

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, AT CHENNAI
ORIGINAL APPLICATION NO. 49 OF 2022

IN THE MATTER OF:

PRADEEP BABU TANDEL & ANR.

...APPLICANTS

VERSUS

UNION OF INDIA & ORS.

...RESPONDENTS

Next Date 20.07.2022

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REPLY ON BEHALF OF RESPONDENT NO. 3 (CHIEF EXECUTIVE OFFICER, KARNATAKA MARITIME BOARD) AND RESPONDENT NO. 4 (DIRECTORATE OF PORTS & INLAND WATER TRANSPORT, KARWAR)

MOST RESPECTFULLY SHOWETH:

1. That the present Original Application regarding Stage II of the Karwar Port has been filed alleging change in scope of the project and violation of conditions of the Environment Clearance dated 23.01.2019, seeking revocation of the said Environmental Clearance on the ground of concealment, along with a direction to the project proponent to obtain fresh Environmental Clearance *de novo*, a direction for action against the project proponent for allegedly submitting false information, and a direction that the project be considered for fresh scoping.
2. That it is submitted at the outset that the Application is misconceived and lacks any merit whatsoever and is liable to be dismissed with costs. The averments therein are incorrect, misplaced and denied unless specifically admitted by the answering Respondents. The Answering Respondents crave

leave to present this short Reply at present, and to submit a detailed para wise reply at a later stage, if directed so by this Hon'ble Tribunal.

Geographical and Strategic Importance of Karwar Port:

3. Before delving into the merits of the case at hand, the answering Respondents would like to respectfully point out the strategic and geographical importance of the Karwar Port. To begin with, maritime transport has been recognized as the most fuel efficient, cost effective and environmental friendly transport system. All developed countries have given priority to the development of maritime infrastructure and policies. Maritime sector plays a vital role in trade, commerce and employment opportunities in any country, be it internal trade or external trade. The availability of cost effective, safe, efficient dependable transport system is a key driver in the development of trade and commerce and economic growth.
4. It is respectfully submitted that the Karwar Port is acclaimed as one of the best natural all weather non major port in the country. At present the port has 510 mts long steamer berth for accommodating simultaneous berthing of 2 ocean going ships of about 8mts draft with other matching infrastructure facilities such as warehouse, tug, cranes, water barge etc. The port is declared by the government of India for loading and unloading of all types of commodities including the liquid cargoes. The port caters to the requirement of hinterland area

of 2 lakhs sq. kms comprising of Northern /Central regions of Karnataka, 2 border districts of Andhra Pradesh and few districts of western Maharashtra and Southern Goa.

5. In the interest of the trade, commerce and industry, the said port is essential and in fact inevitable. Presently, the port receives 100 to 150 ships every year and handles import and export of about 10 lakhs M. Tons of cargo like Alumina, Granite, Industrial Salt, Rock Phosphate, Molasses, Palm Oil, Furnace oil etc. The Port earns an annual revenue of around Rs. 20 Crores. The central government earns revenue in the form of customs duty, service tax, income tax etc. around Rs. 250 Crores per year. Statement on the statistics from the last 10 years regarding the cargo handled and the revenue generated at the Karwar Port is annexed hereto as **Annexure R-1.**

Issue is Sub judice before the Hon'ble Supreme Court

6. It is submitted that the issue regarding the Environmental Clearance dated 23.01.2019 granted by SEIAA Karnataka is already sub-judice before the Hon'ble Supreme Court of India. It is submitted that W.P. NO.1332 of 2020 (GM-RES-PIL) titled *Baithkol Bandharu Nirashrithara Yantrikrut Dhoni Meenugarara Sahakara Sangha Niyamitha v. Chief Executive Officer, Karnataka Maritime Board* and W.P. NO. 2336 of 2020 (GM-RES-PIL) titled *Uttar Kannada District Fishermen Association Forum v. State of Karnataka* were both filed before

the Hon'ble High Court of Karnataka at Bangalore *inter alia* seeking withdrawal of EC dated 23.01.2019.

7. After an in-depth consideration of various issues, the Hon'ble High Court was pleased to dismiss W.P. NO.1332 of 2020 in totality and W.P. NO. 2336 of 2020 in part, vide a common judgment dated 29.07.2021, wherein *inter alia* the validity of the EC dated 23.01.2019 was upheld by the Hon'ble High Court.
8. For the purpose of this OA, it is relevant to point out that the challenge to the validity of the EC dated 23.01.2019 was dismissed in both Petitions. True Copy of the common Judgment dated 29.07.2021 passed by the Hon'ble High Court of Karnataka at Bangalore in W.P. NO.1332 of 2020 (GM-RES-PIL) C/w W.P. NO. 2336 of 2020 (GM-RES-PIL) is annexed hereto as **Annexure R-2**.
9. The above dismissal of these challenges to the EC dated 23.01.2019 has now been assailed before the Hon'ble Supreme Court of India in SLP (C) No. 17213/2021, which is pending adjudication.
10. It is submitted that the Applicants have conveniently chosen not to bring the above fact to the notice of this Hon'ble Tribunal and are hence **guilty of suppression**.
11. It is hence submitted that as the above Special Leave Petition is already pending before the Hon'ble Supreme Court, the

present Application before this Tribunal is not maintainable as it will lead to multiplicity of proceedings.

12. It is therefore stated at the outset that the present proceedings are a futile exercise, and this Application for the above reason itself shall be dismissed.

Applicants Guilty of Forum Shopping

13. It only appears that the Applicants (as well as other persons and organizations contesting the development of Stage II of the Karwar Port) are indulging in forum shopping. The same is amply clear by the fact that the EC dated 23.01.2019 was first Impugned before the Hon'ble High Court of Karnataka, and as stated above, the said challenge failed.
14. While the matter is already sub-judice before the Hon'ble Supreme Court, the Applicants have still chosen to invoke this Hon'ble Tribunal's jurisdiction, while conveniently choosing to not reveal the factum of the pending SLP. The gravity of the situation is heightened in view of the fact that it is conspicuous from a bare perusal of the order dated 29.03.2022 issuing notice in SLP No. 17213/2021 that the Hon'ble Supreme Court has not directed any stay on the construction of Stage II in the said order. True copy of the order dated 29.03.2022 passed by the Hon'ble Supreme Court in SLP (C) No. 17213/2021 is annexed hereto as **Annexure R-3.**

15. It only follows as a logical conclusion that the Applicants have subsequently approached this Tribunal with a view to indulge in forum shopping. This Application therefore is an abject abuse of the process of law.
16. It is humbly submitted that such an exercise of forum shopping shall be met with the strictest of consequences of law. The following has been observed by the Hon'ble Supreme Court in **Chetak Construction Ltd. v. Om Prakash, (1998) 4 SCC 577** regarding Forum Shopping:

*“16...We certainly, cannot approve of any attempt on the part of any litigant to go “forum-shopping”. A litigant cannot be permitted “choice” of the “forum” **and every attempt at “forum-shopping” must be crushed with a heavy hand.**”*

17. The scheme of first approaching the High Court for seeking *inter alia* the withdrawal of EC, then challenging its dismissal before the Supreme Court, and subsequently challenging the same before this Hon'ble Tribunal is a quintessential example of forum shopping, and the situation herein is squarely covered by the following observation of the Hon'ble Supreme Court in **Union of India v. Cipla Ltd., (2017) 5 SCC 262**:

*“153. **Another category of forum shopping is approaching different courts for the same relief** by making a minor change in the prayer clause of the petition. In *Udyami Evam Khadi Gramodyog Welfare Sanstha v. State of U.P., (2008) 1 SCC 560* it was noticed by this Court that four writ applications were filed by a litigant and although the prayers were apparently different, the*

core issue in each petition centred round the recovery of the amount advanced by the bank. Similarly, substituting some petitioners for others with a view to confer jurisdiction on a particular court would also amount to forum shopping by that group of petitioners.”

18. In view of the same, it is submitted that the such practises leading to an abuse of the process of law shall not be entertained and the application shall be dismissed with exemplary costs.

Application is Barred by Limitation:

19. It is also submitted at the outset that the present OA is barred by limitation. The prayer in the Application is *inter alia* for cancellation of Environment Clearance dated 23.01.2019. The jurisdiction of this Hon'ble Tribunal to entertain challenges to an Environmental Clearance emanates from Section 16(h) of the NGT Act, a bare perusal of which makes it amply clear that the said claim is barred by limitation, which reads:

“16. Tribunal to have appellate jurisdiction - Any person aggrieved by

(h) an order made, on or after the commencement of the National Green Tribunal Act, 2010, granting environmental clearance in the area in which any industries, operations or processes or class of industries, operations and processes shall not be carried out or shall be carried out subject to certain safeguards under the Environment (Protection) Act, 1986 (29 of 1986)”

20. It is the Applicant's averment however, that the present OA is filed under Section 14 of the NGT Act. It is submitted that under the said provision as well, the prayer for revocation of EC dated 23.01.2019 well is beyond limitation, as Section 14(3) reads:

"14. (3) No application for adjudication of dispute under this section shall be entertained by the Tribunal unless it is made within a period of six months from the date on which the cause of action for such dispute first arose"

21. It is thus submitted that in as much as the Application seeks the cancellation of the EC itself, granted as far back as 2019, it is beyond limitation and the said claim cannot be entertained at such a belated stage.

Applicants trying to Sidestep Statutory Limitation

22. It is the contention of the Applicants that the application for Forest Clearance dated 14.03.2022 has given them a cause of action to assail the EC dated 23.01.2019. It is submitted that the Forest Clearance application relates to an entirely different project, *i.e.* developmental activities of the Karnataka Maritime Board while the EC pertains to Stage II of the Karwar Port. A forest clearance for a totally unrelated project cannot be said to give rise to a cause of action regarding the EC dated 23.01.2019. The Application therefore is barred by limitation.

23. Moreover, by trying to imply that the EC dated 23.01.2019 is being challenged on account of Forest Clearance application dated 14.03.2022 of a different project, the Applicants are

merely trying to wriggle out of the requirement of Section 14 of the NGT Act regarding limitation, and are only trying to sidestep the law, which shall not be permitted. The Application therefore is liable to be dismissed for the said reason.

Stage II of Karwar Port and Construction by KMB are Different Projects

24. It is submitted in continuation of the above argument that Stage II of the Karwar Port and the Construction Activities of the Karnataka Maritime Board are two different projects with absolutely no connection whatsoever and the above said forest land is away from the proposed Stage II development, and is not a part of Stage II of the port.
25. Stage II of the Karwar Port is located on un-surveyed land at the sea shore of Karwar, while the Forest Clearance application has been made for surveyed land situated at F Sy No. 42 of Baithkol village. The boundaries of the two projects are different from each other, as is the purpose.
26. It is worth to be noted that the components of the Stage II of Karwar Port for which Environmental Clearance was obtained vide letter dated 23.01.2019, is entirely different and the infrastructure intended to be created on the said forest land is absolutely different. There is no connection between this forest land and Stage II of Karwar Port.
27. The facilities proposed to be developed in the said piece of Forest land includes setting up of Karnataka Maritime Board

Office, Guest House, Karnataka Maritime Institute, Cold storage yard, Cement silo, Container terminals, which are absolutely not the part of the components of Stage II of Karwar Port. It is submitted that the above infrastructure is the administrative requirement of the Karnataka Maritime Board which came into existence in 2018 for efficient management of Minor Ports of Karnataka State.

28. In fact, the Applicants have themselves pointed out the difference in the respective infrastructure that has to be set up in the respective projects at the table below Para 12 of the OA. The Applicants therefore have themselves amply pointed out and made it clear that the said projects are different from each other, and have their own respective scopes and geographical boundaries.
29. There is hence absolutely no justification for linking the above Forest land with the Stage II of Karwar Port. The link road showing in the proposed forest land is a connectivity road which is required for transportation of men and materials for administrative requirements.
30. It is most respectfully submitted that the Petitioner without any rhyme or reason intends to falsely connect Stage II of Karwar Port with this piece of forest land, which has rested with the Port Department for the past 45 years and has been sanctioned for developmental activities.

31. It is most respectfully submitted there has been no concealment of any fact while obtaining the Environmental Clearance for the Stage II of Karwar port, and this forest land is not to be utilized for the components proposed in the Stage II Development. The Applicants have falsely alleged that the project proponent has deliberately concealed the true facts. It is submitted that the project proponent brought all the relevant factors in the DPR for which Environmental Clearance has been obtained with due process of Law by the competent authorities.
32. It is respectfully submitted that the infrastructure intended to be built on the forest land is entirely different. It is submitted that the Applicants are misleading the Tribunal with mala-fide intention, for reasons best known to them. The Port Officer has applied for Forest clearance as per the provisions of the Forest Conservation Act, 1980 for diversion of forest land measuring 11.74 hectares for the purpose of the construction of Karnataka Maritime & Fisheries Institute with associated infrastructure facilities.

There is absolutely no connection between Stage II of the Karwar Port and the Infrastructures proposed to be created on Sy No. 42 of Baithkol village of Karwar Taluk. They are the 2 different projects at 2 different sites. The project proponent is legally bound to obtain all the permissions for the infrastructure proposed to be created on the forest land and

accordingly, as a first step, clearance from the Forest Dept. has been applied for as per the provisions of the Forest Conservation Act, 1980.

33. It is most respectfully submitted that the project proponent has not violated any provision of the EIA Notification, 2006 or any condition of the Environmental Clearance issued by the competent authorities. It is reiterated that the forest land in question will not be utilized for any change in scope of the Stage II of Karwar Port, which will move ahead in accordance with the terms of the EC already granted. In the forest land, separate administrative infrastructures are proposed to be constructed for which all required permissions/NOCs will be taken from competent authorities as and when required. It is absolutely unjustified and uncalled for to connect the two separate projects.
34. It is therefore submitted that no forest land whatsoever is involved in the proposed Stage II of the Karwar Port. No additional components have been added to the proposed Stage II of the Karwar Port project and hence, no additional land will be used for the project and the entire project is confined to the DPR for which environment clearance has been obtained.
35. **In view of the above facts, it is for the Applicants to clarify whether they wish to assail the EC dated 23.01.2019, or the Application for Forest Clearance dated 14.03.2022. For if their challenge is against the EC dated**

23.01.2019, then the same is beyond limitation and if their challenge is against the FC application dated 14.03.2022, then the EC is not to be a subject matter of the present Application. Moreover, if the Applicant's challenge is against the application dated 14.03.2022, the same is premature as Forest Clearance is yet to be granted.

36. It is beyond reasonable comprehension as to how, one can be used to challenge the other.

No Concealment While Obtaining EC

37. It is submitted that there has been absolutely no concealment whatsoever in obtaining the EC dated 23.01.2019, which is clear from a bare perusal of Form 1 submitted by the Executive Engineer, Directorate of Ports and Inland Water Transport.
38. The Applicants have chosen to selectively point out Entry (I) 23 of Form 1 at page 72 of the OA, wherein the information provided is:

23.	<i>Forest Land involved (hectares)</i>	<i>Nil</i>
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39. It is submitted that the above is by no means concealment of any fact, as Stage II of the Karwar Port does not involve any forest land at all. Whatever forest areas are present in the vicinity are outside the geographical boundaries of the said project, and all such areas within an aerial radius of 15 Km from the project have duly been pointed out in Entries 1-3

under the heading (III) *Environmental Sensitivity* of Form 1 which is extracted below:

Sr. No.	Areas	Name/ Identity	Aerial distance (within 15-Km) Proposed Project boundary
1.	Areas protected under international conventions, national or local legislation for their ecological, landscape, cultural or other related value	Nil	Not Applicable
2.	Areas which are important or sensitive of ecological reasons wetlands, water courses or other water bodies, coastal zone, biospheres, mountains, forests	Yes	Mudugeri Dam - 12.4 KM (NEN) Western Ghats - 10.91 Km (NEN) Western Ghats - 300m (E) Wet land -5.04 Km (N) Wet land - 143 Km (NEN) Wet land-1.29 Km (SWS) Wet land (Angediva Island) - 4.49 Km (SES)
3.	Areas used by protected, important or sensitive species of flora or fauna for breeding, nesting, foraging, resting, over wintering, migration	Yes	Mangroves: Above Kali River - 8.85Km - (NE) Below kali River - 8.55 Km - (NE) Devbagh Island - 5.04 Km - (N) Anjadip Island -5.27 Km - (S)

40. It is therefore incorrect to state that there has been any concealment in obtaining the EC. Moreover, the Applicants are trying to bring the forest area at the site of a different project under the purview of Stage II of Karwar Port, in a futile attempt to somehow create a false impression of concealment.

Environment Clearance for Stage of Karwar Port II has been obtained by following Due Process of Law

41. It is brought to the kind notice of this Hon'ble Tribunal that the river Kali, situated at the Northern end of the Karwar bay/beach which carries the silt in to the approach channel turning basin of existing port results in reduction of available depth. As a result, the draft available for safe movement of the vessels arriving at Karwar Port is continuously decreasing. The cost of maintenance dredging is exorbitant and the State Government has to incur an expenditure to the tune of Rs. 35-

40 Crores once every two years. Due to this, the vessels arriving at Karwar port are not able to carry cargo upto their rated capacity. To reduce the rate of siltation, to maintain the tranquillity and to save the cost of maintenance dredging, it is essential to construct the proposed Northern Break Water as designed and approved by the CWPRS Pune, which is a GOI Institution.

The lay-out plan of the project, design and alignment of the proposed break water have been finalized by CWPRS Pune, a premiere GOI institution, after conducting detailed Desk and Wave flume study, Physical model study and Mathematical model studies for construction of Northern break water and Extension of southern break water.

Accordingly, the Environment Impact Assessment Report was prepared by the Government empanelled agency M/s Hubert Enviro Care Systems(P) Ltd, Chennai. Same has been submitted to the SEIAA through KSPCB. The EIA report has been published in public domain by KSPCB and then public hearing was conducted under the chairmanship of Deputy Commissioner, Uttara Kannada District, Karwar on 09.02.2018 at the project premises. The public, fisherman community and Organisations argued in favour of and against the project and submitted their written observations in the said public hearing. The department submitted its compliance report to each of their arguments and the Final EIA report was

submitted to SEIAA through KSPCB. The State Environmental Appraisal Committee (SEAC) consisting of experts from various fields relating to environmental conservation recommended the project for approval to SEIAA. Considering all the above facts, SEIAA Karnataka finally approved the Stage II of Karwar Port project and issued Environmental Clearance vide their order No. SEIAA 8 IND 2017, dated 23.01.2019. True copy of the EC dated 23.01.2019 is annexed hereto as **Annexure R-4**.

42. It is submitted that the Karnataka State Coastal Zone Management Authority (KSCZMA), Forest, Ecology and Environment Department has issued CRZ clearance vide their order No. FEE 133 CRZ 2019 dated 30.12.2019 to Executive Engineer, Karwar Division. True Copy of the CRZ-NOC dated 30.12.2019 is annexed hereto as **Annexure R-5**. It is submitted that this clearly establishes that the statutory clearances as per applicable rules and regulations have been obtained by Executive Engineer following the due process of law, and the site has been handed over to the contractor for the execution of work, as this work has to be taken up in time bound manner to comply the requirements of the Sagarmala Project of the Government of India.

No Violation of Environment Clearance

43. It is submitted that there is no violation whatsoever of the environmental clearance issued by the State Level Environment Impact Assessment Authority, Karnataka vide

order No. SEIAA 8 IND 2017 dated 23.01.2019. It is further submitted that the project proponent is bound to comply with all the specific and general conditions of the said EC. There is no addition to the components of the projects or land usages as falsely alleged by the Applicants and both the projects are different and situated in their different respective project sites.

44. It is further submitted that as per the order of the Hon'ble High Court of Karnataka in W.P. No. 1332/2020 & W.P. 2336/2020 dated 29.07.2021, the Karnataka State Pollution Control Board (KSPCB) has issued fresh Consent for Expansion (CFE) in respect of development of Stage II commercial port activity of capacity from 3 Million Metric Ton/Annum to 4.5 Million Metric Ton/Annum of Karwar Port at Baithkol vide their order no. PCB/06/CNP/15/4972, dated 24.12.2021. In the said order, a condition has been imposed by the KSPCB that "the port authority is required to construct berths of 548m towards northern direction of the existing berth up to Bavutekatta. True copy of the CFE dated 24.12.2021 is annexed hereto as **Annexure R-6**.

45. It is therefore yet again stated at the cost of repetition that there is no expansion in the components of the projects, there is no usage of any additional land and that there is no forest land involved in this project and resultantly, there is no violation of the environment clearance or any condition of the

environment clearance order dated 23.01.2019 as falsely alleged by the Applicants.

Land has rested with the Port Department since 1966

46. Considering the importance of Karwar port for economical, industrial, commercial and employment opportunities of the state, the Divisional Commissioner, Belgaum vide his order No. RB/FOR/SR 1896 dated 06.07.1965 has sanctioned 77.29.00 acres of forest land in Baithkol village for the development of port activities in the year 1965. True copy of the order dated 06.07.1965 passed by the Divisional Commissioner, Belgaum is annexed hereto as **Annexure R-7**.
47. Accordingly, 33.12.00 acres of Forest land situated in forest Sy. No 42A of Baithkol village was handed over to the Port Department by the Range Forest Officer, Karwar and was taken over by Deputy Port Conservator of Port Department on 25.07.1966. True copy of the receipt for handover of the said land is annexed hereto as **Annexure R-8**. It is thus brought to the kind notice of this Hon'ble Tribunal that the said forest land was in occupation of the Port Department since 1966 itself.
48. It is also submitted that, since 1966 in the record of rights of the said land, the ownership of the land is shown as government forest & in Column No. 12(2), the Port Department has been shown as the occupier/user of the said forest land.

True copy of the RTC regarding the said land is annexed hereto as **Annexure R-9**.

49. It is respectfully submitted that, out of the 77.29.00 acres' area in F sy No.16, 0-8-0 and in F sy No.33(A), 44.9.00 acres situated in Baithkol village has been handed over for Project Sea Bird, for development of Naval Base as per Government Order No.FFD-47/FGL-84 dated 04.12.1986. The remaining 33.12.0 land rests with the Port Department since 1966. True copy of the letter No. 34/GFL/CR 2004-05 dated 26.04.2006 of the Deputy Conservator of Forest, Karwar is annexed hereto as **Annexure R-10**.

Forest Clearance is being obtained by Karnataka Maritime Board following Due Process of Law

50. As is the case with the EC dated 23.01.2019, the Forest Clearance is also being obtained following due process. The Karnataka Maritime Board ('**KMB**') has been operationalized under the Chairmanship of Hon'ble Chief Minister. KMB has taken various initiatives to increase the Maritime Trade from the State including extension of the existing ports and development of New Green Field Ports along the coast of Karnataka. During the discussion with Forest officials, they have suggested that it is mandatory to submit online applications for getting approval for construction activities as per Forest conservation Act, 1980. Accordingly, the Port Officer, Karwar has submitted an online application with relevant documents in Monitoring Forest Clearance Proposal

(OSMFCP) Portal on 08.08.2020 vide proposal No. FP/KA/Others/46575/2020 dated 08.08.2020. True copy of the application dated 08.08.2020 is annexed hereto to **Annexure R-11.**

51. The Principal Chief Conservator of Forest (Forest Conservation) and the Nodal Officer (FCA), Bangalore have raised certain observations and have directed to submit the particulars of Survey Nos. of compensatory afforestation ('CA') land and RoFR certificate, from the revenue authorities vide E-file No. KFD/HOFF/A52K(GFL)/19/2020-FC dated 31.08.2020. True copy of the order of the Principal Chief Conservator of Forest (Forest Conservation) and Nodal Officer (FCA), Bangalore dated 31.08.2020 is annexed hereto as **Annexure R-12.**

52. The Deputy Commissioner, Karwar has issued RoFR Certificate vide letter No. RB/FOR/CR-38/2020-21 dated 21.06.2021. True copy of the RoFR Certificate dated 21.06.2021 issued by the Deputy Commissioner, Karwar is annexed hereto as **Annexure R-13.**

53. It is further submitted that the Deputy Commissioner, Uttara Kannada, Karwar has sanctioned 21.33.00 acres of revenue land situated at Survey No. 102 & 103 at Nagekove village of Karwar Taluka in favour of the Forest Department as CA land vide order dated 05.01.2022 and 8.5.0 acres of revenue land situated Devkar village at Survey No. 33 of Karwar Taluka vide

letter dated 15.03.2022. True copy of the order dated 05.01.2022 passed by the Deputy Commissioner, Uttara Kannada, Karwar is annexed hereto as **Annexure R-14**. True copy of the order dated 15.03.2022 passed by the Deputy Commissioner, Uttara Kannada, Karwar is annexed hereto as **Annexure R-15**.

54. It is further submitted that, with the above documents, the Port Officer, Karwar has submitted online application on Monitoring Forest Clearance proposal (OSMFCP) Portal on 14.03.2022. True copy of the online application dated 14.03.2022 is annexed hereto as **Annexure R-16**.
55. The proposal has been forwarded to the Deputy Conservator of Forest, Karwar and the Deputy Commissioner of Uttara Kannada, Karwar on 05.04.2022. True copy of the proposal dated 05.04.2022 is annexed hereto as **Annexure R-17**. The Deputy Conservator of Forest, Karwar has submitted the proposal with his recommendation to the Chief Conservator of Forest, Sirsi vide letter dated 19.04.2022. True copy of the letter dated 19.04.2022 is annexed hereto as **Annexure R-18**.
56. The Chief Conservator of Forest, Sirsi has submitted the proposal with his recommendation to the Principal Chief Conservator of Forest, Bangalore vide letter No. B2/GFL/Inland Water Transport/CR-10/2022-23/271 dated 27.04.2022. The Principal Chief Conservator of Forest, Bangalore has in turn submitted the proposal to the

Additional Chief Secretary to the Government, Forest, Ecology and Environmental Department, Bangalore vide letter E-office file No. KFD/HOFF/ A52K(GFL)19/2020-FC dated 20.05.2022. True copy of the letter dated 20.05.2022 is annexed hereto as **Annexure R-19**.

57. It is submitted that the above facts clearly show that the forest land rests with the Port Department since 1966 and that the forest land has been sanctioned in favour of the Port Department in 1965 by the Divisional Commissioner, Belagum for developmental activities. It is submitted that on advice of the Forest officials of Karwar, the proposal was submitted Online. Moreover, the above facts clearly established that the procedure established is being followed in obtaining Forest Clearance for the Maritime Board's construction activities.

Any Further Delays will cause Irreparable Loss

58. It is humbly submitted that the Applicants have approached this Hon'ble Tribunal with misleading facts and intend to obstruct the Govt. Project. The area prescribed for Stage II of the Karwar Port has been exclusively within the declared Port limits of Karwar Port since 1965, as declared by the Karnataka State Government under the Provisions of the Indian Ports Act, 1908. It is an extension of existing Karwar port facilities on the sea-shore within the declared port limits of the Karwar port. There is hence no connection between the forest land for

which forest clearance has been applied for, and Stage II of the Karwar port project.

59. It is relevant to state here that Stage II of the Karwar port has been conceived and sought to be implemented as Karwar port was identified as having more potential for coastal cargo. It is also relevant to place on record that the present project is part of the 'Sagarmala Project' being financed by the Government of India which is a strategic and customer oriented initiative of the Government of India to modernize the ports in India. The project has been conceived in 2017 and has been identified to be part of the 'Sagarmala Project' in 2017. However due to various obstacles including petitions filed before the Hon'ble High Court and now vide the present Application before this Hon'ble Tribunal, the implementation of the project has been inordinately delayed. Despite suitable safeguards having been specifically contemplated and mandated by the Division Bench of the Hon'ble High Court of Karnataka at Bangalore vide its order dated 29.07.2021 in W.P No 1332/2020 & W.P No 2336/2020, the Applicants have filed the present application before the Hon'ble Tribunal resulting in further delay of the project in question. Delay in implementation of the project will have an adverse and irreparable impact on various aspects, inter alia, resulting in cost escalation, delay in catering to economic and business requirements of trade and commerce, cost of opportunity lost *etc.* It is relevant to state here that the Government of India has already released grants for the

project in the year 2017 itself and the same not having been utilized till date, adverse remarks, with regard to non-utilization of sanction and release funds are also proving detrimental to the project in question.

60. It is humbly submitted that any hindrance or delay in execution of the project will have an adverse impact and will cause irreparable damage to the commercial activities of the State and will also irretrievably hamper employment opportunities of the people at large. Any further delay in execution of the project may cause the Government of India to withdraw the financial/Technical assistance which has been already been sanctioned considering the importance of the project for comprehensive industrial/Commercial/ economic development of the state on one hand and may have adverse impact on the other developmental project of the state.

The Grounds raised by the Applicants are Misplaced, and are hence Denied in the Following Manner:

61. **Re Grounds A to C:** The said grounds are wrong, misplaced and denied, as the land subject to the Forest Clearance application, *i.e.* F Sy. No. 42 of Baithkol village is not part of Stage II of the Karwar Port. The said forest clearance is applied for a completely different project, *viz* developmental activities of the Karnataka Maritime Board. The said 11.7 Hectares of land is thus not a part of Stage II of Karwar Port. Hence it is incorrect to say that the said land is an expansion of the Karwar Port Project.

62. **Re Ground D** – The said ground is misplaced, wrong and denied as there is no Forest Area which lies within the bounds of the Stage II in the first place. It is submitted however that all forest areas, wetlands *etc.* within a radius of 15Km from Stage II of the Karwar Port have duly been pointed out in Form 1.
63. **Re Ground E** – The said ground is incorrect, misplaced and denied as the developmental activities of the KMB, which have incorrectly been labelled as “*additional components*” of the Karwar Port Stage II are not part of the said project at all, but form part of an entirely different project and hence, there was no reason for the same to be a part of the EIA process of Stage II of the Port.
64. **Re Ground F & G** – The said ground is wrong, misplaced and denied as Form 1 for grant of EC for Stage II of Karwar Port correctly states that infrastructure facilities are already in place. The Forest Clearance for other infrastructure facilities is not part of Stage II of Karwar port, but are developmental activities of the Karnataka Maritime and hence, structures such as Karnataka Maritime Board office, guest house, Karnataka Maritime Institute, internal roads *etc.* Hence, there is no infirmity in Form 1.
65. **Re Ground H** – The said ground is incorrect and denied as the Forest Clearance is not sought for a change scope of an

existing project (Stage II) but is for a new project. The EC dated 23.01.2019 is therefore still valid.

66. **Re Ground I** – The said ground is incorrect and denied as there has been no concealment while obtaining the EC, as has already been explained in detail in the current Reply.
67. **Re Ground J** – The said ground is incorrect and denied as the reliance on the case cited therein is misplaced owing to the facts being completely different from that of the case at hand. In the cited case, there was a failure on part of State of Goa to point out forest areas and other ecologically sensitive areas within a 15 Km of the project therein. In the present case however, as laid out in detail earlier, all such areas within an aerial distance of 15 Km from the project boundary have duly been pointed out in Form 1. The present case hence is not one of concealment, and the cited judgment has no application therefore.
68. **Re Ground K** – The said ground is wrong and denied, as the reliance placed on *Keystone Realtors (P) Ltd. v. Anil V. Tharthare*, (2020) 2 SCC 66 is misplaced. The said case pertained to expansion of the same project, while in the present case pertains to two different projects. Therefore, the cited case has no application whatsoever to the present case.
69. **Re Ground L** – The said ground is incorrect and denied. The case cited therein, *i.e. Badam Raji Reddy v. Union of India*, OA

180/2021 (SZ) is not applicable to the case at hand as the present is not a case where there is a change in scope of the project. The scope of Stage II of Karwar remains unaltered and is being strictly adhered to. The Forest Clearance on the other hand is for a different project, there is no need for a fresh assessment of the EC dated 23.01.2019.

70. **Re Ground M** – The said ground is incorrect and denied as there was no occasion for the project proponent to mention about the diversion of the forest land, as it forms part of a different project, and lies outside the limits of Stage II of Karwar Port. The area and the components of Stage II of Karwar Port on the other hand have duly been part of the EIA report, and due process of law was followed while obtaining the EC, with people in support and against Stage II of the Port were duly given their opportunity to raise their points, which were all a part of the EIA process. As regards the excerpt from *Hanuman Laxman Aroskar and BDA v. Sudhakar Hegde*, it is yet again reiterated that there was no concealment whatsoever while obtaining the EC, and the presence of any forests, wetlands *etc* have duly been pointed out in Form 1, as has been laid in detail earlier in the present reply.
71. The prayers in the present OA are hence misconceived and are liable to be rejected.

Prayer

It is therefore prayed that this Hon'ble Tribunal may be pleased to dismiss the current application with costs.


PORT OFFICER,
KARWAR
Port Officer
Karwar
Karnataka
On Behalf of

Respondent No. 3 and Respondent No. 4

THROUGH



Darpan KM
Advocate for Respondents No. 3 and 4

Date: 18.07.2022.

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, AT CHENNAI
ORIGINAL APPLICATION NO. 49 OF 2022**

IN THE MATTER OF:

PRADEEP BABU TANDEL & ANR.

...APPLICANTS

VERSUS

UNION OF INDIA & ORS.

...RESPONDENTS

AFFIDAVIT

I, Capt. Arun R. Gaonkar, S/o Ramchandra Gaonkar, aged about 65 years, working as Port Officer, Karwar, having office at Port Office, Baithkol, Karwar, Uttar Kannada District, Karnataka 581302 do hereby solemnly affirm and state as under:

1. That I have been appointed the Officer in Charge on behalf of Respondent No. 3 and Respondent No. 4 in the above mentioned Original Application and being fully conversant with the facts and circumstances of the case, I am competent to swear this affidavit.
2. That I have gone through the accompanying Reply, drafted on my instructions. I say that the contents thereof are true and correct to the best of my knowledge and belief. Annexures are true copies of their respective originals.

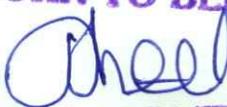

DEPONENT
PORT OFFICER,
KARWAR.

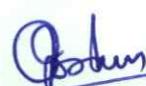
VERIFICATION:

I, the above named deponent do hereby verify that the contents of my affidavit are true and correct to the best of my knowledge and belief, no part of which is false and nothing material has been concealed therefrom.

Verified at Karwar on this 18th day of July, 2022.



SWORN TO BEFORE ME

K. T. BHUTE
ADVOCATE & NOTARY KARWAR
18 JUL 2022


DEPONENT
PORT OFFICER,
KARWAR.

