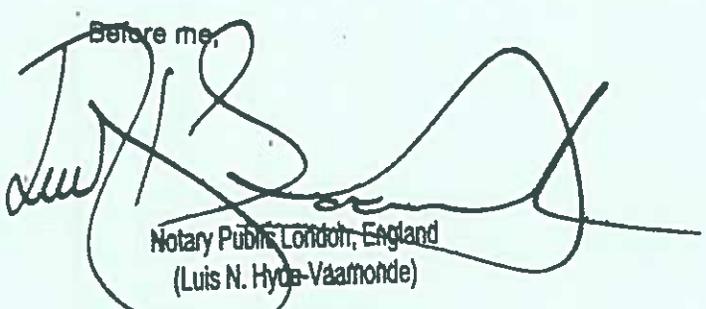
AND WE HEREBY agree and undertake that all acts, deeds and things aforesaid lawfully done or caused to be done by our said Attorney shall be construed as acts, deeds and things done by and we hereby undertake to ratify and confirm all and whatsoever our said Attorneys shall lawfully do or cause to be done for and on our behalf by virtue of these presents.

This POWER OF ATTORNEY shall be in force until the same is revoked by another instrument in writing.

IN WITNESS WHEREOF, we have executed this Power of Attorney at London on this 15th day of October 2019.

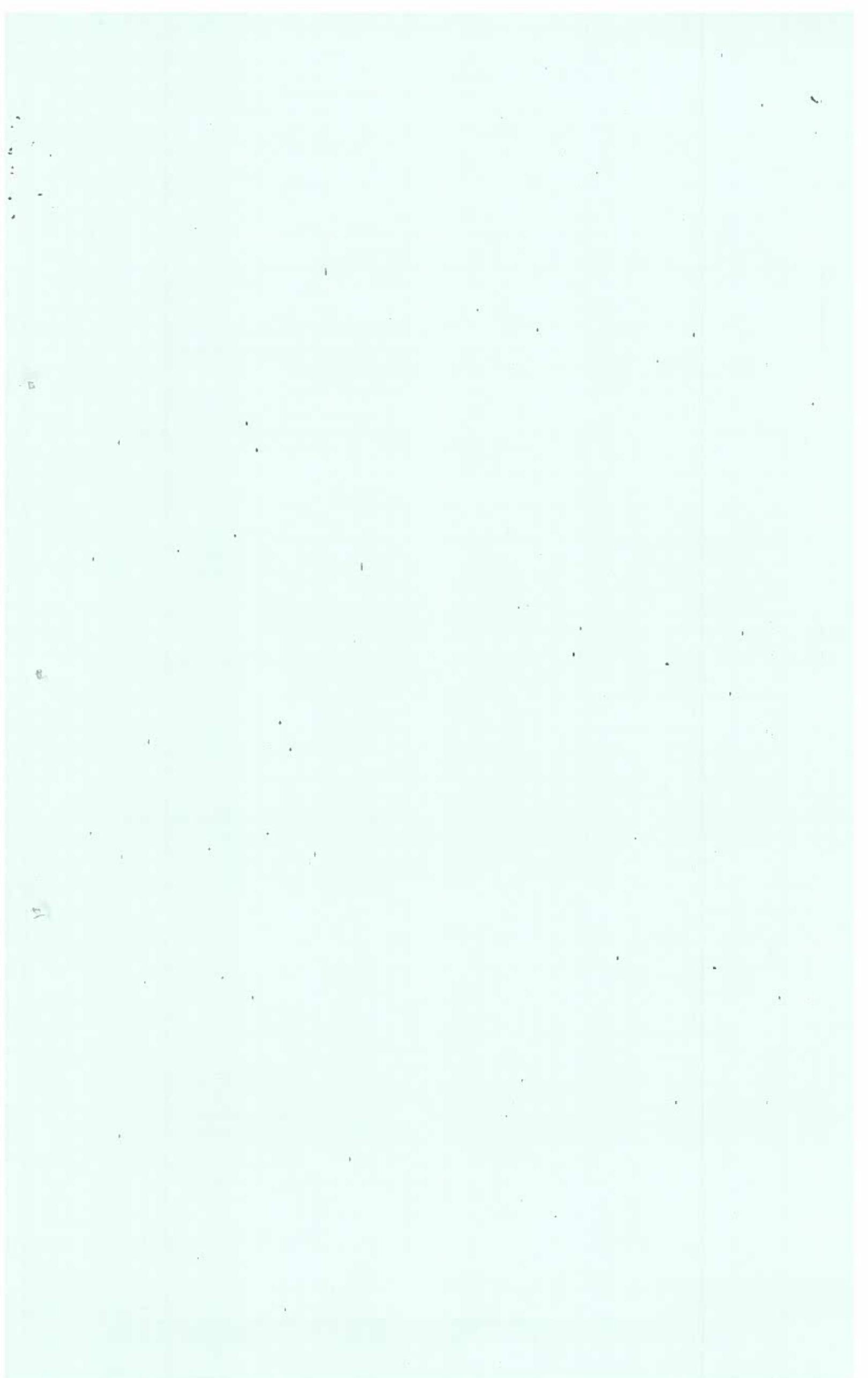
SIGNED & DELIVERED BY)


 Andrew Taylor
 THE WITHINNAMED

Before me,

 Notary Public London, England
 (Luis N. Hyde-Vaamonde)

CHEESWRIGHTS
 SCRIVENER NOTARIES | LLP
 Bankside House, 107 Ludlowhall Street,
 London EC3A 4AF
 T: +44 (0) 20 7623 9477
 www.cheeswrights.com





(182)

IN THE HIGH COURT OF JUDICATURE
AT MADRAS

(Special Original Jurisdiction)

W.P.No. 31045 of 2019

1. BW VLGC Limited
Bermuda
represented herein by its
Power of Attorney Agent Captain Mukesh Sharan

2. The United Kingdom Mutual Steam
Ship Assurance Association (Europe)
(UK P & I Club)
Having their Office at
90 Fenchurch Street, London- EC3M 4SF
Represented herein by its Power & Attorney
Agent Mr. S. Ramamoorthy

... Petitioners 1 and 2

Vs.

1. The Government of Tamil Nadu
Fort St. George, Chennai 600009

2. The Director of Fisheries,
Nandanam, Chennai 600 055

... Respondents 1 and 2

INDEX TO TYPED SET OF PAPERS

M/s S. Raghunathan,
(Ms. 318/1977)
Sharanya Vaidhiyanthan
(Ms. 1686/2014)
V.Kamala Kannan
(Ms.1624/2018)

Counsel for the Petitioners

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(SPECIAL ORIGINAL JURISDICTION)

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W.P.No. 31045/2019

1. BWVLGC Limited,
Having Its Registered Office at
Clarendon House,
2nd Church Street, Hamilton HM 11,
Bermuda
represented herein by its
Power of Attorney Agent Captain Mukesh Sharan

2. The United Kingdom Mutual Steam
Ship Assurance Association (Europe)
through their Managers
Thomas Miller P & I (Europe) Ltd.
(UKP & I Club)
Having their Office at
90, Fenchurch Street, London - EC3M 4ST
Represented herein by its Power & Attorney Agent
Mr.S.Ramamoorthy

Petitioners

Versus

1 .The State of Tamil Nadu
Represented by its Principal Secretary to Government,
Animal Husbandry, Dairying and Fisheries Department
Fort St. George, Secretariat, Chennai

2.The Director of Fisheries,
Integrated Office Building,
571, Anna Salai, Nandanam,
Chennai 600 035

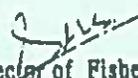
Respondents

COUNTER AFFIDAVIT FILED BY THE 2ND RESPONDENT

I, Dr.G.S.Sameeran, S/o T.K.Suresh Kumar, being the Director of Fisheries, Integrated Office building, Nandanam, Chennai - 600 035 do hereby solemnly affirm and sincerely state as follows.

I am the second respondent herein in the above writ petition and as such I am well acquainted with the facts of this case from the available records. I am filing this Counter affidavit status report on the directions of the Hon'ble High Court of Judicature at Madras dated; 11.12.2019.


ASSISTANT DIRECTOR OF FISHERIES
(MARINE)


Director of Fisheries
Chennai - 600 035

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I respectfully submit that all the averments made in the affidavit of the petitioner is not maintainable under law.

1. I respectfully submit that two Merchant ships viz. M.T. BW Maple and M.T. Dawn Kancheepuram accidentally collided off the Kamarajar Port, Ennore, Tamil Nadu on 28.1.2017. Due to this accident, there was an oil spill of bunker oil which spread across the sea and the seashores of Thiruvallur, Chennai and Kancheepuram districts of Tamil Nadu. The Fishermen of these three districts were unable to venture into sea for fishing from 30.01.2017 for more than a month as there was no demand for sea food from the public because of the assumption that fishes be contaminated with oil due to this oil spill. This had adversely affected the livelihoods of Fishermen of these three districts for a period of more than one month.

2. I respectfully submit that these 18 teams have been constituted with Fisheries Department officials in order to assess the exact quantum livelihood loss suffered by various sectors such as Fishing labourer, Fisherwomen in Fisheries allied activities, Allied activity labourer, Fish vendors, owners of Motorized boats, Non-motorized boats and Mechanized boats.

