

BEFORE THE NATIONAL GREEN TRIBUNAL (SZ) CHENNAI

I.A. 66 of 2022

in

Appeal No. 14 of 2022

M. Yuvadeeban

.... Appellant

Vs.

Department of Fisheries & Ors.

.... Respondents

A. Chidambaram

...Impleading Respondent

Counter Affidavit filed by the Appellant

I, M. Yuvadeeban, s/o Maragret Lawrence, aged about 26 years, B2, Ramaniyam Marvel, Seshadripuram, 1st main road, Velacherry, Chennai 42 do hereby solemnly affirm and sincerely state as follows:

1. I am the Appellant herein and aware of the facts and circumstances of the case and competent to swear the present affidavit.
2. It is submitted that the Impleading Respondent purports to be the member of the Thandumariamman Alamparaikuppam Nirvagigal Grama Panchayat Sabhai and has been authorized by a resolution of the Grama Sabhai to file the present impleading petition vide an undated resolution. I state that I deny the contents of the petition to implead except those that are specifically admitted herein.
3. I submit that the present proceedings are a statutory appeal filed under Section 16 of the NGT Act, 2010 challenging the environmental clearance issued by the SEIAA to the fisheries department. It is not an Original Application under Section 14. There is a well-defined order under challenge and a project proponent who has obtained the order. I am advised to submit that no relief is sought against the party seeking impleadment. The petitioner seeking impleadment cannot sustain the validity of the EC. Impleading them in a matter

challenging an order issued by the SIEAA would result in an anomalous situation where the author of the order or the beneficiary might accept the verdict of the Court, but a third party may not.

4. It is submitted that the Impleading Respondent has no vested right to implead in a statutory challenge to the environmental clearance issued by the Clearance granting authority, i.e. SIEAA. In the present case, both the SIEAA as well as the project proponent Fisheries Department are party Respondents and it is only for them to defend the clearance. The parties seeking impleadment are strangers to the clearance process – they are not the project proponents. All persons, ostensibly for whose benefit a project is envisaged, do not become necessary parties to a proceeding of the present nature. No person has a vested right to demand that a project be established at a specific site – the siting of a project is subject to the laws of the land. The persons seeking impleadment are strangers to the impugned clearance – their interest or right in the issue is limited to their making a request, if any, to the state for the establishment of a fishing harbour. The location, the legality of the process etc. have to be tested within the confines of the law and these parties cannot add to the case of the fisheries department.
5. For illustration, the parties seeking impleadment will not be able to file an appeal challenging the rejection of the proposal of the project proponent for environmental clearance, similarly, they cannot sustain the environmental clearance. The clearance has to live or die on its own merit. Impleading such parties will only result in project proponents sponsoring people to rally in their support and derail the entire proceedings.
6. The right to challenge the grant of environment clearance stems from the right to a clean environment and the right to participate in environmental decision making. Whereas the right to challenge the rejection of environmental clearance, is not a public right and is a right that is limited to the party whose application is rejected.

7. I am advised to submit that in the case of Vedanta Ltd Vs. State of Tamil Nadu and Ors., the Hon'ble High Court vide order dated 12.06.2019 only allowed the impleadment of those parties who were sustaining the order of closure of industry and not those private entities who were supporting the industry's case for re-opening and assailing the closure order.
8. I submit that the submissions made in the affidavit filed by the party seeking impleadment are without merit, contrary to law, self-serving and are liable to be rejected. I reserve my right to file a detailed reply on the merits of the submissions made in the affidavits if the need arises.
9. It is therefore prayed that this Hon'ble Court may be pleased to dismiss the petition seeking impleadment and thus render justice.

Solemnly affirmed on this the
18th day of April, 2022 and
signed his name in my presence

Before me,


Advocate, Chennai (CHETHANA V.)
MAH 6108/17