ANNEXURE R-1

STATEMENT SHOWING THE COMMODITY WISE DETAIL OF IMPORT AND EXPORT OF CARGO HANDLED, NO OF VESSELS ARRIVED AND REVENUE EARNED
FOR THE PERIOD FROM 2012-13 TO 2021-22 AT KARWAR PORT

Sl. No	Name of the Commodity	2012 - 13		2013 - 14		2014 - 15		2015 - 16		2016 -17		2017-18		2018-19		2019-20		2020-21		2021-22	
		Metric Tonnes		Metric Tonnes		Metric Tonnes		Metric Tonnes		Metric Tonnes		Metric Tonnes		Metric Tonnes		Metric Tonnes		Metric Tonnes		Metric Tonnes	
		Import	Export																		
1	HSD	38122		37727		39937		82214		110923		181724		165498		155751		32859		29503	
2	Palm Oil	32300		59641		32890		53440		27800		15360		41986		83945		27010			
3	Rockphosphate	51500		75200		47417		57233		39500		35050		49200		53750		31500		34765	
4	Industrial Salt	51151				44757		79167		98400		97900		147215		95508		90120		79284	
5	Molasses		2E+05		112684		188631		267584		77883			155522		26477		258680		323883	
6	Bitumen	28244		77057		136043		153076		220647		265117		249784		294780		297116		230241	
7	Sulphuric Acid					23695		7630													
8	Raw Sugar	6767																			
9	Causitic Soda					11700		14013		7653		3040		7129	28331	14489	13826	7005	5137		33496
10	Granite		54297		3919																
11	Dumb Barge			3326	3326																
12	Calcined petroleum Coke		5000	6000																	
13	Crude sunflower seed oil (CSFO)	3000		4900																	
14	Loco Motive Engine											136									
15	Fuel Oil													925							
16	Bauxite												102923		122100						
17	Used Spuds																	60			
	TOTAL	211084	2E+05	263821	119929	336439	188631	446773	267584	504923	77883	588991	136	764660	183853	820323	40303	485670	263817	373793	357379
	Grand Total	441190		383750		525070		714357		582806		599127		948513		860626		749487		731172	
	No of Vessels arrived	74		65		95		119		113		136		133		145		124		106	
	Revenue Earned in Crore	5.43		4.74		6.96		10.68		9.5		11.59		16.7		16.72		15.22		16.96	

ANNEXURE R-2

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF JULY, 2021



PRESENT

THE HON'BLE MR. ABHAY S. OKA, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO.1332 OF 2020 (GM-RES-PIL)

C/W

WRIT PETITION NO.2336 OF 2020 (GM-RES-PIL)

IN W.P.NO.1332 OF 2020

BETWEEN:

BAITHKOL BANDHARU NIRASHRITHARA
YANTRIKRUT DHONI MEENUGARARA
SAHAKAFIA SANGHA NIYAMITHA
BAITHKOL-581302, KARWAR TALUK
UTTARA KANNADA DISTRICT
REP. BY ITS VICE PRESIDENT
SRI YESHYA RAMA HARIKANTRA

... PETITIONER

(BY SHRI MURTHY DAYANAND NAIK, ADVOCATE FOR
M/S. MURTHY NAIK & CO., ADVOCATES)

AND:

1. THE CHIEF EXECUTIVE OFFICER
KARNATAKA MARITIME BOARD
OFFICE OF THE DIRECTOR OF PORTS
AND INLAND WATER TRANSPORT
KARWAR PORT
BAITHKOL VILLAGE – 581302
KARWAR TALUK
UTTARA KANNADA DISTRICT

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2. THE DIRECTOR OF PORTS AND
INLAND WATER TRANSPORT
KARWAR PORT
BAITHKOL VILLAGE-581302
KARWAR TALUK
UTTARA KANNADA DISTRICT
3. THE STATE LEVEL ENVIRONMENT IMPACT
ASSESSMENT AUTHORITY- KARNATAKA
ROOM NO.706, 7TH FLOOR
4TH GATE, M.S.BUILDING
DR.AMBEDKAR VEEDHI
BANGALORE-560001
REP. BY ITS PRINCIPAL SECRETARY
4. THE DEPUTY COMMISSIONER
UTTARA KANNADA DISTRICT
MINI VIDHANA SOUDHA
KARWAR-581301
5. THE ENVIRONMENTAL OFFICER
KARNATAKA STATE POLLUTION
CONTROL BOARD, REGIONAL OFFICE
PARISARA BHAVAN, LIG-II, B-217
NEAR HARI OM TRUST, HABBWADA
KARWAR-581303
6. DVP INFRA PROJECTS PRIVATE LIMITED
BY ITS TECHNICAL DIRECTOR
UTTAM PATIL, MARKET CHAMBERS
NARIMAN POINT, MUMBAI-400021
7. THE SECRETARY
MINISTRY OF ENVIRONMENT AND FOREST
AND CLIMATE CHANGE
GOVERNMENT OF INDIA
INDIRA PARYAVARAN BHAVAN
JOR BAGH ROAD
NEW DELHI – 110 003

... RESPONDENTS

(BY SHRI DHYAN CHINNAPPA, ADDITIONAL ADVOCATE GENERAL
A/W SHRI C.M. POONACHA, AGA FOR R-1, R-2 & R-4;
SHRI D. NAGARAJ, ADVOCATE FOR R-3;
SHRI ARAVIND KAMATH, SENIOR COUNSEL FOR
SHRI GURURAJ JOSHI, ADVOCATE FOR

- 3 -

M/S.JOSHI LAW CHAMBERS, ADVOCATES FOR R-5;
SHRI S. VIJAYA SHANKAR, SENIOR COUNSEL FOR
SHRI BASAVARAJ V SABARAD, ADVOCATE FOR R-6;
SHRI PRAKASH H.C., ADVOCATE FOR R-6;
SHRI M.B. NARAGUND, ADDITIONAL SOLICITOR GENERAL.
A/W SHRI B.M. KUSHALAPPA, ADVOCATE FOR R-7)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA, PRAYING TO DIRECT RESPONDENT NO.2 NOT TO CONTINUE WITH THE EXPANSION OF THE SECOND STAGE DEVELOPMENT OF COMMERCIAL KARWAR PORT AT BAITHKOL VILLAGE AND RABINDRANATH TAGORE BEACH AT KARWAR BAY, KARWAR TALUKA, UTTARA KANNADA DISTRICT, CARRIED OUT ON A PLOT AREA OF 17 HECTARES (42.01 ACRES) WHICH CONSTRUCTION ACTIVITY IS UNDERTAKEN BY RESPONDENT NO.6 AND ETC.

IN W.P.NO.2336 OF 2020

BETWEEN:

UTTARA KANNADA DISTRICT
FISHERMEN ASSOCIATION FORUM
DOOR NO.708/B
RADHA KRISHNA ROAD
KARWAR, UTTARA KANNADA
KARNATAKA-581301
REP. HEREIN BY
MR. ROHIDAS GIRIYA BANAVALI

... PETITIONER

(BY SHRI SMARAN SHETTY, ADVOCATE FOR
M/S.KEYSTONE PARTNERS, ADVOCATES)

AND:

1. STATE OF KARNATAKA
REPRESENTED BY SECRETARY
ENVIRONMENT AND FORESTS
M S BUILDING
BENGALURU-560001
2. EXECUTIVE ENGINEER
PORT DIVISION, KARWAR

- 4 -

THE DIRECTORATE OF PORTS
AND INLAND WATER TRANSPORT
PORT DIVISION
BAITHKOL VILLAGE, KARWAR
KARNATAKA – 581301

3. STATE LEVEL ENVIRONMENT IMPACT
ASSESSMENT AUTHORITY-KARNATAKA
ROOM NO.707, 7TH FLOOR, 4TH GATE
M S BUILDING, BENGALURU - 560001
REP. BY THE PRINCIPAL SECRETARY
4. KARNATAKA STATE POLLUTION
CONTROL BOARD, PARISARA BHAVAN
NO.49, 4TH AND 5TH FLOOR
CHURCH STREET, BANGALORE 560001
REP. BY THE ENVIRONMENTAL OFFICER
5. BIO DIVERSITY BOARD, KARNATAKA
GROUND FLOOR, VANAVIKAS
18TH CROSS ROAD
KODANDARAMPURA
MALLESHWARAM
BENGALURU – 560055
REP. BY THE AUTHORIZED OFFICER
6. KARNATAKA STATE COASTAL
ZONE MANAGEMENT AUTHORITY
ROOM NO.448, 4TH FLOOR, II GATE
M S BUILDING, BANGALORE-560001
REP. BY MEMBER SECRETARY
7. DVP INFRA PROJECTS PRIVATE LIMITED
BY ITS TECHNICAL DIRECTOR
UTTAM PATIL, MARKET CHAMBERS
NARIMAN POINT
MUMBAI – 400 021

... RESPONDENTS

(BY SHRI DHYAN CHINNAPPA, ADDITIONAL ADVOCATE GENERAL
A/W SHRI C.M. POONACHA, AGA FOR R-1 AND R-2;
SHRI D. NAGARAJ, ADVOCATE FOR R-3;
SHRI ARAVIND KAMATH, SENIOR COUNSEL FOR
SHRI GURURAJ JOSHI, ADVOCATE FOR
M/S.JOSHI LAW CHAMBERS, ADVOCATES FOR R-4;

- 5 -

V/O DATED 06.10.2020 SMT. SHOBHA KULKARNI, ADVOCATE
TAKES NOTICE FOR R-4;
SHRI H.K. VASANTH, ADVOCATE FOR R-5 AND R-6;
SHRI S. VIJAYA SHANKAR, SENIOR COUNSEL FOR
SHRI BASAVARAJ V SABARAD, ADVOCATE FOR R-7)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO DIRECT RESPONDENT NO.2 TO ENSURE STRICT COMPLIANCE WITH THE GENERAL CONDITIONS AND SPECIFIC CONDITIONS SET OUT IN ENVIRONMENTAL CLEARANCE DATED 23RD JANUARY 2019 VIDE ANNEXURE-D AND ETC.

THESE PETITIONS, HAVING BEEN HEARD AND RESERVED, COMING ON FOR PRONOUNCEMENT OF ORDER, THIS DAY, **THE CHIEF JUSTICE** MADE THE FOLLOWING:

ORDER

FACTUAL ASPECTS AND PLEADINGS IN WRIT PETITIONS:

These writ petitions under Article 226 of the Constitution of India have been filed for challenging the decision to expand the existing Karwar Port at Baithkol village in Karwar taluk, Uttara Kannada district. The project of expansion of existing Karwar Port has been undertaken by the State Government through the Director of Ports and Inland Water Transport. The State Level Environment Impact Assessment Authority- Karnataka (for short, 'SEIAA'), the third respondent in W.P. No. 1332/2020, has been established by the Ministry of Environment and Forest, Government of India, in exercise of its powers under sub-section (3) of Section 3 of the Environment

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(Protection) Act, 1986 (for short 'the said Act of 1986'). On 23rd January 2019, the SEIAA accorded Environmental Clearance for the proposed 2nd stage Development of Commercial Karwar Port (for short, 'the 2nd stage Development'). Various conditions were incorporated in the Environmental Clearance under the headings 'specific conditions' and 'general conditions'. In the 'specific conditions', condition No.23 was incorporated for obtaining a consent to establish and/or operate from the Karnataka State Pollution Control Board (for short, 'KSPCB') both under the Air (Prevention and Control of pollution) Act, 1981 (for short, 'the Air Act') and the Water (Prevention and Control of Pollution) Act, 1974 (for short, 'the Water Act'). In the Environmental Clearance, it was recorded that the existing area of Karwar Port was 3 hectares and the capacity of the existing port was 3 million Tons/Annum. It was proposed to be increased by the 2nd stage Development to 4.5 Million Tons/Annum. The 2nd stage Development project was proposed on an area of 17 hectares (42.01 acres). The Environmental Clearance recorded that the 2nd stage Development will include the following:

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- a) Construction of five additional berths providing a berthing length of 1635 meters in continuation of existing berth in the Northern Direction;
- b) Upgradation of existing lighterage wharfs for a length of 100 meters to accommodate higher draft vessel;
- c) Providing reclamation bund around 800 meters length by rubble mound and reclamation of the sea area behind the berth to make the stockyard by filling average heights of 6.5 meters;
- d) Construction of POL (Petroleum Oil) jetty, jetty head etc;
- e) Construction of additional breakwater of 238 meters in continuation of existing breakwater;
- f) Construction of a new breakwater having length of 1200 meters;
- g) Hard surfacing the wharf area of 3,39,450 square meters of the reclaimed land;
- h) Providing infrastructure facilities to comply with MARPOL (the International Convention for the Prevention of Pollution from Ships);
- i) Additional facilities like construction of warehouse measuring 200 x 50 meters, transit sheds measuring

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200 x 50 meters, cold storage facility measuring 50 x 50 meters and container facility measuring 200 x 40 meters;

- j) To provide labour amenity facilities including staff quarters etc.

2. It is recorded in the Environmental Clearance that the same has been granted as per the Environment Impact Assessment Notification dated 14th September, 2006 (for short 'EIA Notification') as amended from time to time. There is a challenge to the Environmental Clearance on the ground that as the 2nd stage Development Project was 'A' category project under the EIA notification, the SEIAA had no authority to grant Environmental Clearance and it is only the Government of India which could have granted the same. The petitioner in W.P.No.1332/2020 is claiming to be an Association of fishermen in Baithkol village of Karwar district. Reliance is placed in the petition on the representation made by the Uttara Kannada District Fishermen Association Forum (the petitioner in W.P.No. 2336/2020). On 20th December, 2019, a letter was addressed by the Environmental Officer of KSPCB (5th respondent in W.P.No.1332/2020) to the Executive Engineer of

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the Port Division, Karwar to stop the activities of construction of breakwater wall which is a part of the 2nd stage Development project on the ground that consent under the Air Act and the Water Act were not obtained. It is stated that CRZ clearance was issued on 20th December, 2019 and construction activities were commenced abutting Rabindranath Tagore Beach at Karwar.

3. During the pendency of these writ petitions, various orders were passed by this Court. While issuing a notice in Writ Petition No. 1332/2020, on 23rd January, 2020, this Court referred to condition No.23 incorporated in the Environmental Clearance regarding obtaining consent from KSPCB to establish/operate under the Air Act and the Water Act. This Court also referred to the show cause notice issued by SEIAA on 20th December, 2019 calling upon the second respondent why the Environmental Clearance should not be cancelled. This Court also noted that the photographs produced on record which were not disputed showed that stones have been brought on the beach for filling work for making a road on the beach and activities were in progress close to a boat of

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fishermen and a considerable portion of beach has been filled

in. Therefore, this Court issued the following directions:

- i) There will be interim relief as prayed in the petition;
- ii) We direct the third respondent to decide the show cause notice dated 20th December 2019 after giving an opportunity of being heard to the second respondent and all the affected parties;
- iii) The final order shall be passed on the show cause notice before the returnable date and the order shall be produced before the Court;
- iv) We are sure that the third respondent while considering the show cause notice will take into consideration the stop-work notice issued by the Karnataka State Pollution Control Board dated 20th December 2019;
- v) We direct the Pollution Control Board not to take final decision on the application dated 16th December 2019 till the returnable date;
- vi) Before the returnable date, the second respondent shall take immediate steps to restore the beach to its original condition by removing all the filling work done on the beach for road and other work as can be seen from the photographs at Annexure-F onwards;

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vii) The work of restoration shall be completed before the returnable date and a compliance report shall be filed before the Court on the returnable date;

viii) In the meanwhile, it will be open for all the respondents to file statement of objections;

ix) We direct the petitioner to implead the Union of India as a party respondent through the concerned Ministry and we permit consequential amendments to be carried out;

x) It will be open for the petitioner to serve notice on the learned Standing Counsel of the added respondent. We direct the petitioner to take hand summons for effecting service of notice to the third respondent. We direct the second respondent to supply the copy of this order to the third respondent.”

(underlines added)

4. Further order passed by this Court dated 26th February, 2020 records that an order was passed by the SEIAA on 24th February, 2020 directing the second respondent - the Directorate of Ports and Inland Water Transport of the State Government to obtain all required clearances and comply with

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all the conditions incorporated in the Environmental Clearance before the commencement of any construction activities forming a part of the 2nd stage Development. In view of the said order, this Court modified clause (v) of the Order dated 23rd January, 2020 by permitting KSPCB to decide the application for consent. We may note here that the sixth respondent in W.P.No.1332/2020 is the contractor appointed by the State Government for carrying out the work of establishment of 2nd stage Development of the said port. The Order dated 3rd November, 2020 passed by this Court on IA-2/2020 in W.P.No. 1332/2020 is material. Paragraphs 2 to 6 of the said Order read thus:

“2. We have perused the documents annexed to the interlocutory application. Annexure-R.18 is a letter of consent issued by the said Board addressed to the applicant, which is described as Karwar Port. The subject of the said letter is “Consent for Expansion of the Unit in the existing premises under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981.” This letter shows that the consent is in respect of the expansion of a unit in the existing premises. This letter does not refer to

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“Consent for development of 2nd stage Expansion of Commercial Karwar Port Activity.” Moreover, the learned counsel appearing for the petitioner pointed out that a copy of Annexure-I enclosed to Annexure-R.18, does not bear a date. However, he states that a copy of the same document produced by the said Board bears a date.

3. The consent letter dated 1st July, 2020 records that an application was made by Karwar Port. Annexure-I refers to the proceedings of the Consent Committee meeting dated 21st May, 2020. Thus, Annexure-I appears to have been issued on the basis of the proceedings of the Consent Committee. There is nothing placed on record to show that the power of the said Board to grant consent has been lawfully delegated to the Consent Committee.

4. More importantly, the subject of the consent letter dated 1st July, 2020 and the subject of Annexure-I appear to be completely different. Karwar Port authorities and the said Board are bound by the doctrine of ‘Public Trust’ and therefore, the said Board will have to satisfy this Court that the consent purportedly granted in respect of expansion of the unit of

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the existing premises is, in fact, for the development of 2nd stage expansion of the commercial Karwar Port Activity. Secondly, the said Board will have to satisfy the Court that the Consent Committee can exercise the power of the said Board.

5. We direct the Chairman of the said Board to file a detailed affidavit explaining why the subject matter of the letter dated 1st July, 2020 is different from the subject matter of Annexure-I. He shall also explain why there are two sets of Annexure-i. One set bears the date and the second set is undated. The Chairman of the said Board will also take a stand whether, in order to avoid controversy, the Board is willing to make a fresh application of mind to the application for consent for development of 2nd stage expansion of commercial Karwar Port Activity. The proceedings of the Consent Committee meeting referred in Annexure-I shall also be placed on record.

6. There are several other issues which have to be explained. In the compilation of documents filed by the State Government, Form-1 which is dated 16th January, 2020, is signed by the Executive Engineer, Port

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Division. The State Government must explain the authority of the said officer to apply for consent. Secondly, the letter dated 1st July, 2020 addressed by the said Board to the Executive Engineer of Karwar Port shows that there was one more consent application filed on 1st January, 2020. It is not clear which application was considered by the said Board. Even the State Government owes an explanation to the Court on all the aspects. We grant time both to the State Government and the said Board to file affidavits, till 13th November, 2020.”

(Underlines added)

5. In the order dated 19th November, 2020, this Court referred to the affidavit of the Chairman of KSPCB. Paragraphs 4 to 7 of the said order read thus:

“4. From the said affidavit it is clear that there is no decision taken by the said Board constituted in terms of Section 4 of the Water (Prevention and Control of Pollution) Act, 1974 (for short ‘the Water Act’) and Section 5 of the Air (Prevention and Control of Pollution) Act, 1981 (for short ‘the Air Act’). The consent appears to have been granted on the basis of recommendations of Consent Committee

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constituted as per resolutions of the said Board (Annexures R-5 and R-6). Moreover, the consent document itself records that the same is issued as per the recommendations of the Consent Committee in its meeting held on 21st May 2020 and the recommendations have been duly approved by the Member Secretary and the Chairman of the said Board.

5. Prima facie, there is no material placed on record to show that powers of the said Board have been delegated to the Consent Committee. Secondly, the document of consent itself reveals that the Consent Committee had made only recommendations. If powers of the said Board were really delegated to the Consent Committee, the word 'recommendation' would not have been used. Further, if Consent Committee was the delegate of the said Board, there was no question of approval to the recommendations of the Consent Committee by the Member Secretary and the Chairman. We have carefully perused the affidavit filed by the Chairman. In the affidavit, he has not claimed that both under the provisions of the Air Act and Water Act, the powers of the said Board to grant consent have been delegated to the Consent Committee. It is not his case that power of the

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said Board to grant consent under both the enactments has been delegated to him and to the Member Secretary. Though in paragraph-5 he has referred to constitution of the Consent Committee, he has not stated that the powers of the Board to grant consent have been delegated to the consent Committee. Moreover, in paragraph-15 of the said affidavit dated 13th November 2020, the Chairman has stated thus:

“15. However, the Annexure-I (marked as Annexure-R-5-E), the Board will review the entire matter of CFE application dated 16.1.2020 and within its powers under Section 27(2) of Water Act, 1974 will review the CFE (Expansion) and issue a revised CFE (Expansion).”

6. The statement made in paragraph-15 shows that there is no delegation as the Chairman has stated that the Board will review the whole matter. However, he has hastened to add that after the review, a revised CFE will be issued. Thus, he has given an assurance on behalf of the said Board to review the matter of grant for consent and he seems to be confident that even if the matter of grant for consent is

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reviewed by the said Board, a revised consent will be issued.

7. In short, prima facie we find that the consent has not been granted by the said Board and there is no document produced on record to show that the said Board has delegated its power to grant consent either to the Consent Committee or the Secretary and the Chairman. Hence, prima facie the consent cannot be said to be a valid consent in the eyes of law.”

(underlines added)

In the same order, in paragraph 12, it is observed that in view of what is stated in paragraph 15 of the affidavit of the Chairman of KSPCB, it will be open for KSPCB to review the consent.

6. On 16th December, 2020, when both the writ petitions were listed, a copy of the proceedings of the meeting of KSPCB held on 24th November, 2020 was placed on record. The said proceedings recorded that the consent for expansion granted on 1st July, 2020 was reiterated and confirmed with certain modified conditions. In paragraphs 2 and 3 of the order dated 16th December, 2020, this Court noted the same. By the

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same order, it was directed that the writ petitions will be finally heard.

7. Subsequently, an amendment to writ petition No.1332/2020 was allowed permitting the petitioner to incorporate additional challenges. By carrying out amendments to the petition, all the actions of KSPCB were challenged including the purported consent dated 1st July, 2020/11th June, 2020, the communication dated 15th December, 2020, by which the decision recorded in the meeting of KSPCB held on 24th November, 2020 was communicated and the communication dated 11th January, 2021 of KSPCB by which, the decision taken in the meeting of KSPCB dated 6th January, 2021 was communicated. The decision was to amend the consent issued on 1st July, 2020 by incorporating additional conditions. The petitioner is relying upon various documents.

8. The prayers in the writ petition No.1332/2020 are for challenging the Environmental Clearance and the consent granted by KSPCB. The challenge in the writ petition is based on violation of fundamental rights guaranteed under sub-clause (d) of clause (1) of Article 19 and sub-clause (g) of clause (1) of Article 19 as well as Article 21 of the Constitution of India.

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Violations of Articles 48-A, 51-A (g) and 300A have also been alleged.

9. In Writ Petition No. 2336/2020 filed by Uttara Kannada District Fishermen Association Forum, the first prayer is for issuing writ of mandamus to the second respondent, the Directorate of Ports and Inland Water Transport, Port division, Baithkol village, to make strict compliance with the conditions incorporated in the Environmental Clearance dated 23rd January, 2019. The second prayer is for a direction not to carry on any construction activities without obtaining the consent of KSPCB. The third prayer is for a direction not to undertake any construction activities for the 2nd stage Development of the Karwar Port without obtaining a duly approved biodiversity plan from the Bio Diversity Board (5th respondent) in the said writ petition.

10. Subsequently, there were number of amendments to this writ petition. By way of amendment, additional prayers were added for challenging (i) the order bearing No.CTE-318752 dated 1st July, 2020 (Annexure-AB), (ii) the order bearing No. KaRaMaNiMam/231/Niko/2020-21/3998 dated 15th December, 2020 (Annexure-AC) of KSPCB and (iii) the order bearing No.

KaRaMaNiMam/232/Niko/2020-21/4433(B) dated 11th January, 2021 (Annexure-AD) of KSPCB.

PLEADINGS IN THE STATEMENT OF OBJECTIONS:

11. Now we come to the statement of objections filed by various parties. In W.P.No. 1332/2020, the sixth respondent-contractor has filed a detailed statement of objections. The first contention raised in the statement of objections is that the writ petition involves environmental issues and the matters covered under the National Green Tribunal Act, 2010 (for short 'the NGT Act') and, therefore, it was submitted that this Court ought not to have entertained the writ petitions. It was also urged that the order passed by the SEIAA is an appealable order under clause (h) of Section 16 of the NGT Act. The said respondent has referred to infrastructural works carried out by it under various other projects. The details of the works carried out in connection with the existing Karwar Port have been set out and even the importance and economic viability of the Karwar Port has been set out. The details have been set out in the statement of objections about the 2nd stage Development of Karwar Port which included construction of five additional berths, construction of reclamation bund, construction of

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additional breakwater and other infrastructural facilities etc. The averments made in the writ petition were denied. Additional statement of objections has been filed by the sixth respondent-contractor, pointing out that all the necessary clearances have been obtained for the expansion of 2nd stage Development of Karwar Port. Reliance is placed on the consent and modified consent granted by KSPCB. Certain additional preliminary objections were raised in the additional statement of objections. It was contended that registration certificate of the petitioner association has not been placed on record. It was contended that the copies of the bye-laws, constitution, its aims, objects and other material documents relating to the petitioner association have not been placed on record. It is contended that the petitioner association has been brought into existence only for the purposes of filing the present writ petition.

12. The State Government also filed the statement of objections. It refers to a Comprehensive Report on development of coastal shipping in the country prepared by the TATA Consultancy Services. In the said report, Karwar Port was identified as having more potential for coastal cargo.

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Reliance is placed on the project of the Government of India known as 'Sagarmala Project' which is a strategic and customer oriented initiative of the Government of India to modernize the Ports in India. Reliance is also placed on the 'National Perspective Plan'. Further, reliance is also placed on the DPR prepared by M/S. Price Water Coopers. Various details have been set out about grant of Environmental Clearance and CRZ clearance. It is contended that livelihood of the fishing community will not be affected by the said project. At present, the fishing community is utilizing the existing approach channel of the Karwar Port and after completion of 2nd stage Development, the fishermen community will be allowed to utilize the approach channel. It is contended that the fishing community will have better facilities and opportunity to earn for their livelihood due to development of the Karwar Port. It is submitted that there will not be any adverse impact on the drainage system on account of construction of proposed breakwater and dredging. It was contended that Shri. Yeshya Rama Harikantra, Vice President of the petitioner in WP.No. 1332 of 2020 and other members had filed a writ petition in the year 2017 challenging the acquisition proceedings for Karwar Port. This Court dismissed the petitions. It was pointed out that

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some members of the petitioner had filed a writ petition in the year 2003 for the same relief which was dismissed by order dated 27th June, 2007. It is, therefore, contended that the petitioner has not come to the Court with clean hands. The State Government also filed the statement of objections dealing with the averments made in the amended writ petition. The contents of the amended writ petition were contested by filing the statement of objections.

13. KSPCB filed the statement of objections and contended that an online application was made by the Port Authority to KSPCB for grant of consent for establishment. It is stated that an inspection was carried out by the Environmental Officer and the State Level Consent Committee recommended for grant of consent for establishment which was forwarded to the Chairman of KSPCB for approval. On 1st July, 2020, the consent for establishment was issued by KSPCB. It was stated that on 13th November, 2020 an affidavit has been filed stating that the said consent granted on 1st July, 2020 will be reviewed by the Board. It is accepted that the powers of the Board have not been delegated to the Consent Committee. It was further stated that the area of the project is not declared as a Critical

Vulnerable Coastal Area (CVCA). At this stage, we may note here that the stand taken by the various respondents in the connected writ petition No. 2336/2020 is the same as in writ petition No. 1332/2020.

14. Apart from the documents produced along with the writ petitions which were amended from time to time and the statement of objections filed therein, there are other materials placed on record in the form of interlocutory applications and the documents produced along with memoranda.

CONCESSION MADE BY KSPCB:

15. After the hearing was concluded, a memo dated 15th June, 2021 was filed which is common in both the writ petitions by KSPCB signed by its Advocate. In the said memo, an undertaking has been given by KSPCB to withdraw the said consent dated 1st July, 2020 for establishment of the 2nd stage Development project of the Karwar Port stating that certain anomalies were noted in the decision making process and it will redo the exercise of inspection and consideration of the prayer for grant of consent. In the memo it is stated that KSPCB will appoint an experienced Senior Officer of the Board to consider the application dated 16th January, 2020 and to

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inspect the port premises. It is further stated that the report of the officer will be placed before the Consent Committee and thereafter, the recommendations of the Consent Committee will be placed before the Chairman of KSPCB who will take the final decision on the issue of grant or refusal of the consent for establishment, as the Chairman is the delegate of KSPCB who is authorized to exercise the power of the Board for grant of consent to establish and consent to operate.

SUBMISSIONS:

16. Detailed submissions have been made by the learned counsel appearing for the petitioners in both the writ petitions. The learned Additional Advocate General for the State, the learned Senior Counsel representing KSPCB, the learned counsel appearing for KSPCB and the learned Senior Counsel appearing for the sixth respondent-contractor in Writ Petition No. 1332/2020 have also made detailed submissions. We are reproducing in brief the submissions made by the learned counsel appearing for both the parties. All of them have relied upon large number of the decisions of the Apex Court and various High Courts.

SUBMISSIONS OF THE PETITIONERS:

17. We have heard the submissions of Shri. Murthy Dayanand Naik, the learned counsel for the petitioner in support of the writ petition No. 1332/2020. His first submission is that SEIAA had no jurisdiction to grant Environmental Clearance for the project. He invited our attention to the EIA notification dated 14th September, 2006 issued by the Ministry of Environment and Forests, Government of India and submitted that even assuming that said project is a 'B' category project under the said notification, by virtue of General Condition (GC) incorporated in the said notification, as the said project will be undertaken in the notified Eco-sensitive area, it will have to be treated as a category 'A' project. He would, therefore, submit that in view of clause-3 of the said notification, the Ministry of Environment and Forests of the Central Government is the only competent authority to grant prior Environmental Clearance. He invited our attention to Coastal Regulation Zone (CRZ) notification dated 6th January, 2011 issued by the Ministry of Environment and Forests, Government of India and in particular, clause- 4 (a) which deals with Critical Vulnerable Coastal Area (CVCA) and submitted that the areas mentioned in sub-clause (b) therein are identified

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as ecologically sensitive areas, as provided in clause 4 (a) and hence, they should be managed with the involvement of coastal communities including fisher folk. Karwar and Coondapur in the Karnataka State have been included in clause 4 (b). He submitted that if the contents of sub-clauses (a) and (b) of clause-4 are read together, it can be said that Karwar has been notified as an ecologically sensitive area. As per the said CRZ notification dated 6th January, 2011, Karwar has been identified as ecologically sensitive area and hence, it will have to be treated as a Notified Eco-sensitive area within the meaning of general condition (GC) as notified in the EIA notification dated 14th September, 2006. Hence, the 2nd stage Development project will fall in category 'A'. He also invited our attention to the notification dated 18th January, 2019 issued by the Ministry of Environment, Forest and Climate Change and submitted that as per clause 3.1, Karwar is recognized as CVCA and it should be managed with the involvement of coastal communities including fisher folk who depend on coastal resources for their livelihood. He submitted that as per clause 3.0 of the said notification, Karwar is a CVCA area which deserves to be accorded special consideration for the

purpose of protecting the critical coastal environment and the difficulties faced by the local communities.

18. The learned counsel appearing for the petitioner also relied upon a decision of the Apex Court in the case of ***Kapico Kerala Resorts Private Limited –vs- State of Kerala and others***¹ and in particular, what is held in paragraph-28.1 and 28.2 thereof. The submission is that as held by the Apex Court, in view of clause 3.1 of the CRZ notification dated 18th January, 2019, Karwar and Coondapur in Karnataka have been declared as CVCA and hence, the said areas become eco-sensitive areas, as defined under Section-3 of the Environment (Protection) Act, 1986 (for short, 'the said Act of 1986'). He would, therefore, submit that the said project is required to be treated as 'A' category project and hence, the jurisdiction to grant Environmental Clearance is absolutely vested only in the Central Government and not with the SEIAA. Thus, his submission is that in law, there is no Environmental Clearance for the project and, therefore, the project in question cannot proceed further. He submitted that though the Environmental Clearance granted by the SEIAA proceeds on the footing that

¹ (2020) 3 SCC 18

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the capacity of the port by the said project is likely to be increased to 4.5 Million MT/annum, in fact, in the application made by the State Government for grant of Environmental Clearance, at several places, it has been mentioned that the capacity will be much more than 5 Million MT/annum. He submitted that even for this reason, the project will fall under category 'A' and hence, the Environmental Clearance granted by SEIAA stands vitiated. He submitted that in any case, the area where the project is to come up is specifically notified as CVCA. He would, therefore, submit that only on these grounds, the petition must succeed.

19. Now coming to the consent for establishment granted by KSPCB, he submitted that firstly, Annexure-1 appended to Annexure-R-5-E which is purportedly dated 11th June, 2020 granting a consent for establishment is a doubtful document. Secondly, the said consent was not granted by KSPCB but the same was issued by the Consent Committee which has no power or jurisdiction to do so. He submitted that the consent for establishment was granted without carrying out proper inspection. By referring to the affidavit of the Chairman of KSPCB, he submitted that there is a complete non-application

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of mind. He submitted that the manner in which the consent for establishment was granted raises several legal and factual issues. He submitted that in the affidavit dated 13th November, 2020 filed by the Chairman of KSPCB, it is categorically stated in paragraph-15 that the Board will review the entire matter concerning CFE application dated 16th January, 2020 and thereafter, it will review the consent for establishment and issue a revised consent for establishment. He urged that there is no question of review of the decision taken by the Consent Committee, inasmuch as, at the highest, the Consent Committee can only recommend and it is for the Board to take an appropriate decision. He submitted that at no point of time, an inquiry or an inspection was held by any of the Officers of KSPCB and, therefore, the entire exercise should be done afresh by KSPCB. He submitted that from the proceedings of the meeting of the Board in which the review was considered, it can be demonstrated that there is a complete non-application of mind and the entire process is vitiated.

20. The learned counsel appearing for the petitioner further submitted that the Chairman of the Central Pollution Control Board, New Delhi addressed a letter dated 7th March, 2016 to

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the Chairpersons of all the State Pollution Control Boards which contain the revised classification of industrial sectors defined under red, orange, green and white. He submitted that the Ports have been included in Red category industries with the remark that 'this category contains all sorts of pollution'.