3. I respectfully submit that claim forms duly approved by the Insurance company of the Shipping companies were distributed to fishermen Cooperative Society members and to I submit that, based on the above team report, claims were consolidated for each category and a proposal was sent to Government for Rs.203.225 Crore for providing compensation to 1,12,051 affected fishermen. Accordingly the Government of Tamil Nadu preferred a claim for compensation relief assistance of Rs.203.225 Crore.

4. I respectfully submit that considering the time delay in getting compensation from insurance companies and as a measure to provide immediate relief to the affected fishers, the State Government vide Government Order (Ms).No.58, Animal Husbandry and Fisheries (FS3) Department dated 03.03.2017, sanctioned a sum of Rs.15 crore to provide immediate relief at the rate of Rs.5000/- each to the 30,000 affected fishermen families and the same was released by the Insurer of the Shipping company on 08.11.2017.


ASSISTANT DIRECTOR OF FISHERIES
(MARINE)


Director of Fisheries

5. I respectfully submit that in the meantime, petitions were filed before the Hon'ble National Green Tribunal, Southern Zone at Chennai by MeenavarThanthai Selvaraj kumar with application Q.A. No.14 of 2017. The Hon'ble National Green Tribunal directed the Department to permit the affected persons to make their claim up to 10.8.2017 and make required study, conduct enquiries to arrive at an appropriate quantum of compensation to be recovered from the ship owners.

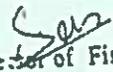
6. I respectfully submit that, based on the directions of the Hon'ble National Green Tribunal, a team with the officials of the Fisheries Department was constituted to receive the applications from the affected fishermen who have not filed their claim earlier. Based on the scrutiny of applications received on the direction of Hon'ble National Green Tribunal, Southern Zone, 2,442 applications were accepted and revised compensation proposal for Rs.240.07 crore to the affected 1,11,448 fishermen of Tiruvallur, Chennai and Kanchipuram coastal districts has been arrived and submitted to the Hon'ble National Green Tribunal, Southern Zone.

7. I respectfully submit that, as per the orders of Hon'ble High Court, Madras in W.P. No.2979 of 2018 an amount of Rs.141 Crores (Including Rs.10 Crore for Ecosystem restoration works) has been received from steamship on 28.03.2018. An Irrevocable Bank Guarantee worth Rs.84 crore was also obtained from the Shipping companies as per the directions of this Honourable High Court.

Details of Compensation proposal submitted:

AFFECTED CATEGORY	Total no of Claims	Amount recommended by Government (in Rs/ Unit)	Total amount (Rs in Lakh)
MFB (Category I)	922	70000	645.4
FRP (Category I)	6916	40000	2766.4
Catamaran (Category I)	2467	30000	740.1
Society members (FCS)	40580	15000	6087
Society members (FWCS)	47145	12000	5657.4
Vendors	9090	12000	1090.8
Allied Activities	1885	12000	226.2
Petitioner	2442	12000	293.04
TNFDC	1		40
Total	111448		17546.34
Restoration measures			6429
Contingency			25
Grand Total			24000.34


ASSISTANT DIRECTOR OF FISHERIES
(MARINE)

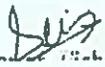

Director of Fisheries
Chennai - 600 035

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8. I respectfully submit that a Relief Recommendation Committee was constituted by the Director of Fisheries to disburse the relief amount of Rs.141 crore received from the insurer of Shipping Companies under the Chairmanship of Additional Director of Fisheries / Managing Director of Fisheries, TAFCOFED. The Relief Recommendation Committee analyzed the compensation proposal of the Government of Tamil Nadu forwarded to Shipping companies in detail, and recommended the following compensation package to the affected fishermen considering the release of compensation amount limited to Rs.141 crores by the insurers of Shipping Companies as against the total compensation of Rs. 240 Crores. The Relief Recommendation Committee has recommended limited compensation to the categories of Owners of recommended Mechanised Fishing Boat, Motorised Fishing Crafts and Non motorized Fishing crafts to the maximum of 50% of the assessed value of livelihood loss and for the categories Fishing labourer, Fisherwomen in Fisheries allied activities, Allied activity labourer, Fish vendors, limited to the maximum of 80% of the assessed value livelihood loss as proposed in the original compensation proposal.

Category	Total No. of Claims	Total claim Amount Recommended (In Lakh)
MFB (Category I)- Mechanised Fishing boat Owner	922	4869.60
FRP (Category I)- Motorised boat Owner	6916	4714.50
Catamaran (Category I)- Non Motorised boat Owner	2467	909.00
Society members (FCS)- Fishing Labourer	40580	188.50
Society members (FWCS)- Fisherwomen in Fisheries allied activities	47145	322.70
Vendors- Fish Vendors	9090	1383.20
Allied Activities- Labours	1885	370.05
Petitioner	2442	244.20
TNFDC	1	20.00
Total	111448	13021.75
Restoration measures		1000.00
Contingency		12.00
Grand Total	111448	14033.75


ASSISTANT DIRECTOR OF FISHERIES


DIRECTOR OF FISHERIES

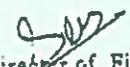
09. I respectfully submit that, since the Insurance Company has released only Rs.141 crores against the total claim of Rs.240 crores, based on the recommendation of Relief Recommendation Committee, the Assistant Director of Fisheries, Thiruvallur, Chennai and Kancheepuram districts have collected individual beneficiaries information such as Aadhar card, Bank Account details, address proof, etc. and all these data were de duplicated in order to avoid multiple payments to the beneficiaries. It is respectfully submitted that the compensation amount was paid only to the eligible beneficiary after due verification and the compensation amount has been directly transferred to the Bank Account of beneficiary through ECs. The Department has followed the best possible procedure to ensure the transparency in the disbursement of Oil spill compensation to the beneficiaries.

10. I respectfully submit that, based on the Relief Recommendation Committee constituted under the chairmanship of Additional Director of Fisheries / Managing Director, TAFCOFED, and based on their recommendation relief amount was disbursed to the applicants as on 12.12.2019 is detailed below:

Name of the Category	No. of persons received relief amount	Amount released per head.	Total Relief amount (in lakhs)
Fishing Labourer	43,564	12,000-	5,227.68
Fisherwomen in Fisheries allied activities	44,719	10,000-	4,471.90
Allied activity Labours	1,691	10,000-	169.10
Fish Vendors	8,737	10,000-	873.70
Motorised Boat Owner	5,024	20,000-	1,004.80
Non-Motorised Boat Owner	323	15,000-	48.45
Mechanized Boat Owner	914	35,000-	319.90
Total	1,04,972		12,115.53
Ecosystem restoration			1000
Total			13,115.53

An amount of Rs. 10 Crore has been earmarked for Ecosystem restoration work. Fabrication and deployment of Artificial reef in 30 places of Thiruvallur, Chennai and Kancheepuram district is in progress with the technical consultancy of Central Marine Fisheries Research Institute (CMFRI).


 ASSISTANT DIRECTOR OF FISHERIES
 (MARINE)


 Director of Fisheries
 Chennai - 600 035

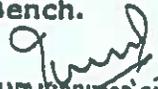
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11. It is respectfully submitted that out of 1,11,448 applications, relief assistance of Rs.121,15.53 lakh has been disbursed to 1,04,972 beneficiaries. 6,476 applications were rejected after deduplication and scrutiny of documents. Thorough scrutiny of application and document verification were done before disbursement of compensation to 1,04,972 beneficiaries accounts as Direct Benefit Transfer (DBT).

12. I respectfully submit to state that in response to the 2nd petitioner's letter dated 15.3.2019 wherein it was informed that the bank guarantee furnished for Rs.84 Crore need to be kept alive until the disposal of the applications filed before the Hon'ble NGT and also to furnish the details of disbursement of claims, the petitioner has been informed vide Director of Fisheries letter No.2836/P3/2017 Dated 08.08.2019 that an amount of Rs.121.3553 Crore was disbursed to 1,04,972 affected fishermen and details of category wise disbursement was furnished stating that the disbursement of remaining compensation is in progress. This information has been informed to the petitioner through e- mail dated 08.08.2019 also. It was also informed to the petitioner that the Bank guarantee received from Pandi correspondence Pvt Ltd for Rs.84 Crore issued by Kotak Mahindra Bank Ltd dated 16.5.2018 in accordance with the orders of the Hon'ble High Court will be finalized after disposal of applications filed before the Hon'ble National Green Tribunal, Chennai.

Details of beneficiary wise details of compensation released are enclosed herewith for Honourable Court's reference.

13. I respectfully submit that, the Hon'ble High Court of Madras in its order dated: 13.3.2018 has recorded that Indian Ocean Shipping Private Limited, Mumbai and Owners of BW Mapple Nad BW VLGC Limited, Bermuda and Director General of Shipping, Mumbai the Joint Memo of Compromise arrived at on 02.03.2018, that The U.K. P & I Club, on behalf of the owners of Shipping companies shall deposit a sum of Rs.141 crores strictly without prejudice towards the various claims lodged by the fishermen and Association for a sum of Rs.240 crores, preferred by the Government of Tamil Nadu including the restoration claim of Rs.10 crores, and also to secure the remaining claims out of total claim of Rs.240 crores preferred by the Government of Tamil Nadu before the National Green Tribunal, Southern Zonal Bench.


