

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, AT CHENNAI

I.A No. 116 of 2022 (SZ)

In

ORIGINAL APPLICATION NO. 76 OF 2022 (SZ)

IN THE MATTER OF:

DAMAYANTI SUBRAY MESTA

..... APPLICANT

VERSUS

DEPARTMENT OF PUBLIC WORKS, PORTS &

INLAND WATER TRANSPORT,

GOVERNMENT OF KARNATAKA & OTHERS

..... RESPONDENTS

REPLY FILED BY RESPONDENT NO. 2

MOST RESPECTFULLY SHOWETH;

1. The address for service of notice and process on the 2nd Respondent is that of his counsel M/s. R. Ramasubramaniam Raja, R.Hemavathi, Arvind A.S and

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2. That the present Original Application filed under Section 14 and 15 of the National Green Tribunal Act, 2010 is neither maintainable in law or in facts. The above OA and the Interim Application filed by the Applicant is frivolous and vexatious. The same has been filed with malafide intention to arm twist the Respondent to coerce them into terms. The present OA is a proxy Application on behalf of certain individual persons, who have vested interest against the construction of the Port and the connectivity road to the Port. This Respondent denies and disputes all allegations and averments, except those that are specifically admitted hereunder.
3. The averments in paragraph I and 2 are matter of record and does not warrant any reply. The Applicant in Paragraph III falsely states that the road is constructed without prior CRZ Clearance and thus in violation of CRZ Notification, 2011 and Environmental (Protection) Act, 1986. The said allegation is entirely misconceived and baseless.
4. The Environment Impact Assessment (EIA) study for the Port was conducted by L&T Ramboll (Authorized agency of Ministry of Environment & Forest). The said EIA report was prepared in February 2012 named 'Final EIA report for Honnavar Port Barge/Vessel loading facility'. Copy of the Final EIA report is produced herewith and marked as **Annexure - R1**.
5. In the said Final EIA report, the road connectivity to the barge/vessel loading facility from NH 17 (New NH 66) in Kasarkod side is clearly stipulated. Furthermore, the EIA report clearly stipulates that as part of the infrastructure development of the 'Honnavar Port Barge/Vessel loading

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facility', it is proposed to develop 4 km road from NH-17 (New NH-66) to Kasakod. The EIA report also stipulates for mitigating measures on account of potential impact due to proposed development of road. The benefits of road connectivity among others are also mentioned as part of the EIA report. Further, during public hearing conducted on 27/01/2012 as part of EIA Notification requirement, in response to the issue raised regarding road/rail connectivity for the Port, it is clearly informed that a Dedicated road/rail corridor is provided in the EIA report and that proposed road connecting project site to NH-17 (new NH-66) for 4 Km will be constructed as part of development. The said EIA report along with the proceedings of the public hearing were submitted to the KSCZMA for obtaining CRZ clearance. As an illustration, the EIA report containing road connectivity and the public hearing is extracted hereunder:

"2.6.16.3 Conclusion

As the barge/ vessel loading facility is proposed in the Kasarkod side, Connectivity option II i.e. road from NH 17 to Kasarkod side is found to be best suited for this facility."

"In public hearing dated 27.01.2012

Issues Raised by Smt Laxmi Naik and Snehakunja, Honnavar

She objected to the acquisition of land for development of railway line and road for the project as land holdings of local people are very less.

Response

A new independent access road is being developed for the traffic to and from the facility, without disturbing the existing roads by the facility traffic. The alignment is planned in such a way that it has minimum

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disturbance to the local communities. More over the road is not an access controlled therefore the local public also can use the road for their needs.

Issues Raised by Panchayat Member, Honnavar

He also informed that school masjid, temples and residential area are situated on the way to the proposed project as well as the proposed road and railway

track.

He also informed that the school, religious places and residential areas will be affected if the project is allowed to come up.

He objected to the development of road and railway track as it will affect local ecosystem.

Response

Proposed road connectivity starts from NH 17 at Kasarkod. This road will then run south east for some distance and then aligns parallel to the shoreline till it reaches the proposed project site. This will be parallel to the existing single lane road at an offset distance of 100 m. The total length of this road from NH 17 to the proposed site is 4 km. This road connectivity will have a width of 25 m.

Proposed road/rail alignment will traverse across the coastal sand and barren land. The alignment is selected such a way that there will not be any disturbance to the existing structures. The proposed road connectivity is not an access controlled private facility and hence local people will be allowed to use as required."

6. The KSCZMA scrutinized the EIA report 'Honnavar Port Barge/Vessel

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loading facility' which included the proposed Road corridor and the public hearing proceedings. Based on the examination of the EIA report and the public hearing, the KSCZMA has vide meeting held on 28/05/2012 recommended the CRZ clearance along with the connectivity of road corridor connecting project site to NH-17 (New NH-66). The said meeting of KSCZMA dated 28/05/2012 is marked as **Annexure - R2**.

7. Therefore it was only after examination, due consideration and recommendation by the State level expert appraisal committee and Karnataka State Coastal zone Management Authority the Environmental Clearance for the project was granted by the State Environmental Authority, Karnataka vide proceedings dated 21.09.2021. The EC is marked as **Annexure- R3**.
8. Thus, the entire premise on which the above OA is filed is baseless and misconceived. Furthermore, Applicant had not participated in the public hearing which was conducted on 27/01/2012. The Applicant as a clear afterthought has filed the presently OA challenging the road development, which was part of the EIA report, for which necessary recommendation from KSCZM is obtained. The Applicant has not approached this Hon'ble Tribunal with clean hands. The present OA is miserably barred by limitation.
9. The averments in paragraph IV are false and baseless. The Applicant falsely alleges that livelihood of approximately 2000 women who are engaged in drying, processing and selling fish is affected. The road connectivity work has been taken up within the Honnavar Port limits declared as per Government Notification No. PWD/107/PSP/2013 dated

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09.12.2013, which is issued as per section 5 of the Indian Ports Act 1908. The Government Notification No. PWD/107/PSP/2013 dated 09.12.2013 is marked as Annexure R4. Thus, it is very clear and evident that the construction of road is done on the land belonging to the Ports and Inland Water Transport Department and the local fishermen/ fisher women have been unauthorized/illegally using this area for fish drying purpose. Moreover, the allegation that approximately 2000 women livelihood is affected is baseless and the Applicant is put to strict proof of the same. The fishermen/ fisher women were unauthorized/illegally using the Port area too for fish drying purpose prior to the development of the Port. The said fishermen who were squatting on the port land were evicted in accordance with law. Hence, they have groused against the Respondent. Moreover their only aim is to illegally occupy the land.

10. The construction of road will not affect the livelihood of the fishermen/fisherwomen.
11. The averments in paragraph V are false and baseless. The Applicant states that Environment and CRZ clearance on 21st September, 2012 is extended only till 21st September 2022 is false and misleading. The Government Notification date 18/01/2021 provides for execution of period for 1st April 2020 to 31.3.2021 on account of Covid 19 pandemic. The Application for extension of Environmental/CRZ clearance, the Extension of Environmental/CRZ clearance dated 01/07/2019 and notification issued by Ministry of Environment and Forest dated 18/01/2021 is marked as Annexure R5, R6 and R7 respectively.

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12. The averment in paragraph VI are false and baseless. With respect to the contention that total length of the impugned road is 4km. of which 3.8 km is through CRZ III NDZ area (7.47ha) and the remaining 0.2km is through on Forest land in Forest survey(F. Sy.) No.233 & 237 in Kasarkod beach and village, it is submitted that the necessary approvals were obtained from the Ministry of Environment, Forest & Climate Change, Government of India.
13. The existing road connecting from Tonka Village to the Port is not suitable for Port construction activities. The construction activity of the Port involves transport movement of large number of trucks/trailers carrying heavy construction materials and large construction equipment and machineries. The EIA report clearly mentions that huge quantities of construction material is required for construction of breakwaters, berths, stockyards among others. The quantity of quarry stones requited would be about 6 Lakhs tonnes of various size, which will be transported by Road and a dedicated road corridor will be developed.
14. In view of the essential requirement of approach road, during construction phase as well as Operation phase, the Government of Karnataka proposed to the Government of India, ministry of shipping to include four land road connectivity from NH-66 from Kasarkod side to the Honnavar port under the Bharatmala Pariyojana, to be executed by the National Highways Authority of India ('NHAI'). Bharatmala Pariyojana is a programme focused on development of Coastal and Port connectivity roads among others to improve connectivity to ports. It is submitted that the approach road to the project site is sanctioned under the Integrated Port connectivity on EPC mode and the work is to be executed by NHAI at an estimated cost of Rs. 87,50,00,000.