21. He submitted that he has produced the aerial video film of the entire area of the existing Karwar Port and Rabindranath Tagore beach. He submitted that as a result of the project of the expansion of the Port, the entire Rabindranath Tagore beach will be destroyed. He submitted that this is the only beach available to the citizens of Karwar, as most of the beaches in Karwar and Ankola taluks have been taken over for the projects of naval base. He urged that carrying out of work of the 2nd stage Development of Karwar port on the said beach will amount to violation of fundamental rights under sub-clause (d) of clause (1) of Article 19 of the Constitution of India. He submits that if the work of the said project is allowed to be carried out on Karwar beach, it will violate the rights of all the citizens to move freely throughout the territory of India. He submitted that Karwar beach is being used for fishing activities by the fishermen in and around the Karwar taluk and as a

result of the proposed construction activities, the fishermen will be adversely affected in terms of their livelihood and the same will lead to violation of the fundamental right to livelihood conferred on them under Article 21 of the Constitution of India as well.

22. The learned counsel submitted that this beach has been named after Nobel laureate Shri. Rabindranath Tagore who had visited the said beach in the year 1882 when he stayed with his brother who was the then the District Judge of Karwar. He submitted that apart from historical importance of said beach, it is surrounded by the Western Ghats comprising of thick vegetation which is also depicted in CZMP (Annexure-A) duly marked in green colour. He submitted that apart from the fact that the citizens of Karwar will be deprived of use of said beach, its use during rainy season as a grazing field for cattle and for holding the annual cultural events which are regularly held on the said beach would be adversely affected. He placed reliance on the decision of the Apex Court in the case of ***Virendier Gaur and others –vs- The State of Haryana and others***². He also relied on another decision of the Apex Court

² (1995) 2 SCC 577

in the case of ***Bihar Eastern Gangetic Fishermen Co-Operative Society Ltd., -vs- Sipahi Singh and others***³. He submitted that the project of 2nd stage Development will be in violation of Article 300-A of the Constitution, as it will amount to deprivation of the rights of the fishermen to carry on their fishing activities. Placing reliance on the decision of the Apex Court in the case of ***Delhi Transport Corporation –vs- D.T.C. Mazdoor Congress and others***⁴, he would urge that Article-21 guarantees the right to livelihood and, therefore, the proposed project will violate the rights of the fishermen, as it will take away their livelihood.

23. Sri. Smaran Shetty, the learned counsel appearing for the petitioner in W.P.No. 2336/2020 also made submissions in addition to the submissions made by the learned counsel appearing for the petitioner in W.P.No. 1332/2020. He submitted that the Environmental Clearance has been obtained by making fraudulent misrepresentation. He submitted that the documents placed on record would show that after completion of 2nd stage Development project, the capacity of Karwar Port will certainly exceed 5 Million MT/Annum, but in

³ (1977) 4 SCC 145

⁴ 1991 Supp (1) SCC 600

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the application made for grant of Environmental clearance, a misrepresentation has been made on this factual aspect. He submitted that in the application for grant of Environmental Clearance, the State Government had accepted that the proposed project is just 300 meters away from the Western Ghats and apart from that, the proposed project is adjacent to a notified CVCA.

24. The learned counsel invited our attention to the Environmental Clearance granted to the project and submitted that condition No.32 requires the State Government (the Executive Engineer, Port division, Karwar) to prepare a riparian and marine biodiversity plan and submit the same for approval of the Bio Diversity Board (respondent No.5 in his petition). He submitted that the said condition is not yet complied with. He submitted that as the Karwar Port is itself in a notified CVCA, there is a pressing need to prepare the marine and riparian biodiversity plan. He also submitted that as far as the members of the petitioner forum are concerned, the proposed project will definitely violate their rights under sub-clause (g) of clause (1) of Article 19 of the Constitution of India.

THE SUBMISSIONS OF THE RESPONDENTS:

25. Shri. Dhyan Chinnappa, the learned Additional Advocate General pointed out that the capacity of the Port, after the 2nd stage Development work will be 4.5 Million MT/Annum. He clarified that as per the Environmental Clearance granted, the construction of railway line or a road are not a part of the works now permitted to be carried out and he assured the Court that it will not be undertaken as the same is not yet permitted. The learned Additional Advocate General also pointed out that EIA Notification dated 14th September, 2006 has been amended in the year 2009 by which G.C has undergone a change. He submitted that the effect of the amended notification will have to be considered. He submitted that the effect of the amended notification is that the proposed project will fall under category-B and, therefore, the argument of the petitioner that the project falls under category-A and that the SEIAA had no jurisdiction to grant Environmental Clearance deserves to be rejected. He pointed out that there is absolutely no material placed on record to show that fishing activities of the fishermen community will be adversely affected on account of the proposed project. He pointed out the photographs and assured the Court that jetty presently used by the fishermen community

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will remain unaffected and the entry of boats of the fishermen will be allowed through approach channel even after the 2nd stage Development of Karwar Port is completed. He submitted that CRZ notification dated 18th January, 2019 is not at all applicable. He invited our attention to sub-clause (i) of clause (6) of the CRZ notification dated 18th January, 2019 and pointed out that it specifically provides that unless the Coastal Zone Management Plan (for short 'CZMP) made under CRZ notification dated 6th January, 2011 is revised and updated, none of the provisions contained in the CRZ notification dated 18th January, 2019 will apply and the provisions of CRZ notification dated 6th January, 2011 will continue to operate. He also invited our attention to CZMP prepared as per the CRZ notification dated 6th January, 2011 which is Annexure-A to the writ petition No. 1332 of 2020. He submitted that the location of CVCA is clearly shown on the said CZMP which is duly approved by the National Coastal Zone Management Authority (NCZMA). He submitted that as could be seen from CZMP, the CVCA is located far away from the site of Karwar Port. He submitted that said CZMP shows that no part of the area where the 2nd stage Development is to take place is a part of the notified CVCA. He submitted that CZMP which is prepared on

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the basis of the CRZ notification dated 6th January, 2011 reveals the said position even as on today and, therefore, the argument of the petitioner based on the CVCA needs to be completely discarded.

26. He submitted that there is no material placed on record to show as to how the livelihood of the fishermen community will be affected by the proposed expansion. He submitted that by no stretch of imagination, there will be any violation of fundamental rights guaranteed under sub-clause (d) of clause (1) of Article 19 of the Constitution of India. He submitted that the project has already been delayed. Relying upon the principle of sustainable development, he submitted that in the present case, there is no violation of any law relating to environment.

27. Shri. S. Vijaya Shankar, the learned Senior Counsel representing the sixth respondent-contractor appointed to carry out the work of 2nd stage Development firstly raised an objection to the maintainability of both the writ petitions and in particular, W.P.No. 1332/2020. He submitted that the Vice Chairman of the petitioner association in W.P.No. 1332/2020 along with other villagers had challenged the acquisition of the

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land made for the original Karwar Port by filing a writ petition and the said writ petition was dismissed. He pointed out that this vital fact has not been brought to the notice of the Court by the petitioner and the same has been suppressed. He would, therefore, submit that the Vice Chairman of the petitioner association has personal interest in the subject matter of the writ petition. He submitted that neither a copy of the registration certificate of the petitioner nor its bye-laws, its constitution, its aims and objects have been placed on record. He submitted that even the petitioner in W.P.No. 2336 of 2020 is an unregistered society/association.

28. He submitted that the project is a part of Sagarmala project of the Government of India which is an initiative of the Government of India to modernize the Ports in India. He submitted that detailed studies were undertaken before taking a decision to take up the project. He submitted that a DPR was prepared by M/S. Price Water Coopers. Moreover, a detailed study was conducted by the Central Water and Power Research Station (CWPRS), Pune which is a Central Government organization. He submitted that the said study revealed that there will be no possibility of erosion of the

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Karwar beach but there will be a further growth. He submitted that this is not a case where the project of 2nd stage Development of Karwar Port was cleared overnight. He submitted that after the DPR was prepared by M/S. Price Water Coopers, during March, 2016, a study was conducted by the CWPRS. Thereafter, in February/March, 2017, an application both online and in physical form was submitted for grant of Environmental Clearance. He submitted that SEIAA had recommended for issuance of standard Terms of Reference and additional standard Terms of Reference. Accordingly, on 12th April, 2017, Terms of Reference were issued. On 9th February, 2018, a public hearing was conducted and after making compliances and dealing with the objections and doubts raised during the public hearing, on 4th December, 2018, the State Environmental Appraisal Committee (SEAC) recommended for approval of the project to SEIAA. Ultimately, SEIAA took a decision on 26th December, 2019 to grant Environmental Clearance. He submitted that Hubert Enviro Care Systems (Pvt) Limited had conducted Environment Impact Assessment (EIA) study. He submitted that there is no notified Eco Sensitive Area within five kilometer radius of the project area. He submitted that the total length of the beach

from Konenala to Kali creek is 4.10 Kms and around 3.60 Kms from north side of the proposed breakwater will not be disturbed. He submitted that fishermen will not at all be affected as the project is being executed on the vacant sea shore land.

29. He submitted that the documents filed on record will show that sixth respondent has so far incurred huge expenditure to the tune of Rs.16,82,38,240/- (Rupees sixteen crores eighty two lakhs thirty eight thousand two hundred forty) on the project. He submitted that the petitioner in W.P.No. 2336/2020 is also not a registered association. He submitted that no interference is called for in writ jurisdiction with the 2nd stage Development project. He reiterated that the proposed expansion project will contribute to India's economic growth, considering the strategic location of Karwar Port.

30. Sri. Aravind Kamath, the learned Senior Counsel representing KSPCB-fifth respondent in W.P.No. 1332/2020 has made detailed submissions and pointed out the various processes followed by KSPCB. He pointed out that the Consent Committee had a power to make a recommendation and that the recommendation of the said Committee was

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approved by the Chairman of the Board in whose favour the powers of the Board to grant consent have been delegated. The learned Senior Counsel pointed out the provisions of the Rules framed under both the Water Act and Air Act. He submitted that after a due inquiry was made by the jurisdictional environmental officer and in pursuance of the recommendation made by the Consent Committee to grant of consent, not only that it has been approved by the Chairman, but subsequently, the same has been ratified by the Board itself. He submitted that merely because at the time of ratifying the decision of the Consent Committee, certain conditions were not specifically incorporated, the entire decision making process will not be vitiated. He submitted that in the subsequent meeting of the Board, additional conditions have been discussed and decided. He submitted that even assuming that the decision making process adopted by the Board of KSPCB may not be to the satisfaction of this Court, it cannot be said that there is no application of mind by the Consent Committee which consists of experts in the field and the Chairman of KSPCB who is also an expert in the field. He submitted that the process followed by KSPCB cannot be faulted, inasmuch as, on two occasions, the Board had applied

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its mind. He submitted that KSPCB is willing to redo the process of grant of consent for establishment of 2nd stage Development project. We may note here that a memo dated 15th June, 2021 to that effect has already been filed by KSPCB.

31. Sri. Gururaj Joshi, the learned counsel appearing for KSPCB in W.P.No. 2336/2020 has made additional submissions. He submitted that there is a statutory power vested in KSPCB to constitute Committees. Accordingly, the Consent Committee was constituted and he pointed out that the power of delegation always vested in the Board and the same has been exercised by delegating the power of the Board to grant consent for establishment/operation of the projects to the Chairman of KSPCB. Apart from submitting that the present writ petitions are in fact personal interest litigations, he urged that in view of clause (h) of Section 16 of the NGT Act, the jurisdiction to decide the issues raised in these writ petition vests in the NGT. He submitted that the petitioners in these writ petitions are required to be relegated to the remedy before the NGT. He would, therefore, submit that this Court ought not to have entertained the writ petitions.

32. Sri. D. Nagaraj, the learned counsel appearing for SEIAA also reiterated the submissions made by the learned Additional Advocate General representing State Government by contending that as the proposed project is falling under category-B, the SEIAA had jurisdiction to grant Environmental Clearance which has been granted after following the due process of law and, therefore, no interference is called for by this Court.

REJOINDER OF THE PETITIONERS:

33. By pointing out that the registration certificate of the petitioner has been produced along with the memo dated 19th April, 2021, the learned counsel appearing for the petitioner in W.P.No. 1332/2020 urged that the earlier writ petition filed by the Vice Chairman of the petitioner challenging the acquisition proceedings has nothing to do with the proposed 2nd stage Development of Karwar Port, inasmuch as, it related to a challenge to the acquisition of the land for setting up of original Karwar Port. He submitted that there are several members of the petitioner association and there is no allegation of suppression of any facts on the part of the other members of the petitioner association. He also refuted various other

submissions made by the learned counsel appearing for the various respondents.

34. Sri. Smaran Shetty, the learned counsel appearing for the petitioner in W.P.No. 2336/2020 has pointed out that the writ petition cannot be thrown out solely on the ground that the petitioner association is not registered.

CONSIDERATION OF SUBMISSIONS:

35. We have given careful consideration to the submissions made across the Bar. We have perused the pleadings and the documents placed on record. We have also carefully perused large number of decisions relied on by the parties. But, we are referring only to the relevant decisions.

36. In view of the submissions made as above, the following main issues are required to be decided in these writ petitions:

- (i) Whether in view of the availability of efficacious remedy under the provisions of sub-section (1) of Section-14 and clause (h) of Section-16 of the NGT Act, 2010, the present petitions under Article 226 of the Constitution of India should not be entertained?

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- (ii) Whether the petitioners have locus to maintain the petitions?
- (iii) Whether the consent for establishment granted by Karnataka State Pollution Control Board (KSPCB) is bad in law?
- (iv) (a) Whether the proposed project of 2nd stage expansion of Karwar Port is falling under category-A project, as defined in the schedule to the Environment Impact Assessment (EIA) Notification dated 14th September, 2006 and whether State Level Environment Impact Assessment Authority-Karnataka (for short, 'SEIAA') had jurisdiction to grant the Environmental Clearance for the project?
- (iv) (b) Whether the proposed project of 2nd stage Development exceeds the capacity of 5 Million MT/Annum?
- (v) Whether the 2nd stage Development will violate any law relating to environment?
- (vi) Whether the project will lead to violation of fundamental rights guaranteed to the citizens of Karwar under sub-clause (d) of clause (1) of Article 19 of the Constitution of India?
- (vii) (a) Whether the proposed project will infringe the fundamental rights of the fishermen guaranteed under sub-clause (g) of clause (1) of Article 19 and Article 21 of the Constitution of India?
- (vii) (b) Whether rights of the fishermen under Article 300A will be infringed?

AVAILABILITY OF EFFICACIOUS REMEDY:

37. The submission of the learned counsel appearing for the KSPCB is that both the Water Act and Air Act, have been included in Schedule-I to the NGT Act and, therefore, if any substantial question arises out of the consent granted under the Water Act and Air Act, the National Green Tribunal (for short, 'the NGT') will have the jurisdiction to entertain the dispute. He submitted that, moreover, Environmental Clearance can be challenged by way of an appeal to the NGT, as provided in clause (h) of Section-16 of the NGT Act. He relied upon the law laid down in paragraph-36 of the decision of the Apex Court in the case of ***Union of India and others –vs- Major General Shrikant Sharma and another***⁵. He submitted that when a statutory forum is created by law for redressal of the grievances, a writ petition should not be entertained by ignoring the statutory dispensation. In short, the submission of KSPCB is that NGT Act contains a mechanism for redressal of grievances raised in these petitions.

38. It is true that if a challenge was only to the Environmental Clearance, an argument of availability of efficacious remedy

⁵ (2015) 6 SCC 773

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under clause (h) of Section-16 of the NGT Act would have been certainly available. However, in this case, the challenge is also to the legality and validity of consent for establishment granted under Section-21 of the Air Act and consent for establishment granted under Section-25 of the Water Act. There is a challenge to the project on the ground of infringement of fundamental rights guaranteed under Articles-19 and 21 of the Constitution of India and in particular under sub-clause (d) of clause (1) of Article 19 of the Constitution of India. Under Section-31 of the Air Act, there is a provision of an appeal against the orders passed by the KSPCB, to an Appellate Authority constituted by the State Government. Moreover, under Section-28 of the Water Act, a remedy of appeal is available to prefer an appeal against an order of consent issued under Section-25 thereof to an Appellate Authority established by the State Government. In the present case, the issues of legality and validity of the Environmental Clearance as well as the consent granted under both the Water Act and Air Act are interlinked. If the argument of availability of efficacious remedies is accepted, the petitioners will be driven to prefer an appeal before the separate and distinct Appellate Authorities. Moreover, there is a challenge to the

entire project on the ground of violation of fundamental rights guaranteed under Articles-19 and 21 of the Constitution of India. The challenge to the project is on the ground of loss of livelihood of the members of the petitioners. Therefore, in the facts of the case, it cannot be said that an efficacious statutory remedy is available to the petitioners in this case. Hence, this Court is of the considered view that the said preliminary objection raised by the learned counsel appearing for KSPCB deserves to be rejected.

Issue of Locus-standi of the petitioners:

39. The issue of *locus standi* of the petitioner has been mainly raised in W.P.No. 1332/2020. In the said writ petition, the first objection is that there is nothing placed on record to show that the petitioner society is duly registered. It is also pointed out that the petitioner has not disclosed who are the Office Bearers of the society and what are the aims and objects of the society. More importantly, an objection is raised that one Sri. Yeshya Rama Harikantra who claims to be the Vice President of the petitioner association and who has affirmed an affidavit in support of the petition has suppressed the material fact that along with several other persons, he had filed writ

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petitions for challenging the acquisition of the land for establishment of Karwar Port and that the said writ petitions were dismissed. It is pointed out that the Vice President of the petitioner in W.P.No. 1332/2020 was the petitioner No.6 in the writ petition Nos. 102160-102183/2017 in the batch of writ petitions which were dismissed by the learned Single Judge of this Court by the Judgment and order dated. 11th April, 2019. It was pointed out that those writ petitions were filed for challenging the preliminary notification of acquisition issued in the year 1962 and the awards made in the year 1971. Moreover, he also preferred a writ appeal being writ appeal No. 100276/2019 which was dismissed by a Division Bench of this Court by the judgment dated 30th September, 2020. The submission is that he has a personal interest in the subject matter of the present writ petition.

40. As regards the registration, the petitioner has produced a copy of the Registration Certificate dated 26th February, 2002 issued by Assistant Registrar of Co-Operative Society, Karwar showing the registration of the petitioner under the Karnataka Co-Operative Societies Act. The copy has been produced along with a memo dated 19th April, 2021. We have perused

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the copies of the Judgments produced by the sixth respondent-contractor passed by this Court in W.P.Nos. 110545-110549/2017 dated 11th April 2019 and Writ Appeal No. 100276/2019 dated 30th September, 2019. From the Judgment in Writ Appeal No. 100276/2019 dated 30th September, 2020, it is clear that the Vice President of the petitioner who has sworn the verifying affidavit in the present petition was one of the petitioners in a batch of W.P. Nos. 110545-110549/2017 filed for challenging the land acquisition proceedings commenced in the year 1962 for setting up of Karwar Port. The said writ petitions as well as the writ appeals were dismissed on the ground that the principles analogous to *res judicata* will apply, inasmuch as, 59 persons had earlier filed writ petition No. 41376/2003 and connected cases in the year 2003 for challenging the same acquisition and those writ petitions were dismissed which have attained finality. Moreover, the Vice President of the petitioner also filed writ appeal No. 100276/2019 for challenging the order dated 11th April, 2019 passed by the learned Single Judge. Even the said appeal was dismissed by a Division Bench of this Court.

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41. It is true that challenge to land acquisition proceedings initiated in the year 1962 for setting up of Karwar Port may not have any direct relevance to the merits of the present writ petition. However, the Vice President of the petitioner claims to be one of the owners of the land acquired for the purposes of setting up the original Karwar Port. Therefore, as a person who has affirmed verifying affidavit in this writ petition (W.P.No. 1332/2020), it was his duty to bring the fact of filing of the earlier proceedings to the notice of this Court. To that extent, the learned Senior Counsel appearing for the sixth respondent-contractor in W.P.No. 1332/2020 is justified in making a grievance regarding suppression of material facts. Hence, the preliminary objection will have to be upheld only in W.P.No. 1332 of 2020. But in any case, W.P.No. 2336 of 2020 raises the same contentions which are raised in Writ Petition No. 1332 of 2020, which will have to be considered.

42. In writ petition No. 2336/2020, the objection is that the petition is filed by an un-registered association or a society. A perusal of the averments made in paragraph-3 of the writ petition No. 2336/2020 shows that the petitioner is an association of the fishermen who are living and earning their

livelihood in Uttara Kannada district. It is also pleaded that the members of the petitioner have been engaged as fishermen for several generations. As far as the writ petition in the nature of a public interest litigation filed by an un-registered association is concerned, it will be necessary to make a reference to a decision of the Apex Court in the case of ***Akhil Bharatiya Soshit Karamchari Sangh (Railway) represented by its Assistant General Secretary on behalf of the Association – vs- The Union of India***⁶. In paragraph 62 of the said decision, the Apex Court has dealt with a similar objection regarding un-registered association filing a petition in the nature of a public interest litigation. In paragraph 62, the Apex Court held thus:

“62. A technical point is taken in the counter-affidavit that Petitioner 1 is an unrecognised association and that, therefore, the petition to that extent, is not sustainable. It has to be overruled. Whether the petitioners belong to a recognised union or not, the fact remains that a large body of persons with a common grievance exists and they have approached this Court under Article 32. Our current procession jurisprudence is not of individualistic Anglo-Indian mould. It is broad-based and people-

⁶ (1981) 1 SCC 246

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oriented, and envisions *access to justice* through “class actions”, “public interest litigation” and “representative proceedings”. Indeed, little Indians in large numbers seeking remedies in courts through collective proceedings, instead of being driven to an expensive plurality of litigations, is an affirmation of participative justice in our democracy. We have no hesitation in holding that the narrow concept of “cause of action” and “person aggrieved” and individual litigation is becoming obsolescent in some jurisdictions. It must fairly be stated that the learned Attorney-General has taken no objection to a non-recognized association maintaining the writ petitions”.

(underlines supplied)

43. In view of the law laid down by the Apex Court, this petition cannot be thrown out on the ground of non-registration of the petitioner. In Writ Petition No. 2336 of 2020, one of the grounds of challenge is that the right of livelihood of large number of small fishermen operating in the area will be adversely affected. We must note here that it may not be possible for the small fishermen whose rights have been allegedly affected to approach the writ Court. In any event, in this petition, the basic allegation is regarding violation of laws

relating to environment. The first Court has been constituted as the only Green Bench in this Court. Therefore, even if Writ Petition No. 2336/2020 is not treated as a public interest litigation in view of the fact that some of the members of the petitioner may be personally affected on account of 2nd stage Development project, this Court is of the considered view that this petition (WP.No. 2336/2020) can always be entertained by the Green Bench, as a writ petition filed under Article 226 of the Constitution of India.

LEGALITY AND VALIDITY OF THE CONSENT FOR ESTABLISHMENT:

44. Now we turn to the issue of legality and validity of the consent granted by KSPCB for establishment to 2nd stage Development project. While dealing with the issue of legality of the consent, a writ Court is concerned with decision making process rather than the merits of the decision itself. The Environmental Clearance was granted by SEIAA on 23rd January, 2019. Condition No. 23 in the said clearance incorporates a requirement of obtaining consent to establish/ operate from KSPCB both under the Water Act as well as the Air Act.

45. A show cause notice was issued by SEIAA on 20th December, 2019 (Annexure-D) calling upon the Executive

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Engineer, Port Division, Karwar and Port Officer of the State Government calling upon him to show cause why the Environmental Clearance granted vide letter dated 23rd January, 2019 should not be revoked. Therefore, on 23rd January, 2020, this Court directed SEIAA to decide the show cause notice dated 20th December, 2019. This Court also noted that stop work notice dated 20th December, 2019 (Annexure-E) was issued by KSPCB to the Executive Engineer, Port Division. We must note here that an order was passed by SEIAA in the meeting held on 3rd February, 2020 on the said show cause notice noting that an application has been made to KSPCB for grant of consent for establishment and the same is pending for consideration. Therefore, it was directed that before starting construction activities, all the conditions contained in the Environmental Clearance must be complied with. We may note here that an application was made by the Port Officer to KSPCB for grant of consent for establishment on 16th January, 2020.

46. Before we deal with the process adopted for dealing with the application for grant of consent, it is necessary for this Court to refer to the relevant provisions of the Water Act. We

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must note here that KSPCB was constituted under Section-4 of the Water Act. Sub-section (2) of Section-4 lays down the constitution of the State Boards which consists of the Chairman and various categories of Members nominated by the State Government, as provided in clauses (a) to (e) of sub-section (2) of Section-4 of the Water Act. Under Section-9 of the Water Act, the Board has been conferred with the power to constitute various Committees. Section-11A permits the Board to delegate some of its powers to the Chairman. Section-25 of the Water Act is material which reads thus:

“25. Restrictions on new outlets and new discharges.— (1) Subject to the provisions of this section, no person shall, without the previous consent of the State Board,—

- (a) establish or take any steps to establish any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, which is likely to discharge sewage or trade effluent into a stream or well or sewer or on land (such discharge being hereafter in this section referred to as discharge of sewage);
or

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- (b) bring into use any new or altered outlet for the discharge of sewage; or
- (c) begin to make any new discharge of sewage:

Provided that a person in the process of taking any steps to establish any industry, operation or process immediately before the commencement of the Water (Prevention and Control of Pollution) Amendment Act, 1988, for which no consent was necessary prior to such commencement, may continue to do so for a period of three months from such commencement or, if he has made an application for such consent, within the said period of three months, till the disposal of such application.

(2) An application for consent of the State Board under sub-section (1) shall be made in such form, contain such particulars and shall be accompanied by such fees as may be prescribed.

(3) The State Board may make such inquiry as it may deem fit in respect of the application for consent referred to in sub-section (1) and in making any such inquiry shall follow such procedure as may be prescribed.

(4) The State Board may—

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(a) grant its consent referred to in sub-section (1), subject to such conditions as it may impose, being—

- (i) in cases referred to in clauses (a) and (b) of sub-section (1) of section 25, conditions as to the point of discharge of sewage or as to the use of that outlet or any other outlet for discharge of sewage;
 - (ii) in the case of a new discharge, conditions as to the nature and composition, temperature, volume or rate of discharge of the effluent from the land or premises from which the discharge or new discharge is to be made; and
 - (iii) that the consent will be valid only for such period as may be specified in the order, and any such conditions imposed shall be binding on any person establishing or taking any steps to establish any industry, operation or process, or treatment and disposal system of extension or addition thereto, or using the new or altered outlet, or discharging the effluent from the land or premises aforesaid; or
- (b) refuse such consent for reasons to be recorded in writing.

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(5) Where, without the consent of the State Board, any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, is established, or any steps for such establishment have been taken or a new or altered outlet is brought into use for the discharge of sewage or a new discharge of sewage is made, the State Board may serve on the person who has established or taken steps to establish any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, or using the outlet, or making the discharge, as the case may be, a notice imposing any such conditions as it might have imposed on an application for its consent in respect of such establishment, such outlet or discharge.

(6) Every State Board shall maintain a register containing particulars of the conditions imposed under this section and so much of the register as relates to any outlet, or to any effluent, from any land or premises shall be open to inspection at all reasonable hours by any person interested in, or affected by such outlet, land or premises, as the case may be, or by any person authorised by him in this behalf and the conditions so contained in such register shall be conclusive proof that the consent was granted subject to such conditions.

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(7) The consent referred to in sub-section (1) shall, unless given or refused earlier, be deemed to have been given unconditionally on the expiry of a period of four months of the making of an application in this behalf complete in all respects to the State Board.

(8) For the purposes of this section and sections 27 and 30,—

- (a) the expression “new or altered outlet” means any outlet which is wholly or partly constructed on or after the commencement of this Act or which (whether so constructed or not) is substantially altered after such commencement;
- (b) the expression “new discharge” means a discharge which is not, as respects the nature and composition, temperature, volume, and rate of discharge of the effluent substantially a continuation of a discharge made within the preceding twelve months (whether by the same or a different outlet), so however that a discharge which is in other respects a continuation of previous discharge made as aforesaid shall not be deemed to be a new discharge by reason of any reduction of the temperature or volume or rate of

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discharge of the effluent as compared with the previous discharge”.

(underlines supplied)

47. Under the provisions of the Air Act, Section-11 empowers the Board to constitute the Committees. Section-15 empowers the Board to delegate its powers to the Chairman and/or the Member Secretary. Section-21 of the Air Act is material which reads thus:

21. Restrictions on use of certain industrial plants.— (1) Subject to the provisions of this section, no person shall, without the previous consent of the State Board, establish or operate any industrial plant in an air pollution control area:

Provided that a person operating any industrial plant in any air pollution control area immediately before the commencement of section 9 of the Air (Prevention and Control of Pollution) Amendment Act, 1987 (47 of 1987), for which no consent was necessary prior to such commencement, may continue to do so for a period of three months from such commencement or, if he has made an application for such consent within the said period of three months, till the disposal of such application.

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(2) An application for consent of the State Board under sub-section (1) shall be accompanied by such fees as may be prescribed and shall be made in the prescribed form and shall contain the particulars of the industrial plant and such other particulars as may be prescribed:

Provided that where any person, immediately before the declaration of any area as an air pollution control area, operates in such area any industrial plant, such person shall make the application under this sub-section within such period (being not less than three months from the date of such declaration) as may be prescribed and where such person makes such application, he shall be deemed to be operating such industrial plant with the consent of the State Board until the consent applied for has been refused.

(3) The State Board may make such inquiry as it may deem fit in respect of the application for consent referred to in sub-section (1) and in making any such inquiry, shall follow such procedure as may be prescribed.

(4) Within a period of four months after the receipt of the application for consent referred to in sub-section (1), the State Board shall, by order in writing, and for reasons to be recorded in the

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order, grant the consent applied for subject to such conditions and for such period as may be specified in the order, or refuse such consent:

Provided that it shall be open to the State Board to cancel such consent before the expiry of the period for which it is granted or refuse further consent after such expiry if the conditions subject to which such consent has been granted are not fulfilled:

Provided further that before cancelling consent or refusing a further consent under the first proviso, a reasonable opportunity of being heard shall be given to the person concerned.

(5) Every person to whom consent has been granted by the State Board under sub-section (4), shall comply with the following conditions, namely:--

- (i) the control equipment of such specifications as the State Board may approve in this behalf shall be installed and operated in the premises where the industry is carried on or proposed to be carried on;
- (ii) the existing control equipment, if any, shall be altered or replaced in accordance with the directions of the State Board;

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- (iii) the control equipment referred to in clause (i) or clause (ii) shall be kept at all times in good running condition;
- (iv) chimney, wherever necessary, of such specifications as the State Board may approve in this behalf shall be erected or re-erected in such premises;
- (v) such other conditions as the State Board may specify in this behalf; and
- (vi) the conditions referred to in clauses (i), (ii) and (iv) shall be complied with within such period as the State Board may specify in this behalf:

Provided that in the case of a person operating any industrial plant in an air pollution control area immediately before the date of declaration of such area as an air pollution control area, the period so specified shall not be less than six months:

Provided further that—

- (a) after the installation of any control equipment in accordance with the specifications under clause (i), or
- (b) after the alteration or replacement of any control equipment in accordance with the directions of the State Board under clause (ii), or

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(c) after the erection or re-erection of any chimney under clause (iv), no control equipment or chimney shall be altered or replaced or, as the case may be, erected or re-erected except with the previous approval of the State Board.

(6) If due to any technological improvement or otherwise the State Board is of opinion that all or any of the conditions referred in to sub-section (5) require or requires variation (including the change of any control equipment, either in whole or in part), the State Board shall, after giving the person to whom consent has been granted an opportunity of being heard, vary all or any of such conditions and thereupon such person shall be bound to comply with the conditions as so varied.

(7) Where a person to whom consent has been granted by the State Board under sub-section (4) transfers his interest in the industry to any other person, such consent shall be deemed to have been granted to such other person and he shall be bound to comply with all the conditions subject to which it was granted as if the consent was granted to him originally”.

(underlines supplied)

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48. Thus, the provisions of sub-section (3) of Section-25 of the Water Act and sub-section (3) of Section-21 of the Air Act specifically provide for making an inquiry on the applications made for grant of consent, as per the procedure prescribed. Therefore, we have to see whether any procedure has been prescribed by the Rules.

49. Sri. Aravind Kamath, the learned Senior Counsel appearing for KSPCB has placed on record the copies of the relevant Rules framed both under the Air and the Water Act. It will be necessary for this Court to make a reference to the said Rules, inasmuch as, the same lay down procedure for holding of an inquiry by KSPCB before grant of consent for establishment/operate. The Karnataka State Board for the Prevention and Control of Water Pollution Rules, 1976, have been framed under the Water Act. Rule-33 deals with the procedure to be followed for making an inquiry on the application made for grant of consent. Rule-33 is material which reads thus:

“33. Procedure for making inquiry into application for consent – (1) On receipt of an application for consent under Section 25 or Section

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26, the State Board may depute any of its officers accompanied by as many assistants as may be necessary, to visit the premises of the applicant, to which such application relates, for the purpose of verifying the correctness or otherwise of the particulars furnished in the application or of obtaining such further particulars or information as such officer may, consider necessary. Such officer may, for that purpose, inspect any place where water or sewage or trade effluent is discharged by the applicant, or treatment plants, purification works or disposal systems of the applicant and may require the applicant to furnish to him any plans, specifications and other data relating to such treatment plants, purification works or disposal systems or any part thereof that he considers necessary.

(2) Such officer shall before visiting any premises of the applicant for the purposes of inspection under sub-rule (1) above, give notice to the applicant of his intention to do so in Form XIV. The applicant shall furnish to such officer all facilities that such officer may legitimately require for the purpose.

(3) An officer of the State Board may, before or after carrying out an inspection under sub-rule (1), require the applicant to furnish to him orally or in writing such additional information or clarification, or

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to produce before him such documents, as he may consider necessary for the purpose of investigation of the application and may for that purpose summon the applicant or his authorized agent to the office of the State Board.”

(underlines supplied)

50. Similarly, the Karnataka Air (prevention and Control of Pollution) Rules, 1983 have been framed under the Air Act. Sub-Rule 20 deals with the inquiry to be made on the application. Sub-Rule (2) of Rule-20 is material which reads thus:

“**20. Application** – (2) On receipt of an application for consent under Section 21, the Board may depute any of its officers accompanied by as many Assistants as may be necessary to visit and inspect any place or premises under the control of the applicant or the occupier to which such application violates for the purpose of verifying the correctness or otherwise of the particulars furnished in the application or for obtaining such further particulars or information as such officer may consider necessary. Such Officer may, for that purpose, inspect any place where emission from the chimney or fugitive emissions from any location within the premises of the industry as also any control devices installed in the said premises.

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Such officer may, for that purpose, inspect any place or premises under the control of the applicant or occupier, and may require the applicant to furnish to him any plan, specification or other data relating to control equipment or systems or any part thereof that he considers necessary.”

(underlines added)

51. Thus, the Officer who is deputed by KSPCB in terms of the above Rules is required to make an inquiry on the following aspects:

- (i) Verification about the correctness or otherwise of the particulars furnished in the application;
- (ii) Inspection of any place where the water or sewage or trade effluent will be discharged by the applicant; and
- (iii) Inspection of treatment plants, purification works or disposal systems of the applicant.