ASSISTANT DIRECTOR OF FISHERIES
(MARINE)


Director of Fisheries

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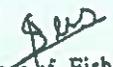
The Shipping Companies have arranged to execute a Bank Guarantee for a sum of Rs.84 crores without prejudice towards the various claims lodged by the fishermen and Association for a sum of Rs.240 crores, preferred by the Government of Tamil Nadu in favour of Government of Tamil Nadu represented by the Director of Fisheries.

14. I respectfully submit that, the petitioner's claim in para 16 and 17 of the Affidavit, that all the claims including an account of loss of ecology, restoration cost, remedial measures etc., has already been taken care of by the deposit of Rs. 156 core and there are no further claims which are either pending nor arise in future and all the claims of different nature have been finally settled, the Respondents should discharge and return the Bank Guarantee executed in favour of Department of Fisheries, Government of Tamil Nadu not only maintainable under law because the original compensation preferred by Government before the National Green Tribunal is for Rs.240 crores against only Rs.141 crores has been released by the Shipping Companies towards compensation. Hence, to accommodate all the fishermen affected by the oil spill within the amount of Rs.141 crores released by the Oil Companies, the extent of compensation has been limited to 50% of the original assessed value of livelihood in case of Owners of Mechanized Fishing Boat, Motorized Fishing Crafts and Non-motorized Fishing crafts and reduced to 80% of the original assessed value in case of categories Fishing labourer, Fisherwomen in Fisheries allied activities, Allied activity labourer and Fish vendors.

15. The Honourable High Court has clearly directed that the Shipping Companies should execute the Bank Guarantee to the extent of Rs.84 crores is towards the settlement of remaining claims out of total claim of Rs.240 crores preferred by the Government of Tamil Nadu before the National Green Tribunal, Southern Zonal Bench.

16. I respectfully submit that the petitioner's claim of release of 84 crores Bank Guarantee executed in favour of Department of Fisheries, Government of Tamil Nadu cannot be released to the petitioner at this point of time. Since the case filed in National Green Tribunal, Southern Zonal Bench for payment of compensation of Rs.240 crores preferred by the Government of Tamil Nadu is still pending.


ASSISTANT DIRECTOR OF FISHERIES
(MARINE)


Director of Fisheries
Chennai - 600 035

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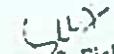
Hence, it is humbly prayed that this Hon'ble Court may be please to dismiss the Writ Petition which is devoid of facts and merits and thus render justice.

Solemnly affirmed at
Chennai on this day of
December 2019 and signed
his name in my presence

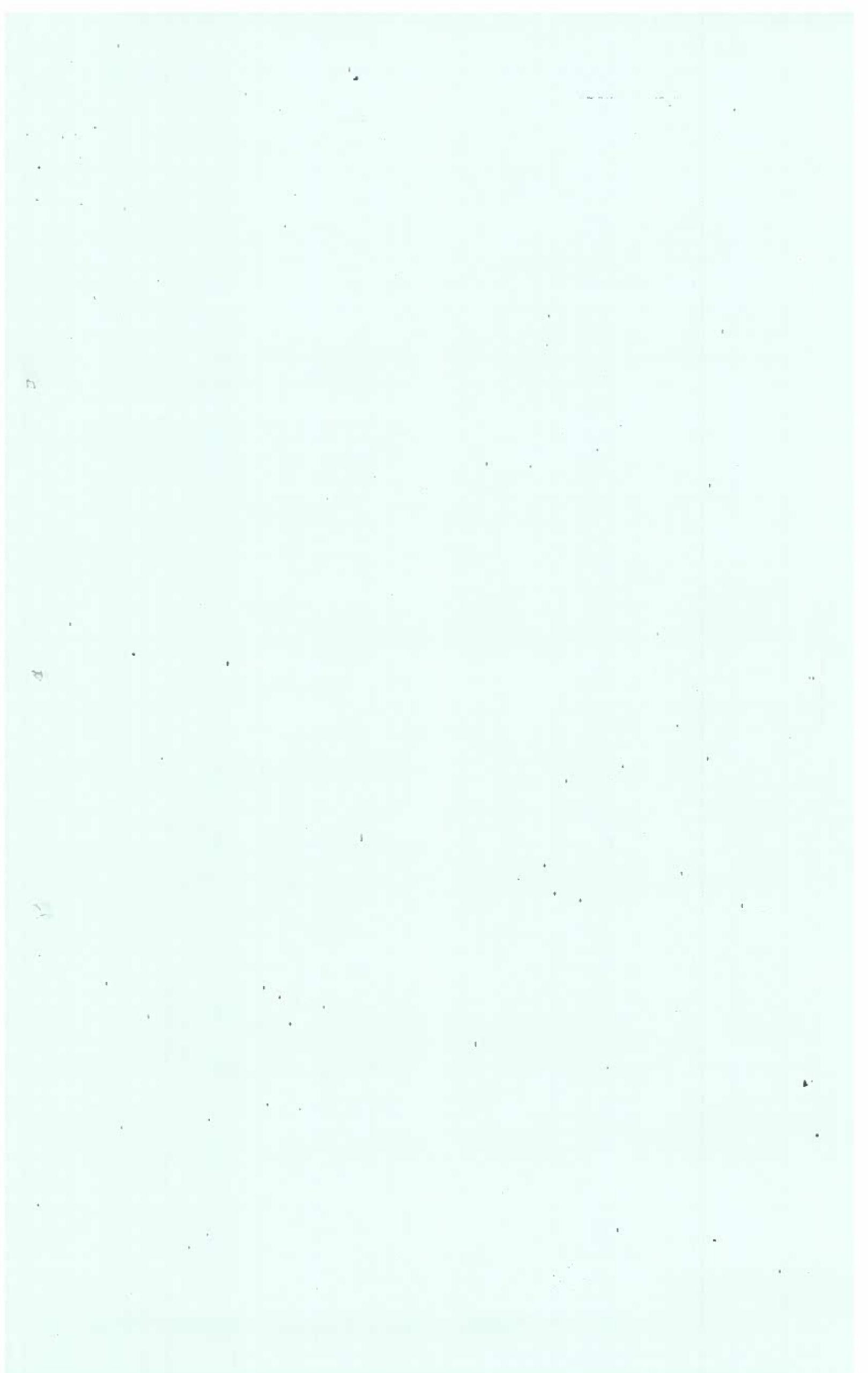
BEFORE ME,

ADVOCATE, CHENNAI


ASSISTANT DIRECTOR OF FISHERIES
(MARINE)


Director of Fisheries
Chennai - 600 035

Director of Fisheries
Chennai - 600 035



(9)

IN THE HIGH COURT OF
JUDICATURE AT MADRAS
(Special Original Jurisdiction)
W.P.No.31045 of 2019

Re
E
noti-

COUNTER AFFIDAVIT

M/s. Raghunathan
Sharanya Varadhan
Kamala Ganan.
Prof. C. Mohan
and Sons
5th Floor, (old no. 44)
New No. 140, 2nd Lin Beach.
GOVERNMENT PLEADER

UKP I

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The Managers
Thomas Miller P&I (Europe) Ltd.
90 Fenchurch Street
London
EC3M 4ST
T +44 (0)20 7283 4646
ukpandi@thomasml.com
www.ukpandi.com

1. The Principal Secretary,
Animal Husbandary, Diarying &
Fisheries Department,
Government of Tamil Nadu,
Fort St. George, Chennai 600009
ahac@tn.gov.in

PLEASE REPLY DIRECT TO:
T +44 (0)20 72062490
London.ukclub@thomasml.com

2. The Director of Fisheries,
Government of Tamil Nadu,
Integrated Complex,
571, Anna Salai, Nandanam,
Chennai 600035
coffisheries@gmail.com

By Email

Our Ref: LZL/2016/010792

Date: 13th February 2020

Dear Sirs,

Sub: Collision between BW Maple and Dawn Kancheepuram on 28.01.2017

At the outset, we thank you for giving us an appointment to meet you at 11a.m. on Monday the 17th February, 2020, despite several engagements and commitments.

You may recollect that pursuant to several meetings, we have had with you between August 2017 and March 2018, we deposited a sum of Rs.141 crores with the Director of Fisheries in March, 2018 so as to amicably settle the fisherman's claims. We had also arranged for the execution of a Bank Guarantee for a sum of Rs.84 crores towards the monetary claims of fishermen.

We had also requested you by our letters dated 15th March, 2019 and 7th May, 2019 to discharge the Bank Guarantee and return it to us for cancellation since we are incurring a huge sum of Rs.3.50 Crores annually to keep the same alive and current.

We believe that the entire claims of the fishing community, either towards loss of livelihood or towards loss of property, have been fully satisfied and discharged.

Although we have filed a Writ Petition in the Hon'ble Madras High Court, being W.P.No.31045 of 2019, we would like to resolve the pending issue amicably and it would be our pleasure to meet you and the Director of Fisheries in this regard on 17th February 2020.

UK P&I CLUB
IS MANAGED
BY THOMAS
MILLER

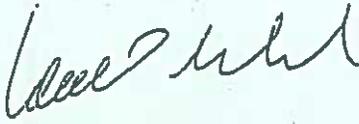
The United Kingdom Mutual Steam Ship Assurance Association (Europe) Limited. Registered in England No. 22215.
Thomas Miller P&I (Europe) Ltd. Registered in England No. 2920367. Registered offices as above.