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15. Thus, it was only after all the required approvals and sanctions were obtained, the tenders were called and Letter of Acceptance dated 08/12/2021 was issued by NHAI for construction of for 4 lane of Honnavar Port Connectivity with H-66 to integrate port connectivity road on EPC mode under Bharatmala Phase - I at a cost of Rs. 87,50,00,000/-. The letter of Acceptance issued by National Highways Authority of India is produced herewith and marked as ANNEXURE- R24. Further, the proposed four lane road connectivity road from Kasarkod side of Honnavar Port to National Highway No. 66 under Bharatmala Pariyojana through National Highways Authority of India (NHAI) is included under 'Gati Shakti', which is being monitored by the Government of India [PMO's Secretariat].
16. This Respondent submits that Bipartite and Tripartite Agreements have been signed by the Government of Karnataka represented by its Director of Ports & Inland Water Transport, NHAI, User Agency-M/s. HPPL and Consultant. As per the standard pattern being followed by Government of India in such infrastructural development project, State Government is required to handover possession of encumbrance free land for development of roads, statutory clearances, environmental clearances, and Detailed Project Reports.
17. The NHAI after inspection of the entire area and keeping in view the larger interest of the general public and also safe movement of large truck/ trailers finalised the most suitable and feasible road alignment. While drawing-up a final sketch for the proposed road connectivity with NH-66, it was noted

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that a small extent of road alignment of .2 km was falling in forest land in Survey No. 233 & 237 admeasuring 0.76 ha. In order for connecting the approach road with NH-66, it was considered necessary for obtaining forest clearance under the Forest (Conservation) Act, 1980.

18. The Government of Karnataka, the Government of Karnataka through its nodal officer for the project, Assistant Executive Engineer, Port Sub-division, Honnavar submitted online application to the Forest authority seeking permission for forest clearance in respect to diversion of 0.76 ha bearing survey no. 233 & 237 of forest land for construction of four land road connecting the last leg of the 4km road alignment of .2 km.
19. Based on the Application and after careful examination of the proposal of the Government of Karnataka, in-principle approval/ Stage - I clearance was obtained from the Central Government/Forest Department for diversion of 0.76 ha of forest land for approach road from NH 66 to Kasarkod side of Honnavar port in favour of Port Department, subject to condition mentioned in the approval dated 20/01/2022. Annexure R8.
20. It is submitted that the said approval/stage-I approval was granted pursuant to the following inspection, approval and sanctions.
21. The User Agency, i.e. the Ports & Inland Water Transport Department through the Assistant Executive Engineer, Ports Sub Division Honnavar and Nodal Officer on behalf of the Port Department for correspondence with the Forest Department for the online application, applied for the diversion of 0.76 ha Forest land for the proposed road connectivity from NH - 66 (Then NH - 17) to the Port Project site in F. Sy. No 238 and 239 of

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Kasarkod village Honnavar Taluk, Uttar Kannada District, Karnataka on 07.03.2019.

22. Vide letter No: KFD/HOFF/A52K(GFL)/47/2019-FC-KFD, dated: 14.03.2019, observations were made by the Principal Chief Conservator of Forest (HoFF) and instructed to fulfil the required conditions as per the norms mentioned in the said letter. A copy of the letter No: KFD/HOFF/A52K(GFL)/47/2019-FC-KFD, dated: 14.03.2019 is marked as Annexure R9.
23. On 16.08.2019, the Assistant Executive Engineer, Ports Sub Division Honnavar and Nodal Officer, applied for the diversion of Forest land for the proposed road connectivity from NH - 66 (Then NH - 17) to the Port Project site through F. Sy. No 233 and 237 of Kasarkod village (new proposal), Honnavar Taluk, Uttar Kannada District, Karnataka. The details of the said proposal is as under:

Online application dated	16.08.2019
Proposal No	FP/KA/ROAD/41625/2019
Subject	Diversion of 0.76 hectares of forest land in F. sy. No 233 and F. sy. no 237 of Kasarkod village, Honnavar Taluk, Honnavar Division for "Approach Road" from NH - 66 to Kasarkod side of Honnavar Port in favor of the Assistant Executive Engineer & Nodal Officer - PW, PIWT Department, Port Sub Division Honnavar.
Location	Kasarkod Village, Honnavar Taluk, Uttar Kannada District.

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Survey Numbers	F. Sy. No. 233 & F. Sy. No. 237.
Area applied	0.76 hectares
Background and present status	<p>Observations raised by the PCCF (FCA), Aranya Bhavan, Bangalore vide letter No. KFD/HOFF/A52K [GFL]/47/2019-/FC, dated: 04.07.2020 w.r.t confirmation of GPS co-ordinates, Forest and Non-Forest land confirmation, component wise breakups of road, rectification of Topo sheet and KML polygon etc.</p> <p>The Assistant Executive Engineer & Nodal Officer - PW, PIWT Department, Port Sub Division Honnavar, re-uploaded the proposal on online portal on 14.09.2020.</p> <p>Proposal accepted by Forest Department (Aranya Bhavan) on 22.09.2020.</p>
23.10.2020	DFO Honnavar forwarded the proposal vide letter No. B2/GFL/FC/CR-20/2020-21, Dated: 22.10.2020 addressed to the Chief Conservator of Forest, Kanara circle, Sirsi on 23.10.2020.
04.11.2020	Chief Conservator of Forest, Kanara circle, Sirsi forwarded the proposal vide letter No. B2/GFL/FCA/Approach Road/CR-29/2020-21, Dated: 04.11.2020 addressed to the Principal Chief Conservator of Forest, Aranya Bhavan, Bangalore on 04.11.2020 for further action in the matter.



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19.11.2020	Principal Chief Conservator of Forest (HoFF), Aranya Bhavan, Bangalore recommended the proposal vide letter No. KFD/HOFF/A52k(GFL)/47/2019-FC and forwarded the proposal on 19.11.2020 to the Additional Chief Secretary to Government, Forests, Ecology and Environment Department, M. S. Building, Bengaluru.
05.01.2021	Additional Chief Secretary to Government, Forests, Ecology And Environment Department, M. S. Building, Bengaluru recommended and forwarded the proposal vide letter NO. FEE 90 FLL 2020 (e) on 05.01.2021 to the Deputy Director General of Forest (Central), Integrated Regional Office, Kendriya Sadan, Koramangala, Bengaluru. The letter No. FEE 90 FLL 2020 (e) on 05.01.2021 from Additional Chief Secretary to Government, Forests, Ecology And Environment Department, M. S. Building, Bengaluru to Deputy Director General of Forest (Central), Integrated Regional Office, Kendriya Sadan, Koramangala, Bengaluru is marked as Annexure R10.
21.01.2021	Deputy Director General of Forest (Central), Integrated Regional Office, Kendriya Sadan, Koramangala , Bengaluru vide letter no. F.No.4-KRB1275/2021- BAN/1117, Dated: 21 st January 2021, sought clarification from the Additional Chief Secretary to Government, Forests, Ecology And Environment Department, M. S. Building, Bengaluru w. r. t mitigation measures (if any) for diversion of the proposed road as it is close to the proposed Marine Sanctuary, Status on Coastal regulation Zone, Examination of construction of road



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	<p>allowed in "Blue Flag Certification" area. The letter from Deputy Director General of Forest (Central), Integrated Regional Office, Kendriya Sadan, Koramangala , Bengaluru to the Additional Chief Secretary to Government, Forests, Ecology And Environment Department, M. S. Building, Bengaluru seeking clarification vide letter no. F.No.4-KRB1275/2021- BAN/1117, Dated: 21st January 2021, is marked as Annexure R11.</p>
21.02.2021	<p>Additional Chief Secretary to Government, Forests, Ecology And Environment Department, M. S. Building, Bengaluru has further sought clarification vide letter no. APAJI 90 FLL 2020 (e), Dated: 21.02.2021 from the Principal Chief Conservator of Forest (HoFF), Aranya Bhavan, Bangalore.</p>
09.02.2021	<p>Principal Chief Conservator of Forest (HoFF), Aranya Bhavan, Bangalore has further sought the clarification vide letter no KFD/HOFF/A52K(GFL)/47/2019-FC, Dated: 09.02.2021 from the Chief Conservator of Forests, Kanara Circle, Sirsi.</p>
06.03.2021	<p>DFO, Honnavar vide letter no: B2/GFL/FC/CR-2020-21, dated: 06.03.2021 sought clarification from the AEE Sub Division Honnavar.</p>
17.04.2021	<p>AEE Sub Division Honnavar gave clarification vide letter no: Sa.Ka.Ni.Im/Bom.u.Vi.Ho/2020-21, Dated: 17.04.2021 to DFO Honnavar. The Letter no: Sa.Ka.Ni.Im/Bom.u.Vi.Ho/2020-21,</p>