The Officer so deputed for inspection or to make an inquiry has a power to direct the applicants to furnish the plan, specifications and other data relating to such treatment plants, purification works or disposal systems. He is empowered to call for additional information from the applicant.

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52. The learned counsel appearing for KSPCB in W.P.No. 2336/2020 has produced a copy of the inspection report dated nil, submitted by the Inquiry Officer of the Regional Office at Karwar with a memo dated 9th June, 2021. The inspection report refers to the objections raised by the petitioner in W.P.No. 1332/2020 by addressing a letter dated 16th July, 2019 to the Deputy Commissioner. It refers to the existing STP for the existing Karwar Port. It only mentions that there is a proposal to establish another STP of capacity of 10 KLD. It also refers to the fact that the D.G set having capacity of 125 KVA will be required for the proposed project. It further notes that on the date of his visit, there was no stock of hazardous waste. A perusal of the report shows that there is no inquiry made by the Environmental Officer to ascertain the extent of Water and Air pollution that may be caused on account of the proposed expansion of Karwar Port. There is nothing in the report to show that any Detailed Project Report (DPR) was shown to him at the time of inquiry about the proposed STP. He did not even call upon the project proponents to submit any such DPR.

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53. The environmental Officer has referred to an authorization obtained under the Hazardous Waste (Management, Handling and Transboundary Movement) Rules, 2016 for waste oil quantity of 300 MT/Annum which is valid up to 30th June, 2020. This authorization is only in respect of the existing Karwar Port, as it was valid only up to 30th June, 2020. He has made no inquiry to ascertain whether there is any proposal to deal with the Hazardous Waste oil and sludge received from the Ships after the expansion of the Port becomes operational. He has made no inquiry about the manner in which the Port Authorities propose to deal with the waste oil and sludge received from the Ships after expansion project is completed, as five additional berths are proposed to be provided in the project. The object of the inquiry under the Rules framed under both Air Act and Water Act is to inquire into the extent of possible air and water pollution which may be caused by the project in respect of which consent for establishment was sought and in what manner, the project proponent is going to deal with the pollution and control the same. This part of the inquiry is very vital in the decision making process. Thus, the Environmental Officer has made no inquiry and investigation which he was under an obligation to

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make as per the Rules framed both under the Water and the Air Act. Thus, the first step which was required to be taken in the decision making process was completely flawed.

54. Now we deal with the manner in which the application for consent was dealt with by KSPCB. An affidavit of Shri. Vijayakumar Gogi, the then Chairman of KSPCB has been filed on 13th November, 2020. It records that two separate applications were filed on 16th January, 2020 by the Port Officer for grant of consent for establishment of 2nd stage Development of Commercial Karwar Port under the Air Act and the Water Act. Reliance is placed on the proceedings of the meeting of the Board held on 8th March, 2002 and on 14th February, 2002 and in particular, the resolution passed on the subject of the constitution of Consent Committee for issue of consent for establishment and consent for operation. The Consent Committee meeting was convened on 21st May, 2020 in which, the applications made by the Port Officer were considered. The agenda Sl.No.22, CFE:181:09 was in respect of the said applications. The Consent Committee, by a resolution, recommended to issue consent for establishment (CFE) for development of 2nd stage Development of

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commercial Karwar Port activity and for expanding existing capacity from three Million MT to 4.5 MT as well as for establishment of a sewage treatment plant (STP) having capacity of 10 KLD. There is no dispute that the Consent Committee can only make a recommendation. Moreover, neither under Section 11A of the Water Act nor under Section 15 of the Air Act there is a power to delegate the powers of the Board to grant consent for operation or consent for establishment to the Consent Committee. Admittedly, the power of delegation under both the Acts has been exercised under the Official Memorandum dated 24th June, 2019 by which, the power to grant consent to establish, expand and to operate in respect of large industries falling under Red category has been delegated only to the Chairman of the Board who can exercise the same based on the recommendations of the Consent Committee. There is no dispute that the Port will fall under the category of large industries which is in the Red category. A consent for establishment was issued on 1st July, 2020 (Annexure-R5-F to the affidavit of the Chairman). There are two Annexures to the consent i.e., Annexure-I and II. Annexure-I bears the date of 11th June, 2020. In the consent order dated 1st July, 2020, it is

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stated that the same was issued as per the recommendation made by the Consent Committee in its meeting held on 21st May, 2020 and which was duly approved by the Member Secretary and the Chairman. However, there is nothing placed on record to show that the Chairman, after examination of record and after consideration of relevant factors, approved the recommendation of the Consent Committee. No such order passed by the Chairman or proceedings before the Chairman have been placed before the Court. Even in his affidavit dated 13th November, 2020, the Chairman has not claimed that after considering all the relevant factors, he has approved the recommendation of the Consent Committee. While exercising the delegated power to grant consent, the Chairman is expected to apply his mind. He cannot simply put his stamp of approval on the recommendation without any independent application of mind. In the same affidavit, in paragraph-15, he has stated that the Board will review the entire matter of CFE application dated 16th January, 2020 and will review the CFE (expansion) issued to the Port Authority by exercising the power conferred under sub-section (2) of Section 27 of the Water Act. We may note here that admittedly, there is neither a decision of the Board nor a well considered decision of the

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Chairman to approve the recommendation of the Consent Committee. Moreover, on a plain reading of clauses (a) and (b) of sub-section (2) of Section-27 of the Water Act, the review can be made only by way of modification of the conditions incorporated in the consent or by rectification of the conditions.

55. Thereafter, a meeting of the Board was convened on 24th November, 2020. Certain discussion was made under item No.231:27.1 under the heading 'Review of Consent for Expansion (CFexp) in respect of development of 2nd stage Commercial Karwar Port Activity of capacity of 3 Million MT/month to 4.5 million MT/month'. In the minutes of the meeting held on 24th November, 2020 (Annexure-AC to the writ petition No.1332/2020), the Board expressed its dissatisfaction over the way in which the case was presented by the Law Officer of the Board and the learned counsel representing the Board before this Court. Ultimately, in the minutes of the meeting, it was recorded as under:

"After detailed deliberations, the Consent Committee
"Recommended to issue Consent for expansion for
development of 2nd stage expansion of Commercial
Karwar port activity of existing capacity from 3 Million
MT/annum to 4.5 Million MT/annum & to establish 10

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KLD Sewage Treatment Plant (STP) with a specific condition that, issue of this Consent for expansion is without prejudice to any pending court cases on the matter along with the other applicable conditions”.

As per the recommendation of the Consent Committee meeting held on 21/05/2020 vide proceedings dated 10/06/2020, the Chairman approved the Karwar Port CF Expansion with the conditions. The important conditions stipulated in the CF Expansion order are as under:

1. The Sewage generated from the Port activity shall be treated in 10 KLD Sewage Treatment Plant. The treated sewage shall conform to the standards stipulated and utilize for landscaping gardening, toilet flushing, fire fighting and Air conditioning.
2. The applicant shall provide acoustic enclosures to the 125 KAV DG set with 3m height chimney.
3. The applicant shall provide all necessary health care facility to workers with personal protection measures to avoid spreading of COVID-19 like virus outbreak and shall carry out routine health survey among workers.

The Board discussed the matter at length and examined all the documents relevant to the present issue. The Board unanimously resolved that given

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the nature of the activities proposed by the project proponent and having given due regard to all facts, the application made for CFE expansion on 16.1.2020 and which has been issued with the approval of Chairman on 1.7.2020 is found to be proper and justified. The CFE Expansion granted on 1.7.2020 is hereby reiterated and confirmed with certain modified conditions.”

(underline supplied)

56. Thus, it is clear that the Board purported to resolve that the consent granted with the approval of the Chairman on 1st July, 2020 was found to be proper. As noted earlier, a copy of the proceedings or an order of approval of the Chairman, granting approval is not placed on record. Moreover, what is important is that it is specifically mentioned that the consent for expansion granted on 1st July, 2020 was reiterated and confirmed with “certain modified conditions”. Shockingly, there is no discussion in the minutes of the meeting held on 24th November, 2010 about what are the modified conditions to be imposed. Even the modified conditions do not form a part of the minutes. Neither any discussion was held on the nature of the modified conditions nor the modified conditions have been recorded therein. Moreover, the Board did not notice that a

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proper inquiry as contemplated by the Rules framed under the Water Act and Air Act was not made by the Environmental Officer. Thus, this Court has no hesitation to hold that the entire decision making process, by which a decision was taken to reiterate and confirm the earlier consent dated 1st July, 2020 with “certain modified conditions” was completely vitiated due to non-application of mind and non consideration of the relevant factors. Moreover, the consent was reiterated subject to “certain modified conditions” without even considering what could be the modified conditions.

57. The proceedings of the meeting held on 24th November, 2020 were brought to the notice of this Court on 16th December, 2020. Paragraphs 2 and 3 of the said order dated 16th December, 2020 read thus:

“2. Apart from the fact that the minutes do not reflect a detailed consideration of issues, the minutes do not record what are the modified conditions. The learned counsel appearing for the Pollution Control Board states that he will produce the modified conditions. We have reservations for this statement. As the minutes of the meeting do not incorporate any modified conditions, we fail to understand how the learned counsel is going to

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produce the modified conditions which do not exist. The modified conditions ought to have been decided by the Board. Secondly, the minutes, prima facie, do not show any application of mind. Considering the fact that the sixth respondent's claim is that the project subject matter of this petition is a public project, it will be appropriate if these two petitions are finally disposed of.

3. At this stage, the learned counseil appearing for the sixth respondent in W.P. No. 1332 of 2020 states that now all the conditions have been complied with and therefore, the said respondent may be permitted to commence the work. As recorded earlier, the Pollution Control Board has reiterated the consent granted earlier with modified conditions, though the modified conditions are not known to anybody. The same are not even served upon the sixth respondent. Without knowing what are the modified conditions, it is not possible to accede to the request of the second respondent".

(underline supplied)

It is relevant to note here that though there was no decision recorded in the minutes of the meeting held on 24th November, 2020 about what should be the modified conditions, a bold statement was made by the learned counsel appearing for

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KSPCB that he would produce the modified conditions, though the same were not in existence on that day. Thus, KSPCB was even willing to produce non-existing conditions. This raises a serious question mark about the functioning of KSPCB. Perhaps with a view to overcome what was observed in the above said order, again the subject was placed before the Board meeting convened on 6th January, 2021. The relevant part of the minutes of the meeting dated 6th January, 2021 (Annexure-AD) read thus:

“The Member Secretary presented the subject and brought to the notice of the Board that the resolution on the subject made during the previous meeting held on 24.11.2020 has been submitted to the Honourable High Court of Karnataka. The Honourable High Court order dated 16.12.2020 is available on record for perusal of the Board. The proposal of issue of amendment to the CFExp dated 1.7.2020 due to modification of the existing conditions and based on the CPCB communication to SPCB's on environmental management of sea ports dated 11.8.2020 was placed before the Board at the last meeting. However, the same does not find place in the earlier minutes. Though this was discussed in the earlier meeting, the same is being deliberated again and the conditions which are relevant and applicable to Karwar Port Project are

being placed before the Board for further discussions.

The Board regretted that, the modified conditions were not part of the submissions made to the Hon'ble High Court and earlier minutes indeed appear to be incomplete.

The Board Members again deliberate on the proposed modifications to the CFExp conditions and additional conditions proposed to Karwar Port Project based on CPCB communication.”

(Underlines supplied)

58. Thereafter, in the same minutes dated 6th January, 2021, about eleven (11) additional conditions were stipulated. It is pertinent to note that the minutes of the meeting dated 6th January, 2021 record that the conditions were discussed in the earlier meeting. However, on perusal of the minutes of the earlier meeting dated 24th November, 2020 it is crystal clear that the same do not contain any such discussion. We are shocked to note that it is mentioned in the minutes that the Board regretted that the modified conditions were not a part of the submissions made to this Court. When the modified conditions were not even determined, we wonder how it could have been placed before this Court. Instead of discussing the

entire issue afresh in the meeting held on 6th January, 2021, deliberations were purportedly held only on the question of imposing additional conditions. From this, an inference could be easily drawn that there was no discussion or deliberation in the meeting held on 24th November, 2020 about the nature of the additional conditions. When the decision of the Chairman to grant consent was reiterated in the meeting held on 24th November, 2010, subject to “certain modified conditions”, the said conditions were not even discussed. Without even knowing what could be the additional/modified conditions, the learned members of the Board who were supposed to be experts have decided to reiterate the consent subject to “certain modified conditions”.

59. At this stage, it will be necessary to make a reference to the preamble of the Water Act. The relevant portion of the preamble reads thus:

“An Act to provide for the prevention and control of water pollution and the maintaining or restoring of wholesomeness of water, for the establishment, with a view to carrying out the purposes aforesaid, of Boards for the prevention and control of water pollution, for conferring on and

assigning to such Boards powers and functions relating thereto and for matters connected therewith.

Whereas it is expedient to provide for the prevention and control of water pollution and the maintaining or restoring of wholesomeness of water, for the establishment, with a view to carrying out the purposes aforesaid of boards for the prevention and the control of water pollution and for conferring on and assigning to such Boards powers and functions relating thereto”.

There is a similar preamble to the Air Act as well. Thus, the very object of enacting the Water Act and the Air Act was prevention and control of Water and Air pollution respectively. The very purpose of establishment of the State Pollution Control Board was to achieve the object of prevention and control of Water and Air pollution. Thus, KSPCB is required to act as a watch dog against pollution of both Air and Water. But in facts of the present case, we are constrained to observe that KSPCB has acted in a very casual manner by ignoring the very object of the Water and the Air Act. KSPCB is supposed to be a body of experts. But, it has acted in such a manner that the very object of the setting up of the Board is frustrated. Apart from the shocking manner in which KSPCB dealt with the

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applications made by the Port Officer for grant of consent for establishment, the entire process is vitiated due to non-application of mind, non-consideration of the relevant factors and the illegality in the decision making process.

Therefore, we summarize our conclusions on the aspects of the illegality in the decision making process of KSPCB as hereunder:

- (a) The consent for establishment was issued on 1st July, 2020 solely on the basis of the recommendations made by the Consent Committee;
- (b) Though the consent issued on 1st July, 2020, records that it was issued with the approval of the Chairman of the Board, neither the proceedings before the Chairman nor an Order made by him is placed on record to show that after considering the relevant factors and after application of mind, the Chairman had approved the recommendation of the Consent Committee. When the Chairman exercised delegated power of the Board to grant consent, before granting consent, there has to be

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an application of mind by him which is completely absent in this case;

- (c) We have perused the inspection report of the environmental officer of Karwar Regional Office, who appears to have carried out inspection on 17th January, 2020. As noted earlier, no inquiry or investigation was made by the said Officer as contemplated by the Rules framed both under the Water Act and the Air Act. Without there being a proper inquiry as contemplated by the Rules, the application for grant of consent could not have been considered;
- (d) Though there was no valid consent granted by the Board or by the Chairman in exercise of the delegated powers, the Board purported to review the consent under the non-existing power under sub-section (2) of Section 27 of the Water Act;
- (e) In the meeting held on 24th November, 2020, though it was resolved to reiterate and confirm the consent with "certain modified conditions", there was no decision taken on what could be the additional/modified conditions. As the decision

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was taken only to reiterate and confirm the consent subject to "certain modified conditions" and as the said conditions were not even discussed, the decision to reiterate and confirm the consent cannot be termed as legal and valid;

- (f) Only after the aforesaid lacuna was pointed by this Court in paragraphs 2 and 3 of the order passed on 16th December, 2020 in W.P.No. 1332/2020, to overcome the same, the Board again convened its meeting on 6th January, 2021 and purportedly took a decision as regards what should be the modified conditions; and
- (g) It is pertinent to note here that neither in the minutes of the earlier meeting dated 24th November, 2020 nor in the minutes of the subsequent meeting dated 6th January, 2021, the fact that proper inspection and inquiry was not conducted by the environmental officer in terms of the Rules is not at all noted.

60. Thus, the purported grant of consent dated 1st July, 2020 and the subsequent act of the Board of confirmation of the

earlier consent in the minutes of the meeting held on 24th November, 2020 as well as the further act of the Board of determining the additional conditions for the first time in the subsequent meeting held on 6th January, 2021 are illegal as the entire decision making process of the Board has been completely vitiated.

61. At this juncture, we may note that after conclusion of the arguments, a memo dated 15th June, 2021 signed by Shri. Gururaj Joshi, the learned counsel appearing for KSPCB has been filed in the Court giving an undertaking on behalf of KSPCB to withdraw the consent granted on 1st July, 2020 and to redo the entire exercise afresh right from the stage of inspection, in accordance with law. It is stated in the said memo of undertaking that an experienced senior officer of the Board will be appointed to carry out the inspection and to submit a detailed report on the application made for grant of consent on 16th January, 2020. It is further stated that as the proposed project falls in the category of "Red/Large" industries, the delegated power of the Board can be exercised only by the Chairman of the Board. It is stated that the report of the officer appointed to carry out the inspection will be placed before the

Consent Committee and after considering the recommendations of the Consent Committee, the Chairman, in exercise of the delegated powers of the Board, will take a decision on the issue of grant or refusal of the consent by passing a speaking order. It is further stated in the said memo of undertaking that from the date of acceptance of the memo of undertaking by this Court, the entire process would be re-done within a period of four weeks. In view of the findings recorded in earlier paragraph, we accept and take on record the undertaking of KSPCB.

62. In view of the findings which we have recorded above as regards the manner in which the application for grant of consent for establishment has been dealt with and in view of the memo of undertaking dated 15th June, 2021 filed in the Court by KSPCB, we have no hesitation in accepting the undertaking given by the learned counsel for KSPCB. However, considering the nature of the controversy and the importance of the project, we leave it to the discretion of the Chairman of the Board to decide whether he desires to exercise the delegated power himself or the recommendations of the Consent Committee could be placed before the Board

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for taking a decision in accordance with law. We propose to direct that the entire exercise shall be re-done within a period of one month from the date of pronouncement of the Judgment and thereafter, the decision taken by the Board should be communicated to both the parties to the petition within a period of six weeks from the date of pronouncement of the Judgment.

VALIDITY OF ENVIRONMENTAL CLEARANCE:

63. Now we come to the issue of power of SEIAA to grant Environmental Clearance for 2nd stage Development project. The argument canvassed is firstly that the said authority has no jurisdiction to grant Environmental Clearance inasmuch as, the said project falls under category-A. For dealing with the said argument, it is necessary to make a reference to EIA notification dated 14th September, 2006 (Annexure-G). We may note here that the said notification underwent modifications by a subsequent notification dated 1st December, 2009. In the original EIA notification dated 14th September, 2006, under clause-4, the projects and activities have been categorized into two categories i.e., category-A and category-B. It is provided that all the projects and activities including expansion and modernization of existing projects included in

category-A require prior Environmental Clearance from the Central Government in the Ministry of Environment and forests (MoEF). As regards the projects and activities falling in category-B, the jurisdiction to grant clearance vests in SEIAA which is supposed to act on the recommendation of the State Expert Appraisal Committee (SEAC). The procedure for screening of the applications for Environmental Clearance is also laid down.

64. It was urged by the learned counsel for the petitioners that the annual handling capacity of the port after its expansion will be more than 5 Million M.T. However, we may note here that in Form No.1 of application made for grant of Environmental Clearance, it is specifically mentioned that the proposed capacity will be 4.5 million MT/Annum. Hence, on the basis of the application, it cannot be said that the proposed capacity exceeded 5 million MT/Annum and therefore, as per clause 7 (f) of the schedule to the EIA notification, the project was 'A' category project.

65. The emphasis by the learned counsel for the petitioner was on General Conditions (GC) appended at the end of the EIA notification dated 14th September, 2006 which read thus:

“General Condition (GC):

Any project or activity specified in Category ‘B’ will be treated as Category-A, if located in whole or in part within 10 Km from the boundary of: (i) Protected Areas notified under the Wild Life (Protection) Act, 1972, (ii) Critically Polluted areas as notified by the Central Pollution Control Board from time to time, (iii) Notified Eco-sensitive areas, (iv) inter-State boundaries and international boundaries.”

(underline supplied)

66. A submission made was that though the notified Eco sensitive areas are not defined either in the Environment (Protection) Act, 1986 (for short ‘the said Act of 1986’) or in the said EIA notification, under the CRZ notification dated 6th January, 2011 (Annexure-H), the entire Karwar port area was declared as Critical Vulnerable Coastal Area (CVCA), as provided in sub-clause (a) of clause (4) of the said CRZ notification. The submission is that thus, the entire Karwar port area has been notified as Eco-sensitive area. Reliance was also placed on subsequent CRZ notification dated 18th January, 2020 (Annexure-N) under which, the entire Karwar port area has been declared as CVCA.

67. The General Condition (GC) which we have reproduced above in the original EIA notification dated 14th September, 2006 underwent a change by a notification dated 1st December, 2009 issued by the Central Government, in which, the GC was modified and the modified General Condition (GC) reads thus:

“General Condition (GC):

Any project or activity specified in Category ‘B’ will be treated as Category ‘A’ if located in whole or in part within 10 km from the boundary of: (i) Protected areas notified under the Wildlife (Protection) Act, 1972; (ii) Critically polluted areas as identified by the Central Pollution Control Board from time to time; (iii) Eco-sensitive areas as notified under section 3 of the Environment (Protection) Act, 1986, such as, Mahabaleshwar Panchgani, Matheran, Pachmarhi, Dahanu, Doon Valley, and (iv) inter-State boundaries and international boundaries:

Provided that the requirement regarding distance of 10 km of the inter-State boundaries can be reduced or completely done away with by an agreement between the respective States or U.Ts sharing the common boundary in case the activity

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does not fall within 10 kilometers of the areas mentioned at item (i), (ii) and (iii) above.”

(underline supplied)

68. Therefore, when the application was made by the Port Officer for grant of Environmental Clearance, the General Condition (GC) contained in the original EIA notification dated 14th September, 2006 stood modified. As per the modification, the projects and activities specified in category-B, if located in or within 10 Km from the eco-sensitive area as notified under Section-3 of the said Act of 1986, were to be treated as category-A projects. In view of the amendment to the original EIA notification, the projects and activities in category-B which come under the Eco-sensitive area shall be treated as category-A, provided the area is notified under Section-3 of the said Act of 1986, as an Eco-sensitive area. In the present case, there are no documents placed on record to show that in exercise of the power under Section 3 of the said Act of 1986, Karwar has been declared as an Eco-sensitive area or that 2nd stage Development project will come up within the distance of 10 Kms from eco-sensitive area notified under Section 3 of the said Act of 1986. Hence, on the basis of modified GC, it

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cannot be held that the project of 2nd stage Development will fall in category 'A'.

69. On the basis of the information furnished in a part of the application for grant of Environmental Clearance, it was contended that the cargo handling capacity, after expansion of the port will be more than 5 Million MT/annum. However, as pointed out earlier, the application was specifically made by disclosing the capacity as 4.5 Million MT/annum. As the Environmental Clearance has been granted for capacity of 4.5 Million MT/annum, it is obvious that the said capacity can never be exceeded by the Port Authority. Therefore, for both the reasons, it is not possible for this Court to accept the contention of the learned counsel for the petitioner that 2nd stage Development project will fall under category-A.

70. As regards the CRZ notification dated 18th January, 2019, it must be stated here that clause 6 (i) thereof specifically provides that unless and until CZMPs prepared under CRZ Notification dated 6th January, 2011 are revised or updated, the provisions of the CRZ notification dated 18th January, 2019 will not apply and the CZMP as per the provisions of CRZ notification dated 6th January, 2011 shall continue to be

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followed for appraisal and CRZ clearance. Admittedly, the CZMP has not yet been revised or updated in terms of the CRZ notification dated 18th January, 2019 and, therefore, the CRZ notification of 6th January, 2011 will continue to operate and apply. We may also note here that in the CZMP of 2011 which is duly approved by the National Coastal Zone Management Authority, Ministry of Environment, Forest and Climate Change, Government of India which has been annexed to the writ petition No.1332 of 2020 as Annexure-A, CVCA area has been shown far away from Karwar beach. The decision of the Apex Court in the case of ***Kapico Kerala Resorts Private Limited*** (supra), on its plain reading, could have been applied to the facts of the present case provided that CRZ notification dated 18th January, 2019 is applicable. However, as held above, in view of sub-clause (i) of clause-6 of the said notification, the same is not yet made applicable. Therefore, the said decision of the Apex Court has no relevance in the present case.

71. A show cause notice was issued by SEIAA on 20th December, 2019 (Annexure-D) calling upon the Executive Engineer, Port Division, Karwar and Port Officer of the State Government to show cause why the Environmental Clearance

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granted vide letter dated 23rd January, 2019 should not be cancelled. The said show cause notice, in terms of the directions issued by this Court on 21st January, 2020, was decided by SEIAA in the meeting held on 3rd February, 2020. A contention is raised that while deciding the show cause notice, the SEIAA has not taken into consideration the issue of jurisdiction to grant Environmental Clearance which was specifically raised. However, in view of the fact that we are now deciding the issue of jurisdiction of the SEIAA, it is not necessary for this Court to deal with the said contention.

72. We may note here that there are no grounds urged on merits as to how the Environmental Clearance is illegal. The challenge to grant of Environmental Clearance is mainly on the ground that SEIAA having no jurisdiction. Therefore, we hold that there is no merit in the challenge to the jurisdiction of SEIAA to grant Environmental Clearance to the project. However, we must clarify that after the 2nd stage Development project becomes operational, its capacity shall not exceed 4.5 Million MT/annum. Moreover, all the terms and conditions in the Environmental Clearance must be complied with in its true letter and spirit.

VIOLATION OF LAWS RELATING TO ENVIRONMENT:

73. As regards the violation of the laws relating to Environment, the Environmental Clearance has already been granted to the said project by the SEIAA, as required by EIA notification dated 14th September, 2006. As directed by the SEIAA, each and every conditions stipulated therein subject to which the Environmental Clearance has been granted will have to be mandatorily complied with. For example, condition No.23 requires the authorities to obtain consent for establishment/ operate from KSPCB. In view of our finding recorded above to the effect that the consent granted in this case has been vitiated due to non-application of mind and other reasons, the work of the project cannot be undertaken unless and until there is an appropriate consent granted by KSPCB. As and when the consent for establishment is granted, the Port Authority will have to strictly adhere to the conditions subject to which the consent is granted. The project can be made operational only after consent to operate is granted by KSPCB. Therefore, it cannot be said that the project subject matter of these petition is bad in law due to violation of the laws relating to environment.

VIOLATION OF FUNDAMENTAL RIGHTS:

74. Another challenge is on the ground of violation of fundamental rights guaranteed under clause (d) of sub-clause (1) of Article 19 and sub-clause (g) of clause (1) of Article 19 as well as Article 21 of the Constitution of India. The petitioners in both the writ petitions claim to be representing the Fishermen. A perusal of the averments made in both the petitions will show that except for bald assertions, no particulars are pleaded how the right of the members of the petitioner association to carry their traditional occupation as fishermen will be adversely affected by the implementation of 2nd stage Development of Karwar Port. There is no specific pleading stating in what manner the right of individual fishermen will be affected by the project. Merely because of few boats of fishermen were seen lying on the Karwar beach in the photographs produced by the petitioner, it cannot be said that right of an individual fishermen to enter into the sea for fishing activity will be adversely affected. The burden is on the petitioner in both the petitions to prove violation of the fundamental rights under sub-clause (g) of clause (1) of Article 19 of the Constitution and consequently, the violation of Article 21 of the Constitution. The said burden

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is not discharged. Mere *ipse dixit* is not sufficient to prove the violation of the said fundamental rights.

75. Another argument is of violation of the right guaranteed under clause (d) of sub-clause (1) of Article 19 of the Constitution to move freely throughout the territory of India. We fail to understand how, by expansion of the existing port, the right guaranteed under clause (d) of sub-clause (1) of Article 19 will be affected. There is no material forthcoming to substantiate that any restrictions have been imposed on inter-State or intra State movement or travelling of any individual. Merely because a part of the beach will be converted into a port, the fundamental right of an individual guaranteed under clause (d) of sub-clause (1) of Article 19 will not be affected at all. The right to move freely throughout the territory of India does not amount to right to enter each and every part of the territory forming a part of the territory of India. Therefore, the challenge based on violation of fundamental rights guaranteed either under sub-clause (d) of clause (1) of Article 19 or under sub-clause (g) of clause (1) of Article 19 or Article 21 of the Constitution of India cannot be upheld. As the loss of

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livelihood of Fishermen is not established, even violation of Article 300-A is not established.

OTHER ASPECTS:

76. Reliance was placed by the petitioner in Writ Petition No.1332 of 2020 on the draft notification published by the Ministry of Environment, Forest and Climate Change dated 3rd October, 2018. It is only a draft notification issued in exercise of the powers conferred under Section-3 of the said Act of 1986 read with sub-rule (3) of Rule 5 the Environment (Protection) Rules, 1986 for declaring the identified area of 56,825 square kilometer which is spread across six States which includes certain villages in Karwar taluk as Ecologically Sensitive Area. However, the said notification is only a draft notification issued for inviting the objections and suggestions. Final notification has not yet been issued till date. Therefore, the argument based on the said notification has no merit.

77. In writ petition No. 2336 of 2020, the learned counsel appearing for the petitioner relied upon condition No.32 under Specific Conditions incorporated in the Environmental Clearance dated 23rd January, 2019. He relied upon Biodiversity Report dated 15th October, 2020 obtained by the

petitioner in the said petition from the Department of Studies in Marine Biology of Karnataka University, Dharwad. For that purpose, it is necessary to consider the aforesaid condition No.32 incorporated in the Environmental Clearance. The said condition No.32 in the Environmental Clearance forms a part of specific conditions. The said condition No.32 reads thus:

“32. A copy of the Marine and riparian biodiversity management plan duly validated by the State Biodiversity Board shall be submitted before commencement of implementation.”

78. In view of the said specific condition, there cannot be any dispute that unless the Marine and Riparian Biodiversity Management Plan duly validated by the State Bio-Diversity Board established under Biological Diversity Act, 2000 is submitted by the State Government to SEIAA, the work of 2nd stage Development cannot commence. Therefore, we propose to issue a specific direction in this behalf.

SUSTAINABLE DEVELOPMENT:

79. The principle of sustainable development requires that development goals should be achieved while sustaining the ability of the nature to provide natural resources and eco-systems. Therefore, while achieving the goal of development,

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it is necessary for every statutory authority of the Government to ensure that while carrying out development work, natural resources and eco-systems are protected. In the present case, the Environmental Clearance has been granted subject to several conditions including the condition of obtaining consent for establishment/operate from KSPCB both under the Water Act and Air Act. The conditions incorporated in the Environmental Clearance dated 23rd January, 2019 are essential for protecting the natural resources and eco-systems. Therefore, it is the obligation of all the concerned to ensure that all the conditions specified in the Environmental Clearance and all other terms and conditions on which consent for establishment/operation, if any, granted are scrupulously implemented. Therefore, it is the statutory obligation on the part of the State Government to ensure that all the aforesaid terms and conditions are scrupulously followed and implemented. SEIAA and KSPCB being statutory authorities will have to keep a strict vigil in that behalf.

IA-1/2020:

80. The petitioner in Writ Petition No. 1332 of 2020 has filed an interlocutory application (IA-I/2020) under Section 195 read

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with Section 340 of the Code of Criminal Procedure, 1973 (for short, 'the Cr.P.C') in which, an action is prayed for as against Captain C. Swamy – second respondent, the Director of Ports and Inland Water, Karwar Port filed an affidavit dated 23rd January, 2020. In the said affidavit, Sri. C. Swamy had stated that no construction activity has been commenced. It is contended that in fact, this Court found that the activity had commenced. The learned counsel for the petitioner pointed out the order dated 23rd January, 2020 passed by this Court in which, the contents of the aforesaid affidavit of Sri. C. Swamy were noted and it was *prima facie* found by this Court that without applying for and obtaining consent of KSPCB, steps were taken to commence and carry out the preliminary work of expansion of the 2nd stage Development of the Karwar Port. In fact, it is submitted that this Court, in paragraph-18, recorded that considerable damage has already been caused to Karwar beach by carrying out the filling work on the beach. Therefore, a direction was issued to the second respondent (the Director of Ports and Inland Water, Karwar Port) to take immediate steps to restore the beach to its original condition. Therefore, the petitioner has urged that an action be initiated for prosecuting Capt. C. Swamy by invoking Section-340 of Cr.P.C

for the offences punishable under Sections-177 and 181 of the Indian Penal Code (for short, 'the I.P.C').

81. It is true that in the said affidavit, Sri. C. Swamy did not disclose that the work of making temporary road on the beach was taken up for mobilizing the materials and equipment. The said fact ought to have been disclosed by him. However, the beach was restored to its original condition as per the interim direction issued by this Court on 23rd January, 2020. The Petitioner has also pleaded that Sri. C. Swamy is being prosecuted for some other offences committed in his official capacity as well.

82. On plain reading of Section-340 of the Cr.P.C it is apparent that an inquiry, as required under sub-section (1) of Section 340 of Cr.P.C can be initiated when the Court is of the opinion that it is expedient in the interest of justice that an inquiry should be held. On this aspect, it is necessary to refer to a decision of the Apex Court in the case of ***Iqbal Singh Marwah and another –vs- Meenakshi Marwah and another***⁷.

The Apex Court has laid down that as a general rule, the Courts consider it expedient in the interest of justice to start

⁷ (2005) 4 SCC 370

prosecution as contemplated by Section-476 of the old Code i.e., Code of Criminal Procedure, 1898, which is *pari materia* with Section-340 of Cr.P.C., only if there is a reasonable foundation for the charge and there is a reasonable likelihood of conviction. The Apex Court further held that test to be applied for coming to the conclusion of necessity of holding an inquiry is whether the act or omission complained of will have an impact on the administration of justice and it is not necessary that in every case where false or incorrect statements are made in the affidavit, that Court can come to a conclusion that it is expedient to take action as contemplated under Section-340 of the Cr.P.C. Paragraph-23 of the said decision reads thus:

“23. In view of the language used in Section 340 Cr PC the court is not bound to make a complaint regarding commission of an offence referred to in Section 195(1)(b), as the section is conditioned by the words “court is of opinion that it is expedient in the interests of justice”. This shows that such a course will be adopted only if the interest of justice requires and not in every case. Before filing of the complaint, the court may hold a preliminary inquiry and record a finding to the effect that it is expedient in the interests of

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justice that inquiry should be made into any of the offences referred to in Section 195(1)(b). This expediency will normally be judged by the court by weighing not the magnitude of injury suffered by the person affected by such forgery or forged document, but having regard to the effect or impact, such commission of offence has upon administration of justice. It is possible that such forged document or forgery may cause a very serious or substantial injury to a person in the sense that it may deprive him of a very valuable property or status or the like, but such document may be just a piece of evidence produced or given in evidence in court, where voluminous evidence may have been adduced and the effect of such piece of evidence on the broad concept of administration of justice may be minimal. In such circumstances, the court may not consider it expedient in the interest of justice to make a complaint. The broad view of clause (b)(ii), as canvassed by learned counsel for the appellants, would render the victim of such forgery or forged document remediless. Any interpretation which leads to a situation where a victim of a crime is rendered remediless, has to be discarded”.