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UKP I

We once again thank you for giving us an opportunity to meet you.

Yours faithfully



Lance Hebert
Senior Claims Director
for Thomas Miller P&I (Europe) Ltd,
Managers
For and on behalf of
The United Kingdom Mutual Steam Ship
Assurance Association (Europe) Limited



Nataraj Rao Raghu & Sundaram <nrrandschennai@gmail.com>

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**Claims for Oil Pollution arising out of the collision between MT DAWN
KANCHEEPURAM and BW MAPLE**

Lance Hebert <Lance.Hebert@thomasmiller.com>
To: "tnpcbchairman@gmail.com" <tnpcbchairman@gmail.com>
Cc: Nataraj Rao Raghu & Sundaram Advocates <nrrandschennai@gmail.com>

Thu, Feb 13, 2020 at 4:22 PM

The Chairman,
Tamil Nadu Pollution Control Board,
Chennai

Dear Sirs,

Please find our letter of today attached. Thank you.

Yours faithfully,

Lance Hebert
Senior Claims Director
Thomas Miller P&I (Europe) Ltd
90 Fenchurch Street,
London EC3M 4ST

T: +44 (0) 20 7204 2490

M: +44 (0) 7920 467172

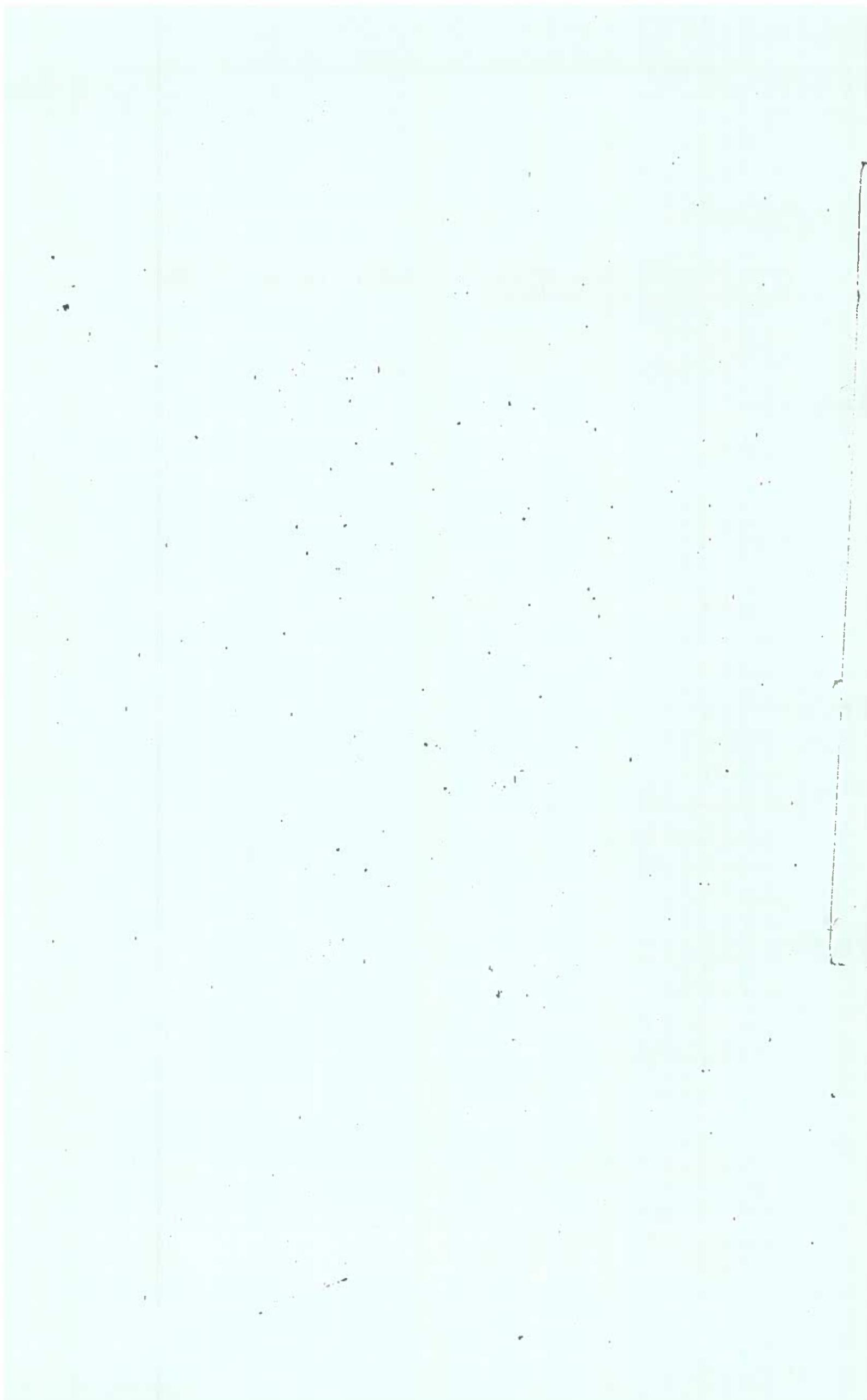
E: Lance.Hebert@thomasmiller.com

W: www.thomasmiller.com

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Registered Post with Acknowledged Due:

Department of Fisheries

From:
The Director of Fisheries,
Nandanam, Chennai -600 035.

To:
Thiru.S.Raghunathan,
Advocate.
Haji S.Madharsa & Sons Building
5th floor, No.148 (Old No.44),
Second line Beach,
Chennai - 600001.
Ph.25341718/25342012.

Re.No. 4021/P3/2017

Dated:30.09.2020.

Sir,

Sub: O.A.No.14 of 2017 before the National Green Tribunal (SZ) at Chennai - Copy of Status report by fisheries department - requested- Regarding.

Ref Thiru.S.Raghunathan, Advocate on behalf of the owners of BW Maple and their insurance company of U K P & I Club, mail message dated:02.09.2020 and 09.09.2020.

As requested in the reference above, the Status Report on the Original Application No.14 of 2017 filed by Meenavar Thanthai K.R.Selvarj filed on 14.05.2020 is enclosed herewith.

[Handwritten Signature]
for Director of Fisheries.

[Handwritten Signature]

BEFORE THE NATIONAL GREEN TRIBUNAL,
SOUTHERN ZONE, CHENNAI
Original Application No.14 of 2017 (SZ)

196

Meenava Thanthai K.R.Selvaraj
Kumar

Applicant (S)

WITH

The Chairman,
National Coastal Zone Management
Authority & others

Respondents

For Applicantn (s)
For Respondent (s):

Mr.Mageshwaran
M/s.G.M.Syed Nurullah Sheriff
For R1,R14
M/s. M.Mani Gopi for Rs,R5,R7,& R8
M/s.S.Vasudevan for R10
M/s.S.Raghunathan for R11
M/s.D.S.Ekamabram for R12
Mr.Abdul Saleem
Mr.S.Saravanan for R6

Application No.16 of 2017 (SZ)

Saravanan Dakshinamurthy

Applicant (S)

With

Union of Indian and others

Respondents

For Applicantn (s)
For Respondent (s):

M/s.Yogeswaran
Mr.G.M.Syed Nurullah Sheriff for R1
M/s. M.Mani Gopi for R4
M/s.S.Vasudevan for R6
M/s.S.Raghunathan for R11
M/s.D.S.Ekamabaram for R12
Mr.Abdul Saleem
Mr.S.Saravanan for R6

Application No.38 of 2017 (SZ)

Ashwini Kumar

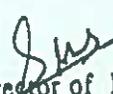
Applicant (S)