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	Dated: 17.04.2021 to DFO Honnavar is marked as Annexure R 12.
21.05.2021	DFO, Honnavar vide letter no. B2/GFL/FC/CR -20/2021-Dated: 21.05.2021, gave clarification to Chief Conservator of Forests, Kanara Circle, Sirsi.
03.06.2021	Chief Conservator of Forests, Kanara Circle, Sirsi vide letter no. B2/GFL/FCA/Approach Road/CR-29/2020-2, dated: 03.06.2021 gave clarification to the Principal Chief Conservator of Forests, (Forest Conservation) and Nodal Officer (FCA).
22.06.2021	Principal Chief Conservator of Forests, (WILDLIFE AND CHIEF WILDLIFE WARDEN) reviewed and approved the mitigation plan submitted by the User Agency. The approval of mitigation plan submitted by User Agency by Principal Chief Conservator of Forests, (WILDLIFE AND CHIEF WILDLIFE WARDEN) is marked as Annexure R13.
25/06/2021	Principal Chief Conservator of Forests, (Forest Conservation) and Nodal Officer (FCA) vide letter No. KFD/HOFF/A52K (GFL)/47/2019-FC, Dated: 25/06/2021 gave clarification to the Additional Chief Secretary to Government, Forest, Ecology and Environment Department, Bengaluru.
05/07/2021	Additional Chief Secretary to Government, Forest, Ecology and Environment Department, Bengaluru vide letter No. FEE 90 FLL 2020(e), dated: 05/07/2021 gave clarification to the

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	Deputy Inspector General Of Forest (Central), Integrated Regional office, Bengaluru.
26/08/2021	AEE Sub Division Honnavar vide letter no: AEE/PSDH/HPPL/2020-21/114, dated: 26/08/2021 submitted the documents as required by the Assistant Inspector General of Forest (Central), Koramangala, Bengaluru during the site visit to Kasarkod village forest land bearing sy. no 233 and 237. The letter No. AEE/PSDH/HPPL/2020-21/114, dated: 26/08/2021 through which the documents as required by the Assistant Inspector General of Forest (Central), Koramangala, Bengaluru were submitted is marked as Annexure R14.
15.09.2021	Deputy Inspector General Of Forest (Central), Integrated Regional office, Bengaluru vide letter no F. No. 4-KRB1275/2021-BAN/615, Dated: 15.09.2021 sought information from the Additional Chief Secretary to Government of Karnataka, M. S. Building, Bangalore on the present status of the Writ petition No. 4039 of 2021 (PIL status) The letter no F. No. 4-KRB1275/2021-BAN/615, through which Deputy Inspector General Of Forest (Central), Integrated Regional office, Bengaluru sought for information from Additional Chief Secretary to Government of Karnataka, on the present status of Writ No. 4039 of 2021 (PIL) is marked as Annexure R15 .
21.09.2021	AEE Sub Division Honnavar vide letter no: AEE/PSDH/HPPL/2021-22/135, dated: 21/09/2021 submitted the present status of the Writ petition No. 4039 of 2021 (PIL

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	status) to Deputy Inspector General of Forest (Central), Koramangala, Bengaluru.
24.09.2021	Additional Chief Secretary to Government of Karnataka, M. S. Building, Bangalore vide letter no: APAJI 90 FLL 2020 (e), dated: 24.09.2021 sought information from the Principal Chief Conservator of Forests, (Forest Conservation) and Nodal Officer (FCA) on the present status of the Writ petition No. 4039 of 2021 (PIL status).
04.10.2021	Principal Chief Conservator of Forests, (Forest Conservation) and Nodal Officer (FCA) sought information from the Chief Conservator of Forests, Kanara Circle, Sirsi on the present status of the Writ petition No. 4039 of 2021 (PIL status).
06.11.2021	AEE Sub Division Honnavar vide letter no: AEE/PSDH/HPPL/2020-21/166, dated: 16/11/2021 submitted ONCE AGAIN the present status of the Writ petition No. 4039 of 2021 (PIL status) to Deputy Conservator of Forest, Honnavar Division, Honnavar. The letter no: AEE/PSDH/HPPL/2020-21/166, dated: 16/11/2021 from AEE Sub Division Honnavar on the status of the Writ petition No. 4039 of 2021 is marked as Annexure R16.
20.01.2022	Assistant Inspector General Of Forest (Central), Integrated Regional office, Bengaluru issued letter no F. No. 4-KRB1275/2021-BAN/1298, Dated: 20.01.2022 to the Additional Chief Secretary to Government of Karnataka, M. S. Building, Bangalore informing of GRANT OF STAGE – I

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	APPROVAL for diversion of 0.76 ha of forest land in F. Sy. No 233 & 237. The letter no F. No. 4-KRB1275/2021-BAN/1298, information of GRANT OF STAGE - I APPROVAL is marked as Annexure R17 .
07.02.2022	Additional Chief Secretary to Government of Karnataka, M. S. Building, Bangalore issued letter No: A. PA. JI 90 FLL 2020 (e) to the Principal Chief Conservator of Forests, (Forest Conservation), informing of grant of STAGE - I approval for diversion of 0.76 ha of forest land in F. Sy. No 233 & 237 with direction to fulfil the compliances required to obtain Stage - II approval.
08.02.2022	Principal Chief Conservator of Forest (HoFF), Bengaluru issued letter no KFD/HOFF/A52K (GFL)/47/2019 - FC, Dated: 08.02.2022 addressed to the Assistant Executive Engineer informing of grant of STAGE - I approval for diversion of 0.76 ha of forest land in F. Sy. No 233 & 237 and directed to Upload Condition wise compliance required to obtain Stage - II approval.
16.02.2022	Deputy Conservator of Forest Demand Notice vide letter No: B2/GFL/FC/CR-20/2020-21, Dated: 16.02.2022 to AEE Port Sub Division Honnavar for making payment towards NPV & Cost of raising Plantation. The Copy of vide letter No: B2/GFL/FC/CR-20/2020-21, Dated: 16.02.2022 to AEE Port Sub Division Honnavar for making payment towards NPV & Cost of raising Plantation is marked as Annexure R18 .

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29.06.2022	Assistant Executive Engineer, Port Sub Division Honnavar letter No: Dated: 29.06.2022 addressed to the Deputy Conservator of Forest, Honnavar for submission of DD towards payment of NPV and Cost of Raising Plantation. The letter from Assistant Executive Engineer, dated 29.06.2022 Port Sub Division Honnavar addressed to Deputy Conservator of Forest, Honnavar for submission of DD towards payment of NPV and Cost of Raising Plantation is marked as Annexure R19 .
03.06.2022	Deputy Conservator of Forest Demand Notice vide letter No: B2/GFL/FC/CR-20/2020-21, Dated: 03.06.2022 to AEE Port Sub Division Honnavar for making payment towards tree felling. The letter No B2/GFL/FC/CR-20/2020-21, Dated: 03.06.2022 from Deputy Conservator of Forest Demand Notice to to AEE Port Sub Division Honnavar for making payment towards tree felling is marked as Annexure R20
20.07.2022	Assistant Executive Engineer, Port Sub Division Honnavar letter No: Dated: 20.07.2022 addressed to the Deputy Conservator of Forest, Honnavar for submission of DD towards payment of tree felling. The letter dated 20.07.2022 from Assistant Executive Engineer, Port Sub Division Honnavar to the Deputy Conservator of Forest, Honnavar s marked as Annexure R21

24. Therefore, the MoEF, Regional Office asked for several clarifications from the Karnataka Forest Department regarding mitigation measures, In its reply, the Karnataka Forest Department has clarified all issues regarding

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mitigation measures; CRZ clearance for the proposed road connectivity proposals and for Blue Flag Certification, NOC has been obtained from the Tourism Department.

25. In addition, The Principal Chief Conservator of Forest (wildlife) & Chief Wildlife Warden, Karnataka recommended wildlife mitigation measure in respect of conversation of the forest land, which included underpasses for smooth movement of animals and wildlife mitigation plan for Rs. 4 lakhs, which has been duly remitted. Further, the project proponent has already paid net present value (NPV) for 0.76 ha of forest land and Cost of rising plantation(including 10years maintenance) of 10 times of tree for compensatory afforestation amount of Rs. 1,02,21,800/- on 22nd April 2022 towards compensatory afforestation cost and Rs. 75,714/- on 20th July 2022 towards tree cutting cost. The letter from forest department dated 22nd April 2022 and 20th July 2022 is marked as Annexure R22 and R23 respectively.
26. The remaining road connectivity i.e. 3.8 km is within the Honnavar Port limits declared as per Government Notification No. PWD/107/PSP/2013 dated 09.12.2013 (ANNEXURE -R4) which is issued as per section 5 of the Indian Ports Act 1908. The land belongs to the Port and Inland Water Transport Department and the local fishermen/ fisher women have been unauthorized/illegally using this area for fish drying purpose.
27. Thus, the allegation of the applicant that the proposed connectivity road is constructed in absence of prior CRZ clearance and thus in violation of CRZ Notification 2011 and Environment (Protection) Act, 1986 is totally false

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and not tenable.

