

**IN THE NATIONAL GREEN TRIBUNAL,
SOUTHERN ZONE BENCH, CHENNAI
APPLICATION No. 04 of 2013 (sz)
WITH APPEAL 18 Of 2017 (sz)**

IN THE MATTER OF:-

O. FERNANDES (Died) ,

...PETITIONERS

-VS-

THE UNION OF INDIA &Ors

...RESPONDENTS

**COUNTER AFFIDAVIT ON BEHALF OF THE
MINISTRY OF ENVIRONMENT, FORESTS AND CLIMATE
CHANGE, RESPONDENT NOs.1**

**G.M. Syed Nurullah Sheriff
Counsel FOR MoEF&CC**

**IN THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI
ORIGINAL APPLICATION No. 4 OF 2013 (SZ)
WITH
APPEAL NO. 18 OF 2017 (SZ)**

IN THE MATTER OF:

O. Fernandes (Died)

.....Petitioners

-VS-

The Union of India & ors

.....Respondents

AFFIDAVIT ON BEHALF OF RESPONDENT NO. 1 (MINISTRY OF
ENVIRONMENT, FOREST AND CLIMATE CHANGE)

MOST RESPECTFULLY SHOWETH:

I, Dr.C.Palpandi, S/o P.Chendurpandi, aged about 39 years working as Scientist 'C' in the Regional Office of the Ministry of Environment, Forest & Climate Change (MoEF&CC) at Chennai, the deponent herein do hereby solemnly affirm and state on oath as under:-

1. That I am acquainted with the facts and circumstances of the instant case and duly competent to swear the present affidavit On behalf of the MoEF & CC on the basis of the official records maintained therein.
2. That in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, Ministry of Environment and Forest had notified the Coastal Regulation Zone Notification,

C. Palpandi
Dr. C. Palpandi
Scientist 'C'
Government of India
MOEF&CC, Regional Office (SEZ),
No. 34, 1st and 2nd floor, HEPC Building,
Cathedral Garden Road, Nungambakam,
Chennai-600 034

1991 on 19th February, 1991, which, *inter-alia*, provided classification of Coastal Regulation Zone (hereinafter referred to as CRZ) areas and norms for regulating developmental activities therein. This Notification was subsequently amended from time to time.

3. That it is submitted that in supersession of the CRZ Notification, 1991, the Coastal Regulation Zone Notification, 2011 was notified on 6th January, 2011 for regulation of developmental activities along the coastal stretches and to ensure the livelihood security to the fisher communities and other local communities, living in the coastal areas, to conserve and protect coastal stretches.
4. The validity of the Coastal Zone Management Plans (hereinafter referred to as CZMPs) approved under CRZ Notification, 1991 was extended from time to time, the last such extension being upto 31.07.2018, pending preparation and subsequent approval of fresh CZMPs under the CRZ Notification, 2011. All the developmental activities in the CRZ areas of coastal States were required to be regulated as per the above mentioned notifications and within the framework of approved CZMPs.
5. It is humbly submitted that the CZMPs of all coastal States except State of Goa has been approved under the provisions of the CRZ Notification, 2011.
6. That it is submitted that in supersession of the CRZ Notification, 2011, the Coastal Regulation Zone Notification, 2019 was notified on 18th January, 2019 for regulation of developmental activities along the coastal stretches and to ensure the livelihood security to the fisher communities and other local communities, living in the coastal areas, to conserve and protect coastal stretches, specifically focused on conservation and management plans of Ecologically Sensitive Areas (ESAs) which did not feature in the CRZ Notification, 2011.

C. Nairandi
Dr. C. Paipandi
 Scientist 'C'
 Government of India
 MOEF&CC, Regional Office (SEZ),
 No. 34, 1st and 2nd floor, HEPB Building,
 Cathedral Garden Road, Nungambakkam,
 Chennai-600 034.