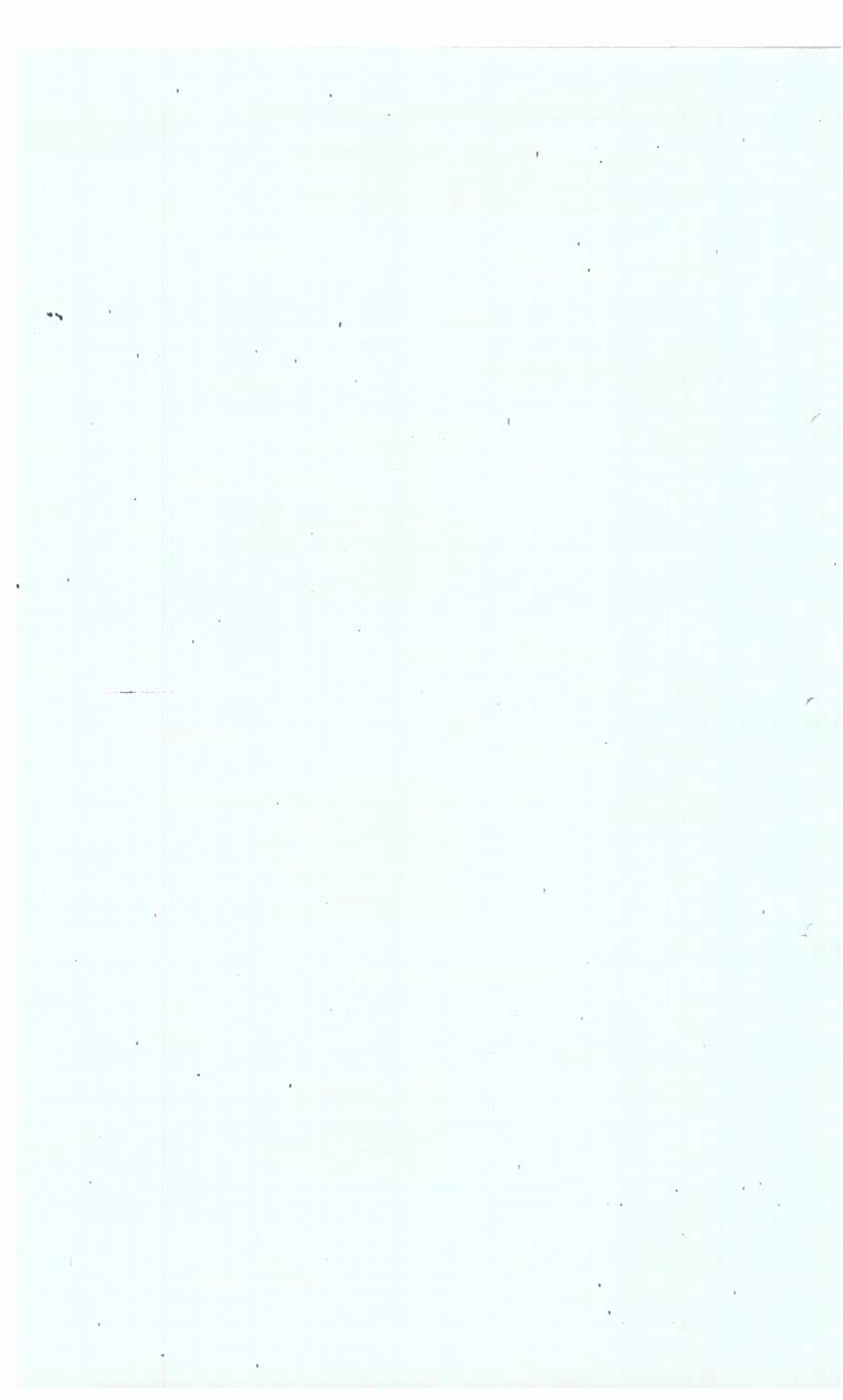
Union of Indian and others
For Applicantn (s)
For Respondent (s):

Respondents

Nil
M/s.Me.saraswathy for R1
M/s. M.Mani Gopi for R3
Mr.Abdul Salrrm
Mr.S.Saravanan for R4
Mr.S.Raghunathan


Additional Director of Fisheries,
Marine
Chennai-600 035


Director of Fisheries
Chennai - 600 035



Application No.40 of 2017 (SZ)

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P.Soma Sundaram

Applicant (S)

Union of Indian and others

Respondents

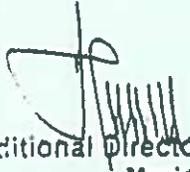
For Applicantn (s)
For Respondent (s):

Nil
M/s.Me.saraswathy for R1.
Mr.S.Raghunathan
M/s.D.S.Ekamabram for R4

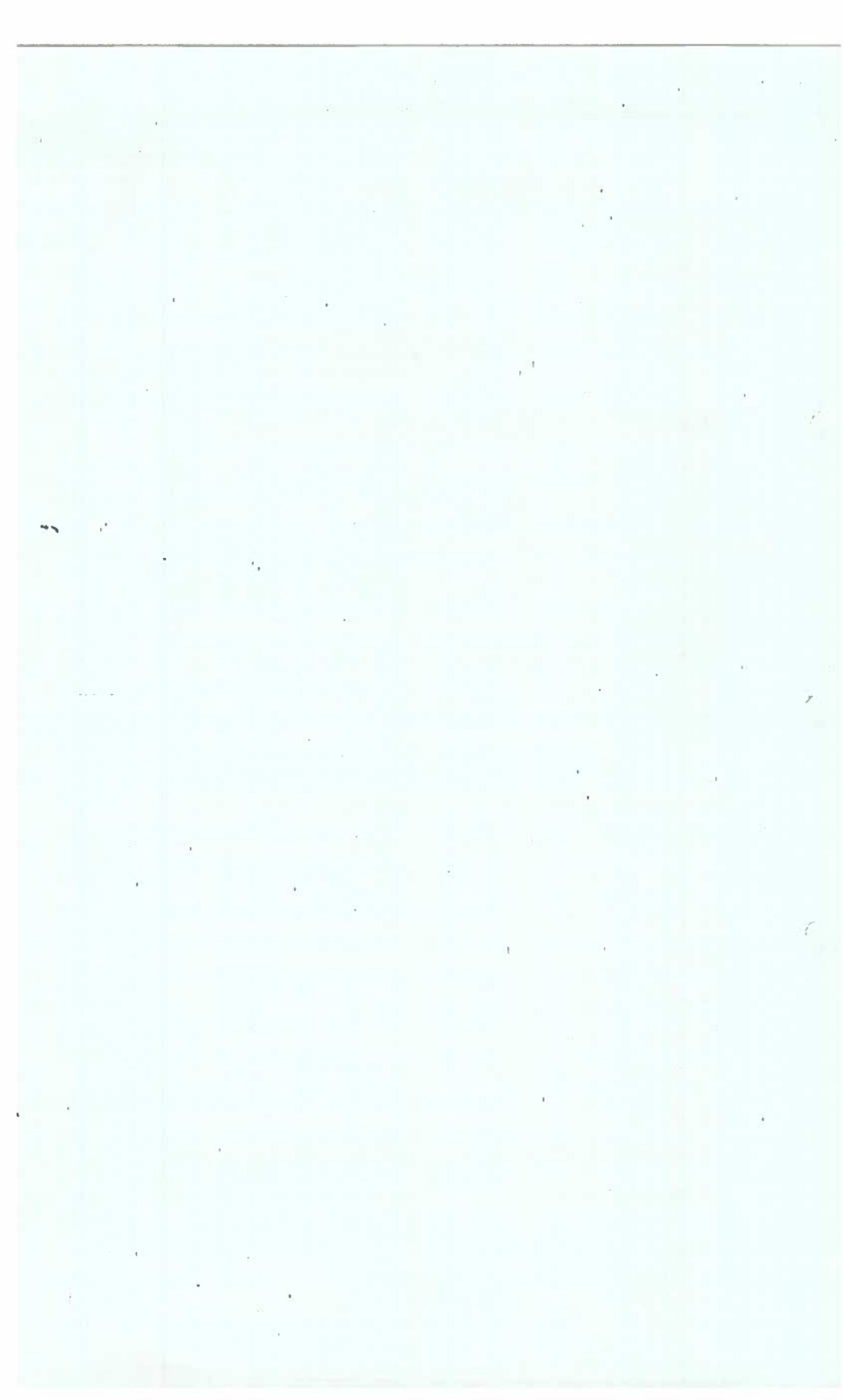
STATUS REPORT FILED BY THE DEPARTMENT OF FISHERIES

I, Dr.G.S.Sameeran, S/o T.K.Suresh Kumar, being the Director of Fisheries, Integrated Office building, Nandanam, Chennai - 600 035 do hereby solemnly affirm and sincerely state as follows:

- 1) I am well acquainted with the facts and circumstances of the case from the available records. In pursuant to the orders of the Judicial and expert members of the National Green Tribunal, Southern Zone, Chennai dated 08.03.2020 , I am filing this status Report on the remedial measures taken restore the livelihood of fishers as follows:
- 2) It is respectfully submitted that two Merchant ships viz. M.T. BW Maple and M.T. Dawn Kancheepuram accidentally collided off the Kamarajar Port, Ennore, Tamil Nadu on 28.1.2017. Due to this accident, there was an oil spill of bunker oil which spread across the sea and the seashores of Thiruvallur, Chennai and Kancheepuram districts of Tamil Nadu. The Fishermen of these three districts were unable to venture into sea for fishing from 30.01.2017 for more than one month as there was no demand for sea food from the public because of the apprehension that fishes be contaminated with oil due to this oil spill. This had adversely affected the livelihoods of Fishermen of these three districts for a period of more than one month.


Additional Director of Fisheries,
Marine
Chennai-600 035


Director of Fisheries
Chennai - 600 035



3) It is respectfully submitted that 18 teams have been constituted with 65 Fisheries Department officials in order to assess the exact quantum livelihood loss suffered by various sectors such as Fishing labourer, Fisherwomen in Fisheries allied activities, Allied activity labourer, Fish vendors, owners of Motorized boats, Non-motorized boats and Mechanized boats. Based on the team report, claims were consolidated for each category and a proposal was sent to Government for Rs.203.225 Crore for providing compensation to 1,12,051 affected fishermen. Accordingly the Government of Tamil Nadu preferred a claim for compensation relief assistance of Rs.203.225 Crore.