28. With respect to allegation made in para VII, there are various contradictory findings about the identification of "Olive Ridley Sea-Turtle" nesting ground as alleged by the Applicant. At no point of time, turtle nesting was found anywhere near the project site till 2020. There is a constant attempt by vested interests who are opposing Port development to misquote and misrepresent the authorities and the Tribunal by pointing out that the entire area is a turtle nesting ground.
29. It is most respectfully submitted that the National Centre For Sustainable Coastal Management (NCSCM), Chennai in its final report on Turtle Nesting Grounds dated 2018-2019, found that there are 179 nesting sites in India spread across 11 States and Union Territories in India. It is to be noted that there is not even a single turtle nesting site in Karnataka. The Report published by NCSM on Turtle Nesting Grounds in the year 2018-2019 is marked as Annexure - R 25. Further, a specific survey was undertaken by NCSCM, Chennai pursuant to the orders of the Hon'ble High Court of Karnataka in WP No. 4039/2021, which observed that there was no nest, turtles, dead carcass were observed in the entire 45 hectre area of the proposed site during survey. The NCSCM report of survey undertaken after specific direction of the Hon'ble High Court of Karnataka in WP No. 4039/2021 is marked as Annexure R26.
30. Further the reliance on the copy of the turtle nesting register obtained by the Range Forest Office is misleading. The same was also considered as part of the report submitted by NCSCM to the Hon'ble High Court wherein the following observations are made from the data: It was noted that the

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GPS location provided by the Forest Department were failing in the ocean and none of the GPS points have been documented were at the beach, The said report also contains the geo tag location. From the said data it was observed that the southern tip of the proposed HPPL project site had one nesting in the year 2020, that too falling 3 kms in the land area from the shore. Thus, the data from the forest department are not accurate and the same has been considered part of the report of NCSCM. Likewise, the reliance placed on the 2016 study conducted by the Environment Management and Policy Research Institute, a Government of Karnataka research institute in collaboration with Dakshin Foundation, the said report is also considered in the Report submitted to the High Court by NCSCM. Further, the NCSCM report has considered Nesting Beaches in Coastal Karnataka. The observations are that only sporadic nesting of Olive Ridley turtles is reported from the coast of Karnataka. The report also considered a joint study undertaken by Government of India and UNDP Sea Turtle project, wherein it has highlighted that no mass nesting like those in Odisha occurs in Karnataka. Likewise other reports from WWF, India Reporter and Sritharan et al. (2017)- Reported submitted to NCSCM where in it is reported that no mass nesting sites were observed along Karnataka coast.

31. The Karnataka Forest Department is actively taking several mitigation measures in this regard. The Applicant along with other women have not lost access to the coastal area on Kasarkod beach for carrying out their activities - fish drying, processing, etc.,. The proposed Project site is not having any area under the Forest Department except for a small stretch of 200m in the Port connectivity road in Forest Sy. No. 233 & 237 (0.76 ha). Therefore, the said road is built after obtaining all necessary approvals. Further it is not out of place to point out that there has not been any

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objection during the Public Hearing under EIA notification in 2012 regarding either Olive Ridley Sea-Turtle or fish drying. Thus, the present contention of Olive Ridley Sea-Turtle and Fish drying is nothing but an afterthought. It is submitted that vested interest individuals have been created records to misleading this Hon'ble Tribunal. A detailed study of the Environment Impact Assessment (EIA) of the project has considered each and every aspect of the environment, fish culture, tissue culture and flora and fauna studies etc. Thus, the entire allegation is false and baseless.

32. With respect to the particulars of the Applicant, this Respondent denies the allegation mentioned therein. As already mentioned that there are only a handful of fisherwomen, who have been illegally occupying port land for fish drying. This Respondent denies the allegation that due to construction of road, the Applicant has lost access as false and baseless.
33. With respect to averments made in paragraph 1 and 2, this Respondent submits that all the required governmental, administrative and stature permissions, clearances for the development of Honnavar port including the environmental impact assessment study for the project was conducted which took note of each and every aspect of the environment.
34. With respect to contentions in paragraph 3 that Kasarkod is a small coastal village and has been identified as one of the 7 (Olive Ridley turtle nesting) the Honnavar Forest Division, Uttar Kannada District and Kasarkod bears 38 years of turtle conversation history are misleading. As already explained in detail herein above, the there are various contradictory findings about the identification of "Olive Ridley Sea-Turtle" nesting ground as alleged by the Applicant. At no point of time, turtle nesting was

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found anywhere near the project site till 2020. The allegation that the extent of Turtle nesting range on Kasarkod beach is 8.1 km is false and baseless. There is a constant attempt by vested interests who are opposing Port development to misquote and misrepresent the authorities and the Tribunal by pointing out that the entire area is a turtle nesting ground. The report by the NCSCM, Chennai considered various reports relating to turtle nesting and has observed that no nests or dead turtles or carcasses were observed during their visit. The Hon'ble HC of Karnataka based on the report submitted by NCSCM have observed that the following:

"8. So far as the contention of learned counsel for the petitioner that the site which has been leased for development of the port is a nesting area of turtles is concerned, we have perused the survey report of the NCSCM. As per the survey report which is on record, no nest, turtle or dead characters are found during the survey of the entire 45 hectares area of the proposed site. However, it is for the concerning authority to ensure that no damage is caused to the nesting of turtles and other endangered species found in the area."

Thus, the concerned authority is to ensure that no damage is caused to nesting of turtles found in the area. The Karnataka Forest Department is actively taking several mitigation measures in this regard and whenever such turtle eggs are found, they are taken to Turtle Conservation Centre, Haldipur and manage the species. Thus, the entire allegation is baseless.

35. With respect to contentions in paragraph 4,5, 6, 7 & 8 it is submitted that only a small section of the local population who is involved in fishing activities. With respect to the contention that approximately 23,500 people

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are fisher folks and 12,600 additional people are involved in other allied activities related to fishing and the RTI response from Fisheries Department, it is submitted that the total population 23,500 people directly involved in fishing and another 12,600 involved allied activities are not from Kasarkod village alone. It is from 16 different location of Honnavar taluk, namely Manki, Apasarkonda, Karki, Haldipura, Nagarbastikere, Allanki, Karkikurva, Balakuru, Jalval Karki, Mavinkurve, Magod, Maalkod, Tanmgadi, other areas near Honnavar Town, It is only a small group of locals who claim propriety of the entire marine zone and are obstructing construction of port at Honnavar. The port is proposed by Government of Karnataka - which aims towards overall development of the citizens and inhabitants living in the area. The project in question does not at all affect or jeopardies the livelihood of fisherman. The project in question results in a dedicated navigation channel which will permit fisherman to undertake fishing activity throughout the year and will benefit them enormously. The navigation channel which were used for the movement of fishing vessels could be used by fisherman only during high tide and because of accumulation of soil, mud and sand, etc., and many areas of the channel were not navigable for the fishing vessels. The project in question will, create a dedicated for fishing. The project will benefit the fisherman enormously.

36. With respect to fish drying process yards located very close to the existing fishers harbour at Honnavar is false and denied. The contention that fish drying industry being a women centric industry and generates employment for the input supplying industries and services such as small-scale fishing, loading and unloading, transportation to drying yard is false and is denied. The contention that around 12000-15000 people are employed directly or indirectly throughout the year is false and baseless.

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37. The local fisherman and fisherman/women were illegally/unauthorized using the land belonging to the Ports & IWT Department for fish drying purposes. This land has been reserved for the Port Development purpose. A representation has been submitted by the Vyaparasthara Sangha to the Directorate of Ports & IWT for allocation of five acres of ports land for fish drying purposes. Their request is under active consideration of the Department of Ports & IWT. Tentatively, a suitable land near Roshan Mohalla has been identified by the Directorate of Ports & Inland Water Transport for being granted to the fishermen for the purposes of fish drying, purely on lease basis.
38. The allegation that there are about 2000 women who are involved in traditional fish-drying would lost direct employment is false and baseless. There is no reliable document to establish that about 2000 fisher-women are engaged in fish-drying. As per the census, maintained by the Gram Panchayat of Kasarkod Village, the total women population is about 700 only. Out of this entire women population, there are many senior citizens who are not in a position to engage themselves in any physical activity. It also comprises of school going children below the age of 12-15 years. A conservative estimate suggests that about 500 fisher-women may be actively involved in fishing activities, which include both fish-drying and fish marketing. Therefore, about 300-400 fisher-women may be involved in fish-drying activities. As against the employment generation that would accrue to the society at large on account of the commencement of port related activities in the region, which is expected to provide livelihood for about 10,000 families, the ground on which fisher-women are obstructing the project is not sustainable.. The allegation that the fishing community has been worshipping Sea Turtles is misleading and the photos are created

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for the purpose of the case. All other allegations are false and baseless.