(underlines supplied)

83. In the present case, pursuant to the direction issued by this Court on 23rd January, 2020, *status-quo ante* has been

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restored by restoring of the beach to its original condition. A temporary road which was made on the beach to enable the equipment and materials to reach the place of storage. The said work was done only for mobilizing the machineries and equipment. The said illegality has been un-done by restoration of *status-quo ante*. Hence, in our view, it is not expedient and it is not a fit case to initiate inquiry as contemplated under sub-section (1) of Section-340 of Cr.P.C.

IA- 3/2021:

84. Interlocutory application (IA-3/2021) has been filed by the petitioner in W.P.No. 1332 of 2020 making allegation that the second respondent has started the work of the project, as can be seen from the photographs produced. The second respondent has filed written objections to the said application (IA-3/2021) in which, it is specifically pleaded that the work which is seen in the photographs produced by the petitioner is being carried out by the City Municipal Council, Karwar for formation of a bund, keeping in mind the ensuing monsoon and the same has nothing to do with the proposed project. In support of the said contention, the letters dated 10th March, 2021 and 24th March, 2021 addressed by the City Municipal

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Council Karwar are annexed to the said statement of objections. There is no reason to dispute the correctness of what is stated in the statement of objections. Therefore, it cannot be concluded that the work of the project has been commenced by the second respondent in Writ Petition No. 1332 of 2020 relating to the proposed 2nd stage Development.

85. For the foregoing reasons, the writ petition No. 2336 of 2020 must succeed in part only to the extent of challenge to the consent granted by KSPCB on 1st July, 2020 and subsequent resolutions dated 24th November, 2020 and 6th January, 2021. As observed earlier, Writ Petition No.1332 of 2020 cannot be entertained in view of suppression of material facts. Hence, we pass the following:

ORDER

- i) We hold that the consent for establishment bearing No.CTE-318752 dated 1st July, 2020, granted by the Karnataka State Pollution Control Board, its resolution dated 24th November, 2020 bearing No. Ka Ra Ma Ni Mam/231/ Ne Mam Sa/Ni. Ko/2020-21/3998 on item No. 231:27.1 and its another resolution dated 6th January, 2021

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bearing No. Ka Ra Ma Ni Mam/232/ Ne Mam Sa/Ni. Ko/2020-21/4433 (B) on item No. 232:01: (vide Annexure-AB, Annexure-AC and Annexure-AD respectively) are illegal and stand vitiated;

- ii) We direct the Karnataka State Pollution Control Board to decide the applications made for grant of consent for establishment, in terms of what is stated in the memo of undertaking dated 15th June, 2021 and subject to what we have observed in paragraph No.62 above, as expeditiously as possible. Appropriate decision shall be taken on the applications preferably within a period of one month from the date on which this judgment is uploaded on the official website of this Court;
- iii) The other grounds of challenge to the said 2nd stage Development of Karwar Port stand rejected;
- iv) We direct the State of Karnataka and the Director of Ports and Inland Water, Karwar Port to ensure that all the terms and conditions of Environmental Clearance dated 23rd January, 2019 (Annexure-B)

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issued by the State Level Environment Impact Assessment Authority (SEIAA) are scrupulously followed and implemented. Needless to add that unless and until the consent for establishment is granted to the project by KSPCB, the work of the 2nd stage Development of Karwar Port cannot be commenced;

- v) We direct that the State Government shall comply with condition No.32 incorporated in specific conditions in the Environmental Clearance of submitting a copy of Marine and Riparian Biodiversity Management Plan duly validated by the State Bio-Diversity Board before the commencement of work;
- vi) Writ petition No. 1332 of 2020 is not entertained for the reasons set out in paragraph 41 above. Writ petition No. 2336 of 2020 is partly allowed on the above terms with no orders as to the costs;

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- vii) Interlocutory application (IA-I of 2020) and Interlocutory application (IA-3 of 2021) filed by the petitioner in W.P.No. 1332 of 2020 are rejected;
- viii) The rest of the pending interlocutory applications shall stand disposed of;
- ix) There will be no order as to costs.

**Sd/-
CHIEF JUSTICE**

**Sd/-
JUDGE**

VR

ANNEXURE R-3

ITEM NO.1

COURT NO.1

SECTION IV-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition for Special Leave to Appeal (C) No. 17213/2021

(Arising out of impugned final judgment and order dated 29-07-2021 in WP No. 1332/2020 passed by the High Court of Karnataka at Bengaluru)

BAITHKOL BANDHARU NIRASHRITHARA YANTRIKRUT
DHONI MEENUGARARA SAHAKARA SANGHA NIYAMITHA Petitioner(s)

VERSUS

THE CHIEF EXECUTIVE OFFICER & ORS. Respondent(s)

(FOR ADMISSION and I.R. and IA No.139394/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.139395/2021-EXEMPTION FROM FILING O.T. and IA No.139392/2021-PERMISSION TO FILE LENGTHY LIST OF DATES)

Date : 29-03-2022 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE KRISHNA MURARI
HON'BLE MS. JUSTICE HIMA KOHLI

For Petitioner(s) Mr. Devadatt Kamat, Sr. Adv.
Mr. Murthy D. Naik, Sr. Adv.
Mr. Pai Amit, AOR
Mr. Rajesh Inamdar, Adv.
Mr. javedur Rahman, Adv.
Ms. Ranu Purohit, Adv.
Ms. Pankhuri Bhardwaj, Adv.
Mr. Siddhant Singh, Adv.
Mr. Vikram Ramalingam, Adv.

For Respondent(s) Mr. Maninder Singh, Sr. Adv.
Mr. Ankur S. Kulkarni, Adv.
Mr. Nirnimesh Dube, Adv.
Mr. Susheel Joseph Cyriac, Adv.
Ms. Uditha Chakravarthy, Adv.
M/S. Lex Regis Law Offices, AOR

For the State of Karnataka Mr. Nikhil Goel, AAG
Mr. V.N. Raghupathy, Adv.

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SLP(C)No. 17213/2021

UPON hearing the counsel the Court made the following
O R D E R

Heard the learned senior counsel appearing for the petitioner and carefully perused the material placed on record.

Issue notice, returnable after four weeks.

Mr. Ankur S. Kulkarni, learned counsel, who appears on caveat on behalf of respondent No. 6 accepts notice and waives service of formal notice upon the said respondent.

Counter affidavit, if any, be filed in the meantime.

(RAJNI MUKHI)
COURT MASTER (SH)

(R.S. NARAYANAN)
COURT MASTER (NSH)



ANNEXURE R-4

State Level Environment Impact Assessment Authority-Karnataka

(Constituted by MoEF, Government of India, under section 3(3) of E(P) Act, 1986)

No. SEIAA 8 IND 2017

Date: 23-01-2019

To,

Executive Engineer
Port Division, Karwar,
The Directorate of Ports and
Inland water Transport
Government of Karnataka
Baithkol Vilage, Karwar Taluk
Uttara Kannada District.

Sir,

Sub: Proposed IInd Stage Development of Commercial Karwar Port at Baithkol Village, Karwar Taluk, Uttara Kannada District of The Directorate of Ports and Inland water Transport, Government of Karnataka - Issue of Environmental Clearance - Reg.

This has reference to your online application dated 28th February 2017 bearing proposal No.SIA/KA/MIS/18508/2017 and application dated and 26th September 2018 bearing proposal No.SIA/KA/MIS/28706/2017 addressed to SEIAA, Karnataka and subsequent letters addressed to SEIAA/SEAC Karnataka furnishing further information/seeking prior Environmental Clearance for the above project under the EIA Notification, 2006. The proposal has been appraised as per prescribed procedure in the light of the provisions under the EIA Notification, 2006 on the basis of the mandatory documents enclosed with the application viz., the Application in Form 1, Pre feasibility Report, EIA study report for Proposed IInd Stage Development of Commercial Karwar Port and the additional clarifications furnished in response to the observations of the SEIAA and SEAC, Karnataka.

2. It is, inter-alia noted that the The Directorate of Ports and Inland water Transport, Government of Karnataka have proposed for IInd Stage Development of Commercial Karwar Port on a plot area of 17 Ha (42.01 Acres) in addition to the existing area of 3 Ha. The capacity of port proposed to be increased from 3 million Tons/Annum to 4.5 Million Tons. The total capital investment of the project is Rs. 1993.54 Crores.

3. Total Water Requirement is 13 KLD. The waste water generated is 11 KLD. DG set of 1 No X 125 KVA will be installed for emergency power back-up. The hazardous waste generated such as Sludge, waste oil, Cargo residue and sludge containing chemicals, spent oil from D/G set and contaminated

State Level Environment Impact Assessment Authority-Karnataka

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Proposed IInd Stage Development of Commercial Karwar Port
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Government of Karnataka.

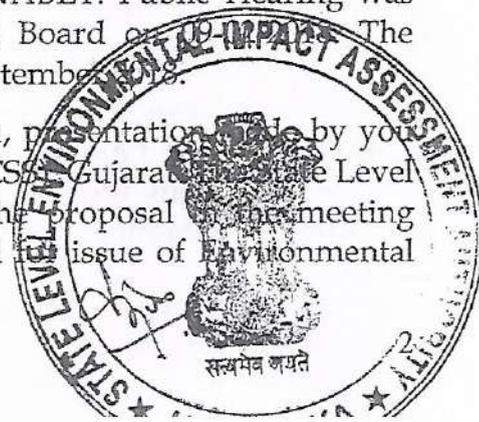
cotton rags & other cleaning materials containers disposed off as per Hazardous and other Wastes (Management, Handling and Tran's Boundary Movement) Rules, 2016 through Authorized dealers/Recyclers. The Solid waste generated is about 12 to 15 Tons per annum disposed as per Solid Waste Management Rules 2016.

4. The proposed IInd Stage Development of Commercial Karwar Port project includes the following facilities:

- Construction of 5 additional berths providing a berthing length of 1635m in continuation of existing berth in Northern Direction.
- Upgradation of existing lighterage wharfs for a length of 100m to accommodate higher draft vessel.
- Providing reclamation bund around 800m length by rubble mount.
- Reclaiming the sea area behind the berth to make the stockyard by filling average height of 6.5m.
- To construct POL jetty, jetty head, two berthing dolphins, two mooring dolphins.
- Construct additional break water of 238 m in continuation of existing Break-water. In order to achieve necessary tranquillity of waves near of proposed extension of the berth, a new break-water is constructed of approximately for a length of 1200m completion of going work of existing breakwater of 250m.
- Hard surfacing the wharf area of 3, 39,450Sq.m of reclaimed land.
- To provide required infrastructure facilities to comply with MARPOL requirements.
- To provide labour amenity facilities as required under dock labour board Act.
- Installing cargo handling equipment and other facilities like ware house 200 X 50 m, transit sheds 200 X 50 m, cold storage facility 50 X 50 m, container facility 200 X 40 m and staff quarters - etc.,

5. The project proposal has been considered by SEAC during the meeting held on 21st March 2017 recommended to SEIAA for issue standard ToRs along with additional ToRs. The Authority during the meeting held on 1st April 2017 decided to issue ToR as recommended by SEAC for conducting the Environment Impact Assessment study in accordance with EIA Notification, 2006. Accordingly the ToR was issued on 12th April 2017. The EIA study has been conducted and report submitted by Eco Chem Sales & Services (ECSS), Office floor, Ashoka Pavillion - A, Opp. Kapadia Health Club, New civil road, Surat - 395 001, Gujarat who are accredited by NABET. Public Hearing was conducted by Karnataka State Pollution Control Board on 19th September 2018. The proponent has submitted the EIA report on 27th September 2018.

6. Based on the information submitted by you, presentation made by you and your consultant Eco Chem Sales & Services (ECSS), Gujarat State Level Expert Appraisal Committee (SEAC) examined the proposal in the meeting held on 4th December 2018 and has recommended for issue of Environmental Clearance.



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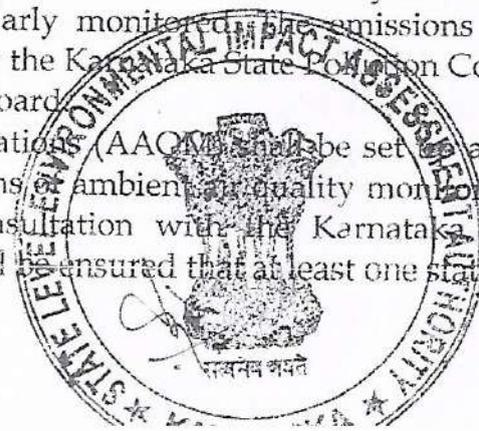
SEIAA 8 IND 2017

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Government of Karnataka.

7. The SEIAA Karnataka in the meeting held on 26th December 2018 after due consideration of the relevant documents submitted by the project proponent, additional clarifications furnished in response to its observations and the appraisal and recommendation of the SEAC has decided to accord Environmental Clearance in accordance with the provisions of Environmental Impact Assessment Notification-2006 and its subsequent amendments, subject to strict compliance of the following terms and conditions:

Part A- SPECIFIC CONDITIONS:-

1. Construction activity shall be carried out strictly according to the provisions of the CRZ Notification, 2011. No construction work other than those permitted in Coastal Regulation Zone Notification shall be carried out in Coastal Regulation Zone area.
2. Facilities that are permitted under the CRZ Notification alone should be set up in the CRZ area. Rest of the components should be located outside the CRZ area.
3. Temporary colonies of the labour work force, etc. should be established, outside CRZ and proper sanitation including toilets facilities should be provided. Sewage and other wastes generated in these settlements should not be released into the sea/creek.
4. No ground water shall be extracted in the CRZ area.
5. No construction work other than those permitted in Coastal Regulation Zone Notification may be carried out in Coastal Regulation Zone area.
6. No ecological sensitive areas such as mangroves should be destroyed during construction/operation of the project.
7. The wastewater generated by washing of jetties, cleaning and packing shed, net mending shed, etc. should be treated before disposal as per the norms prescribed by KSPCB.
8. The site should be kept free from pollution by providing suitable drainage system.
9. The project proponent should provide adequate funds in the Environment Management Plan of the Project.
10. Adequate safeguard measures to deal with oil spills and land bilge water pollution at the jetty.
11. Solid waste shall be properly collected and converted to organic fertilizer and non-bio degradable solid waste will be transported to a landfill outside the CRZ area.
12. The fugitive emissions during construction shall be suitably controlled. Fugitive emissions shall be regularly monitored. Emissions shall conform to the limits prescribed by the Karnataka State Pollution Control Board/Central Pollution Control Board.
13. Ambient air quality monitoring stations (AAQM) shall be set up as per statutory requirement. The locations of ambient air quality monitoring 3 stations shall be decided in consultation with the Karnataka State Pollution Control Board and it shall be ensured that at least one station is

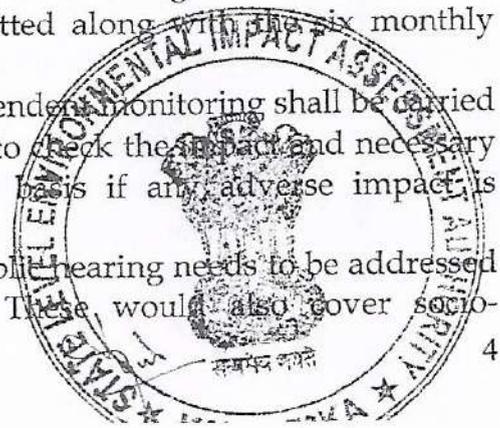


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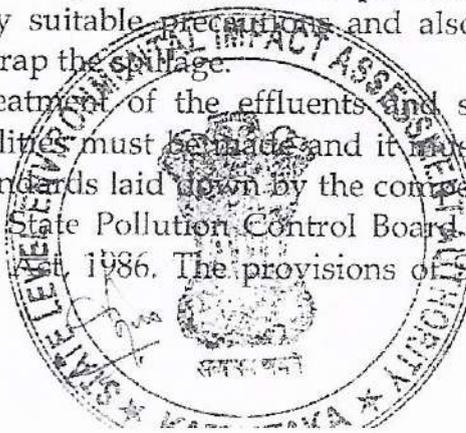
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- installed in the up wind and another in the downwind direction as well as where maximum ground level concentrations are anticipated.
14. A stack of adequate height based on the capacity of the DG set shall be provided for control and dispersion of pollutants from the DG set.
 15. Reclamation should be limited to the project requirement only.
 16. It must be ensured that no waste including solid waste, trash fish and other organic wastes if any, is released from the boats within the harbour basin during landing or berthing.
 17. The project Proponent shall provide adequate width of Green belt to control fugitive emission & noise and shall be developed in 33 % area as per the CPCB guidelines in a time bound manner.
 18. The project Proponent shall abide by the conditions / recommendations mentioned in the EIA/EMP report furnished.
 19. It is mandatory for the project proponent to furnish to the SEIAA, Half yearly compliance report in hard and soft copies on 1st June and 1st December of each calendar year in respect of the conditions stipulated in the prior Environmental clearance.
 20. The project proponent will undertake all relevant measures, as indicated during the Public Hearing for improving the Socio-economic conditions of the surrounding area.
 21. The project proponent shall set up separate environmental management cell for effective implementation of the stipulated environmental safeguards under the supervision of a Senior Executive.
 22. The project proponent shall ensure that the project is in consonance with the new CZMP prepared by the State Government under the provisions of CRZ Notification, 2011.
 23. Consent to Establish/Operate for the project shall be obtained from the State Pollution Control Board as required under the Air (Prevention and Control of Pollution) Act, 1981 and the Water (Prevention and Control of Pollution) Act, 1974.
 24. The Project proponent shall ensure that no creeks or rivers are blocked due to any activities at the project site and free flow of water is maintained.
 25. Dredging shall not be carried out during the fish breeding season.
 26. Dredging, etc shall be carried out in the confined manner to reduce the impacts on marine environment including turbidity.
 27. Dredged material shall be disposed safely in the designated areas.
 28. Shoreline should not be disturbed due to dumping. Periodical study on shore line changes shall be conducted and mitigation carried out, if necessary. The details shall be submitted along with the six monthly monitoring report.
 29. While carrying out dredging, an independent monitoring shall be carried out by Government Agency/Institute to check the impact and necessary measures shall be taken on priority basis if any adverse impact is observed.
 30. The concerns expressed during the public hearing needs to be addressed during the project implementation. These would also cover socio-



- economic and ecological and environmental concerns, besides commitment by the management towards employment opportunities.
31. Marine ecological studies as carried out by the accredited consultant and its mitigation measures for protection of phytoplankton, zooplanktons, Macrobenthos etc as given in the EIA-EMP Report shall be complied with in letter and spirit.
 32. A copy of the Marine and riparian biodiversity management plan duly validated by the State Biodiversity Board shall be submitted before commencement of implementation.
 33. A continuous monitoring programme covering all the seasons on various aspects of the coastal environs need to be undertaken by a competent organization available in the State or by entrusting to the National Institutes/renowned Universities/accredited Consultant with rich experiences in marine science aspects. The monitoring should cover various physicochemical parameters coupled with biological indices such as microbes, plankton, benthos and fishes on a periodic basis during construction and operation phase of the project. Any deviations in the parameters shall be given adequate care with suitable measures to conserve the marine environment and its resources.
 34. Continuous online monitoring of for air and water covering the total area shall be carried out and the compliance report of the same shall be submitted along with the 6 monthly compliance report to the regional office of MOEF&CC.
 35. Effective and efficient pollution control measures like covered conveyors/stacks (coal, iron ore and other bulk cargo) with fogging/back filters and water sprinkling commencing from ship unloading to stacking to evacuation shall be undertaken. Coal and iron ore stack yards shall be bounded by thick two tier green belt with proper drains and wind barriers wherever necessary.
 36. Marine ecology shall be monitored regularly also in terms of sea weeds, sea grasses, mudflats, sand dunes, fisheries, echinoderms, shrimps, turtles, corals, coastal vegetation, mangroves and other marine biodiversity components as part of the management plan. Marine ecology shall be monitored regularly also in terms of all micro, macro and mega floral and faunal components of marine biodiversity.
 37. The project proponents would also draw up and implement a management plan for the prevention of fires due to handling of coal.
 38. Spillage of fuel / engine oil and lubricants from the construction site are a source of organic pollution which impacts marine life, particularly benthos. This shall be prevented by suitable precautions and also by providing necessary mechanisms to trap the spillage.
 39. Necessary arrangements for the treatment of the effluents and solid wastes/ facilitation of reception facilities must be made and it must be ensured that they conform to the standards laid down by the competent authorities including the Central or State Pollution Control Board and under the Environment (Protection) Act, 1986. The provisions of Solid



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Waste Management Rules, 2016. E- Waste Management Rules, 2016, and Plastic Waste Management Rules, 2016 shall be followed.

40. Compliance to Energy Conservation Building (ECBC-2017) shall be ensured for all the building complexes. Solar/wind or other renewable energy shall be installed to meet energy demand.
41. All the recommendations mentioned in the rapid risk assessment report, disaster management plan and safety guidelines shall be implemented.
42. Measures should be taken to contain, control and recover the accidental spills of fuel and cargo handle.
43. Necessary arrangement for general safety and occupational health of people should be done in letter and spirit.
44. All the mitigation measures submitted in the EIA report shall be prepared in a matrix format and the compliance for each mitigation plan shall be submitted to the RO, MoEF&CC along with half yearly compliance report.
45. The project authorities shall undertake activities under Corporate Environment Responsibility (CER) with a total cost of not less than Rs. 5,00,00,000/- towards Green Belt Development, Environment Cleaning, Desalination Plant, Potable water supply for nearby villages, Toilet facilities, Drinking water facilities and Solar Lighting for Govt schools within five years in accordance with the O.M. E. No.22-65/2017-IA.III dated 1st May 2018 and report be submitted to the Authority.

B. GENERAL CONDITIONS:-

1. The issuance of Environment Clearance doesn't confer any right to the project proponent to operate/run the project without obtaining Statutory clearances/sanctions from all other concerned authorities including clearance from Karnataka State Coastal Zone Management Authority (KSCZMA).
2. The project authorities shall strictly adhere to the stipulations made by the Karnataka State Pollution Control Board (KSPCB).
3. At no time, the emissions shall exceed the prescribed limits. In the event of failure of any pollution control system adopted by the unit, the unit shall be immediately put out of operation and shall not be restarted until the desired efficiency has been achieved.
4. No further expansion or modifications of Commercial port shall be carried out without prior approval of the SEIAA/Ministry of Environment and Forests as the case may be. In case of deviations or alterations in the project proposal from those submitted to this Authority for clearance, a fresh reference shall be made to the Authority to assess the adequacy of conditions imposed and to add additional environmental protection measures required, if any.
5. The gaseous emissions (PM10, PM2.5, SO₂, NO_x, CO, VOC) and Particulate Matter along with RSPM levels from various process units shall conform to the standards prescribed by the concerned authorities



State Level Environment Impact Assessment Authority-Karnataka

(Constituted by MoEF, Government of India under section 3(3) of E(P) Act, 1986)

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- from time to time. At no time, the emission levels shall go beyond the stipulated standards. In the event of failure of pollution control system(s)
6. adopted by the unit, the respective unit shall not be restarted until the control measures are rectified to achieve the desired efficiency. Stack monitoring for PM10, PM2.5, SO2, NOX, CO, VOC shall be carried.
 7. The project authorities shall strictly comply with the rules and regulations under Manufacture, Storage and Import of Hazardous Chemicals Rules, 1989 as amended in October 1994 and January 2000. All transportation of Hazardous Chemicals shall be as per the MVA, 1989. Authorization from the KSPCB shall be obtained for collection, treatment, storage, and disposal of hazardous wastes.
 8. The project authorities must strictly comply with the rules and regulations with regard to handling and disposal of hazardous wastes in accordance with the Hazardous and other Wastes (Management and Transboundary Movement) Rules, 2016. Authorization from the KSPCB must be obtained for collection/treatment/ storage/disposal of hazardous wastes.
 9. Application of solar energy should be incorporated for illumination of common areas, lighting for gardens and street lighting in addition to provision for solar water heating. A hybrid system or fully solar system for lighting and heating should be provided. Details in this regard should be submitted to the SEIAA.
 10. The overall noise levels in and around the plant area shall be kept well within the standards (85 dBA) by providing noise control measures including acoustic hoods, silencers, enclosures etc. on all sources of noise generation. The ambient noise levels shall conform to the standards prescribed under Environment (Protection) Act, Rules, 1989 viz. DBA (day time) and 70 dBA (night time).
 11. The project proponent shall also comply with all the environmental protection measures and safeguards as per the information provided.
 12. The implementation of the project vis-à-vis environmental action plans shall be monitored by MoEF, Regional Office at Bangalore / KSPCB/ CPCB and the Department of Environment and Ecology, Government of Karnataka. A six monthly compliance status report shall be submitted to monitoring agencies.
 13. The project proponent shall inform the public that the project has been accorded environmental clearance by the SEIAA and copies of the clearance letter are available with the KSPCB and may also be seen at Website of the Authority at <http://www.seiaa.kar.nic.in> or <http://www.seiaa.karnataka.gov.in> or <http://www.environmentclearance.in>. This shall be advertised within seven days from the date of issue of clearance letter, at least in two local newspapers that are widely circulated in the region of which one shall be in the vernacular language of the locality concerned and a copy of the same shall be forwarded to the MoEF



Regional Office at Bangalore / KSPCB/ CPCB and the Department of Environment and Ecology, Government of Karnataka.

14. The project authorities shall inform the MoEF Regional Office at Bangalore / KSPCB/ CPCB and the Department of Environment and Ecology, Government of Karnataka, the date of financial closure and final approval of the project by the concerned authorities and the date of start of the project.
15. The SEIAA, Karnataka may revoke or suspend the clearance, if implementation of any of the above conditions is not satisfactory.
16. The SEIAA, Karnataka reserves the right to stipulate additional conditions, if found necessary. The company in a time bound manner will implement these conditions.
17. The above conditions will be enforced, inter-alia under the provisions of the Water (Prevention & Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986 Hazardous and other Wastes (Management and Transboundary Movement) Rules, 2016 and the Public Liability Insurance Act, 1991 along with their amendments and rules.
18. The issue of Environment Clearance doesn't confer any right to the project proponent to operate / run the project without obtaining statutory clearances / sanctions from all other concerned Authorities.
19. Concealing factual data or submission of false/fabricated data and failure to comply with any of the conditions mentioned above may result in withdrawal of this clearance and attract action under the provisions of Environmental (Protection) Act, 1986.
20. Any appeal against this environmental clearance shall lie with the National Green Tribunal, if preferred, within a period of 30 days as prescribed under Section 16 of the National Green Tribunal Act, 2010.
21. Officials from the Department of Environment and Ecology, Bangalore/ Regional Office of MoEF, Bangalore who would be monitoring the implementation of Environmental safeguards should be given full cooperation, facilities and documents/ data by the project proponents during their inspection. A complete set of all the documents submitted to MoEF / SEIAA should be forwarded to the APCCF, Regional Office of MoEF, Bangalore/ the Department of Environment and Ecology, Government of Karnataka, Regional Officer, KSPCB Bangalore.
22. In the case of any change(s) in the scope of the project, the project would require a fresh appraisal by this Authority.
23. The Authority reserves the right to add additional safeguard measures subsequently, if found necessary, and to take action including revoking of the environment clearance under the provisions of the Environment (Protection) Act, 1986, to ensure effective implementation of the suggested safeguard measures in a time bound and satisfactory manner.
24. All other statutory clearances such as the approvals for storage of diesel from Chief Controller of Explosives, Fire Department, Civil Aviation



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Department, Forest Conservation Act, 1980 and Wildlife (Protection) Act, 1972 etc. shall be obtained, as applicable by project proponents from the competent authorities.

25. These stipulations would be enforced among others under the provisions of water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) act 1981, the Environment (Protection) Act, 1986, the Public Liability (Insurance) Act, 1991 and EIA Notification, 2006.



Yours faithfully,

(Signature)
(N.L. Shanthakumar)
Member Secretary,
SEIAA - Karnataka.

Copy to:

- 1) The Secretary, Ministry of Environment, Forests and Climate Change, Indira Paryavaran Bhavan, Jor Bagh Road, Aliganj, New Delhi- 110 003.
- 2) The Member Secretary, Karnataka State Pollution Control Board, Bangalore.
- 3) The APCCF, Regional Office, Ministry of Environment & Forests (SZ), Kendriya Sadan, IV Floor, E & F wings, 17th Main Road, Koramangala II Block, Bangalore - 560 034.
- 4) Guard File.

ANNEXURE R-5GOVERNMENT OF KARNATAKA

No. FEE 133 CRZ 2019

Karnataka Government Secretariat
M. S. Building,
Bangalore, dated:30-12-2019.

From:

Principal Secretary to Government,
(Ecology and Environment)
Forest, Ecology and Environment Department.

To:

The-Executive Engineer,
Port Division, Baitkhol,
Karwar, Uttar Kannada District-581302.

Sir,

Sub: CRZ clearance for construction of Northern Breakwater and Extension of Southern Breakwater for the 2nd stage development of Karwar port - Karwar by Executive Engineer, Port Division, Karwar - regarding.

- Ref: 1. Your letter dated: 10.02.2017
2. Letter No. RD (E)/CRZ/CR /2017-18/59 dated 24.04.2018 of Regional Director (Environment), Uttara Kannada District.
3. Proceedings of the 27th Karnataka State Coastal Zone Management Authority (KSCZMA) meeting held on 03.07.2019.
4. Regional Director (Env) Karwar Letter No.2019-20/1183. Dated:07-12-2019.

With reference to the above subject, you have submitted an application to issue of CRZ clearance for construction of Northern Breakwater and Extension of Southern Breakwater for the 2nd stage development of Karwar port.

The Regional Director (Environment) Uttar Kannada District, Karwar inspected the proposed site and reported that the GPS Readings of the proposed site is "N 14 48'38.0", E 74 07' 31.0 and project area is classified as CRZ -IVA as per approved CZMP. This subject was recommended in the DCZMC meeting held on 26.12.2017.

Earlier, the proposal was placed before the Authority meeting held on 16.11.2018 and a provisional CRZ clearance was issued vide letter no. FEE 173 CRZ

2018 dated 16.01.2019 with a condition to submit the environment clearance issued by SEIAA.

Further, the State Environment Impact Assessment Authority (SEIAA) has given Environment Clearance for the above project vide No. SEIAA 8 IND 2017 dated 23.01.2019. The Executive Engineer, Port Division, Karwar has requested to issue CRZ clearance for the project consisting the following components:

- Construction of 5 additional berths providing a berthing length of 1635m in continuation of existing berth in Northern Direction.
- Upgradation of existing lighterage wharfs for a length of 100m to accommodate higher draft vessel.
- Providing reclamation bund around 800m length by rubble mound.
- Reclaiming the sea area behind the berth to make the stockyard by filling average height of 6.5m.
- To construct POL jetty, jetty head, two berthing dolphins, two mooring dolphins.
- Construct additional break water of 238 m in continuation of existing Break-water. In order to achieve necessary tranquility of waves near of proposed extension of the berth, a new break-water is constructed of approximately for a length of 1200m completion of on going work of existing breakwater of 250m.
- Hard surfacing the wharf area of 3,39,450 Sqm of reclaimed land.
- To provide required infrastructure facilities to comply with MARPOL requirements.
- To provide labour amenity facilities as required under dock labour board Act.
- Installing cargo handling equipment and other facilities like ware house 200X50 m, transit sheds 200X50 m, cold storage facility 50X50 m, container facility 200X40 m and staff quarters etc.,

The proposal was considered in the 27th Karnataka State Coastal Zone Management Authority (KSCZMA) meeting held on 03.07.2019.

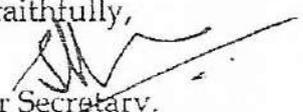
The Authority after discussion and deliberation decided to issue CRZ clearance for construction of Northern Breakwater and Extension of Southern Breakwater for the 2nd stage development of Karwar port by the Executive Engineer, Port Division, Karwar as per para 4(i) (f) of CRZ notification 2011 with the following conditions:

1. The construction work shall be taken up as per the provisions of CRZ notification 2011.
2. There shall not be any dumping of solid wastes & construction debris in to the sea /water body.

3. During construction and operational stage, no sewage shall be let in to the sea /water body.
4. Sewage water and other waste water should be treated before disposal, as per the norms of KSPCB.

As per the decision of the Authority, CRZ clearance is issued for construction of Northern Breakwater and Extension of Southern Breakwater for the 2nd stage development of Karwar port including the above project components by the Executive Engineer, Port Division, Karwar.

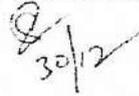
Yours faithfully,


Member Secretary,

Karnataka State Coastal Zone Management
Authority (KSCZMA)
Forest, Ecology & Environment Department.

Copy to:-

1. Deputy Commissioner, Uttar Kannada District, Karwar
2. Regional Director (Environment), Forest, Ecology & Environment Department, Parishara Bhavan, Hebbuwada, Karwar-581301


30/12



ಕರ್ನಾಟಕ ರಾಜ್ಯ ಮಾಲಿನ್ಯ ನಿಯಂತ್ರಣ ಮಂಡಳಿ
Karnataka State Pollution Control Board

"ಪರಿಸರ ಭವನ", 1 ರಿಂದ 5ನೇ ಮಹಡಿಗಳು, ನಂ. 49, ಚರ್ಚ್ ಸ್ಟ್ರೀಟ್, ಬೆಂಗಳೂರು - 560 001, ಕರ್ನಾಟಕ ರಾಜ್ಯ, ಭಾರತ
"Parisara Bhavan", 1st to 5th Floor, # 49, Church Street, Bangalore - 560 001, Karnataka State, India

Karwar Port

NO. PCB/06/CNP/15/ 4972

DATED:

24 DEC 2021

/ BY REGD. POST WITH ACK. DUE /

(THIS ORDER CONTAINS 10 nos PAGES INCLUDING ANNEXURES)

To
The Executive Engineer,
Karwar Port,
Baithkol - 581 301,
Karwar Taluk,
Uttar Kannada-District.