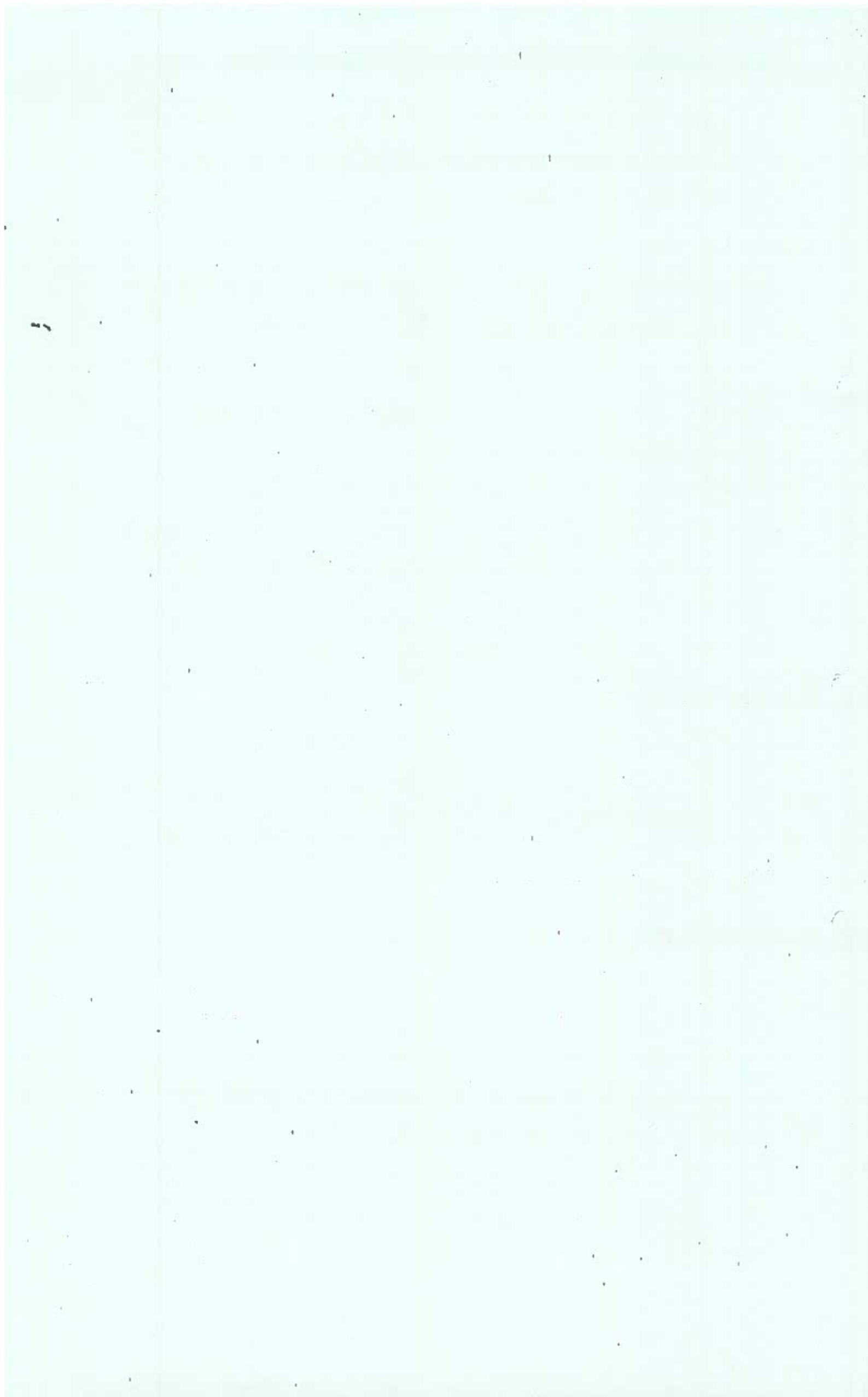
(198)

4) It is respectfully submitted that meanwhile as a measure to provide immediate relief to the affected fishers, the State Government vide Government Order (Ms).No.58, Animal Husbandry and Fisheries (FS3) Department dated 03.03,2017, sanctioned a sum of Rs.15 crore to provide immediate relief at the rate of Rs.5000/- each to the 30,000 affected fishermen families and the same was released by the Insurer of the Shipping company on 08.11.2017.

5) It is respectfully submitted that in pursuance to the application No.14 filed before the Honourable National Green Tribunal to extend time limit for receipt of applications from the affected fishermen who have not filed their claims earlier and to arrive an appropriate quantum of compensation to be recovered from the ship owners, the Honourable National Green Tribunal directed the Department to extend the time limit for receipt of applications up to 10.8.2018.


Additional Director of Fisheries,
Marine
Chennai-600 035

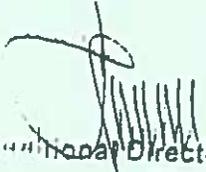

Director of Fisheries
Chennai - 600 035

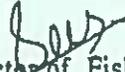


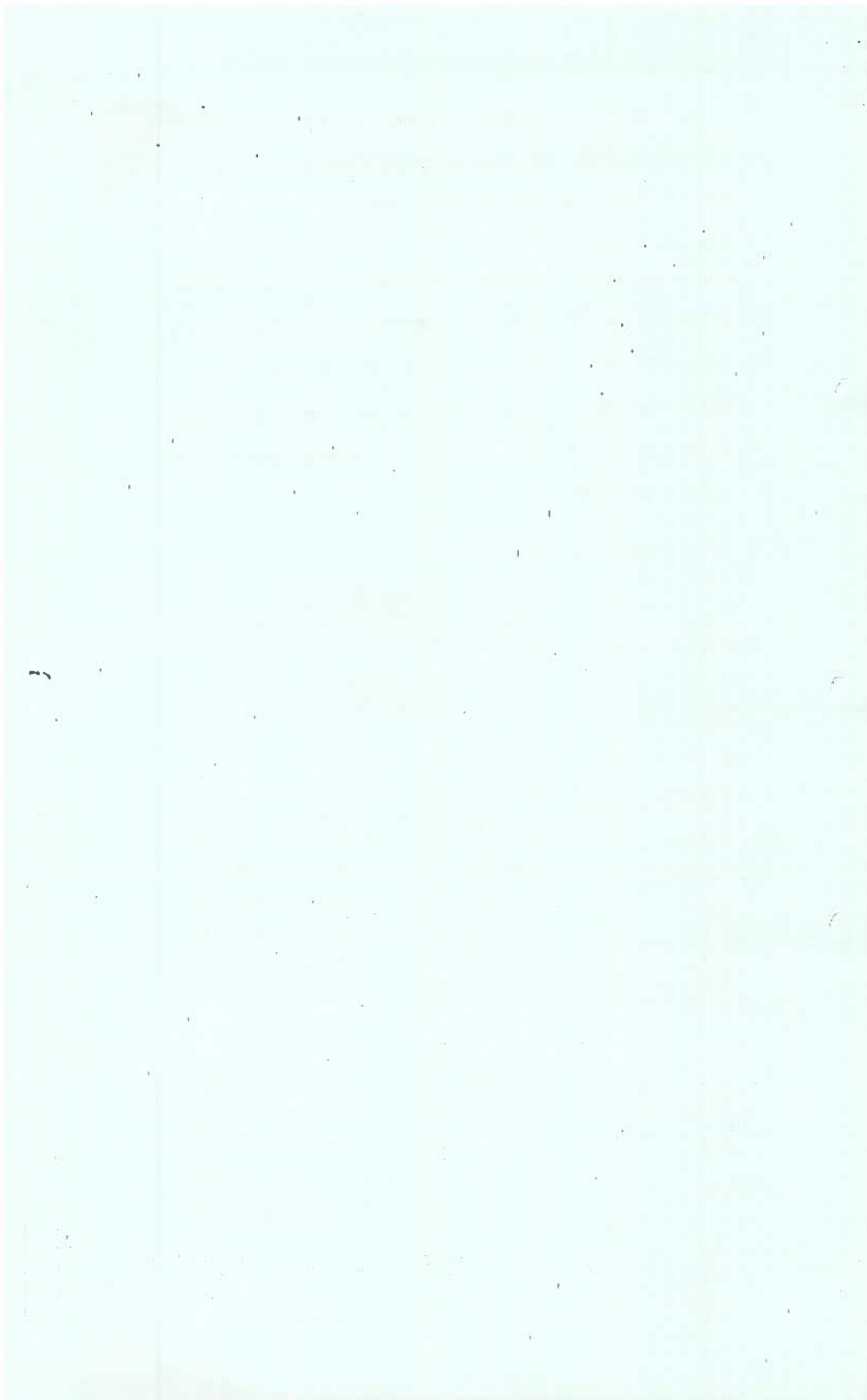
6) It is respectfully submitted that based on the directions of the Hon'ble National Green Tribunal, a team with the officials of the Fisheries Department was constituted to receive the applications from the affected fishermen who have not filed their claim earlier. Based on the scrutiny of applications received on the direction of Hon'ble National Green Tribunal, Southern Zone, 2,442 applications were accepted and revised compensation proposal for Rs.240.07 crore to the affected 1,11,448 fishermen of Tiruvallur, Chennai and Kanchipuram coastal districts has been arrived and submitted to the Hon'ble National Green Tribunal, Southern Zone.