39. With respect to the allegation made in para 9, 10, 11, 12 & 13, this Respondent states that they have obtained all the necessary clearances from the concerned authorities. With respect to the allegation that the port connectivity road (130X12 mts) to connect the port site to NH-17 was permitted by filing up the sand in the corner of Sharavathi Bridge at Honnavar. It is submitted that the same relates to the port to the developed at Honnavar side and not at Kasarkod side. This Respondent submits that 2 separate port were to be developed, one at Kasarkod side and other at Honnavar side. The Applicant is willfully attempting to mislead this Hon'ble Tribunal. The port connectivity for the port at Kasarkod side is as mentioned in the EIA report.

40. With respect to allegations made in para 14, 15, 16, 17, 18 & 19, this Respondent had obtained all the necessary approval from the all required governmental, administrative and statutory permissions, clearances and approvals for the project and then only has commenced the project in question. At the cost of repetition, this respondent is setting out the details of all governmental, administrative and statutory permissions and approvals in the following tabular column for the easy reference:

SI.NO	CLEARANCES/ APPROVALS OBTAINED	CLEARING AUTHORITY
1.	Environment clearance and CRZ clearance. Issue date: 21/09/2012	state level environment impact assessment authority- Karnataka- vide

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		its letter no. SEIAA: 22: IND: 2011 dated 21/09/2012
2	Consent for establishment issue date: 06/03/2013	Karnataka state pollution control board- vide its letter no. KSPCB/SEO (non-EIA Honnavar port/EIA/2012-13/1381 dated 06/02/2013
3	Detailed project report approval issue date; 26/03/2014	Government of Karnataka - vide its letter no PWD/41/PSP/2013 dated 26/03/2014
4	Construction plans and designs- technical approval issue date- 30/04/2015	Director of ports and IWD department, karwar- vide its letter no. PIWT 62/LND 11/2016 dated 30/04/2015
5	Break water plans/ drawings approval issue date : 03/08/2015	Director of ports amd IWT department, karwar vide its letter no. PIWT-73/DEV-1/2015 03/08/2015
6	Capital dredging plans/ desings approval issue date 03/08/2015	Director of ports and IWD department, karwar vide its letter no. PIWT-71/ DEV- 1/2015 03/08/2015
7	Enery approval for installation for 100KVA (1MVA) issue date: 26/10/2015	Hubil electricity supply company limited - vide its letter dated 26/10/2015
8	No objection certificate from local authority issue date: 26/03/2016	Gram Panchayat, Kasarkod, Honnavar taluk, Uttar kannada district- vide its letter dated 26/03/2016
9	Terminal bay construction approval issue date; 14/07/2016	Karnataka power transmission corporation limited - vide its 65 th T.B. committee meeting letter no: KPTCL/SEE(pig)/ EE- PIG- N/KCO-

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		96/90/F-9252/2016-17/4622-28 dated 14 th / 07/ 2016
10	Energy approval for installation of 1000KVA(1MVA) issue date: 21/06/2016	Karnataka power transmission corporation limited- vide its OM no. BGKT/CEE/TRNS/CA/SEE(O)/AEE-5?16-17/4021-24, dated 21/06/2016
11	Issue of notification 7(a) issue date 08/07/2016	Central board of excise and customs, government of India, New Delhi- vide its notification no. 97/2016 customs(N.T) dated 08/07/2016
12	Extension of environment clearance and CRZ clearance issue date: 01/07/2019	State level environment impact assessment authority karnataka - vide its letter no. SEIAA:22: IND:2011 dated 01/07/2019*
13	Extension for consent for establishment issue date: 26/02/2021	Karnataka state pollution control board - vide its letter no. PCB 185 infra 2020/ 5881, dated 26/03/2021
14	Renewal of consent for establishment by KSPCB dated 26.03.2021	Karnataka state pollution control board vide its letter dated 26/03/2021

* COVID-19, extension of one year has been granted by Ministry of Environment, Forest and Climate Change, New Delhi, vide notification Dated: 18th January 2021, in exercise of the powers vested in Section 3 of the Environment (Protection) Act, 1986 - published in the Gazette of India dated: January 19, 2021

41. With respect to the allegation made in para 20, the said working plan of

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Honnavar Forest Division itself mentioned that only solitary nesting is reported in west coast and Kasarkod is not even identified as a potential nesting sites. The extract of the same is reproduced hereunder.

“The mass congregation for reproduction is popularly know arribada, a Spanish term meaning ‘arrival’, to signify mass nesting. Mass nesting is very common in Eastern Coast that too in the state of Orissa. However, on the west coast, solitary nesting is reported. In Honavar Division, beaches in Bhatkal,, Manki, Apsarakonda, Haldipura, Dhareshwar, Kagal and Ganavali are the potential nesting sites”

42. With respect to the allegation made in para 21, the register maintained by Forest Department between 2015 to 2011, was considered by NCSCM in its report to the Hon’ble High Court of Karnataka and it was observed that GPS location provided by the Forest Department were failing in the ocean and none of the GPS points have been documented were at the beach, The said report also contains the geo tag location. From the said data it was observed that the southern tip of the proposed HPPL project site had one nesting in the year 2020, that too falling 3 kms in the land area from the shore. Thus, the data from the forest department are not accurate.
43. With respect to allegation contained in para 22, the report of Environment Management and Policy Research Institute, a Government of Karnataka research institute in collaboration with Dakshin Foundation, the said report is also considered by the Report submitted to the High Court by NCSCM. Even as per the said report Kasarkod is identified as only an occasional nesting site as opposed to a frequent nesting site. Further, range wise nesting data from 210 to 2016 does not mention Kasarkod. It is clearly mentioned that the nesting in Karnataka coast is only sporadic. The

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NCSCM has recorded that the team surveyed the port area and the surrounding areas of Kasarkod . Further, based on the published work on turtle nesting sites in Honnavar, the location was visited and observations were that no nest, turtles, dead carcass were observed in the entire 45 hectre area of the proposed site during survey.

44. With respect to allegations made in para 23 & 24, as already mentioned, all the required governmental, administrative and statutory permissions, clearances and approvals for the construction of road was obtained and then only the construction of road had commenced.
45. With respect to allegation made in para 25 are concerned, the Writ Petition filed before the Hon'ble High Court of Karnataka, the counter and final order is filed along with this Counter. The Writ Petition, Counter and Final Order is marked as Annexure- R27, R28 and R29 respectively. This Respondent craves leave of this Hon'ble Tribunal to refer the same. The present OA is nothing but a second round of litigation by a proxy filed with malafide intention.
46. With respect to allegation made in para 26 & 27, it is submitted that during the consideration of the proposal for grant of necessary permission under Section 2 of the Forest Conservation Act, 1980, the MoEF, Regional Office asked for several clarifications from the Karnataka Forest Department regarding mitigation measures, CRZclearance and 'Blue Flag Certification'. In its reply, the Karnataka Forest Department has clarified all issues regarding mitigation measures; CRZ clearance for the proposed road connectivity proposals and for Blue Flag Certification, NOC has been obtained from the Tourism Department. The allegation that the embedded

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EC and CRZ clearance dated 21/09/2012 was disguised as CRZ clearance for approach road is misleading.

47. With respect to the allegation made in para 34, the allegation that the Port Department mislead the Forest by furnishing the EC and CRZ dated 21/09/2012, which does not encompass CRZ clearance is false and baseless. As already explained herein above the said EC and CRZ encompass the approach road for road connectivity too. It is submitted that the component of road corridor connecting project site to NH-17(Now NH-66) is clearly mentioned in the proceedings of the KSCZMA meeting held on 28th May 2012. The allegation that the forest department letter dated 20/09/2022 is devoid of any condition to protect and mitigate the impact of road on an ecologically sensitive zone is false and baseless. The EIA report also stipulates for mitigating measures on account of the potential impact due to proposed development of road. Further, the Karnataka Forest Department is actively taking several mitigation measures in this regard. In addition, The Principal Chief Conservator of Forest (wildlife) & Chief Wildlife Warden, Karnataka recommended wildlife mitigation measure in respect of conversation of the forest land, which included underpasses for smooth movement of animals and wildlife mitigation plan for Rs. 4 lakhs, which has been duly remitted.
48. With respect to the allegation made in para 29, In Writ Petition No: 4039/2021, filed by Honnavar Taluk Hasimeenu Vyaparastara Sangha (Registered), Tonka Kasarkod, Honnavar Taulk vs. M/s. Honnavar Port Private Limited in Hon'ble High Court of Karnataka, Bangalore, it was submitted that the Writ Petition has been filed on behalf of certain individual persons whose vested interest are involved in the

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area, who do not want the port to be constructed and as such, the Writ Petition was a proxy petition on behalf of certain fisherman and other persons involved in fishing and other similar activities. Hon'ble High Court while appreciating the fact that all statutory clearances and administrative approvals have been obtained by the project proponent, disposed the Writ Petition giving liberty to the petitioners to raise their grievances, if any, before the Principal Secretary to Government, Public Works, Ports & IWT Department, who may consider the grievance of the petitioner and pass appropriate orders in accordance with law. On the basis of the directions contained in the said Order dated: 24.11.2021, the petitioners have filed their representations to the Government, which is being looked into by the concerned. The letter to Principal Secretary PWD, Ports and inland Water Transport Department from Hasimeenu Vyaparastara Sangh is marked as **Annexure R30 Page**. The present Application is another round of litigation by certain vested interests who are opposed to the Port development, although there are no fresh grounds for consideration.