7. It is humbly submitted that the High Tide Line (HTL) has been mapped out and standardized for the entire coast of the country unlike the HTL earlier allowed to be demarcated by one of the seven authorized agencies, that too only for identified stretches/sites, and thereby bringing in standardization and authenticity and removing arbitrariness.
8. It is submitted that the Hazard Line for the entire coast of the country has also been mapped and is required to be incorporated in CZMPs of the coastal States or Union territories.
9. It is humbly submitted that the CRZ Notification, 2019 shall, however, come in force only after the respective CZMP framed to the CRZ Notification, 2011 have been revised/updated by the States/UTs, as per the provisions of the new CRZ Notification and approved by the Ministry of Environment, Forest & Climate Change. Para 6 (i) of CRZ Notification, 2019 inter alia states as under:

“All coastal States and Union territory administrations shall revise or update their respective coastal zone management plan (CZMP) framed under CRZ Notification, 2011 number S.O. 19(E), dated 6th January, 2011, as per provisions of this notification and submit to the Ministry of Environment, Forest and Climate Change for approval at the earliest and all the project activities attracting the provisions of this notification shall be required to be appraised as per the updated CZMP under this notification and until and unless the CZMPs is so revised or updated, provisions of this notification shall not apply and the CZMP as per provisions of CRZ Notification, 2011 shall continue to be followed for appraisal and CRZ clearance to such projects.”

C. Palpandi

Dr. C. Palpandi
Scientist 'C'
 Government of India
 MOEF&CC, Regional Office (SEZ),
 No. 34, 1st and 2nd floor, BEPC Building,
 Cathedral Garden Road, Hungambakkam,
 Chennai-600 034.

Before finalizing the CZMP concerned State / Union Territories / Coastal Zone Management Authorities are required to adopt due procedure in preparation of CZMPs as stipulated in Para 6 (iii) of CRZ Notification, 2019 which includes public consultation. Para 6 (iii) of said notification inter alia states as under:

“The coastal States and Union territories shall prepare draft CZMP in 1:25,000 scale map identifying and classifying the CRZ areas within the respective territories in accordance with the guidelines given in Annexure-IV to this notification, which involve public consultation.”

A true copy of CRZ Notification, 2019 is annexed herewith and marked as **ANNEXURE-R/1**.

10. It is humbly submitted that the National Centre for Sustainable Coastal Management (hereinafter referred to as NCSCM) made a presentation on the status of the updation/revision of CZMPs prepared based on provisions of CRZ Notification, 2019, in the 40th meeting of National Coastal Zone Management Authority (NCZMA) held on 28.08.2020, as under:

S. No	State/UT	Status of Approved CZMP 2011	Status of Draft CZMP 2019	Agency preparing CZMP-2019	Time Required to Complete
1.	Maharashtra	Approved	COMPLETED <u>Public hearing completed</u> in all districts other than Palghar and Sindhudurg districts	NCSCM	COMPLETED
2.	Odisha	Approved	COMPLETED <u>Public hearing completed</u>	ORSAC/SAC	COMPLETED

- P. Nair
Scientist 'C'
Government of India
MOEF&CC, Regional Office (SEZ),
No. 34, 1st and 2nd floor, NEPC Building,
Cathedral Garden Road, Nungambakkam,
Chennai-600 034

3.	Andhra Pradesh	Approved	80% work Completed including	NCSCM	4 MONTHS – DEC 2020
			Buffering of CRZ boundaries		
4.	Karnataka	Approved	50% work Completed including Buffering of CRZ boundaries	NCSCM	4 MONTHS – DEC 2020
5.	Puducherry	Approved	30% work Completed including Buffering of CRZ boundaries	NCSCM	3 MONTHS – NOV 2020
6.	Daman & Diu	Approved	50% work Completed including Buffering of CRZ boundaries	NCSCM	3 MONTHS – NOV 2020
7.	Tamil Nadu	Approved	20% work Completed	NCSCM	5 MONTHS – JAN 2021
8.	Gujarat	Approved	20% work Completed	NCSCM	6 MONTHS – FEB 2021
9.	Kerala	Approved	In progress. Being monitored by Kerala High Court	NCESS	Status to be obtained from NCESS
10.	West Bengal	Approved	Pending. Status not known	IESWM	Status to be obtained from IESWM
11.	Goa	Draft published in website for public hearing. Revision based on amendments, in progress(NCSCM)	Pending	Not Known	Amendment s to CRZ Notification 2011 notified on 1st May 2020

C. Palpandi
Dr. C. Palpandi
 Scientist 'C'

Government of India
 MOEF&CC, Regional Office (SEZ),
 No. 34, 1st and 2nd floor, REPC Building,
 Cathedral Garden Road, Nungambakkam,
 Chennai-600 034.