Details of Compensation proposal submitted:

Affected Category	Total no of Claims	Amount originally recommended by Government (in Rs/ Unit)	Total amount (Rs in Lakh)
Mechanized Boat Owner	922	70000	645.4
Motorized Boat Owner	6916	40000	2766.4
Non-motorized Boat owner	2467	30000	740.1
Fishing Laborer	40580	15000	6087
Fisherwomen in allied activity	47145	12000	5657.4
Fish Vendors	9090	12000	1090.8
Allied Activity Laborer	1885	12000	226.2
Vendors and allied activity labourer as per NGT order.	2442	12000	293.04
TNFDC	1		40
Total	111448		17546.34
Restoration measures			6429
Contingency			25
Grand Total			24000.34


 Additional Director of Fisheries,
 Marine
 Chennai-600 035


 Director of Fisheries
 Chennai - 600 035



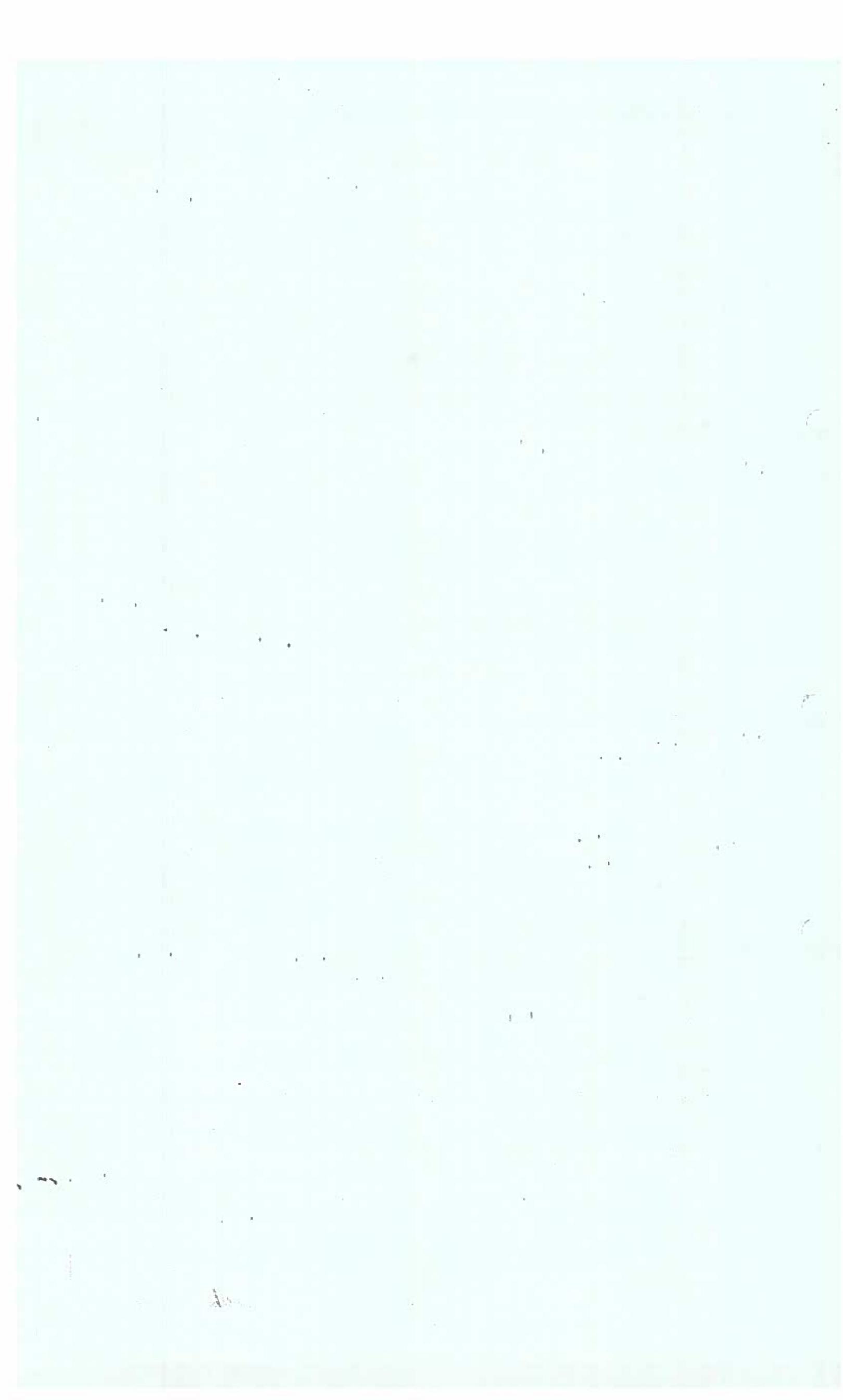
7) It is respectfully submitted that, as per the orders of Hon'ble High Court, Madras in W.P. No.2979 of 2018 and W.P. No.2979 of 2018 an amount of Rs.141 Crores (Including Rs.10 Crore for Ecosystem restoration works) received from Insurers of shipping companies on 28.03.2018 without prejudice to the original claim preferred. An amount of Rs.15 Crores already have been released by the Insurers of the shipping companies. An Irrevocable Bank Guarantee worth for the remaining amount of Rs.84 crore issued by Kótak Mahindra Bank Ltd dated 16.5.2018 was also obtained from the Shipping companies as per the directions of Honórablé High Court.

8) It is respectfully submitted that a Relief Recommendation Committee was constituted to calculate the quantum of compensation to be provided to the fishers of all categories within the compensation amount of Rs.141 crore received from the insurer of Shipping Companies without prejudice to the original claim preferred.

9) It is respectfully submitted that the Relief Recommendation Committee analyzed the compensation proposal of the Government of Tamil Nadu forwarded to Shipping companies in detail, and recommended the following compensation package to the affected fishermen considering the release of compensation amount limited to Rs.141 crores by the insurers of Shipping Companies as against the total compensation of Ra. 240 Crores. The Relief Recommendation Committee has recommended compensation to the categories of Owners of Mechanized Fishing Boat, Motorized Fishing Crafts and Non motorized Fishing crafts limited to the maximum of 50% of the assessed value of revenue loss and for the categories Fishing labourer,


Additional Director of Fisheries,
Marine
Chennai-600 035


Director of Fisheries
Chennai - 600 035



Fisherwomen in Fisheries, allied activities, Allied activity labourer, fish vendors, limited to the maximum of 80% of the assessed value of livelihood loss as proposed in the original compensation proposal so as to judiciously distribute the compensation of 141 Crore among all categories.

10) It is respectfully submitted that based on the quantum of compensation recommended to each category, the total amount allocated to each category along with nos of claims are given below,

Category	Amount recommended by Committee (In Rs)	Total no of Claims	Total amount (In Rs)
Mechanized Boat Owner	35,000	922	3,22,70,000
Motorized Boat Owner	20,000	6,916	13,83,20,000
Non-Motorized Boat Owner	15,000	2,467	3,70,05,000
Fishing Laborer	12,000	40,580	48,69,60,000
Fisherwomen in allied activity	10,000	47,145	47,14,50,000
Fish Vendors	10,000	9,090	9,09,00,000
Allied Activity Laborer	10,000	1,885	1,88,50,000
Vendors and allied activity labourer included as per NGT order.	10,000	2,442	2,44,20,000
TNFDC Marketing.	20,00,000	1	20,00,000
Total		1,11,448	130,21,75,000
Eco system Restoration measures	10,00,00,000		10,00,00,000
Contingency	12,00,000		12,00,000
Buffer for Grievance Redressal	66,25,000		66,25,000
Grand Total			141,00,00,000


 Additional Director of Fisheries
 Marine
 Chennai-600 035

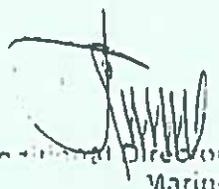

 Director of Fisheries
 Chennai - 600 035

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11) It is respectfully submitted that based on the recommendation of Relief Recommendation Committee, the Assistant Director of Fisheries, Thiruvallur, Chennai and Kancheepuram districts have collected individual beneficiaries information such as Aadhar card, Bank Account details, address proof, etc. and all these data were du-duplicated in order to avoid multiple payments to the beneficiaries. Compensation amount was paid only to the eligible beneficiary after due verification and the compensation amount has been directly transferred to the Bank Account of beneficiary through ECS. The Department has followed the best possible procedure to ensure the transparency in the disbursement of Oil spill compensation to the beneficiaries.

12) It is respectfully submitted that the relief amount was disbursed to the applicants as on 11.05.2020 is detailed below:

Name of the Category	No. of persons received relief amount	Amount released per head	Total Relief amount (In lakhs)
Mechanized Boat Owner	916	35,000-	320.48
Motorised Boat Owner	5,073	20,000-	1,014.48
Non-Motorised Boat Owner	314	15,000-	47.10
Fishing Laborer	43,672	12,000-	5,240.64
Fisherwomen in allied activities	44,760	10,000-	4,476.00
Allied activity Labours	1,720	10,000-	172.00
Fish Vendors	7,331	10,000-	733.10
Allied activity labourer included as per NGT order	57	10,000	4.20
Vendors included as per NGT order	884	10,000	88.40
TNFDC		2,00,000	20.00
Contingencies		12,00,000	12