49. With respect to allegation made in para 30, as already explained that the construction of road connectivity stated only after obtaining the necessary approval. The paramount importance for a connectivity road during construction phase is also explained herein above. The project proponent has to complete the project within a time line, as per the directions of Government. Therefore, it is necessary to undertake construction activities at the project site without any loss of time, in order to avoid time and cost overrun.

50. With respect to the allegation made in para 31, It is submitted that the



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KSCZMA has given its recommendations of construction of connectivity road for the Port. All other allegations are false and baseless. With respect to allegation made in para 32, the allegation made therein false and misleading. It is submitted that as per the CRZ notification 2011 & 2019, construction of the road in CRZ is permissible activity and a recommendation by the concerned coastal zone management authority is sufficient, which in this case has been obtained as part of the EC/CRZ dated 21/09/2012. All other allegations are false and baseless.

51. With respect to allegations made in para 33 & 34, it is submitted that the construction of road has not led to encroachment and pollution of the coastal commons on the Kasarkod beach as the land up to 50m width above High water mark is the Port land, except patta lands as per declared limits. It is submitted that area of Kasarkod beach is used illegally/unauthorized as fish drying yard by the dry The fisher women were using 45 hectares of land (93 acres) at Kasarkod Tonka illegally/unauthorized for fish drying purpose all these years. However, this land is reserved for the development of Port. All other allegation of direct implication of financial and security and socio-economic well-being, unemployment is misleading. In fact, the road is constructed it would greatly benefit the larger public and also the livelihood of the fishermen and women would improve multifold. There is absolutely no treat involved to the livelihood of the women in kasarkod village due to construction of road.

52. With respect to the allegation made in pars 35 relating to the complaint by Honnavar Hasimeenu Vyaparasthara Sangha. It is submitted, that as per the order of the Hon'ble High Court, it is clearly recorded that they were part of the public hearing conducted under EIA. With respect to the

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allegation that construction of road had led to burying Turtle nests with live cluster of eggs in estimate range of 100-200 each under the red soil is false and baseless. The Applicant is put to strict proof of the same.

53. With respect to the allegation made in para 36, this Respondent disputes that Turtle nested on 17th Feb, 2022 along with the alignment of port connectivity road. The Photographs and the In-situ Conservation enclosures are disputed and have been created for the purpose of the case. The Hon'ble High Court of Karnataka has clearly observed in the para 8 that *"However, it is for the concerning authority to ensure that no damage is caused to the nesting of turtles and other endangered species found in the area."* Thus, the Forest Department is taking a active role in ensuring no damage is caused to the nesting of turtles. All other allegations are false and baseless.
54. Thus, as the Project proponent i.e., HPPL has obtained the statutory Environment Clearance, which is valid up to 20.09 2023, the allegation made by the applicant that construction of Port connectivity road is in violation of CRZ Notification 2011 and Environment (Protection) Act, 1986 is totally false, baseless and far from truth. The proposed four lane road connectivity road from Kasarkod side of Honnavar Port to National Highway No. 66 under Bharatmala Pariyojana through National Highways Authority of India (NHAI) is included under 'Gati Shakti', which is being monitored by the Government of India [PMO's Secretariat].
55. The road connectivity work has been taken up within the Honnavar Port

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limits The four lane road connectivity proposals of State Government has been included for execution under Bharatmala Pariyojana, which is a national programme for providing connectivity to ports. After ensuring satisfactory compliance of all the requirements, the National Highways Authority of India has proceeded to float tenders and award contracts. It is to be noted here that the KSCZMA has approved road connectivity to the project site and accordingly recommended issue of Environmental Clearance. Further to get encumbrance free land for the proposed road connectivity the Karnataka Forest Department has already issued Stage-I Clearance to the diversion of 0.76ha forest land in Forest Survey no. 233 & 237 and action is being taken for final approval. The project proponent has already paid net present value (NPV) for 0.76 ha of forest land and Cost of rising plantation (including 10 years maintenance) of 10 times of tree for compensatory afforestation amount of Rs. 1,02,21,800/- on 22nd April 2022 towards compensatory afforestation cost (ANNEXURE -R22) and Rs. 75,714/- on 20th July 2022 towards tree cutting cost (ANNEXURE -R23). The allegations leveled against the Respondents by the applicant are misconceived, baseless and far from truth.

56. It is submitted that the Hon'ble High Court of Karnataka Bangalore in its order dated: 24.11.2021 in W.P. No. 4039 of 2021 (GM - POL) PIL has clearly stated at Sl.No.08 that it is for the concerned authority to ensure that no damage is caused to the nesting of turtle and other endangered species found in the area. (Annexure - R29). Accordingly, Principal Chief Conservator of Forest (PCCF), (Wildlife), & Chief Wildlife Warden, Bangalore in letter no PCCF/WL/D/CR-78/2020-21 dated: 22.06.2020 has approved the wildlife mitigation measures pertaining to Diversion of 0.76 ha of forest land in Kasarkod village F. Sy. No 233 & 237, Manki Hobli,

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Honnavar Taluk, Uttar Kannada District for approach road from Nh - 66 to Kasarkod side of Honnavar Port. Thus as per the approved, wildlife mitigation plan Rs. 4.00 lakhs on an annual basis is to be paid. The Wildlife Mitigation Plan is marked as Annexure R 31.

57. An agreement was signed for development of Honnavar Port in 07.04.2010 and 11.10.2010. Before granting Environment Clearance, a public hearing was held on 27.01.2012 at Kasarkod village. The project proponents have obtained all statutory clearances and administrative approvals in accordance with law before 2014 itself. As back as in 2016 itself, unauthorized/illegal occupants of 93 acres of alluvial land situated in Kasarkod-Tonka spit area were evicted. They were fishermen who were using the land belonging to the Ports Department unauthorized / illegally for drying fishes. The project proponents paid compensation amount to them, purely on humanitariangrounds.
58. The earlier agreement dated: 11.10.2010 was required to be amended so as to enable the project proponents to achieve financial closure. A revised agreement based on amendments to several clauses in the earlier agreements came to be signed on 14.03.2018. Amendments to several clauses of the agreement dated: 11.10.2010, enabling the project proponents to achieve financial closure. Therefore, the administrative department viz., Public Works, Ports & Inland Water Transport Department, after obtaining opinion from the Finance and Law Departments, placed the matter before the Cabinet and with the approval of the Cabinet, Government Order No: PWD 05 PSP 2013, dated: 16.01.2018 was issued, granting necessary permission for amendment of several clauses contained in the Agreement dated:

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11.10.2010, so as to enable the project proponent- M/s. HPPL [a SPV created as per Government letter No. PWD 293 PSP 2010, dated; 07.04.2011] to achieve financial closure, fixing the lease period for 30 years from the date of issue of the said Government Order. The Government letter No. PWD 293 PSP 2010, dated; 07.04.2011 is marked as **Annexure R32**. In pursuance to the Government Order dated: 16.01.2018, Government of Karnataka and the project proponent [HPPL] signed an amended Agreement dated: 14.03.2018) which came to be registered in the books of the Sub-Registrar, Honnavar. The Amended Agreement dated 14.03.2018 is marked as **Annexure R33**.

59. In the year 2020 COVID pandemic consumed more than one year affecting construction activities. Thereafter, purportedly espousing the cause general public, a fishermen association filed a PIL before the Hon'ble High Court of Karnataka challenging. Honnavar Port project. After the disposal of the PIL-WP by High Court upholding Honnavar Port project, locals started obstructing road connectivity issues. After resolving most of the local issues due to the intervention of District Minister and District Administration, some vested interests have challenged the proposed Honnavar Port project and four lane road connectivity proposals undertaken by NHAI as part of Bharatmala Pariyojana, and an application has been filed before NGT, Chennai. It is alleged that the project proponents have violated environmental laws.
60. This Respondent submits that PIL was filed in the month of February, 2021. After losing the case before the Hon'ble High Court of Karnataka, Bangalore, local fishermen/fisher women have been publically agitating against the project. It was therefore necessary for the District Administration to extend support to the project proponents, in

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accordance with law, and to prevent unlawful and illegal obstructions by the agitating public comprising of local fishermen and fisher women. It cannot therefore be said that the cause of action arose only on 24.01.2022. They are aware of the Honnavar Port Development project right from the time public hearing was held by the concerned authorities [EIA Report 2012]. The averments made in this regard by the applicants are therefore denied as totally false and misleading. The delay in commencement was solely due to the agitation of local fisherman/ fisherwomen.