Sir,

Sub: Consent for Expansion (CFExp) in respect of development of 2nd stage Commercial Port Activity of capacity from 3 Million Metric Tonne/Annum to 4.5 Million Metric Tonne MT/Annum at Baithkol - 581 301, Karwar Taluk, Uttar Kannada-District by Karwar Port -reg

- Ref:**
1. Environmental Clearance issued vide No.SEIAA 8 IND 2017 dated: 23.01.2019
 2. Karwar Port CFE (Expansion) application received at RO(Karwar) on 16/1/2020
 3. Inspection of the Karwar port by RO (Karwar) on 17/01/2020 and forwarded to Board office on 21/1/2020
 4. Board Office CFE (Expansion) issued through XGN vide No.CTE-318752 dated: 01.07.2020.
 5. CPCB letter vide No.4392 dated 11.08.2020.
 6. Amendment to CFE(Expansion)order issued vide no PCB/06/CNP/15/4492 dated 13/01/2021.
 7. Board advocate Sri. Gururaj Joshi email dated:14.06.2021.
 8. Board office Memo issued to RSEO, Mangalore on 15.06.2021
 9. Hon'ble High Court of Karnataka Order dated 15.06.2021 in respect of Writ Petition no. 1332/2020
 10. RSEO, Mangalore inspection report to Board office on 16.07.2021.
 11. Board office Memorandum issued on 01.09.2021.
 12. Board office Memo issued to RO, Karwar on 02.09.2021.
 13. RO Karwar letter to Board office on 06.09.2021
 14. Withdrawal/Cancellation of CFExp order dated:

Senior Environmental Officer

2. The applicant shall follow the guidelines for design and location of STPs as per Board Office Memorandum on STP's vide No. 5446 dated 01.03.2021, and update the compliance within 30 days. The STP guidelines can be obtained from the KSPCB website (<https://kspcb.karnataka.gov.in/consent-management/notification-circulars>)
3. Applicant shall add appropriate disinfectant to treated sewage to ensure residual chlorine preferably in the range of 1 mg/l. to 3 mg/l.
4. If the treatment plants do not achieve the sewage effluent standards stipulated under conditions (1) above or if it is found to be inadequate, then the applicant shall have to modify the units / upgrade the STP so as to meet the standards with prior consent of the Board.
5. All the treatment units shall be made impervious and there shall not be any discharge of treated/untreated sewage outside the premises at any given point of time. The entire waste water shall be used in house for secondary purposes only.
6. The applicant shall make provisions for dual piping system to use the treated sewage effluent for toilet flushing, gardening and other secondary purposes.
7. Separate energy meter and flow meter shall be provided to STPs and a log book on reading of energy meter and flow meters shall be maintained.
8. The applicant shall provide 'DANGER' sign board near the STP to maintain safety of the operational personnel and shall maintain operational safety protocol. Proper signage shall be displayed in both Kannada and English near the taps that discharge treated sewage as non potable water. Access to STPs shall be given to authorized persons only with issue of necessary permits.
9. The applicant shall make use of the Mechanical Cleaning Equipment's to clean the STPs, instead of resorting to manual cleaning by contacting the Urban Local Body or any other authorized private agency in this regard in order to make use of Sucking & Jetting Machines. Necessary protective equipment's, safety gadgets, lifesaving oxygen supply shall be available at the STP at all times.
10. The applicant shall appoint a qualified Environmental Engineer/Scientist for the Management of Environmental aspects and also establish Environmental Cell to oversee the operations of STP. The applicant shall appoint only the certified / trained personnel for operation and maintenance of STP from institutions like EMPRI.

IV. DISCHARGE OF EMISSIONS UNDER THE AIR ACT, 1981

1. The discharge of emissions from the premises of the applicant shall pass through the stack/chimney/outlet mentioned in this consent order where from the Board shall be free to collect the samples at any time in accordance with the Act or Rules made there under.
2. The rate of emissions discharged and the tolerance limits of the constituents forming the emissions in each of the stacks shall not exceed the limits laid down in Annexure-II. The applicant shall monitor the emission levels as per the frequency schedule indicated in the Annexure-II.


Senior Environmental Officer


V. Noise Pollution Control:

1. The applicant shall ensure that the Ambient noise levels within its premises, during construction and operational period to the noise level shall conform to Area Code (A) as per Noise Pollution (Regulation and Control) Rules, 2000:

Area code	Category of Area/Zone	Limit in dB(A)leq	
		Day Time	Night Time
(A)	Industrial Area	75	70
(B)	Commercial Area	65	55
(C)	Residential Area	55	45
(D)	Silence Zone	50	40

VI. Waste Management:

1. Proper Solid waste management system shall be provided in the unit, arrangements for collection, segregation, storage,, handling and disposal of solid waste including garbage shall be provided as per SWM Rules, 2016 and the facility shall be maintained properly.
2. Biomedical waste, used sanitary napkins, Plastic waste, E waste, Battery waste, Domestic Hazardous wastes & other wastes shall be stored and disposed scientifically as per prevailing law.
3. The Hazardous waste generated, if any shall be handled as per the provisions of the Hazardous and other Wastes(Management and Transboundary Movement)Rules,2016

VII. Construction & Demolition Waste:

1. The applicant shall strictly follow Construction & Demolition Waste Management Rules; published by Ministry of Environment, Forest and Climate Change, New Delhi dated: 29.03.2016.

VIII. Health & Safety:

1. The applicant shall provide all necessary personal protective equipment & healthcare facilities to workers with personal protective measures to avoid spread of contagious diseases such as COVID and shall carry out routine health survey among workers.
2. The waste generated during the COVID period like Masks, Gloves and protective covers shall be packed separately without mixing with the other garbage and shall be disposed off separately to the common Bio-Medical waste management facilities.

IX. Project Specific conditions;

1. The applicant shall establish Oil Spill Response Centre in Accordance with the guidelines issued by National Oil Spill -Disaster Contingency Plan – 2015 and equip the response centre with all required infrastructure to handle the Oil spills. Approval shall be obtained from competent authority and submit the same to the Board. All approved equipments shall be procured before commissioning the port expansion for commercial operation.

Senior Environmental Officer

2. The applicant shall provide dedicated storage area with segregation facility for storing solid waste received from ships as per MARPOL treaty. The solid waste shall be handed over to the Karwar Municipal Authorities for transportation and processing/recycling.
3. The applicant shall earmark dedicated place for storing dusty cargos viz iron ore, coal etc., Such areas shall be provided with permanent garland canal around the storage area to prevent entry of rain water into the storage yard from outside and to collect the rain water falling on storage heaps.
4. The applicant shall provide settling tank of adequate capacity for treating the rain water collected in the form of garland canal to bring down the Suspended Solid concentration less than 100 mg/l before discharging to sea.
5. The applicant shall provide dedicated transit sheds for storing of rock phosphate/Industrial salts/food grains.
6. The applicant shall procure mechanical sweepers for continuous sweeping of internal roads and wharf area to reduce generation of fugitive emission due to vehicular movement.
7. All internal road including wharf area of the existing port premises as well as roads/wharf area coming in the expansion project shall be completely concreted / asphalted.
8. The applicant shall install mechanical cargo handling system in case they are handling coal.
9. If the port is handling bilge waste water, the applicant shall install Oil water separator of adequate capacity to comply with requirement of Convention for Prevention of Marine Pollution (MARPOL). The treated effluent shall comply with the standards stipulated in Table before discharging to sea.

Table:

Sl.No.	Parameters	Standards (not to exceed)
1	Suspended Solids in mg/l	100
2	Oil and Grease in mg/l	10*
3	BOD, 3 days at 27 ^o C	100
4	Chemical Oxygen demand, mg/l	250
5	pH	5.5 to 9.0

Note: Considering the sensitivity of the location of Karwar Port and proximity to coral reefs in the surrounding area, the discharge standards for Oil and Grease is stipulated to < 10 mg/l as against 20 mg/liter.

X. General:

1. The applicant shall transport and store the raw materials in a manner so as not cause any damage to environment, life and property. The applicant shall be solely responsible for any damage to environment.
2. The applicant shall not commission the proposed plant for trial or regular production unless necessary pollution control measures are installed as specified in this Consent Order.

Senior Environmental Officer

3. The applicant shall ensure that the treatment plant and control equipments are completed and commissioned simultaneously along with construction of the port and erection of machineries.
4. The applicant shall not change or alter (a) the quality, quantity or rate of discharge/emissions and (b) install/replace/alter the water or air pollution control equipments without the prior approval of the Board.
5. The applicant shall immediately report to the Board of any accident or unforeseen act or event resulting in release of discharge of effluents or emissions or solid wastes etc. in excess of the standards stipulated. And the Port shall immediately take appropriate corrective and preventive actions under intimation.
6. The applicant is liable to reinstate or restore damaged or destroyed elements of environment at his cost failing which, the applicant/occupier as the case may be shall be liable to pay the entire cost of remediation or restoration in advance an amount equal to the cost estimated by Competent Agency or Committee.
7. The Board reserves the right to review, impose additional condition or conditions, revoke, change or alter the terms and conditions.
8. This CFExp does not give any right to the Party/Project Authority/others to forego any other legal requirement that is necessary for setting/operation of the plant.
9. The applicant shall furnish point wise compliance to the conditions given under this consent for expansion within 30 days.
10. The applicant shall take measures to develop green belt all along the periphery of the factory premises. Good housekeeping shall be maintained in and around the project site.
11. This consent is issued without prejudice to any Court Case pending in any Hon'ble Court.
12. The applicant shall comply with all the Conditions and guidelines issued by the Board from time to time.
13. Monthly monitoring of Ambient Air and Noise Quality shall be conducted and report shall be furnished for all the projects covered under the EIA Notification.
14. In case of the any complaint the applicant shall stop the construction activity and shall take appropriate measures before resuming construction activity with due information to the Board.
15. **This Consent for Expansion is issued to the project as per the proceedings of the Enforcement Committee Meeting held on 30.10.2021. In the said meeting the committee after detailed deliberation technically approved to issue CFExpansion subject to addressing petitions filed.**
16. **Accordingly, the petition redressal meeting was held on 19/11/2021 under the Chairmanship of Chairman, KSPCB. The said proceedings of the meeting was prepared vide letter no. 4564 dated 08/12/2021. After hearing the presiding Officer decided to sought the engineering solution details for the Konenala and issue of CFExp may be considered accordingly with a specific condition that the port authorities shall comply with the proceedings of this meeting and also with other conditions stipulated.**
17. **The Karwar Port authority commitments made vide letter dated 10/12/2021 is as follows:**
 - The lay-out plan of the project, Design and alignment of the proposed break water has been finalized by CWPRS Pune, GOI premiere institution after conducting detailed Desk and Wave flume study, Physical model study, Mathematical model studies for construction of North break water and Extension of southern break water.

Senior Environmental Officer

- i. Technical Report No 5239 December 2014: Wave Tranquility Studies for 2nd stage development of Karwar Port, Karnataka.
 - ii. Technical Report No 5320 October 2015: Mathematical Model Studies for Wave Tranquility Studies for 2nd stage development of Karwar Port, Karnataka.
 - iii. Technical Report No 5374 March 2016: Desk & Wave flume studies for design of Break waters for the 2nd stage development of Karwar Port in Uttara Kannada District, Karnataka State.
 - iv. Technical Report No 5521 September 2017: Geotechnical Stability Studies and Settlement Analysis for proposed Breakwaters for the 2nd stage development of Karwar Port, Karnataka.
- Ministry of Shipping (MOS), Government of India, approved the construction of Northern Break water and costal cargo berth at Karwar Port and provided technical and financial assistance for the said project.
 - Ministry of shipping GOI has already released the initial financial assistance of Rs.2500.00Lakhs vide GOI order No:C2-25021/11/2017-SM(PART-III) dated:27.09.2017(Sagarmala) for construction of New Northern Break water and Rs.1250.00Lakhs for Construction of Dedicated Coastal Berth at Karwar Port vide GOI order No. C2-5021/11/2017-SM-PART-II dated: 15.09.2017(Sagarmala).
 - GOK has issued administrative approval for construction of Northern break water and Extension of existing southern break water vide order no.PWD77PSP 2016 Dated: 19.01.2017 and PWD 127PSP 2017 Dated 21.03.2018. The project estimate has been reviewed by the state Estimate Review Committee and Accorded approval & technical approval was finally issued by the Chief Engineer(North) C&B, Dharwad through e-proc vide his order No. 144/2017-18/May-2017 Dated:03.06.2017.
 - SEIAA-K has issued Environmental Clearance vide their Order No SEIAA 8 IND 2017, Dated: 23.01.2019. As per the conditions of the Environmental Clearance issued by SEIAA-K following measures are already complied.
 - i. The Karnataka State Coastal Zone Management Authority(KSCZMA), Forest, Ecology and Environment Department has issued CRZ Clearance vide order no FEE 133 CRZ 2019 Dated30.12.2019 for the proposed 2nd stage development of Commercial Karwar port in Uttara Kannada Dist.
 - ii. Karnataka Biodiversity Board validated the Marine and Riparian biodiversity management plan prepared for the project vide their letter no TEC/CO2/MRBMP/143/387, Dated: 05.11.2020.
 - iii. The First Annual Biodiversity Action Plan has been already approved by the Karnataka Biodiversity Board vide order No: TEC/CO2/MRBMP/143/232 Dated: 08.10.2021.
 - iv. CWPRS Pune has conducted study on shore line changes due to the project and submitted their technical report no 5832 JULY,2020 and confirmed that there is no adverse impact on Shoreline.
 - v. The Karwar Port already procured Oil Spill Response Equipments to meet the Tier-I requirements as advised by the Costal Guard Authority. If any oil spill occurs, the port is fully equipped with oil spill response equipments to meet such incidents.
 - vi. The project work of installation of Fire Fighting Equipments on line with OISD/PESO requirements is under progress.

Senior Environmental Officer

vii. All pollution control measures will be taken up during Construction/Operation stage and during handling of cargo by the port authorities in accordance with KSPCB guidelines.

• **Engineering solution details for the Konenala:**

- i. It is proposed to construct berths towards Northern direction of the Existing berth up to the Bavutekatta at present. The Nadadonis (Country fishing boats) presently beached at Aligadda beach can be used to northern end of the bavutekatta up to the south side of ~~proposed northern end of the Bavutekatta up to the south side of~~ proposed northern break water in which Konenala area will be kept free.
- ii. Due to this project the present status of Konenala will not be affected. The Konenala area will be kept free for the flow of storm water as it is, without any obstructions even after the completion of the proposed project.
- iii. However the City Municipal Council Karwar has already issued work order for the up gradation of existing Sewage Treatment Plant (STP). The work is under progress.
- iv. The City Municipal Council Karwar has also issued work order for the Construction of separate storage tank for the treated water from STP with require infrastructure for secondary usage of the treated water.
- v. The City Municipal Council Karwar has also issued work order for laying of pipelines from the STP to the storage tank of treated water and from treated water storage tank to the CMC gardens.
- vi. The Project report for utilization of Treated water for secondary usage at Karwar City Municipal was prepared.

- Already action has been initiated by CMC Karwar for the engineering solutions of Konenala water treatment. The port department agreed in principle to provide space for construction of treated water storage tanks and required infrastructure and also agreed to provide required assistance for the project. They informed that there is no need of laying pipelines into the Sea for the discharge of Konenala water. They also proposed to dredge-14m in the turning basin and approach channel it is not feasible to lay the pipe line into the sea for discharge of Konenala water, it will adversely affect the navigational safety for the movement of the Commercial vessels.

• **Facility for Fishermen:**

- i. The total beach length from Konenala to Kali creek is about 4.10Km, around 3.60 Km from the north side of the proposed break water is not disturbed by this project and it will be available for public use as it is. Due to this project they are only constructing break water using 55.00Mts beach length nothing else will be utilized by this project the entire beach area as it is left for Public use and fishing activities.
- ii. Proposed to construct berths towards Northern direction of Existing berth up to the Bavutekatta at present. The Nadadonis (Country fishing boats) presently beached at Aligadda beach can be used to northern end of the Bavutekatta up to the south side of proposed northern breakwater.
- iii. During squally weather/Cyclonic period fishing boats are taking shelter of Karwar port. After construction of proposed breakwater more

Senior Environmental Officer

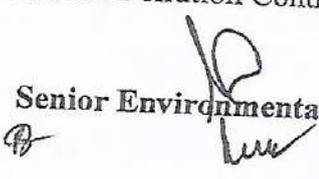
- iv. number of fishing boats can avail this sheltering benefit as they will have more tranquil water area within the proposed breakwater.
- v. Reefer container facility will be created for the export of marine products which will be beneficiary to the fishermen and huge employment opportunity is expected to be created due to this project.
- vi. The Port authority initially proposed to construct berths of 548m towards Northern direction of the existing berth up to the Bavutekatta. Due to this, the open space remaining approximately about 400m from Konenala to south of proposed Northern break water which can be used for parking of boats for local fishermen.
- vii. The port Authorities shall ensure that the scenic beauty of the beach shall not be affected and shall further take up the coastal beautification works and the details shall be submitted within 3 months.
- viii. The effective beach area should not be reduced at any given point of time.

18. The applicant shall comply with all the conditions & commitments mentioned in SI No. 17 along with other conditions stipulated above.

19. The consent for expansion is accorded in compliance to the applicant shall comply with the directions and observation of the Hon'ble High Court of Karnataka Order dated: 29.07.2021 in respect of WP no. 1332/2021, and the direction of the said order shall be complied with strictly.

Please note that separate Consent for operation of the Board for discharge of liquid effluent/emissions shall be obtained by remitting prescribed consent fee before taking into operation of the 2nd stage activity. The application for Consent has to be made 45 days in advance so as to make necessary inspection of the project to ascertain the pollution control measures provided. Issue of Consent for operation will be considered only after completion of Water pollution control measures, solid waste management facilities and installing air pollution control measures. The receipt of this letter may please be acknowledged.

For and on behalf of
Karnataka State Pollution Control Board


Senior Environmental Officer

ANNEXURE - II

Chim. No.	Chimney attached to	Minimum chimney height to be provided	Rate of emission NM ³ /day NM ³ /Hr.	Constituents to be controlled in the emission	Tolerance limits mg/NM ³	Air pollution Control equipment to be installed, in addition to chimney height as per Col. (3)	Date of which air pollution control equipments shall be provided to achieve the stipulated tolerance limits and chimney heights conforming to stipulated heights.	Remarks
1	2	3	4	5	6	7	8	9
1	DG Set - 62.5 KVA(Existing).	3 m ARL	-	SO ₂	-	Individual Chimney height as per Col. (3) and acoustic measures.	At all times	-
2	DG Set - 125 KVA(Proposed)	5 m ARL	-	SO ₂	-	Individual Chimney height as per Col. (3) and acoustic measures.	Before commissioning.	-

Note: ARL - Above Roof Level

The noise levels shall not exceed 75 dB(A) leq. and 70 dB(A) leq. during day time and night time respectively.


Senior Environmental Officer

ANNEXURE R-7

Subject: Forest Land - North Kanara - Utharkol, Taluka Karwar at Transfer of, for use by Port Department.

No. RR/FOR. 51. 1968
Belgaum, 6.7.1968.

- Read 1) The Deputy Commissioner, North Kanara, Karwar's letter No. KND.II. S.I. 304 dtd. 31.3.1968 and
2) Article 141 of the P. Forest Manual, Volume II.

Remarks:- The State Port Officer, Mangalore, in his letter No. LNO. 5/64-65 dtd. 1.12.64 addressed to the Deputy Commissioner, North Kanara, Karwar, has requested for transfer of the marginally noted forest land, for the use of the Port Department, for location of signal station and development of the Port. The Conservator of Forests, Belgaum Circle (Belgaum under his No. POF. 67 dt. 22-1/64-65 dtd. 30.11.1964 has intimated that he has no objection for the transfer of this area to the Port Department, from forestry point of view. He has, however, suggested that the same may be given for use by that Dept., as per Article 141 R.F.M. Volume II. The Deputy Commissioner, North Kanara, Karwar has agreed with this and has signed the proposals accordingly in the path under his letter cited at (1), also

Taluka: Karwar.			
Villages: Balthkol.			
S.No.	Areas asked for		
	A.	B.	C.
16	0	5	0
(100' x 90' = 9000 Sq. feet)			
48	33-17-0		
531	44-9-0		
Total	77-26-0		

ORDER

The proposals of the Deputy Commissioner, North Kanara, Karwar to sanction the use of an area of 77A.26-0 of forest land detailed in the margin above, for location of signal station and development of Port, by the State Port Department, is sanctioned. The tree growth, standing in the area should be cleared off by the Forest Department before handing over possession to the State Port Department. The Conservator of Forests, Belgaum Circle, Belgaum is requested to take necessary action in this regard.

S/- F.V. Reddy
Divisional Commissioner, Belgaum

Copy for information and needful action, forwarded to:-

- The Deputy Commissioner, North Kanara, Karwar (with records).
- The Conservator of Forests, Belgaum Circle, Belgaum to see.
- The Divisional Forest Officer, Western Division, Karwar.
- The State Port Officer, Mangalore.
- The Port Officer, Karwar.

S/-
for Divisional Commissioner,
Belgaum.

Form of Handing and taking over of A 33-12-0 ²³¹
 from forest sy. No. 42A of Baitthal to Port
 Department.

—x—

Handed over the today
 area of A 33-12-0 from
 F. sy. No. 42A of Baitthal
 to port Department.

M. S. Vankar
 Range Forest Officer,
 Karwar.

Dated :- 25-7-1966

Taken over charge
 of the area of 33-12-0
 from F. sy. No. 42A of
 Baitthal from the
 Forest Department.
 this day 25-7-1966
 Dated by port department
 25-7-1966

For Tehsildar Karwar.

Translation of R-10 in English

No.B4:GFL:CR- :2004-05

Office of the
Deputy Forest Conservator,
Karwar Division,
Karwar
Dated:26.04.2006.

To,
Port Officer,
Karwar

Sir,

Sub:- Release of Forest Land with respect to Baithkol Forest Survey No.42, 33 & 16.

- Ref:-
1. Divisional Commissioner Belagavi Letter No.RB:FOR:SR 1896 Dated:06.07.1965.
 2. Government Order No.FFD:47:FGL:84 Dated:04.12.1986.
 3. Your Office Letter No. LND:CR-38:2005-06 Dated 12.01.2006
 4. Range Forest Officer, Survey Duty Karwar Letter No. 14:06-07 Dated 13.04.2006

The proposal has been submitted vide letter cited 3rd regarding the Forest land situated in Baithkol in Forest Survey No. 42,33 and 16 which has been given to Port Department as per Forest Conservation Act 1980. But 0-8-0 acers of Forest Land situated in Baithkol in Forest Survey No. 16 and 44-0-0 acers of Forest Land situated in Forest Survey No. 33 has been already handed over to the Sea Bird Naval project as per Government order cited 2nd. Therefore you are requested to submit the proposal only with respect to 33-12-0 acers of Forest Land under your possession situated in Forest Survey No. 42 in 8 copies in form 'A' as per the provisions of Forest Conservation Act 1980.

Yours faithfully,

Deputy Forest Conservator
Karwar division, Karwar

GGN 2546.

Copy submitted to the Director of Ports & IWT Karwar for information
Copy sent to Range Forest Officer Karwar & Assistant Forest Conservator Karwar for information & suitable action.

Email Alert From System Administrator of Online Submission and Monitoring of Forests Clearances Proposal(OSMFCP) portal

1 message

monitoring-fc@nic.in <monitoring-fc@nic.in>

Sat, Aug 8, 2020 at 12:0

To: kwrport2016@gmail.com

Cc: monitoring-fc@nic.in

This is to acknowledge that a proposal seeking prior approval of Central Government under the Forest (Conservation) Act 1980 as per the details given below has been successfully uploaded on the portal of the Ministry of Environment, Forests and Climate Change Government of India.

1. **Proposal No.** : FP/KA/Others/46575/2020
2. **Proposal Name** : DEVELOPMENT OF KARWAR PORT
3. **Category of the Proposal** : Others
4. **Date of Submission** : 08/08/2020
5. **Name of the Applicant with Contact Details**
 - Name : ARUN
 - Mobile No. : 8277793716
 - State : Karnataka
 - District : Uttara Kannada
 - Pincode : 581302
6. **Area Applied (ha.)** : 13.475

The proposal will be examined by the Nodal Officer, Forest (Conservation) Act, 1980 to assess its completeness.

(System Administrator)

*** This is a system generated email, please do not reply. ***

ANNEXURE R-12

172

ಕರ್ನಾಟಕ ಸರ್ಕಾರ

GOVERNMENT OF KARNATAKA

ಪ್ರಧಾನ ಮುಖ್ಯ ಅರಣ್ಯ ಸಂರಕ್ಷಣಾಧಿಕಾರಿ
(ಅರಣ್ಯ ಪಡೆ ಮುಖ್ಯಸ್ಥರು) ರವರ ಕಚೇರಿ

Office of
Principal Chief Conservator of Forests
(Head of Forest Force)



ಅರಣ್ಯ ಭವನ, 18ನೇ ಅಡ್ಡ ರಸ್ತೆ,
ಮಲ್ಲೇಶ್ವರಂ ಬೆಂಗಳೂರು-560003

Aranya Bhavan, 18th Cross,
Malleshwaram, Bengaluru- 03

Telephone : 080 2334 6472

Email : apceffc@gmail.com

E-file No. KFD/HOFF/A52K(GFL)/19/2020-FC

E-317612

Date 31-08-2020

To,

The Port Officer
Baithkol, Karwar
Uttara Kannada District- 581302

Sir,

Sub: Diversion of 13.475 Ha of forest land in F.Sy.No.42 of Baithkol Village of Uttara Kannada District (Karwar Forest Division) for the purpose of port development activities of the Karnataka Maritime Board in favour of Port Officer, Baithkol, Karwar
Proposal No. FP/KA/Others/46575/2020

Ref: Your online application dated 08-08-2020

Your above referred application has been examined. It is noticed that certain crucial information required for processing under FC Act has not been provided completely and/or correctly. The proposal is **INCOMPLETE** in the following respect.

Reference Item in PART-I	Remarks
A-1(ii) Name of Project for which Forest Land is required	The text "Development of Karwar Port" is given. It is advised to make necessary corrections and also include the complete location of forest diversion (Villages, Taluk & District) to the Project Title so as to help distinguish the proposal from other proposals during processing. Example: "Diversion of 13.475 Ha of Forest Land in Forest Survey No.... of Village, Taluk,District for Port development activities of the Karnataka Maritime Board in favour of Port Officer, Baithkol, Karwar"
A-1(vi) Shape of forest land proposed to be diverted	The 'Linear' option is selected. Please verify the forest land requirement in the entire project and then select the 'Nonlinear/ Hybrid' option, if the project involves the linear as well as nonlinear components within the forest land.
A-1(viii) Area of forest land proposed for diversion (in ha)	Forest and non-forest land requirement for the project is shown as 13.475 ha and ZERO respectively. However NIL requirement of non-forest land appears to be prima facie incorrect, as similar works will also be required in the non-
A-1(ix) Non-forest land	

required for this project (in ha)	forest stretch of the Port in question. Please verify the issue and ensure that the correct requirement of forest as well as non-forest land for the entire project is shown here and also in all other Items including the Additional Information Details.
A-1 (x) Total period for which the forest land is proposed to be diverted (in years)	Forest lease period has not been specified resulting in 'NIL' display in this Item. Please specify the proposed forest lease period (in years) in this Item.
B-2.3 Village wise break up	<ul style="list-style-type: none"> • Only one village (Baithkol) is mentioned and the survey number(s) involved in the project have not been specified here. • As the project is likely to have some more survey numbers of the same/different villages, they also need to be specified here. <p>Please verify again and provide the individual village-wise as well as individual survey number-wise breakup (without clubbing) of forest land requirement and just the village wise breakup (without clubbing) of non-forest land requirement for the entire project in this item.</p>
B-2.4 Component wise breakup	Instead of specifying the exact components involved in the entire Port project, the village and survey number (Baithkol Fsy No. 42) are erroneously mentioned as the project component. The information available in other Items that there are several components such as Board Office, Godown, hotels and Shops, Cement Cylo, Tank Terminals, Parking area, Garden in the project. Please specify the exact components of the project as per the approved Layout Plan and then provide Individual components wise breakup of forest (and non-forest) land required for the entire project in this Item.
C(ii)(b) Kml File of Segments	<ul style="list-style-type: none"> • KML file showing an extent of 16.039 hectare as against 13.475 hectare proposed for diversion is uploaded. • KML file is given a generic name (BAITHKOL PORT.kml) without any clarity whether it is just the forest land proposed for diversion or the entire project area. • As the number of GPS readings is large (more than 40) and they are not provided in a convertible form (to MS Excel) and are not Degree.decimals, the correctness of KML Polygon vis-a-vis GPS readings could not be verified. • Shape of KML polygon is at variance with that provided in the Kep Map uploaded in Additional Information details. • Uploaded KML is with FILL COLOUR option. It may be changed to OUTLINE colour option. <p>1. Please upload the following KML files/sub-files with 'Polygon' feature, inbuilt 'measurement' option and proper identifiable File names.</p> <p style="margin-left: 20px;">a. KML file/sub-file of the forest land proposed for diversion in single colour;</p>

13.35

26.36

8.51

	<p>b. KML file/sub-file of the non-forest land in another colour.</p> <p>2. Please ensure that the KML polygon corners <u>match exactly</u> with:</p> <ol style="list-style-type: none"> The corresponding GPS readings as well as ground features seen on Satellite imagery, and The shape of KML polygon shown in Key Map and Geo-referenced Map.
<p>C(iii) Copy of Survey of India Toposheet indicating boundary of forest land proposed to be diverted</p>	<ul style="list-style-type: none"> The demarcation of the proposed area in the uploaded Topo Map is hand drawn. The Map is a little blurred and is also not signed by the User Agency. <p>Please ensure that the Topo Map: -</p> <ol style="list-style-type: none"> Shows the proposed area demarcation as well as the Map Index generated by modern technological tools rather than being hand-drawn; and Is duly ink-signed by the User Agency.
<p>C(iv) Scanned copy of the Geo-referenced map of the forest land proposed to be diverted prepared by using GPS or Total Station</p>	<ul style="list-style-type: none"> PDF containing a Village Map and Topo Map is uploaded. Topo Map is required to be uploaded in Item C(iii) and is unwarranted in this Item. Project area demarcation is hand made, appears to be incomplete and uses a faint colour scheme leading to lack of clarity. Shape of the forest polygon is at variance with that provided in the Key Map uploaded in Additional Information details. GPS readings of all corners of forest land proposed for diversion are not shown on the map. <p>1. Please remove the Topo Map and then upload following types of Geo-referenced maps (<i>merged into a single PDF file in this Item</i>) showing the forest area proposed for diversion <u>as well as non-forest area involved in the entire project (with the forest and non-forest areas shown in two different and distinct colours)</u> superimposed on Cadastral (Village) Map(s).</p> <ol style="list-style-type: none"> MAP-I: Mosaic map of all villages (Baithakola as well as its adjoining villages) Map-II: On ordinary village map scale (1:7920); <u>one map for each village involving forest diversion</u> Map-III: At a much larger scale (with greater zoom) for a detailed view of the project area <u>one map for each village involving forest diversion</u> <p>2. Please ensure that each of the above maps:</p> <ol style="list-style-type: none"> Is original (and not a photocopy); Has a proper Map Index and Map Title; Is duly ink-signed by User Agency; Shows all Survey Numbers and their boundaries in and around the project area clearly; Has a Tabular Statement containing the Village name, Survey number(s), Survey number-wise

	<p>extent (<i>without clubbing</i>) of forest land proposed for diversion</p> <p>f. Has a Tabular Statement containing the individual Component-wise extent (<i>without clubbing</i>) of forest land proposed for diversion ;</p> <p>g. Has a list of GPS readings (Datum: WGS-84; <u>in Degree.decimals</u>) of all corners/ turning points of the forest area proposed for diversion (and at every 20 meter interval in case of Roads) [Note: After Stage-I approval, RCC pillars will have to be provided at all these GPS points. However, temporary stone pillars are sufficient for field verification at present.];</p> <p>h. Has the <u>GPS points (Serial numbers) prominently marked</u> on corresponding points on the Map.</p> <p>i. Shape of forest land proposed for diversion as shown in the Geo-referenced Map matches exactly with the KML file as well as the approved Key Plan.</p>
<p>D(i) Copy of note containing justification for locating the project in forest land</p> <p>(ii) Whether a copy of map indicating location of alternative examine is required to be provided.</p> <p>(ii)(a) Reason for not providing such map</p>	<ul style="list-style-type: none"> • A PDF file (unsigned 14 pages) containing a Project Note and a large number of irrelevant documents has been uploaded in Item D(i). • The 'No' option is selected in Item D(ii) and no map showing alternatives (<i>non-forest and/or lesser extent of forest land</i>) examined by User Agency before zeroing in on the forest land has been uploaded in Item D(ii)(a). • Instead, the text '<i>Divisional Commissioner Belgaum Order No R/FOR/SR</i>' is given as the reason for not uploading the required map in Item D(ii)(a). <ol style="list-style-type: none"> 1. Please upload a detailed Justification Note (on official letterhead) under seal and signature (with date) of User Agency duly giving the specific valid reasons (<i>and not merely quoting the unsigned Divisional Commissioner Belgaum Order dated 06-07-1965</i>) why it is unavoidable to utilize the presently proposed location in forest land in the required extent and why non-forest land cannot be used for meeting the land requirement of the project, either in full or in part. 2. Please note that the Government of India specifically seeks the map showing alternatives (requiring non-forest and/or lesser extent of forest land) examined by User Agency in Item D(ii)(a) and also the exact reasons for discarding such alternatives in favour of proposed location in forest land. 3. It is thus advised to: <ol style="list-style-type: none"> a. Examine one or more alternatives requiring non-forest and/or lesser extent of forest land and <u>upload a map on appropriate scale showing such alternative(s) as well as the presently proposed location</u> in Item D(ii)(a); and also

	<p>b. Provide the detailed valid reasons as a separate Note (<i>merged with the abovementioned Map into a single PDF file</i>) in Item D(ii)(a) why each of these alternatives has been discarded in favour of presently proposed location in forest land.</p>
G. Details of Cost-Benefit analysis for the project	The 'No' option is selected. Please upload the Cost-Benefit Analysis prepared in accordance with GOI Guidelines F.No. 7-69/2011-FC(Pt.) dated 01-08-2017 (<i>may be downloaded from 'Guidelines' Tab of FC web portal</i>).
K(i)(a) Copy of documentary evidence in support of settlement of rights under the Forest Rights Act, 2006 on the forest land proposed to be diverted	The 'No' option is selected. Please note that FRA Certificate in FORM-I (for Linear projects) or in FORM -II (for nonlinear/ Hybrid projects; depending on the factual position) issued by jurisdictional Deputy Commissioner as per guidelines issued by GOI, MOEF&CC, New Delhi vide F. No. 5-2/2017FC dated 28-03-2019 (<i>may be downloaded from FC web portal</i>) will have to be submitted <u>before final approval</u> under FC Act.
L. Details of Land identified for Compensatory Afforestation (i) Whether non-forest or Revenue forest land is required to be provided by User Agency? (iii) Reason for not providing Non-Forest Land?	<p>The 'No' option is selected in Item L(i) and the 'Others' option is selected in item L(iii) as the reason is provided for not providing CA land .</p> <ol style="list-style-type: none"> 1. Please note that the project may not enjoy the special relaxation under Para 2.5(g) of the FC Guidelines and is likely to require an equivalent extent of non-forest land to be identified (now) for CA purpose and provided later (only after Stage-I approval). However, the decision of the Government of India will be final on this issue. 2. It is thus advised, for avoiding delays at a later date, to first identify a suitable non-forest land for CA purpose, select the 'YES' option in item L(i) and then provide the following details of proposed CA land in relevant sub-items of item L. <ol style="list-style-type: none"> a. Village survey Number-wise break up of proposed CA land; b. KML file (Polygon) of boundary of CA land with inbuilt 'measurement' option and proper identifiable File name; c. Copy of land ownership proof (RTC); d. Topo Map with Map index and Survey of India Toposheet No. showing the location of proposed CA land; e. Geo-referenced Map showing proposed CA land superimposed on village/cadastral map and containing a list of GPS readings (Datum: WGS 84; <u>in Degree.decimals</u>) of all corners of CA land with the corresponding points duly marked on Georeferenced Map. 3. Please note that the proposed CA land needs to be in proximity (<i>sharing at least one boundary</i>) to an existing

	<p>(notified) forest land in accordance with FC guidelines and also suitable for taking up CA planting. If such land is not available within the same district, it can be proposed elsewhere in the State (<i>preferably in the similar agroclimatic zone</i>).</p> <p>4. It is advised to consult and obtain the CA land Suitability Certificate (<u>in prescribed format</u>) issued by the jurisdictional Deputy Conservator of Forests so as to avoid delays in processing at a later stage.</p>
<p>Additional Information Details/ General</p>	<p>A total of 6 PDF files have been uploaded. Some of the documents uploaded here are too old (Example: Certificate dated 06-04-2006 issued by DC, Uttar Kannada District and DCF Karwar letter dated 18-05-2006.) and do not serve any purpose. Even, the Divisional Commissioner, Belgaum, Order dated 06-07-1965 is unsigned.</p> <p>1. Please upload the following documents.</p> <ol style="list-style-type: none"> a. A single consolidated Undertaking (on official letterhead) agreeing to pay Net Present Value (NPV), Compensatory Afforestation (CA) charges and other stipulated charges as per applicability and norms; b. Detailed Project Report; c. Administrative Approval for the project; d. Approved Lay out (Key Map) duly signed; e. PDF files (<u>convertible to MS Excel sheets</u>) containing the Tabular Statement (component-wise titled properly) of the following:- <ol style="list-style-type: none"> i. GPS readings (Datum: WGS 84; <u>in Degree.decimals</u>) of all corners of forest land proposed for diversion (including at every 20 meter intervals for the linear components like Road); ii. GPS readings (Datum: WGS 84; <u>in Degree.decimals</u>) of all corners of (to be) proposed CA land. <p>2. Please provide the following information in <u>MS Excel sheet</u> through email to 'gis3ictc@aranya.gov.in' marking copy to 'rfo5ictc@aranya.gov.in' and 'apccffc@gmail.com'.</p> <ol style="list-style-type: none"> a. GPS readings (Datum: WGS 84; <u>in Degree.decimals</u>) of all corners of forest land proposed for diversion (including at every 20 meter intervals for the linear components like Road); b. GPS readings (Datum: WGS 84; <u>in Degree.decimals</u>) of all corners of (to be) proposed CA land. <p>3. As the FC proposals involve processing/ scrutiny by the Government of India, all uploaded documents should be duly ink-signed by the User Agency and also in English. In case of non-English documents, please also upload an</p>

	<p>English translation duly authenticated/ attested by the Competent Authority/ User Agency merged with the original document into a single PDF file.</p> <p>4. Please ensure that:</p> <ol style="list-style-type: none"> Each issue mentioned above is carefully addressed before re-submission of application. Other crucial information not pointed out above does not get deleted/ altered while submitting the application online again. No work is undertaken in forest land without FC clearance.
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You are requested to submit the appropriate information/ documents in the relevant fields available online.