Assistant Director of Fisheries,
Marine
Chennai-600 035


Director of Fisheries
Chennai - 600 035

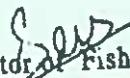


	104,728		12,128.4
Ecosystem restoration		10,00,00,000	1000.00
Total			13,128.4

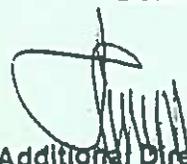
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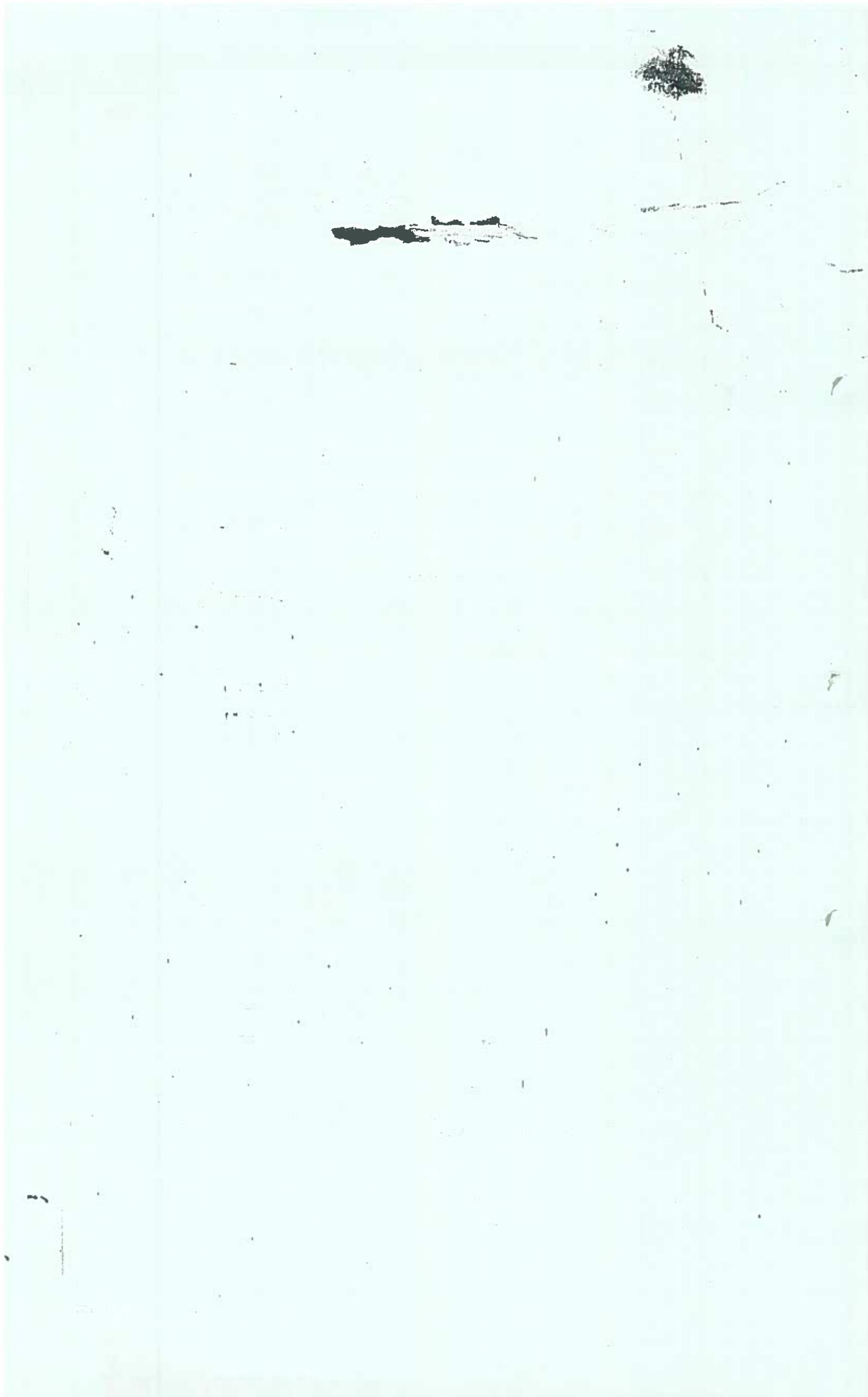
3) It is respectfully submitted that out of the total amount of Rs.141 Crore, released by the Insurer of the Shipping companies without prejudice to the original claim preferred, an amount of Rs.121.28 Crore has been disbursed to 104,72 beneficiaries and an amount of Rs. 10 Crore has been allocated for fabrication and installation of artificial reefs in 30 locations in the oil spill affected districts viz., Chennai, Thiruvallur and Kancheepuram vide GO. (MS) No: 83, Animal Husbandry dairying and Fisheries, Dated: 08.07.2019. GMFRI has been entrusted with the consultancy services and sites identification has been completed. Fabrication of modules of artificial reefs is in progress.

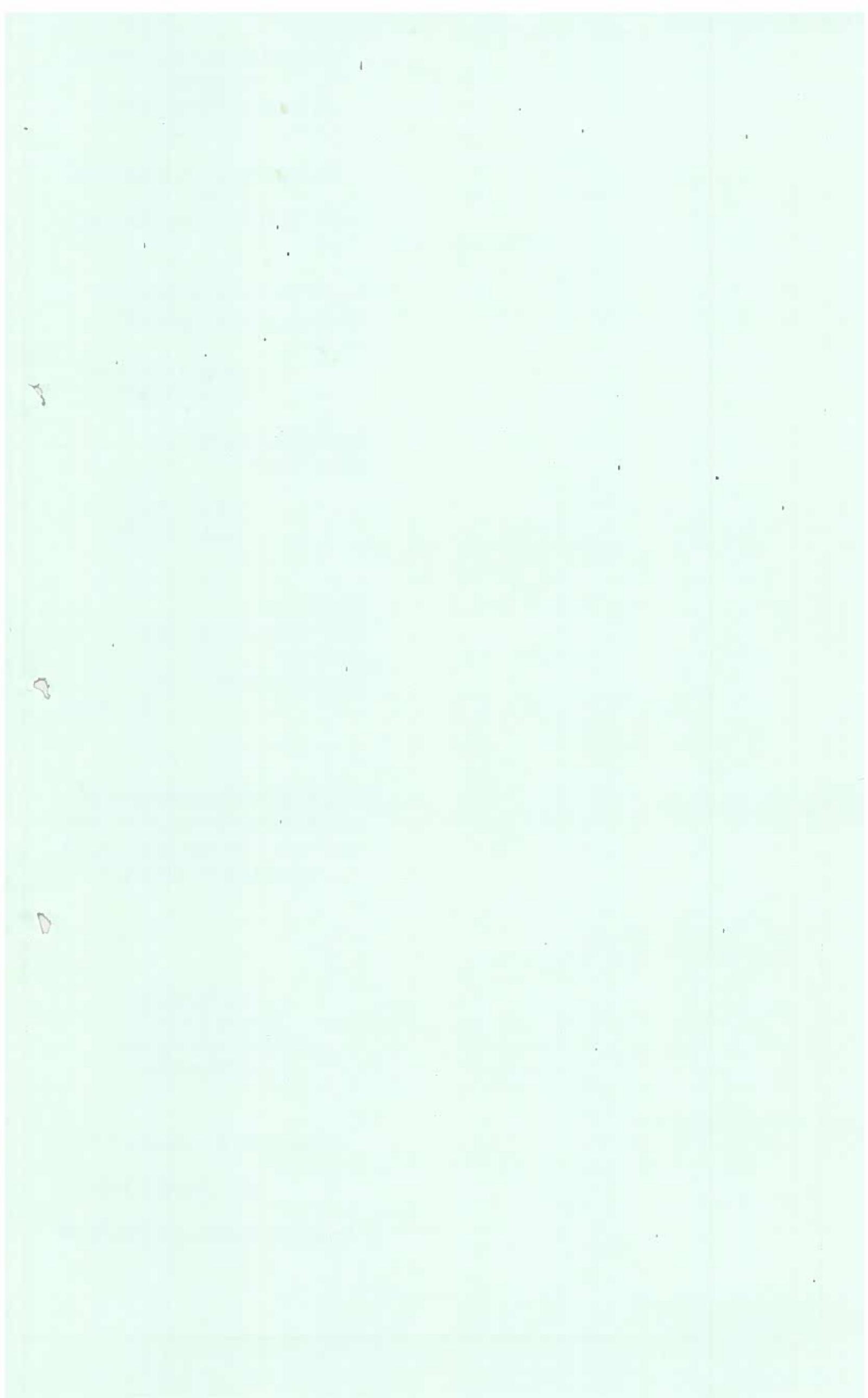
Solemnly affirmed and signed his name in my presence at Chennai, this the _____ day of May 2020


Director of Fisheries
Chennai - 600 035

Before me


Additional Director of Fisheries,
Marine
Chennai-600 035





**BEFORE THE HON'BLE GREEN
TRIBUNAL
SOUTHERN ZONAL BENCH
CHENNAI**

**APPLICATION NO.14 OF 2017 (SZ)
AND
APPLICATION NO.16 OF 2017 (SZ)**

Meenava Thanthai K.R.Selvaraj Kumar
Meenavar Nala Sangam represented by its
President

... Applicant in Application
No.14 of 2017 (SZ)

Saravanan Dhakshinamurthy
Selaiyur, Chennai

... Applicant in Application
No.16 of 2017 (SZ)

Vs

The Chairman
National Coastal Zone Management
Authority
Government of India and others
- Respondents

**INDEX TO THE TYPEDSET OF
DOCUMENTS ALONG WITH THE
WRITTEN SUBMISSIONS FILED BY
RESPONDENT NOS.7 & 11**

M/s.S.Raghunathan
(M.S.No. 318/1977)
Sharanya Vaidhiyanathan
(Ms. 1686/2014)

Counsels for the Respondents 7 & 11

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