61. It is humbly submitted that Karnataka is endowed with a maritime coastline of around 300 Kms. between Karwar (at the North) and Mangalore (at the South). This belt is well connected by National Highway and the Konkan Railway (broad gauge line) both running parallel to the coastlines. At present, in Karnataka there are 12 Minor ports under the Port Directorate and one Major Port viz., the New Mangalore Port under Government of India. The transportations sector is a strong factor in terms economic and reasonable balanced development, as well as also having a great influence on National Integration to the World economic market. India has a rich history of trade across seas. Ports constitute an important economic activity in coastal areas. The higher the throughput of goods and passengers year-on-year, the more infrastructure, provisions and associated services are required. These will bring varying degrees of benefits to the economy and to the country. Ports are also important for the support of economic activities in the Hinterland since they act as a crucial connection between sea and land transport. As a supplier of jobs, Ports do not only serve an economic but also a social function. In terms of load carried, sea way transportation is the cheapest and most effective transportation system compared to other systems. Industries require a safe and cheap means of exporting finished good and

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importing raw materials. Hence the majority of industries in the world are located in the coastal belts, in the vicinity of major ports. These industries in turn, influence the lives of the employees and indirect benefactors.

62. Honnavar port is located at the place where Sharavathi Badagani rivers joins the Arabian sea. For faster development of ports and its efficient and cost effective operations, the development of Ports through private investment is envisaged. The development of port dependent industries and other infrastructural facilities will be integrated with port development. Major aim of port development in Karnataka is to promote regional development.
63. Government of Karnataka, which is committed for overall development of the State including the Western Coast, proposes to develop Honnavar Port through Public Private Participation. As at present, there are no industries which have come-up in this region of Western Coast. Therefore, it is intended to create greater employment potential to the locals. Through the development and commissioning of the port related activities in this part of Western Ghats region, a lot of skilled, semi-skilled and un-stilled job opportunities would be available to youths. It increases economic activities to a great extent and also ensure other infra structural activities. The project proponents are also obliged to undertake many socio-economic activities under Corporate Social Responsibility (CSR). It also results in the boost of State's economy in terms of GST/CST, etc., Various other incidental infra-structural developments like roads, railway, tourism, hotel industry, commercial activities, would take place, resulting in overall development of this under-developed region located in Western Ghats.

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64. In so far as local fishermen are concerned, who are largely dependent upon fishing activities, construction of port by the project proponent, would help them in a great way, as dredging activities will be undertaken, providing 24x7 dedicated channel for safe and smooth navigation of fishing/vessels. The dedicated channel will be earmarked with the help of floating marker buoys which will be helpful to the fisherman during barge/vessel movement to the berths for their fishing activities. Construction of breakwaters at the existing gut by the project proponent as a part of Honnavar Port development would help the fishermen in a great way, as it results in maintaining stability at the mouth of the river channel/tidal inlet and facilitate safe and smooth navigation of mechanized floating vessels (MFV's) and small boats. Thus, fishing activity is directly and allowed activities are indirectly benefitted due to maintenance of safe navigable depth at all times. At present, fisherman have to wait for the high tide in order to have sufficient water depth, i.e., draft, for smooth and safe navigation of vessels/boats due to siltation and bar formation at the mouth estuary/gut. Construction of 2 parallel Breakwaters on either side of the existing gut by HPPL would ensure stability and thus and directly encouraged fish activity by virtue of more effective time for fishing without any hindrance.
65. The technical designs for the breakwaters is furnished by the central water and power research station, Pune, a premier Research Institute of Government of India after detailed technical study and modeling. The CWPRS report (Technical) is marked as Annexure R34. The entire population of this region contains citizens belonging to various sections of the society, including fishermen community. The interests of other local people, who are dependent upon professions other than fishing are also required to be protected by the State. There are no industries in the region

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and therefore, alternative job opportunities have to be created for the benefit of those citizens of the society who are not fishermen. The entire coastal zone belongs to every citizen and it cannot remain a private asset of some section of the society. Therefore, taking larger public interests in mind and the need for providing livelihood to other persons of the society, the State of Karnataka has undertaken this responsibility of developing Port at Honnavar under PPP Mode.

66. Further, construction of four lane road connectivity from Kasarkod side of Honnavar Port to NH-66 under Bharatmala Pariyojana through the NHAI is a proposal of national importance. **This road connectivity proposal is being monitored by the Government of India, as it is included in GATI SHAKTI.** As a part of this proposed road connectivity, a Separate concrete service road of 7mtrs width should be provided for movement of localities. This is clearly shown in the cross-section drawing. The cross section drawing of road is marked as **Annexure R35.** All allegations levelled by the Applicants in OA No. 76/2022 (SZ) filed before the Hon'ble National Green Tribunal, Chennai are totally misconceived and are denied as false. All other averments are here by denied.
67. The Applicant has suppressed the legal notice dated 17/06/2022 issued by M/s. Sreeja Chakraborty. The Legal Notice dated: 17.06.2022 was issued to the Deputy Commissioner, Uttara Kannada District, Karwar by Smt. Sreeja Chakraborty, Advocate, Bangalore regarding illegal port connectivity road at Kasarkod-Tonka, Honnavar, Uttara Kannada: Learned Counsel for the Petitioner Smt. Damayanti Subray Mesta in Original Application No: 76 of 2022 (SZ) on the file of the Hon'ble National Green Tribunal, Southern Zone, Chennai had issued a legal notice dated: 17.06.2022 to the Deputy Commissioner, Uttara Kannada

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District, Karwar about illegal port connectivity road at Kasarkod-Tonka, Honnavar, Uttara Kannada District, stating that the construction of the road is undertaken illegally by the Ports Department to provide 'dedicated portconnectivity road' to the port project of M/s. Honnavar Port Private Limited at Kasarkod Tonka to National HighwayNo: 66 (earlier NH-17) under heavy police deployment. The legal notice issued by Smt. Shreeja Chakraborty dated 17.06.2022 to the Deputy Commissioner, Uttara Kannada District is marked as Annexure R36. It was alleged that ongoing construction of the road is undertaken in violation of (i) CRZ Notification, 2011 and Environment (Protection) Act, 1986; (ii) Administrative approval of the Government of Karnataka; (iii) illegal encroachment on private land of Kasarkod villages; and (iv) contempt of Hon'ble High Court judgment.

68. After careful consideration of the above legal notice issued by the learned Counsel Smt. Sreeja Chakraborty, a detailed report has been furnished by the Director of Ports and Inland Water Transport Department, Karwar on 24.06.2022. The reply of Director of Ports & IWT department for legal notice issued by Smt. Shreeja Chakraborty is marked as Annexure R37. There are no violations of any of the statutory provisions. The project proponents have strictly adhered to all statutory requirements and administrative approvals, as are required under law. The very same allegations were made by another batch of local fishermen in the PIL 4039/2021 and after due consideration of the documents and upon hearing the learned Counsel for the parties, Hon'ble High Court of Karnataka, Bangalore, while categorically opining that it is not a PIL, has disposed off the writ petition in favor of the respondents.

69. The Department of Ports & Inland Transport vide its reply 24/06/2022

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had categorically stated that the Karnataka State Coastal Zone Management Authority in meeting dated 28/05/2012 had recommended grant of EC and CRZ clearance for road corridor connecting the project site to NH 17 (New No. NH 66) as one of the components recommended for EC. Thought the Applicant was aware of this reply, the same has not been brought the notice of this Hon'ble Tribunal in neither of the hearings dated 14.07.2022 or 27.07.2022. This materials information has been suppressed and has been projected that the construction is carried out without clearance form KCZMA. The interim orders have been obtained behind the back of the Respondent.

70. This Respondent submits that series of problems raised from several quarters act as deterrent to private investors who take part in several infrastructural projects in Karnataka. Government of Karnataka shows interest to invite private investors to come and take part in several infrastructural projects in Karnataka. But such anti developmental activities from vested interests against policy decisions of State Government sends a very bad signal to private investors. It is very detrimental to the progressive decisions of State Government and adversely affects State's economy. Private investors should not be allowed to suffer at the hands of vested interests who oppose developmental activities and cause considerable time and cost overrun.
71. The proposed Honnavar Port is being developed by the project proponent on PPP Mode. The lease period for the project is 30 years from the date of issue of revised Government Order dated: 16.01.2018. Any infrastructural development undertaken by any investor involves huge

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financial implications. Besides organizing all activities including obtaining of statutory clearances and administrative approvals, the project proponents have to resolve all vital issues relating to the project and adhere to the time line prescribed by the Government. The impact of COVID-19 adversely affected the progress of construction. In addition to the natural calamities, the local inhabitants who constitute a small section of the society who are opposing the project are creating undesirable nuisance and preventing developmental works at the project site. Thus the implementation of this project has been inordinately delayed. The series of litigations before the High Court and Tribunals has impaired the progress of construction. The above named Respondent most respectfully pray that the application filed by the applicant is unsustainable both on law on facts and the same is liable to be rejected. Therefore, in the interests of State and taking into consideration the advantages that would accrue to the society at large and this part of the coastal region in particular, Hon'ble Tribunal may be pleased to dismiss the Application with costs, in the interest of justice and equity.