The proposal is therefore returned for further needful at your end. In case, any technical assistance is required, you may contact the following Help Desk in this office.

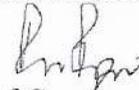
Smt. Nethravathi

Range Forest Officer & Project Officer, ICTC, Aranya Bhavan

Landline (O): 080-23346551 / Mobile: 9663727866

E-mail: rfo5ictc@aranya.gov.in

Yours Faithfully



Principal Chief Conservator of Forests
(Forest Conservation) AND Nodal Officer (FCA)

Copy through email to Deputy Conservator of Forests, Karwar Division, for information and to ensure that no non-forestry work is permitted in forest land without proper FC approval.

FORM -II

(for projects other than linear Projects)

Government of Karnataka

Office of the District Collector, Uttara Kannada, Karwar.

No/RB/FOR/CR-38/2020-21

Date: 21-06-2021

TO WHOMSOEVER IT MAY CONCERN

In compliance of the ministry of Environment and Forests(MOEF)Government of India's letter No.11-9/98-FC(pt)dated 3rd august 2009 wherein the MOEF issued guidelines on submission of evidence for having initiated & completed the process of settlement of rights under the Scheduled Tribes & other Traditional dwellers(Recognition of Forest Rights)Act 2006('FRA',for short)on the Forest land proposed to be diverted for non-forest purposes read with MoEF issued certain relaxation in respect of linear projects, it is certified that 33-12-00 Acres (13.475 Ha) of Forest land proposed to be diverted in favour of Department of Ports & Inland Water Transport Port Office ,Karwar in Karwar for the purpose of Port development activity falls within jurisdiction of Baithkhol village (Sy.No 42) of Karwar Tehsils.

It is further certified that :

(A)The complete process for identification & settlement of Rights under the FRA has been carried for the entire 33-12-00 Acres (13.475 Ha) of Forest land proposed for diversion. A copy of Records of all consultation city Municipal Council Sub-Division Committee(s) and the District Level Committee are enclosed as annexure- 'A' to 'D'

(B)The proposal for such diversion (with full detail of the project & its implications in vernacular/local languages) have been placed before each concerned CMC forest dwellers who are eligible under the FRA.

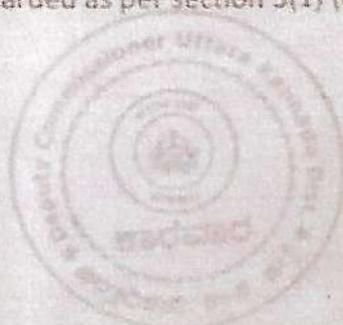
(C) The each of concerned CMC Karwar has certified that all formalities/processes under the FRA have been carried out , and that they have given their consent to be proposed diversion and the compensation and ameliorative measures, if any, having understood the purpose & details of proposed diversion . A copy of certificate issued by the City Municipal Council , Karwar & AC Karwar are enclosed A & C .

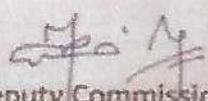
(D)The discussion & the decisions on such proposals had taken place in the presence of the Commissioner since the administrative body is not existence .

(E)The diversion of forest land for facilities managed by the government as required under section 3(2) of the FRA have been completed and the CMC have given their consent to it.

(F)The rights of primitive Tribals Groups & Pre-Agricultural communities where applicable have been specifically safeguarded as per section 3(1) (e)of the FRA.

Encl: As above




Deputy Commissioner,
Uttara Kannada, Karwar.



ಕರ್ನಾಟಕ ಸರ್ಕಾರ

ಜಿಲ್ಲಾಧಿಕಾರಿಗಳ ಕಾರ್ಯಾಲಯ, ಉತ್ತರ ಕನ್ನಡ ಕಾರವಾರ-581 301

OFFICE OF THE DEPUTY COMMISSIONER, UTTARA KANNADA DISTRICT, KARWAR, -581 301

ದೂರವಾಣಿ : } 08382 226406, 226471

Telephone: } 08382 226603 (Fax)

Email: dckarwar@gmail.com

Website: http://uttara.kannada.nic.in

ನಂ. ಕಂಶಾ/ಎಲ್.ಎನ್.ಡಿ-1/ಸಿಆರ್/38/E-32460/2021-22

ದಿನಾಂಕ:-05-01-2022

ವಿಷಯ: ಕರ್ನಾಟಕ ಮೆರಿಟೈಮ್ ಬೋರ್ಡ್ ಆಫೀಸ್ ಮತ್ತು ಅಂಗ ಕಚೇರಿ ನಿರ್ಮಾಣಕ್ಕಾಗಿ ಅರಣ್ಯ ಜಮೀನನ್ನು ಮಂಜೂರಿಸಿಕೊಳ್ಳಲು ಸದರಿ ಜಮೀನಿಗೆ ಸಮಾನವಾದ ಅರಣ್ಯೇತರ ಕ್ಷೇತ್ರವನ್ನು ಅರಣ್ಯ ಇಲಾಖೆಗೆ ಹಸ್ತಾಂತರಿಸುವ ಕುರಿತು

- ಉಲ್ಲೇಖ: 1) ಬಂದರು ಅಧಿಕಾರಿ ಕಾರವಾರರವರ ಪತ್ರ ಸಂಖ್ಯೆ: ಭೂಮಾ/ಇತರೆ/ವಿವ/201/2021-22 ದಿನಾಂಕ:-13-09-2021
- 2) ತಹಶೀಲ್ದಾರ್ ಕಾರವಾರರವರ ವರದಿ ಸಂ: ಭೂಮಿ/ವಿವ /47/ 2021-22, ದಿನಾಂಕ:20-09-2021.
- 3) ಸಹಾಯಕ ಕಮೀಷನರ ಕಾರವಾರರವರ ವರದಿ ಸಂ:ಎಲ್.ಎನ್.ಡಿ /LND/ವಿವ/25/ 2020-21, ದಿನಾಂಕ:21-09-2021.
- 4) ಕರ್ನಾಟಕ ಭೂ ಮಂಜೂರಾತಿ ನಿಯಮಗಳು- 1969 ರ ನಿಯಮ 22-ಎ(3)(i)
- 5) ಸರ್ಕಾರದ ಆದೇಶ ನಂ/ಆರ್.ಡಿ 2/ಎಲ್.ಜಿ.ಡಬ್ಲ್ಯು /71/ದಿನಾಂಕ 20-5-1971.
- 6) ಈ ಕಚೇರಿ ಸಮಕ್ರಮಾಂಕದ ಪತ್ರ ದಿನಾಂಕ:-29-09-2021 ಮತ್ತು 10-11-2021.
- 7) ಸರ್ಕಾರದ ಪತ್ರ ಸಂಖ್ಯೆ:-ಕಂಇ/15/ಎಲ್.ಜಿ.ಎನ್/2021 ದಿನಾಂಕ:05-01-2022

ಪ್ರಸ್ತಾವನೆ:

ಕಾರವಾರ ತಾಲೂಕು ಬಾಡ ಹೋಬಳಿ ಬೈತಖೋಲ ಗ್ರಾಮದ ಅರಣ್ಯ ಸ.ನಂ. 42 ರ ಕ್ಷೇತ್ರ 33-12-0 (ಎ.ಗು.ಆ) ಜಮೀನನ್ನು ಕರ್ನಾಟಕ ಮೆರಿಟೈಮ್ ಬೋರ್ಡ್ ಆಫೀಸ್ ಮತ್ತು ಅಂಗ ಕಚೇರಿ ನಿರ್ಮಾಣಕ್ಕಾಗಿ ಮಂಜೂರಿಸಿಕೊಳ್ಳಲು ಸದರಿ ಸ.ನಂ. ಜಮೀನಿಗೆ ಸಮಾನವಾದ ಅರಣ್ಯೇತರ ಕ್ಷೇತ್ರವನ್ನು ಅರಣ್ಯ ಇಲಾಖೆಗೆ ಹಸ್ತಾಂತರಿಸಲು ಸೂಕ್ತವಾದ ಸರಕಾರಿ ಜಮೀನನ್ನು ಮಂಜೂರಿಸಲು ಮೂಲ ಸೌಲಭ್ಯ ಅಭಿವೃದ್ಧಿ, ಬಂದರು ಮತ್ತು ಒಳನಾಡು ಜಲಸಾರಿಗೆ ಇಲಾಖೆ, ಕಾರವಾರ ರವರು ಉಲ್ಲೇಖ (1) ರ ಪತ್ರದಲ್ಲಿ ಕೋರಿರುತ್ತಾರೆ.

ಅದರಂತೆ ತಹಶೀಲ್ದಾರ್ ಕಾರವಾರ ಹಾಗೂ ಸಹಾಯಕ ಆಯುಕ್ತರು ಕಾರವಾರರವರು ಉಲ್ಲೇಖ (2) ಹಾಗೂ (3) ರನ್ವಯ ಕಾರವಾರ ತಾಲೂಕಿನ ನಗೆಕೋವೆ ಗ್ರಾಮದ ಸ.ನಂ.102 ಕ್ಷೇತ್ರ 14-32-0 ಪೈಕಿ 14-28-5 ಮತ್ತು ಸ.ನಂ.103 ಒಟ್ಟು ಕ್ಷೇತ್ರ 7-1-0 ಖರಾಬ (ಬ) 0-4-0 ನಿವ್ವಳ ಕ್ಷೇತ್ರ 6-37-0 ಹೀಗೆ ಒಟ್ಟು ಕ್ಷೇತ್ರ 21-33-0 ಜಮೀನುಗಳನ್ನು ಗುರುತಿಸಿ ಪರಿಹಾರಾತ್ಮಕ ಅರಣ್ಯೇತರಣಕ್ಕಾಗಿ ಅರಣ್ಯ ಇಲಾಖೆಗೆ ಹಸ್ತಾಂತರಿಸುವ ಕುರಿತು ಪ್ರಸ್ತಾವನೆಯನ್ನು ಸಲ್ಲಿಸಿರುತ್ತಾರೆ.

ಕಾರವಾರ ತಾಲೂಕಿನ ನಗೆಕೋವೆ ಗ್ರಾಮದ ಸ.ನಂ.102 ಕ್ಷೇತ್ರ 14-32-0 ಮತ್ತು ಸ.ನಂ.103 ಒಟ್ಟು ಕ್ಷೇತ್ರ 7-1-0 ಜಮೀನುಗಳು ಪಹಣಿ ಪತ್ರಿಕೆಯ ಪ್ರಕಾರ ಕಂದಾಯ ಇಲಾಖೆಯಲ್ಲಿ ನಿಹಿತವಾಗಿದ್ದು ಈ ಜಮೀನು ಸರ್ಕಾರಿ ಪಡ ಎಂದು ವರ್ಗಾಯಿಸಲ್ಪಟ್ಟಿರುತ್ತದೆ. ಮೂಲತಃ ಸನ್ 1981 ರಲ್ಲಿ ಈ ಜಮೀನನ್ನು ' ಸಿ' ವರ್ಗದ ಜಮೀನು ಎಂದು ನಿರ್ದೇಶಿಸಿ ಅರಣ್ಯ ಇಲಾಖೆಗೆ ವಹಿಸಿಕೊಟ್ಟ ಬಗ್ಗೆ ಮ್ಯಾಟೀಶನ್ ಎಂಟ್ರಿ ನಂ. 787 ರಲ್ಲಿ ಉಲ್ಲೇಖವಿರುತ್ತದೆ. ನಂತರ ಸನ್ 1991 ರಲ್ಲಿ ಈ ಜಮೀನುಗಳನ್ನು ಮರಳಿ ಕಂದಾಯ ಇಲಾಖೆಗೆ ವಾಪಸ್ ಪಡೆದು ಸಾರ್ವಜನಿಕ ಉದ್ದೇಶಕ್ಕಾಗಿ ಕಾಯ್ದಿರಿಸಿರುವುದು ಮ್ಯಾಟೀಶನ್ ಎಂಟ್ರಿ ನಂ.904 ಪರಿಶೀಲನೆಯಿಂದ ತಿಳಿದು ಬರುತ್ತದೆ.

ಪ್ರಸ್ತಾವಿತ ಜಮೀನುಗಳು ಒಂದಕ್ಕೊಂದು ಲಗ್ನ ಇರುತ್ತಿದ್ದು, ಈ ಪೈಕಿ ಸ.ನಂ. 103 ರಲ್ಲಿ ಅರಣ್ಯ ಇಲಾಖೆಯ ವರ್ಗೀಕರಣ ಇರುತ್ತದೆ. ಸ.ನಂ. 102 ಬೃಹತ್ ಆಕಾರದ ಅರಣ್ಯದ ರಕ್ಷಿತ ಗಿಡಗಳಿಂದ ಮತ್ತು ಜಂಗಿ ಗಿಡಗಳಿಂದ ಕೂಡಿರುತ್ತದೆ. ಈ ಜಮೀನಿನಲ್ಲಿ ಯಾವುದೇ ಖಾಸಗಿ ಅತಿಕ್ರಮಣ ಇರುವುದಿಲ್ಲ. ಜನವಸತಿ ಪ್ರದೇಶದಿಂದ ಸಹ ಸಾಕಷ್ಟು ದೂರದಲ್ಲಿರುತ್ತದೆ. ಈ ಜಮೀನುಗಳು ಗಿಡಮರಗಳ ದಟ್ಟಣೆಯಿಂದ ಕೂಡಿರುವುದರಿಂದ ಹಾಗೂ ಕೆಲವು ಭಾಗ ಈಗಾಗಲೇ ಅರಣ್ಯ ಇಲಾಖೆಯ ಸ್ವಾಧೀನದಲ್ಲಿರುವುದರಿಂದ ಪರಿಹಾರಾತ್ಮಕ ಅರಣ್ಯೀಕರಣಕ್ಕಾಗಿ ನೀಡಿ ಅರಣ್ಯ ಇಲಾಖೆಗೆ ವರ್ಗಾಯಿಸಲು ಸೂಕ್ತವಾಗಿರುತ್ತದೆಯಾಗಿ ತಹಶೀಲ್ದಾರರು ಹಾಗೂ ಸಹಾಯಕ ಆಯುಕ್ತರು ಶಿಫಾರಸ್ಸಿನಿಂದ ವರದಿ ಸಲ್ಲಿಸಿರುತ್ತಾರೆ.

ಬೈತಖೋಲ ಗ್ರಾಮದ ಅರಣ್ಯ ಸ.ನಂ.42 ರ ಕ್ಷೇತ್ರ 33-12-0 ವಿಸ್ತೀರ್ಣದ ಜಮೀನಿನಲ್ಲಿ 116.55 ಕೋಟಿ ರೂ.ಗಳ ವೆಚ್ಚದಲ್ಲಿ ಕರ್ನಾಟಕ ಮೆರಿಟೈಮ್ ಬೋರ್ಡ್ ಕಚೇರಿ, ಅತಿಥಿ ಗೃಹ, ಶೀಠಲೀಕರಣ ಘಟಕ, ಬೃಹತ್ ಸರಕು ದಾಸ್ತಾನು ಪ್ರದೇಶ, ವಾಹನ ನಿಲುಗಡೆ ಮುಂತಾದ ವಿನ್ಯಾಸಗಳನ್ನು ನಿರ್ಮಿಸುವ ಉದ್ದೇಶವನ್ನು ಬಂದರು ಇಲಾಖೆಯು ಹೊಂದಿದ್ದು ಸದರಿ ಯೋಜನೆಯ ಅನುಷ್ಠಾನಕ್ಕಾಗಿ ಅಗತ್ಯವಿರುವ ಅರಣ್ಯ ಜಮೀನನ್ನು ಪಡೆಯಲು ಬಂದರು ಇಲಾಖೆಗೆ ಅರಣ್ಯೀತರ ಜಮೀನನ್ನು ಪರಿಹಾರಾತ್ಮಕವಾಗಿ ಅರಣ್ಯ ಇಲಾಖೆಗೆ ನೀಡುವ ಅನಿವಾರ್ಯತೆಯ ಬಗ್ಗೆ ತಿಳಿಸಿದ್ದು ಅದರಂತೆ ಬಂದರು ಇಲಾಖೆಗೆ ಪರಿಹಾರಾತ್ಮಕ ಅರಣ್ಯೀಕರಣಕ್ಕಾಗಿ ಮಂಜೂರಿಸಲು ಕ್ರಮವಹಿಸಬೇಕಾಗಿರುತ್ತದೆ.

ಕರ್ನಾಟಕ ಭೂ ಮಂಜೂರಾತಿ ನಿಯಮಗಳು- 1969 ರ ನಿಯಮ 22-ಎ(3) (i) ರಡಿಯಲ್ಲಿ ಎಲ್ಲಾ ಸರ್ಕಾರಿ ಇಲಾಖೆಗಳಿಗೆ ಭೂಮಿಯನ್ನು ಉಚಿತವಾಗಿ ಮಂಜೂರಿಸಲು ಅವಕಾಶ ಇರುತ್ತದೆ. ಆದರೆ, ಉಲ್ಲೇಖ (5) ರ ಸರ್ಕಾರದ ಆದೇಶದಲ್ಲಿ ನಾಲ್ಕು ಹೆಕ್ಟೇರ್ ಸರ್ಕಾರಿ ಜಮೀನನ್ನು ಮಾತ್ರ ಸರ್ಕಾರದ ಇತರ ಇಲಾಖೆಗಳಿಗೆ ಹಸ್ತಾಂತರಿಸಲು ಟಿಲ್ಲಾಧಿಕಾರಿಗಳಿಗೆ ಅಧಿಕಾರವಿರುತ್ತದೆ. ಸದರಿ ಪ್ರಕರಣದಲ್ಲಿ ಜಮೀನು 4 ಹೆಕ್ಟೇರ್ ಮೀರಿರುವುದರಿಂದ ಸದರಿ ಜಮೀನುಗಳನ್ನು ಅರಣ್ಯ ಇಲಾಖೆಗೆ ಹಸ್ತಾಂತರಿಸುವ ಕುರಿತು ಸರ್ಕಾರದ ಪೂರ್ವಾನುಮೋದನೆ ನೀಡಲು ಕೋರಿ ಉಲ್ಲೇಖ (6) ರಂತೆ ಪ್ರಸ್ತಾವನೆ ಸರ್ಕಾರಕ್ಕೆ ಸಲ್ಲಿಸಲಾಗಿತ್ತು.

ಅದರಂತೆ ಉತ್ತರ ಕನ್ನಡ ಜಿಲ್ಲೆಯ ಕಾರವಾರ ತಾಲೂಕು ಬಾಡ ಹೋಬಳಿ ಬೈತಖೋಲ ಗ್ರಾಮದ ಅರಣ್ಯ ಸ.ನಂ.42 ರ ಕ್ಷೇತ್ರ 33-12-0 (ಎ.ಗು.ಆ) ಜಮೀನನ್ನು ಕರ್ನಾಟಕ ಮೆರಿಟೈಮ್ ಬೋರ್ಡ್ ಆಫೀಸ್ ಮತ್ತು ಅಂಗ ಕಚೇರಿ ನಿರ್ಮಾಣಕ್ಕಾಗಿ ಮಂಜೂರಿಸಿಕೊಳ್ಳಲು ಸದರಿ ಜಮೀನಿಗೆ ಸಮಾನವಾದ ಅರಣ್ಯೀತರ ಜಮೀನಾದ ಕಾರವಾರ ತಾಲೂಕಿನ ನಗೆಕೋವೆ ಗ್ರಾಮದ ಸ.ನಂ.102 ಕ್ಷೇತ್ರ 14-32-0 ಮತ್ತು ಸ.ನಂ.103 ಕ್ಷೇತ್ರ 7-1-0 ಒಟ್ಟು ಕ್ಷೇತ್ರ 21-33-0 ಎಕರೆ ಜಮೀನನ್ನು ಅರಣ್ಯ ಇಲಾಖೆಗೆ ಹಸ್ತಾಂತರಿಸಲು ಉಲ್ಲೇಖ (7) ರ ಸರ್ಕಾರದ ಹತ್ರದಲ್ಲಿ ಅನುಮೋದನೆ ನೀಡಲಾಗಿದೆ. ಅದರಂತೆ ಈ ಕೆಳಗಿನಂತೆ ಆದೇಶ ಮಾಡಿದೆ.

ಆದೇಶ

ಪ್ರಸ್ತಾವನೆಯಲ್ಲಿ ವಿವರಿಸಿದ್ದ ಕಾರಣಗಳಿಂದಾಗಿ ಮತ್ತು ನನ್ನಲ್ಲಿ ಪ್ರದತ್ತವಾದ ಅಧಿಕಾರದ ಮೇರೆಗೆ ಉತ್ತರ ಕನ್ನಡ ಜಿಲ್ಲೆಯ ಕಾರವಾರ ತಾಲೂಕು ಬಾಡ ಹೋಬಳಿ ಬೈತಖೋಲ ಗ್ರಾಮದ ಅರಣ್ಯ ಸ.ನಂ.42 ರ ಕ್ಷೇತ್ರ 33-12-0 (ಎ.ಗು.ಆ) ಜಮೀನನ್ನು ಕರ್ನಾಟಕ ಮೆರಿಟೈಮ್ ಬೋರ್ಡ್ ಆಫೀಸ್ ಮತ್ತು ಅಂಗ ಕಚೇರಿ ನಿರ್ಮಾಣಕ್ಕಾಗಿ ಮಂಜೂರಿಸಿಕೊಳ್ಳಲು ಸದರಿ ಜಮೀನಿಗೆ ಸಮಾನವಾದ ಅರಣ್ಯೀತರ ಜಮೀನಾದ ಕಾರವಾರ ತಾಲೂಕಿನ ನಗೆಕೋವೆ ಗ್ರಾಮದ ಸ.ನಂ.102 ಕ್ಷೇತ್ರ 14-32-0 ಮತ್ತು ಸ.ನಂ.103 ಕ್ಷೇತ್ರ 7-1-0 ಒಟ್ಟು ಕ್ಷೇತ್ರ 21-33-0 ಜಮೀನನ್ನು ಸರ್ಕಾರದಿಂದ ಅನುಮೋದನೆ ನೀಡಿದ ಮೇರೆಗೆ ಕರ್ನಾಟಕ ಭೂ ಮಂಜೂರಾತಿ ನಿಯಮಗಳು- 1969 ರ ನಿಯಮ 22-ಎ(3) (i) ರಡಿಯಲ್ಲಿ ಅರಣ್ಯ ಇಲಾಖೆಗೆ ಹಸ್ತಾಂತರಿಸಿ ಆದೇಶಿಸಿದೆ.

ಅರಣ್ಯ ಇಲಾಖೆಗೆ ಹಸ್ತಾಂತರಿಸಿದ ಜಮೀನಿನ ಚೆಕ್ ಬಂದಿ

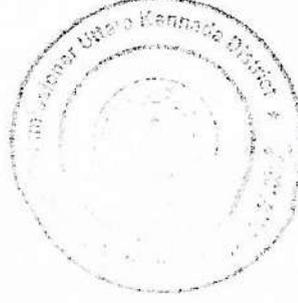
	ಸ.ನಂ.102	ಸ.ನಂ.103
ಪೂರ್ವಕ್ಕೆ	ಲಾಗೂ ಸ.ನಂ.108ಅ	ಲಾಗೂ ಸ.ನಂ.108ಆ
ಪಶ್ಚಿಮಕ್ಕೆ	ಲಾಗೂ ಸ.ನಂ.101	ಲಾಗೂ ಹಳ್ಳ
ಉತ್ತರಕ್ಕೆ	ಲಾಗೂ ಸ.ನಂ.103	ಲಾಗೂ ಹಳ್ಳ
ದಕ್ಷಿಣಕ್ಕೆ	ಲಾಗೂ ಸ.ನಂ.108ಆ	ಲಾಗೂ ಸ.ನಂ.102

ಜಿಲ್ಲಾಧಿಕಾರಿ

ಉತ್ತರ ಕನ್ನಡ ಕಾರವಾರ

ಪ್ರತಿಯನ್ನು ಸೂಕ್ತ ಕ್ರಮಕ್ಕಾಗಿ

- 1) ಉಪ ಅರಣ್ಯ ಸಂರಕ್ಷಣಾಧಿಕಾರಿಗಳು ಕಾರವಾರರವರಿಗೆ ಮಾಹಿತಿ ಹಾಗೂ ಸೂಕ್ತ ಕ್ರಮಕ್ಕಾಗಿ
- 2) ಸಹಾಯಕ ಕಮೀಷನರ ಕಾರವಾರರವರಿಗೆ ಮಾಹಿತಿಗಾಗಿ ಕಳುಹಿಸಿದೆ.
- 3) ತಹಶೀಲ್ದಾರ ಕಾರವಾರರವರಿಗೆ ಸೂಕ್ತ ಕ್ರಮದ ಬಗ್ಗೆ ಕಡತ ಪುಟ ಸಂಖ್ಯೆ:-01 ರಿಂದ ರ ವರೆಗೆ ಕಳುಹಿಸಿದೆ.
- 4) ಬಂದರು ಅಧಿಕಾರಿ ಕಾರವಾರರವರಿಗೆ ಸೂಕ್ತ ಕ್ರಮದ ಕುರಿತು ಕಳುಹಿಸಿದೆ.



[Handwritten Signature]
ಜಿಲ್ಲಾಧಿಕಾರಿ

ಉತ್ತರ ಕನ್ನಡ ಕಾರವಾರ





ಕರ್ನಾಟಕ ಸರ್ಕಾರ

ಬೆಲ್ಲಾಧಿಕಾರಿಗಳ ಕಾರ್ಯಾಲಯ, ಉತ್ತರ ಕನ್ನಡ ಕಾರವಾರ-581 301

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ನಂ. ಕಂಶಾ/ಎಲ್.ಎನ್.ಡಿ-1/ಸಿಆರ್/38/E-32460/2021-22

ದಿನಾಂಕ:-15-03-2022

ವಿಷಯ: ಕರ್ನಾಟಕ ಮೆರಿಟೈಮ್ ಬೋರ್ಡ್ ಆಫೀಸ್ ಮತ್ತು ಅಂಗ ಕಚೇರಿ ನಿರ್ಮಾಣಕ್ಕಾಗಿ ಅರಣ್ಯ ಜಮೀನನ್ನು ಮಂಜೂರಿಸಿಕೊಳ್ಳಲು ಸದರಿ ಜಮೀನಿಗೆ ಸಮಾನವಾದ ಅರಣ್ಯೇತರ ಕ್ಷೇತ್ರವನ್ನು ಅರಣ್ಯ ಇಲಾಖೆಗೆ ಹಸ್ತಾಂತರಿಸುವ ಕುರಿತು

- ಉಲ್ಲೇಖ: 1) ಬಂದರು ಅಧಿಕಾರಿ ಕಾರವಾರರವರ ಪತ್ರ ಸಂಖ್ಯೆ: ಭೂಮಿ/ಸಿಆರ್/38/2005-06 ದಿನಾಂಕ:-28-01-2022
- 2) ಈ ಕಚೇರಿ ಸಮಕ್ರಮಾಂಕದ ಆದೇಶ ದಿನಾಂಕ:-05-01-2022 ಮತ್ತು 02-03-2022
- 3) ತಹಶೀಲ್ದಾರ ಕಾರವಾರರವರ ವರದಿ ಸಂ: ಭೂಮಿ/ವಿವ /80/2021-22, ದಿನಾಂಕ:22-02-2022.
- 4) ಸಹಾಯಕ ಕಮೀಷನರ ಕಾರವಾರರವರ ವರದಿ ಸಂ:ಎಲ್.ಎನ್.ಡಿ/ ವಿವ/ 25/ 2021-22, ದಿನಾಂಕ:25-02-2022.
- 5) ಕರ್ನಾಟಕ ಭೂ ಮಂಜೂರಾತಿ ನಿಯಮಗಳು- 1969 ರ ನಿಯಮ 22-ಎ(3)(i)
- 6) ಸರ್ಕಾರದ ಆದೇಶ ನಂ/ಆರ್.ಡಿ 2/ಎಲ್.ಜಿ.ಡಬ್ಲ್ಯು /71/ದಿನಾಂಕ 20-5-1971.

ಪ್ರಸ್ತಾವನೆ:

ಕಾರವಾರ ತಾಲೂಕು ಬಾಡ ಹೋಬಳಿ ಬೈತಖೋಲ ಗ್ರಾಮದ ಅರಣ್ಯ ಸ.ನಂ. 42 ರ ಕ್ಷೇತ್ರ 33-12-0 (ಎ.ಗು.ಆ) ಜಮೀನನ್ನು ಕರ್ನಾಟಕ ಮೆರಿಟೈಮ್ ಬೋರ್ಡ್ ಆಫೀಸ್ ಮತ್ತು ಅಂಗ ಕಚೇರಿ ನಿರ್ಮಾಣಕ್ಕಾಗಿ ಮಂಜೂರಿಸಿಕೊಳ್ಳಲು ಸದರಿ ಸ.ನಂ. ಜಮೀನಿಗೆ ಸಮಾನವಾದ ಅರಣ್ಯೇತರ ಕ್ಷೇತ್ರವನ್ನು ಪರಿಹಾರಾತ್ಮಕ ಅರಣ್ಯೇಕರಣಕ್ಕಾಗಿ ಸಮಾನವಾದ ಅರಣ್ಯೇತರ ಜಮೀನಾದ ಕಾರವಾರ ತಾಲೂಕಿನ ನಗೆಕೋವೆ ಗ್ರಾಮದ ಸ.ನಂ.102 ಕ್ಷೇತ್ರ 14-28-5 ಮತ್ತು ಸ.ನಂ.103 ಕ್ಷೇತ್ರ 7-1-0 ಒಟ್ಟು ಕ್ಷೇತ್ರ 21-29-5 ಜಮೀನನ್ನು ಈಗಾಗಲೇ ಅರಣ್ಯ ಇಲಾಖೆಗೆ ಹಸ್ತಾಂತರಿಸಿ ಉಲ್ಲೇಖ (1) ರಂತೆ ಆದೇಶಿಸಲಾಗಿದೆ.

ಈಗ ಬಂದರು ಅಧಿಕಾರಿ ಕಾರವಾರರವರು ಕಾರವಾರ ತಾಲೂಕಿನ ದೇವಕಾರ ಗ್ರಾಮದ ಸ.ನಂ 33 ರಲ್ಲಿ 3-15-8 ನ್ನು ಪರಿಹಾರಾತ್ಮಕ ಅರಣ್ಯೇಕರಣಕ್ಕಾಗಿ ಅರಣ್ಯ ಇಲಾಖೆಗೆ ಹಸ್ತಾಂತರಿಸಲು ಉಲ್ಲೇಖ (2) ರಂತೆ ಕೋರಿಯುತ್ತಾರೆ. ತಹಶೀಲ್ದಾರ ಕಾರವಾರ ಹಾಗೂ ಸಹಾಯಕ ಆಯುಕ್ತರು ಕಾರವಾರರವರು ಉಲ್ಲೇಖ (3) ಹಾಗೂ (4) ರನ್ವಯ ಸದ್ದಿ ಜಮೀನನ್ನು ಗುರುತಿಸಿ ಪರಿಹಾರಾತ್ಮಕ ಅರಣ್ಯೇಕರಣಕ್ಕಾಗಿ ಅರಣ್ಯ ಇಲಾಖೆಗೆ ಹಸ್ತಾಂತರಿಸುವ ಕುರಿತು ಪ್ರಸ್ತಾವನೆಯನ್ನು ಸಲ್ಲಿಸಿರುತ್ತಾರೆ.