12.	Andaman & Nicobar Islands	ICRZ plans: 9 Islands IIM Plans: 5 Islands Approved	ICRZ Plans of Great Nicobar & Little Andaman Islands completed and submitted to ANZMA for public hearing	NCSCM	6 MONTHS - FEB 2021
13.	Lakshadweep Islands	Approved	Revision of IIMPs of Suheli, Kadamat & Minicoy Islands in progress	NCSCM	6 MONTHS - FEB 2021

11. It is humbly submitted that the answering Ministry is yet to receive the draft CZMPs updated/revised as per the provisions of the CRZ Notification, 2019 from all the coastal State Governments for further consideration and approval.

12. It is further humbly submitted that the CRZ Regulations are to be implemented and monitored including violations thereof by the concerned State Coastal Zone Management Authority in accordance with the approved CZMPs of the respective region of the coastal state.

13. It is humbly submitted that the Enhancing Coastal and Ocean Resource Efficiency (hereinafter referred as ENCORE) Project is proposed under National Coastal Mission which is expansion of the ICZM Project and proposed for implementation in all the 13 coastal States/UTs with proposed budget of Rs. 5600 crores approx. with Multiphase Programmatic Approach. The broad components of the proposed ENCORE are (i) Conservation and protection of coastal and marine resources; (ii) Pollution abatement through infrastructure development for protection of coastal and marine ecosystems; (iii) Livelihood enhancement/security of coastal communities; (iv) exploiting sustainable means of Blue Economy; and (v)

Environment education, research & capacity building.

14. Further, it is submitted that the ENCORE Project has been approved by Expenditure Finance Committee on 28th February 2020. The Hon'ble MEF, Hon'ble Finance Minister, and World Bank Board Washington have also concurred the proposal. The proposal is awaiting approval of Cabinet Committee on Economic Affairs (CCEA)
15. It is respectfully submitted that the answering respondent without prejudice reserves his right to file an additional affidavit at a later stage, if so necessary.
16. It is respectfully submitted that in view of the above mentioned facts, the respondent Ministry humbly submits that the Hon'ble Tribunal may pass such order as may deem fit in the interest of justice.

C. Palpandi
Dr. C. Palpandi
 Scientist 'C'
 Government of India
 MOEF&CC, Regional Office (SEZ),
 No. 34, 1st and 2nd floor, HEPC Building,
 Cathedral Garden Road, Nungambakkam,
 Chennai-600 034.
DEPONENT

VERIFICATION

I, the above named Deponent, do hereby verify that the contents of the above affidavit are true and correct to my knowledge as per the records of the answering respondents. No part of it is false and nothing material has been concealed there from.

Verified at Chennai on this 2 day of February 2021.

C. Palpandi
Dr. C. Palpandi
 Scientist 'C'
 Government of India
 MOEF&CC, Regional Office (SEZ),
 No. 34, 1st and 2nd floor, HEPC Building,
 Cathedral Garden Road, Nungambakkam,
 Chennai-600 034.
DEPONENT

**IN THE NATIONAL GREEN TRIBUNAL,
SOUTHERN ZONE BENCH, CHENNAI
APPLICATION No. 04 of 2013 (sz)
WITH APPEAL 18 Of 2017 (sz)**

**COUNTER AFFIDAVIT ON BEHALF OF THE
MINISTRY OF ENVIRONMENT,
FORESTS AND CLIMATE CHANGE,
RESPONDENT NOs.1**

**G.M. Syed Nurullah Sheriff
Counsel FOR MoEF&CC**