72. This Hon'ble Tribunal had passed an ex parte order dated 27.07.2022 directing the authorities to ensure that no further construction is to be made either as per the environmental clearance or in violation of the same in that area. The said ad interim injunction was passed suppressing vital material facts. The Applicant has suppressed the legal notice issued by her Counsel M/s. Sreeja Chakraborty and the reply issued by the Director of Ports i.e., 1st Respondent herein. The Department of Ports & Inland Transport vide its reply 24.06.2022 had categorically stated in its reply that the Karnataka State Coastal Zone Management Authority in meeting dated 28.05.2012 had recommended grant of EC and CRZ clearance for road corridor connecting the project site to NH 17 (New No. NH 66) as one of the components

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recommended for EC. The Applicant was aware of this reply and had not brought the same to the notice of this Hon'ble Tribunal in neither of the hearings dated 14.07.2022 or 27.07.2022.

73. The present interim Order dated 27.07.2022 observes in para 7 that "from the Arguments that Originally there was a proposal for an overbridge to the port site which is now converted to road on land laid by the project proponent. The above act of laying road in contra to the condition laid in the Environmental clearance and without approval of CZMA should deprive the project proponent of his environmental clearance". The Project proponent for the port is the 2nd Respondent herein. The Applicant has misled this Hon'ble Tribunal regarding proposal for an overbridge to the port. The EIA road connectively, which is an integral part of port development is suppressed. The said interim order is premised on the misguided facts that the road is laid contra to the conditions in the Environmental Clearance and without approval of KSCZMA. The EC and CRZ approvals are granted for road connectivity which is an integral part of the Environmental clearance. By virtue of the interim order the complete Project is stalled including the construction of port. The locals are not permitting the staff to enter the site. The workers and staffs are manhandled. The Applicant is misinterpreting the interim order stating that the not further construction should be undertaken as per the EC. In view of this, the local fisherman and other individuals with vested interest are not allowing the staffs and employees of this Respondent to enter the port site too. The State Level Environment Impact Assessment Authority- Karnataka has also issued letter to this Respondent to ensure that no further construction should be made either as per the Environmental Clearance or

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in violation of the same and this Respondent must comply with the Order.
The letter dated 30.07.2022 is marked as Annexure R38.

74. The 2nd Respondent is incurring heavy losses on account of the interim order passed by the Hon'ble Tribunal. The 2nd Respondent has already spent more than Rs. 80 Crores on this project. The 2nd Respondent had already mobilized expensive materials such as rigs, quality control lab equipment, survey equipment and surveillance Equipment to the site. The 2nd Respondent had also mobilized the labours to the site and they had been working till the Interim order passed by this Hon'ble Tribunal on 27.07.2022. The Current status of the Project as follows: -

Description		Status
1) Construction of Jetty	a) Approach Trestle -1 (67.5M x 15M)	Completed
	b) APPROACH TRESTLE-2 (67.5M X 15M)	5 nos of piles completed out of the proposed total 17 nos. Sheet Pile erection and sand filling for reclamation of land work completed.
	c) BERTH - (440M X 30M)	Sheet pile erection for reclamation is in progress.
	d) Precast Deck Plans	In Progress

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<p>2) Construction of Breakwaters</p>	<p>Breakwater boulders procured. A total of 1632.60 MT quantity stocked at site till date.</p>
<p>3) Development of Internal Roads (within the Project premises)</p>	<p>Out of proposed 4575 Rmtrs 1113 Rmtrs is completed.</p>
<p>4) Construction of Approach Road by Port Department 2.1 kms</p>	<p>I. Road work up to GSB layer is completed. II. WMM laying and construction work is in progress - 1.1 kms completed out of 2.1 kms</p>

75. The 2nd Respondent submits that apart from the abovementioned progress, the 2nd Respondent has already constructed a fully furnished site office and Contractor Office. The 2nd Respondent has also constructed a QC lab and installed Batching Plant in the port site. The port site also has labour camps where labourers mobilized by the 2nd Respondent for the project are residing. A weighbridge of 100 MT Capacity is complete and is operational. The 2nd Weighbridge of 100 MT Capacity installation is complete up to weighbridge platform. The 2nd Respondent is incurred heavy expenses and mobilized material and labour and has the development of the port is in full swing. The photos showing the

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equipment and the current status of the site is marked as Annexure R39(Colly).

76. The 2nd Respondent submits that the entire port project has come to a standstill amount of the Interim Order dated 27.07.2022. The 2nd Respondent who has spent a substantial amount is put to grave prejudice and irreparable loss on account of the said Interim Order. The labour and machineries are idling on account of the interim Order and the 2nd Respondent is forced to bear the expenses. The Total expenses incurred for each day is Rs. 2,45,000/- and the 2nd Respondent is forced to bear these expenses. The break up of the expenses are extracted hereunder:-

PER DAY EXPENDITURE DETAILS

SL. NO.	ITEMS	HPPL (PER DAY IN Rs.)	RKEC (PER DAY IN Rs.)
1	Site Engineers	10,000.00/-	35,000.00/-
3	Staff Accommodation and Administration charges	20,000.00/-	10,000.00/-
4	Equipment/Machinery	20,000.00/-	1,50,000.00/-
Total Amount		50,000.00/-	1,95,000.00/-
Total Expenses		2,45,000.00/-	

77. The 2nd Respondent submits that 2nd Respondent's men are manhandled by the locals. On 09.08.2022 at 10.30 while staff of the 2nd Respondent were

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going to Project site on vehicles (Mahindra Bolero & Mahindra Camper) local people around 40 men and women stopped the vehicle of the 2nd Respondent and assaulted the staffs of the 2nd Respondent and damaged the vehicle. The locals also showed the interim order passed by this Hon'ble Tribunal and threatened the staffs of the 2nd Respondent that they will face awful consequences if they enter the project site. The high value machineries such as rigs, quality control lab equipment, survey equipment and surveillance equipment are at the site and the locals with malicious intention is trying to pilferage the said equipment. Due to local issues and hinderance on approach road, the 2nd Respondent has not been able to take the pilling rig and 70MT Steet to the port site. It is unloaded outside the site premise.

78. The Applicant herein have successfully stalled the project which they were otherwise not able to achieve in the Writ Petition No. 4039/2021 (PIL) before the Karnataka High Court. The validity of the EC was challenged in the abovementioned Writ Petition No. 4039/2021 (PIL) and the validity of EC was upheld and there is no appeal against the said order. The Applicant and its nominees are merely forum shopping by filling frivolous Applications in order to arm twist the Respondents.

79. The 2nd Respondent submits that the 2nd Respondent has invested a substantial amount in the project. The 2nd Respondent is incurring idling changes of more Rs. 2,35,000/- on account of stoppage of work. Apart from that the 2nd Respondent is also forced to pay interest and penalties. Even stoppage of work for a day will cause grave prejudice and irreparable loss to the 2nd Respondent. In light of the above, it is absolutely imperative that the stay passed by this Hon'ble Tribunal is vacated and



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suspended. No prejudice will be caused to the Applicant. Irreparable loss and hardship is caused on account of the interim order dated 27/07/2022 passed by this Hon'ble Tribunal.

Prayer

It is therefore prayed that this Hon'ble Tribunal may be pleased to dismiss above I.A No 116 of 2022 (SZ) In ORIGINAL APPLICATION NO. 76 OF 2022 (SZ) with cost and thus render justice.

VERIFICATION

I, Captain Surya Prakash aged about 69 years, having office at 103, Lalhzar Apartments, 45/1-2, Palace Road, Bangalore- 5600001, CEO of Honnavar Port Private Limited, do hereby verify that the contents of para 1 to 79 of this Reply are true to my personal knowledge and belief and that I have not suppressed any material fact.

For HONNAVAR PORT PRIVATE LIMITED

Signature 2nd Respondent **Authorised Signatory**



ATTESTED
 SAILAJA OGIRALA
 ADVOCATE & NOTARY
 B.H.E.L., MIG-1110, R.C.Puram,
 Hyderabad-502032. T.S. Cell: 9948292606
 Commission Exp. On : 24/6/2027

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