ಅಕಾರ ಬಂದ ಪ್ರಕಾರ ಕಾರವಾರ ತಾಲೂಕಿನ ದೇವಕಾರ ಗ್ರಾಮದ ಮೂಲ ಸ.ನಂ.33 ಒಟ್ಟು ಕ್ಷೇತ್ರ 8-5-0 ಖರಾಬ (ಅ) ಕ್ಷೇತ್ರ 0-1-0 ನಿವ್ವಳ ಕ್ಷೇತ್ರ 8-4-0 ಇರುತ್ತದೆ. ಆದರೆ ಪಹಣಿಪತ್ರಿಕೆಯ ಪ್ರಕಾರ ಮೂಲ ಸ.ನಂ.ಹಿನ್ನಾ 1 ಕ್ಷೇತ್ರ 5-30-0 ಖರಾಬ (ಅ) 0-1-0 ನಿವ್ವಳ ಕ್ಷೇತ್ರ 5-29-0 ಮತ್ತು ಹಿನ್ನಾ 2 ಕ್ಷೇತ್ರ 2-15-0 ಆಗಿ ವಿಂಗಡನೆಗೊಂಡಿರುತ್ತದೆ. ಇದು ಪೈಕಿ ಪಹಣಿಪತ್ರಿಕೆಯಾಗಿದ್ದು ಒಟ್ಟುಗೂಡಿಸಲು ಕ್ರಮ ಜರುಗಿಸಲಾಗಿದೆ. ದೇವಕಾರ ಗ್ರಾಮದ ಸ.ನಂ 33 ಒಟ್ಟು ಕ್ಷೇತ್ರ 8-5-0 ಪೈಕಿ 4 29-8 ಈಗಾಗಲೇ ಪಹಣಿಪತ್ರಿಕೆಯ ಪ್ರಕಾರ ಅರಣ್ಯ ಇಲಾಖೆಯ ಸ್ವಾಧೀನದಲ್ಲಿರುತ್ತದೆ. ಬಾಕಿ ಉಳಿದ ಕ್ಷೇತ್ರ 3 15-8 ಪಹಣಿಪತ್ರಿಕೆಯ ಪ್ರಕಾರ ಸರ್ಕಾರಿ ಪಡ ಶೀರ್ಷಿಕೆಯಲ್ಲಿ ದಾಖಲಾಗಿದ್ದರೂ ಸಹ ಭೌತಿಕವಾಗಿ ಬೃಹತ್ ಆಕಾರದ ಅರಣ್ಯ ರಕ್ಷಿತ

ಗಿಡಗಳಿಂದ ಮತ್ತು ಜಂಗಿ ಗಿಡಗಳಿಂದ ಕೂಡಿರುತ್ತದೆ. ಯಾವುದೇ ಖಾಸಗಿ ಅತಿಕ್ರಮಣ ಇರುವುದಿಲ್ಲ. ಜನವಸತಿ ಪ್ರದೇಶದಿಂದ ಸಾಕಷ್ಟು ದೂರದಲ್ಲಿರುತ್ತದೆ ಈ ಜಮೀನುಗಳ ಗಿಡಮರಗಳ ದಟ್ಟಣೆಯಿಂದ ಕೂಡಿರುವುದರಿಂದ ಹಾಗೂ ಕೆಲವು ಸ್ಥಳಗಳ ಈಗಾಗಲೇ ಅರಣ್ಯ ಇಲಾಖೆಯ ಸ್ವಾಧೀನದಲ್ಲಿರುವುದರಿಂದ ಪರಿಹಾರಾತ್ಮಕ ಅರಣ್ಯೀಕರಣಕ್ಕಾಗಿ ಅರಣ್ಯ ಇಲಾಖೆಗೆ ಕರ್ನಾಟಕ ಭೂ ಮಂಜೂರಾತಿ ನಿಯಮಗಳು- 1969 ರ ನಿಯಮ 22-ಎ(3)(i) ರನ್ವಯ ಮಂಜೂರಿಸಬಹುದಾಗಿ ತಹಶೀಲ್ದಾರ ಕಾರವಾರರವರು ಅಭಿಪ್ರಾಯಿಸಿ ಉಲ್ಲೇಖ (3) ರಂತೆ ಪ್ರಸ್ತಾವನೆ ಸಲ್ಲಿಸಿರುತ್ತಾರೆ.

ಸಹಾಯಕ ಆಯುಕ್ತರು ಕಾರವಾರರವರು ಕಾರವಾರ ತಾಲೂಕು ಬಾಡ ಹೋಬಳಿ ಬೈತಖೋಲ ಗ್ರಾಮದ ಅರಣ್ಯ ಸ.ನಂ.42 ರ ಕ್ಷೇತ್ರ 33-12-0 (ಎ.ಗು.ಆ) ಜಮೀನನ್ನು ಕರ್ನಾಟಕ ಮೆರಿಟೈಮ್ ಬೋರ್ಡ್ ಆಫೀಸ್ ಮತ್ತು ಅಂಗ ಕಚೇರಿ ನಿರ್ಮಾಣಕ್ಕಾಗಿ ಮಂಜೂರಿಸಿಕೊಳ್ಳಲು ಸದರಿ ಜಮೀನಿಗೆ ಸಮಾನವಾದ ಅರಣ್ಯೀತರ ಜಮೀನಾದ ಕಾರವಾರ ತಾಲೂಕಿನ ದೇವಕಾರ ಗ್ರಾಮದ ಸ.ನಂ.33 ರಲ್ಲಿ 3-15-8 ನ್ನು ಪರಿಹಾರಾತ್ಮಕ ಅರಣ್ಯೀಕರಣಕ್ಕಾಗಿ ಅರಣ್ಯ ಇಲಾಖೆಗೆ ಮಂಜೂರಿಸಬಹುದಾಗಿ ಶಿಫಾರಸ್ಸು ಮಾಡಿ ಉಲ್ಲೇಖ (4) ರಂತೆ ಪ್ರಸ್ತಾವನೆ ಸಲ್ಲಿಸಿರುತ್ತಾರೆ.

ಬೈತಖೋಲ ಗ್ರಾಮದ ಅರಣ್ಯ ಸ.ನಂ.42 ರ ಕ್ಷೇತ್ರ 33-12-0 ವಿಸ್ತೀರ್ಣದ ಜಮೀನಿನಲ್ಲಿ 116.55 ಕೋಟಿ ರೂ.ಗಳ ವೆಚ್ಚದಲ್ಲಿ ಕರ್ನಾಟಕ ಮೆರಿಟೈಮ್ ಬೋರ್ಡ್ ಕಛೇರಿ, ಅತಿಥಿ ಗೃಹ, ಶೀಥಲೀಕರಣ ಘಟಕ, ಬೃಹತ್ ಸರಕು ದಾಸ್ತಾನು ಪ್ರದೇಶ, ವಾಹನ ನಿಲುಗಡೆ ಮುಂತಾದ ವಿನ್ಯಾಸಗಳನ್ನು ನಿರ್ಮಿಸುವ ಉದ್ದೇಶವನ್ನು ಬಂದರು ಇಲಾಖೆಯು ಹೊಂದಿದ್ದು ಸದರಿ ಯೋಜನೆಯ ಅನುಷ್ಠಾನಕ್ಕಾಗಿ ಅಗತ್ಯವಿರುವ ಅರಣ್ಯ ಜಮೀನನ್ನು ಪಡೆಯಲು ಬಂದರು ಇಲಾಖೆಗೆ ಅರಣ್ಯೀತರ ಜಮೀನನ್ನು ಪರಿಹಾರಾತ್ಮಕವಾಗಿ ಅರಣ್ಯ ಇಲಾಖೆಗೆ ನೀಡುವ ಅನಿವಾರ್ಯತೆಯ ಬಗ್ಗೆ ತಿಳಿಸಿದ್ದು ಅದರಂತೆ ಬಂದರು ಇಲಾಖೆಗೆ ಪರಿಹಾರಾತ್ಮಕ ಅರಣ್ಯೀಕರಣಕ್ಕಾಗಿ ಮಂಜೂರಿಸಲು ಕ್ರಮವಹಿಸಬೇಕಾಗಿರುತ್ತದೆ.

ಕರ್ನಾಟಕ ಭೂ ಮಂಜೂರಾತಿ ನಿಯಮಗಳು- 1969 ರ ನಿಯಮ 22-ಎ(3) (i) ರಡಿಯಲ್ಲಿ ಎಲ್ಲಾ ಸರ್ಕಾರಿ ಇಲಾಖೆಗಳಿಗೆ ಭೂಮಿಯನ್ನು ಉಚಿತವಾಗಿ ಮಂಜೂರಿಸಲು ಅವಕಾಶ ಇದ್ದು, ಉಲ್ಲೇಖ (6) ರ ಸರ್ಕಾರದ ಆದೇಶದಲ್ಲಿ ನಾಲ್ಕು ಹೆಕ್ಟೇರ್ ಸರ್ಕಾರಿ ಜಮೀನನ್ನು ಸರ್ಕಾರದ ಇತರ ಇಲಾಖೆಗಳಿಗೆ ಹಸ್ತಾಂತರಿಸಲು ಜಿಲ್ಲಾಧಿಕಾರಿಗಳಿಗೆ ಅಧಿಕಾರವಿರುತ್ತದೆ.

ಅದರಂತೆ ಉತ್ತರ ಕನ್ನಡ ಜಿಲ್ಲೆಯ ಕಾರವಾರ ತಾಲೂಕು ಬಾಡ ಹೋಬಳಿ ಬೈತಖೋಲ ಗ್ರಾಮದ ಅರಣ್ಯ ಸ.ನಂ.42 ರ ಕ್ಷೇತ್ರ 33-12-0 (ಎ.ಗು.ಆ) ಜಮೀನನ್ನು ಕರ್ನಾಟಕ ಮೆರಿಟೈಮ್ ಬೋರ್ಡ್ ಆಫೀಸ್ ಮತ್ತು ಅಂಗ ಕಚೇರಿ ನಿರ್ಮಾಣಕ್ಕಾಗಿ ಮಂಜೂರಿಸಿಕೊಳ್ಳಲು ಸದರಿ ಜಮೀನಿಗೆ ಸಮಾನವಾದ ಅರಣ್ಯೀತರ ಜಮೀನಾದ ಕಾರವಾರ ತಾಲೂಕಿನ ದೇವಕಾರ ಗ್ರಾಮದ ಸ.ನಂ.33 ರಲ್ಲಿ 3-15-8 ಜಮೀನನ್ನು ಅರಣ್ಯ ಇಲಾಖೆಗೆ ಹಸ್ತಾಂತರಿಸಲು ಈ ಕೆಳಗಿನಂತೆ ಆದೇಶ ಮಾಡಿದೆ.

ಆದೇಶ

ಪ್ರಸ್ತಾವನೆಯಲ್ಲಿ ವಿವರಿಸಿದ ಕಾರಣಗಳಿಂದಾಗಿ ಮತ್ತು ನನ್ನಲ್ಲಿ ಪ್ರದತ್ತವಾದ ಅಧಿಕಾರದ ಮೇರೆಗೆ ಉತ್ತರ ಕನ್ನಡ ಜಿಲ್ಲೆಯ ಕಾರವಾರ ತಾಲೂಕು ಬಾಡ ಹೋಬಳಿ ಬೈತಖೋಲ ಗ್ರಾಮದ ಅರಣ್ಯ ಸ.ನಂ.42 ರ ಕ್ಷೇತ್ರ 33-12-0 (ಎ.ಗು.ಆ) ಜಮೀನನ್ನು ಕರ್ನಾಟಕ ಮೆರಿಟೈಮ್ ಬೋರ್ಡ್ ಆಫೀಸ್ ಮತ್ತು ಅಂಗ ಕಚೇರಿ ನಿರ್ಮಾಣಕ್ಕಾಗಿ ಮಂಜೂರಿಸಿಕೊಳ್ಳಲು ಸದರಿ ಜಮೀನಿಗೆ ಸಮಾನವಾದ ಅರಣ್ಯೀತರ ಜಮೀನಾದ ಕಾರವಾರ ತಾಲೂಕಿನ ದೇವಕಾರ ಗ್ರಾಮದ ಸ.ನಂ.33 ರಲ್ಲಿ 3-15-8 ಜಮೀನನ್ನು ಕರ್ನಾಟಕ ಭೂಮಂಜೂರಾತಿ ನಿಯಮಗಳು- 1969 ರ ನಿಯಮ 22-ಎ(3) (i) ರಡಿಯಲ್ಲಿ ಅರಣ್ಯ ಇಲಾಖೆಗೆ ಹಸ್ತಾಂತರಿಸಿ ಆದೇಶಿಸಿದೆ.

ಅರಣ್ಯ ಇಲಾಖೆಗೆ ಹಸ್ತಾಂತರಿಸಿದ ಜಮೀನಿನ ಚೆಕ್ ಬಂದಿ

ಪೂರ್ವಕ್ಕೆ	ಲಾಗೂ ಸ.ನಂ.13 ಮತ್ತು 30
ಪಶ್ಚಿಮಕ್ಕೆ	ಲಾಗೂ ಸ.ನಂ.13
ಉತ್ತರಕ್ಕೆ	ಲಾಗೂ ಸ.ನಂ.13
ದಕ್ಷಿಣಕ್ಕೆ	ಲಾಗೂ ಸ.ನಂ.30

ಜಿಲ್ಲಾಧಿಕಾರಿ,

ಉತ್ತರ ಕನ್ನಡ ಕಾರವಾರ

ಶ್ರೀತಿಯನ್ನು ಸೂಕ್ತ ಕ್ರಮಕ್ಕಾಗಿ

- 1) ಉಪ ಅರಣ್ಯ ಸಂರಕ್ಷಣಾಧಿಕಾರಿಗಳು ಕಾರವಾರರವರಿಗೆ ಮಾಹಿತಿ ಹಾಗೂ ಸೂಕ್ತ ಕ್ರಮಕ್ಕಾಗಿ
- 2) ಸಹಾಯಕ ಕಮೀಷನರ ಕಾರವಾರರವರಿಗೆ ಮಾಹಿತಿಗಾಗಿ ಕಳುಹಿಸಿದೆ.
- 3) ತಹಶೀಲ್ದಾರ ಕಾರವಾರರವರಿಗೆ ಸೂಕ್ತ ಕ್ರಮದ ಬಗ್ಗೆ ಕಡತ ಪುಟ ಸಂಖ್ಯೆ:-01 ರಿಂದ ೮ ವರೆಗೆ ಕಳುಹಿಸಿದೆ.
- 4) ಬಂದರು ಅಧಿಕಾರಿ ಕಾರವಾರರವರಿಗೆ ಸೂಕ್ತ ಕ್ರಮದ ಕುರಿತು ಕಳುಹಿಸಿದೆ.



ಜಿಲ್ಲಾಧಿಕಾರಿ
ಉತ್ತರ ಕನ್ನಡ ಕಾರವಾರ



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port karwar <kwrport2016@gmail.com>

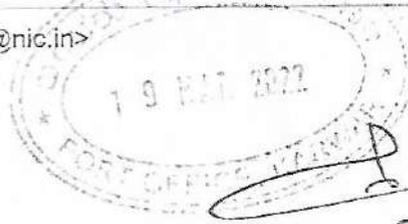
Email Alert From System Administrator of Online Submission and Monitoring of Forests Clearances Proposal(OSMFCP) portal

monitoring-fc@nic.in <monitoring-fc@nic.in>

Fri, Mar 18, 2022 at 7:31 PM

To: kwrport2016@gmail.com

Cc: monitoring-fc@nic.in



This is to acknowledge that a proposal seeking prior approval of Central Government under the Forest (Conservation) Act 1980 as per the details given below has been successfully uploaded on the portal of the Ministry of Environment, Forests and Climate Change Government of India.

1. Proposal No. : FP/KA/Others/46575/2020
Diversion of 11.736 ha of forest land in F.Sy.No.42of Baithkol Village, Baad (H), Karwar (T), U.K District for the purpose of Port Development activities of Karnataka Maritime Board in favour of Port Officer, ID,P & IWTD, Baithkol, Karwar.
2. Proposal Name : Development activities of Karnataka Maritime Board in favour of Port Officer, ID,P & IWTD, Baithkol, Karwar.
3. Category of the Proposal : Others
4. Date of Submission : 08/08/2020
5. Name of the Applicant with Contact Details

Name	: ARUN
Mobile No.	: 8277793716
State	: Karnataka
District	: Uttara Kannada
Pincode	: 581302
6. Area Applied (ha.) : 11.736

The proposal will be examined by the Nodal Officer, Forest (Conservation) Act, 1980 to assess its completeness.

(System Administrator)

*** This is a system generated email, please do not reply. ***



Government of Karnataka
 (Infrastructure Development, Ports & Inland Water Transport Department)
 Port Office, Karwar 581302

Phone No: 08382-221342

Email:kwrport2016@gmail.com

No.LND/CR-38 /2005-06

Dated:14.03.2022.

AUTHORISATION LETTER

Port Officer,
 Karwar

Above the Person is the Authorized to upload the Forest Clearance of Forest web portal (Parvesh web Portal) in applied area of Diversion of 11.736 hectares (29 acres) of Forest Land in F.Sy. No.42A of Baithkol Village of Baad Hobli, Karwar Taluk, Uttara Kannada District for Port development activities of the Karnataka Maritime Board in favour of Port Officer, Baithkol, Karwar.

Your's faithfully


 PORT OFFICER,
 PORT OFFICER, KARWAR.
 KARWAR

ANNEXURE R-17



port karwar <kwrport2016@gmail.com>

Email Alert From System Administrator of Online Submission and Monitoring of Forests Clearances Proposal(OSMFCP) portal

monitoring-fc@nic.in <monitoring-fc@nic.in>
 To: kwrport2016@gmail.com
 Cc: monitoring-fc@nic.in

Tue, Apr 5, 2022 at 5:18 PM

A proposal seeking prior approval of Central Government under the Forest (Conservation) Act 1980, as per the details given below, has been examined by the Nodal Officer, Forest (conservation) Act, 1980, Government of Karnataka and has been found to be complete in all respect.

1. Proposal No. : FP/KA/Others/46575/2020
 Diversion of 11.736 ha of forest land in F.Sy.No.42of Baithkol Village, Baad (H), Karwar (T), U.K District for the purpose of Port Development activities of Karnataka Maritime Board in favour of Port Officer, ID,P & IWTD, Baithkol, Karwar.
2. Proposal Name : Development activities of Karnataka Maritime Board in favour of Port Officer, ID,P & IWTD, Baithkol, Karwar.
3. Category of the Proposal : Others
4. Date of Submission : 08/08/2020
5. Name of the Applicant with Contact Details
- Name : ARUN
 Mobile No. : 8277793716
 State : Karnataka
 District : Uttara Kannada
 Pincode : 581302
6. Area Applied (ha) : 11.736

The Proposal is being forwarded to concerned DFOs and DCs for further processing.

(System Administrator)

*** This is a system generated email, please do not reply. ***

3811
Office of the Deputy Conservator
of Forests, Karwar Division
Kajubhag, M.G. Road
Karwar - 581301
Karnataka



Phone No. 08382-226365

Email : karwardcf@gmail.com

No: B4/GFL/FCA/SR-1/2006-07/2021-22

Dated:19-04-2022

To,

The Conservator of Forests,
Kanara Circle,
SIRSI.

Sir,

7 APR 2022
SUB: Diversion of 11.736 Ha. of forest land in F.Sy.No: 42A of Baithkol Village, Baad Hobli, Karwar Taluk, Uttar Kannada District for the purpose of Port Development activities of Karnataka Maritime Board in favour of Port Officer, Infrastructure Development, Port & Inland Water Transport Department, Baithkol, Karwar.

- REF:1) Nodal Officer and Additional Principal Chief Conservator of Forests, (Forest Conservation) Bangalore's direction in Proposal No: Proposal No. FP/KA/OTHERS/46575/2020
- 2) Port Officer, Infrastructure Development, Port and Inland Water Transport Department, Baithkol, Karwar's letter No: ಭೂಮಿ/ ಸಿಆರ್-38/2005-06 date:04-04-2022
- 3) Range Forest Officer, Karwar's letter No:154/2022-23 date:11-04-2022 through Assistant Conservator of Forests, Karwar Sub-division, Karwar's letter No: C3/ACF/CR- /2022-23 dated:11-04-2022

With reference to above, Port Officer, Infrastructure Development, Port and Inland Water Transport Department, Baithkol, Karwar has submitted online proposal in FORM-A, PART-1 to Principal Chief Conservator of Forests, (Forest Conservation) and Nodal Officer (FCA) Bangalore for diversion of 11.736 ha. of forest land in F.Sy.No.42A, Baithkol village, Karwar Range, Karwar Taluk, Uttar Kannada District, jurisdiction of Karwar Forest Division for the purpose of port development activities.

The Nodal Officer and Principal Chief Conservator of Forests, (Forest Conservation) Bangalore has directed the undersigned to process the said proposal through online and submit the hard copy through Conservator of Forests, Kanara Circle, Sirsi.

As per the above direction, the proposed area was inspected by me on 16-04-2022 along with Range Forest officer, Karwar, other field staff and along with the User Agency.

The proposed area is Reserve Forest and coming under Eco-class-I semi evergreen type with hilly terrain. It is located along the road side and habitat area. So this

area appears to be scrub forest due to repeated interference of biotic factors. And area consist 716 trees which are marked and diameter class wise list is enclosed. The proposed forest land for diversion by User Agency is port development activities which is unavoidable and bare minimum.

Hence, the proposal for diversion of 11.736 ha. of forest land for port development activities in F.Sy.No: 42A of Baithkol Village, Karwar Taluka in Karwar Range, Karwar Division may be considered on recovery of NPV, Compensatory Afforestation charges and as per the Forest (Conservation) Act,1980. The necessary proposal is submitted in five sets along with duly filled Part-II for kind perusal and further needful action.

Yours faithfully,


Deputy Conservator of Forests,
Karwar Division, Karwar.

Copy submitted to the Principal Chief Conservator of Forests, (Forest Conservation) and Nodal Officer, (FCA), Aranya Bhavan, 3rd Floor, Malleshwaram, 18th Cross, Bangalore for kind information.

Copy to Range Forest Officer, Karwar and Assistant Conservator of Forests, Karwar Sub-division, Karwar for information.

Copy to the Port Officer, Infrastructure Development, Port and Inland Water Transport Department, Baithkol, Karwar for information.

ಕರ್ನಾಟಕ ಸರ್ಕಾರ

GOVERNMENT OF KARNATAKA

ಪ್ರಧಾನ ಮುಖ್ಯ ಅರಣ್ಯ ಸಂರಕ್ಷಣಾಧಿಕಾರಿ

(ಅರಣ್ಯ ಪಡೆ ಮುಖ್ಯಸ್ಥರು) ರವರ ಕಚೇರಿ

Office of the
Principal Chief Conservator of Forests
(Head of Forest Force)

ಅರಣ್ಯ ಭವನ, 18ನೇ ಅಡ್ಡರಸ್ತೆ

ಮಲ್ಲೇಶ್ವರಂ, ಬೆಂಗಳೂರು-560 003

Aranya Bhavan, 18th Cross
Malleshwaram, Bengaluru-560 003

Telephone: 080 2334 6472

Email: apceffe@gmail.com

E-office File No. KFD/HOFF/A52K(GFL)/19/2020-FC

Encl.: 3 sets of proposal

E-317612

Date 12-05-2022

20

To,

The Additional Chief Secretary to Government
Forest, Ecology and Environment Department
M.S. Building, Bengaluru - 560 001

Sir,

Sub: Diversion of 11.736 Ha of forest land in F.Sy.No.42 of Baithkol Village of Uttara Kannada District (Karwar Forest Division) for the purpose of port development activities of the Karnataka Maritime Board in favour of Port Officer, Baithkol, Karwar

Proposal No. FP/KA/Others/46575/2020

- Ref:**
1. Online proposal [FORM-A PART-I] dated 18-03-2022 (resubmitted) of Port Officer, Baithkol, Karwar
 2. This office online communication dated 05-04-2022 to Deputy Conservator of Forests, Karwar Division for further processing of proposal
 3. Online submission of PART-II by Deputy Conservator of Forests, Karwar Division on 21-04-2022 [Letter No. B4/GFL/FCA/SR-1/2006-07/2021-22 dated 19-04-2022]
 4. Online submission of PART-III by Chief Conservator of Forests, Kanara Circle on 28-04-2022 [Letter No. B2/GFL/Inland Water Transport/CR-10/2022-23/310 dated 27-04-2022]

1. The Port Officer, Baithkol, Karwar [USER AGENCY] vide Ref (1) has submitted a proposal through FC web portal seeking approval under Section 2 (ii) of the Forest (Conservation) Act, 1980 for diversion of 11.736 Ha of forest land in F.Sy.No.42 of Baithkol Village of Uttara Kannada District (Karwar Forest Division) for the purpose of port development activities. After uploading of the acknowledgement online by User Agency on 04-04-2022 for having delivered the hard copies of proposal to the jurisdictional Deputy Conservator of Forests and Deputy Commissioner, an online communication was made on 05-04-2022 by Nodal Officer (FCA) vide Ref (2) to the Deputy Conservator of Forests, Karwar

Division to process the proposal under FC Act and to submit the specific opinion in PART-II of the proposal.

2. **Location details break up:** Location details and Component wise breakup of the forest land proposed for diversion are given below.

District, Taluk, Hobli, Village & Sy No.	Components	Forest Land proposed for diversion (ha)	Status of Land
Uttara Kannada District, Karwar Taluk, Baada Hobli Sy. No.42A of Baithakol Village	KMB office and Guest House	1.696	Reserved Forest
	Karnataka Maritime Institute	1.368	
	Cement Silo	1.194	
	Cold Storage yard	0.809	
	Tank Terminal	2.08	
	Container Terminal	1.19	
	Bulk Cargo Stacking Yard	1.473	
	Parking Area	0.595	
	Park/Garden	0.405	
	Utilities	0.323	
Road	0.603		
Total		11.736	

3. **DCF, Karwar Report:** The Deputy Conservator of Forests, Karwar Division has inspected the project site on 16-04-2022 and vide Ref (3) has submitted the Site Inspection Report along with other details in PART-II of the proposal and recommendation to Chief Conservator of Forests, Kanara Circle. Main features of the forest land proposed for diversion as per the DCF, Karwar Division report r/w reports of CCF, Kanara Circle and that of ICT Centre of Forest Department are as follows.

- a. The forest land proposed for diversion is in general landscape of Eco-class I (Tropical Semi ever Green Forests) with dense forest.
- b. As per Item 4(ii) of PART-II, there are 717 trees of various species on the forest land proposed for diversion. Major tree species include *Acacia Auriculiformis*, *Casurina Equisitifolia*, *Terminalia Tomentosa*, *Bombox*

Ceiba, Ficus Bengalensis, Xylia Xylocarpa, Terminalia Paniculata, among others.

- c. Major wild animals found in and around the project area include Leopard, pangolin, sloth bear, sambar, spotted deer, cobra, Russel viper, saw scaled viper, monitor lizard, reticulated python, king cobra among others.
 - d. As per Item 8 (ii) of PART-II, the forest land proposed for diversion does not form part of any National Park/ Wildlife Sanctuary/ Biosphere Reserve/ Tiger Reserve/ Elephant Corridor/ Wildlife Migration Corridor.
 - e. As per Item 8 (iv) of PART-II, there are no National Park/ Wildlife Sanctuary/ Biosphere Reserve/ Tiger Reserve/ Elephant Corridor/ Wildlife Migration Corridor within one kilometer from the boundary of the forest land proposed for diversion.
 - f. There are no Protected/ Archeological/ Heritage Sites / Defence establishments located in the proposed area.
 - g. The forest area proposed for diversion is the bare minimum and unavoidable.
 - h. There is no violation reported under Forest (Conservation) Act, 1980.
4. **CCF, Kanara Circle Report:** The Chief Conservator of Forests, Kanara Circle, Sirsi has inspected the project site personally on 23-04-2022 and vide Ref (4) has submitted the Site Inspection Report in PART-III online. Agreeing with the recommendation made by the Deputy Conservator of Forests, Karwar Division, the Chief Conservator of Forests, Kanara Circle has also recommended the proposal.
5. **Net Present Value (NPV):** The User Agency is required to pay the Net Present Value (NPV) of forest land proposed for diversion as per Para 3.1 to 3.4 of the FC. Guidelines communicated by Government of India, Ministry of Environment, Forests and Climate Change, New Delhi vide letter F.No. 5-2/2017-FC dated 28-03-2019. **The User Agency has submitted an Undertaking dated 14-03-2022 to pay the charges towards Net Present Value (NPV) of the forest land proposed for diversion.**
6. **Compensatory Afforestation (CA):** As the instant proposal is a fresh proposal under FC Act, the User Agency is required to provide an equivalent extent of suitable non-forest land in accordance with FC guidelines. the User Agency had identified the following non-forest land over an extent of 12.235 hectare for raising compensatory afforestation.

District	Village	Sy No.	Extent
Uttara Kannada District, Karwar Taluk	Nagekove	102 & 103	8.855
	Devakar	33	3.38

Total	12.235 Ha
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In addition, the User Agency is also required to pay the CA charges as per prevailing rates. Accordingly, the User Agency has furnished an Undertaking to pay the stipulated CA charges.

7. **Status of RoFR compliance:** With regard to compliance of the provisions of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forests Rights) Act 2006 and Rules 2008, the User Agency has furnished the requisite **Certificate in FORM-II (for Non-linear / Hybrid projects)** issued by the jurisdictional Deputy Commissioner as per Annexure II of the FC Guidelines communicated by Government of India, Ministry of Environment, Forests and Climate Change, New Delhi vide F.No. 5-2/2017-FC dated 28-03-2019. Accordingly, the User Agency has uploaded the required **RoFR Certificate in FORM-II (for Non-linear/Hybrid Projects)** in Item K(i)(a) issued by the Deputy Commissioner, Uttara Kannada District vide No. RB/FOR/CR-38/2020-21 dated 21-06-2021.

In light of the facts stated above and agreeing with the recommendation of the field officers, it is requested to **move the proposal with the Government of India for according 'in-principle' (Stage-I) approval for diversion of 11.736 Ha of forest land in F.Sy.No.42 of Baithkol Village of Uttara Kannada District (Karwar Forest Division) for the purpose of port development activities of the Karnataka Maritime Board in favour of Port Officer, Baithkol, Karwar for a period of Thirty (30) years subject to the conditions specified in ANNEXURE 'A'.**

The hard copy of the proposal along with the relevant documents in 3 sets is submitted herewith for further needful.

Yours Faithfully


(Raj Kishore Singh IFS)

Principal Chief Conservator of Forests
(Head of Forest Force)

Copy to the:

1. Chief Conservator of Forests, Kanara Circle Sirsi for information.
2. Deputy Conservator of Forests, Karwar Division, Karwar for information
3. The Port Officer, Baithkol, Karwar Uttara Kannada District- 581302 for information

ANNEXURE- 'A'

1. The legal status of forest land shall remain unchanged and it shall continue to be the forest land.
2. The User Agency shall pay the applicable Net Present Value (NPV), Compensatory Afforestation (CA) charges, cost of extraction of trees (if required in future), land lease rent and any other levies as per the conditions of approval.
3. The User Agency shall demarcate the lease area in the manner specified at the time of approval at its own cost.
4. The User Agency shall provide the signages of appropriate size and kind all along the Transmission Line within forest limits for creating awareness about forest, Wildlife and Environment issues among general public at project cost in consultation with the jurisdictional Deputy Conservator of Forests/ Conservator of Forests/ Chief Conservator of Forests.
5. The lessee shall not sub-lease, mortgage and hypothecate the forest area.
6. The leased out area should be used for the purpose for which it is granted. In case, the land is not used for the stipulated purpose within two years or when it is no longer needed for the stipulated purpose, the area would stand resumed to the Forest Department.
7. The application for renewal of the lease in the prescribed form and manner shall be submitted at least six months prior to the expiry of forest lease. In case, no renewal is sought, the Lessee shall hand over the lease.
8. No crushing / breaking of stones or labour camp shall be allowed inside forest area and all waste / debris generated shall be scientifically disposed off outside the forest area.
9. Any damage to forest area because of implementation of the project shall be compensated by the Lessee. The extent of damage shall be assessed by the jurisdictional Deputy Conservator of Forests/ Conservator of Forests/ Chief Conservator of Forests.
10. The Lessee shall ensure that no avoidable harm is caused to the fauna and flora in and around the proposed area.
11. No change in Land Use Plan shall be done unless prior approval of Government of India under FC Act is obtained.
12. In case, any violation of the provisions of the Karnataka Forest Act, 1963 & Rules, 1969 or other relevant Acts/Rules is reported during the lease period, the lease will be liable for forfeiture under Section 82 of Karnataka Forest Act, 1963. The Chief Conservator of Forests and/or Deputy Conservator of Forests concerned are authorized to take necessary action in this regard.
13. The approval under the Forest (Conservation) Act, 1980 is subject to any other clearances necessary under the prevailing statutes.
14. The User Agency shall also abide by other conditions those may be imposed by the Government of India, Government of Karnataka and Principal Chief Conservator of Forests (Head of Forest Force) before or after the approval.


(Raj Kishore Singh IFS)

Principal Chief Conservator of Forests
(Head of Forest Force)

19/5/22

PART - IV

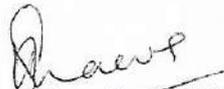
(To be filled in by the Nodal Officer or Principal Chief Conservator of Forests or Head of Forest Department)

<p>Detailed opinion & specific recommendation of the State Forest Department for acceptance or otherwise of the proposal with remarks.</p> <p><i>(While giving opinion, the adverse comments made by concerned Conservator of Forests or Deputy Conservator of Forests should be categorically reviewed and critically commented upon.)</i></p>	<p>Recommended for diversion of 11.736 Ha of forest land in F.Sy.No.42 of Baithkol Village of Uttara Kannada District (Karwar Forest Division) for the purpose of port development activities of the Karnataka Maritime Board in favour of Port Officer, Baithkol, Karwar for a period of Thirty (30) years subject to the conditions specified in ANNEXURE 'A'.</p> <p>Proposal No. FP/KA/Others/46575/2020</p>
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Signature:

Name:

Designation:

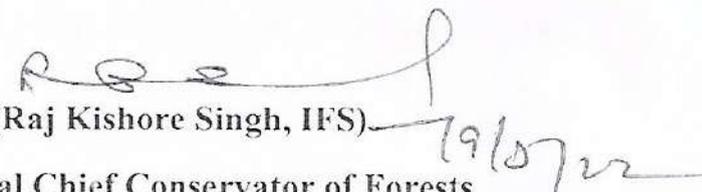

(Vijay Sharma, IFS)

**Principal Chief Conservator of Forests
(Forest Conservation) and Nodal Officer (FCA)**

Signature:

Name:

Designation:


(Raj Kishore Singh, IFS) 19/07/22

**Principal Chief Conservator of Forests
(Head of Forest Force)**

N.D.O. No.08/2022-23

(Official Seal)

Dated: 20/05/2022