

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
INTERIM APPLICATION NO. 501 OF 2024
IN
ORIGINAL APPLICATION NO. 249 OF 2023**

Union of India, through the
Ministry of Environment, Forests & Climate Change ... Applicant
IN THE MATTER OF
RE: NEWS ITEM ON INDIA'S SINKING ISLANDS APPEARED IN
THE HINDU 19.03.2023

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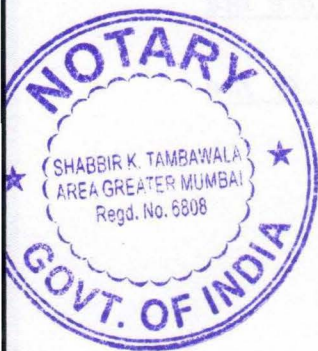
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**AFFIDAVIT IN REPLY ON BEHALF OF THE ORIGINAL
APPLICANT (VANASHAKTI) IN OA NO. 106 OF 2022 BEFORE
NGT, WZB**

I, Stalin Dayanand, aged 60 years, the Authorised Signatory of the Original Applicant – Vanashakti in OA No. 106 of 2022 before the NGT, WZB, having its office at Nandakumar Pawar House, Opp. Shri Jagannath Darshan Building, M.D. Kini Marg, Bhandup Village (East), Mumbai – 400 042 do state on solemnly affirm and state as follows:

1. I say that the present application has been filed by the Union of India, through the Ministry of Environment, Forests and Climate Change, seeking to tag the instant matter pending before the Western Zone Bench with OA No. 795 of 2023 and OA No. 249 of 2023, both of



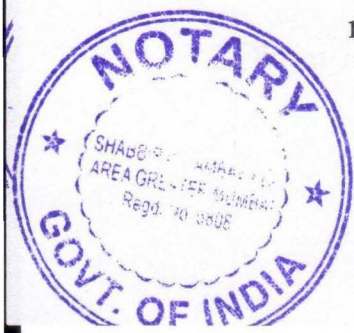
which are pending before the Principal Bench, thereby, effectively seeking to transfer the present proceedings from the Western Zone Bench to the Principal Zone Bench. I say that this application is *mala fide* and is an attempt to delay and protract the proceedings in OA No. 106 of 2022 by first taking a chance of transfer by filing an IA (IA No. 165 of 2024) before the WZB in an attempt to misguide the WZB and thereafter, filing the instant second application seeking to take a second bite of the cherry. I say that the present interim application deserves to be dismissed for the reasons stated below:

- (i) Issue of updating of CZMP Maps is wholly distinct and separate from the issue of challenge to the *vires* of the CRZ Notification, 2019;
- (ii) Order dated 11.09.2024 of the Hon'ble NGT, Western Zone Bench only directed the Applicant-MoEF to approach the Principal Bench to seek constitution of a 'larger bench' to hear the challenge to the *vires* of CRZ, 2019 and not to seek 'tagging' of the *vires* matters with OA Nos. 249 of 2023 and OA No. 795 of 2023 pending before the NGT, PB.

I. OA No. 795 of 2023 and OA No. 249 of 2023 pending before the Principal Bench are wholly distinct and have no relation to the present proceedings whatsoever



2. I say that OA No. 795 of 2023 and OA No. 249 of 2023 are proceedings that have been initiated *suo motu* by the Principal Bench regarding vulnerability of beaches to erosion on account of lack of proper management of such beaches and submergence of low-lying islands due to sea level rise respectively. In both the proceedings, an ancillary issue of non-preparation of CZMP as required under the CRZ Notification 2019. CZMP or Coastal Zone Management Plans are plans/maps that only demonstrate areas that are marked as CRZ-I, CRZ-II, CRZ-III and CRZ-IV in a different colour coding and that it does not have any relation with the provisions of the CRZ Notification, 2019 *per se* other than Clause 6(i) which states that unless the CZMP is updated/prepared under the CRZ 2019, the provisions of CRZ 2019 will not come into effect and the provisions of CRZ 2011 will continue to operate. That CZMP Maps approved under the CRZ 2011 continue to remain valid and in use wherever such CZMP maps have not been updated and therefore, in both the afore-stated OAs, the issue is not about implementing the provisions of the CRZ Notification, 2019 but about updating the CZMP Maps so as to reflect the markings and demarcations of CRZ areas appropriately. Thus, updating the CZMP is a procedural issue (*where the CRZ 2019 is valid*), which is not at all related to the substantive issue of challenging the *vires* of the provisions



of CRZ 2019 (*where the provisions of CRZ 2019 are sought to be declared as invalid*).

3. I further say that assuming that the challenge to the *vires* of the provisions of CRZ 2019 is successful, the preparation of CZMPs under the CRZ 2019 will cause no prejudice to the Respondent No. 1 or to any other state agencies since the updated maps will have to be modified to only reflect the portions that have been upheld and either relate back to the old CZMP and reflect the previous markings according to the CRZ 2011 or delete the new markings vis-à-vis the provisions that have been struck down. I say that it is not the case that there is a lack of protective measures for the coastal states where CZMP has not been updated for the reason that for those states, CZMP prepared under the CRZ 2011 continue to apply with full force. I reiterate that the question of preparation of CZMPs is merely a procedural aspect and has no relation to the present proceedings challenging the validity of various provisions of the CRZ Notification, 2019.

4. I say that a CZMP will always follow the CRZ Notification and therefore, there is neither embargo for the Hon'ble NGT, Western Zone Bench (WZB) to hear the present proceedings in any manner nor any order of tagging is required/necessary as the cause of action in NGT,

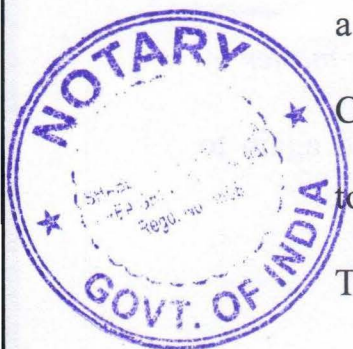


PB matters is on a totally different footing and distinct from the cause of action in WZB matters.

II. Reliance on the order dated 11.09.2024 of WZB to seek tagging of the proceedings is entirely misplaced

5. Without prejudice to what is stated earlier, I say that the relief sought by the Applicant-MoEF in the present IA to tag the OA No. 106 of 2022 (*a/w connected matters*) with the two OAs that are pending before the Principal Bench, New Delhi (OA No. 795 of 2023 and OA No. 249 of 2023 respectively) on the basis that the Hon'ble NGT, WZB has directed the Applicant-MoEFCC, *vide* order dated 11.09.2024 in IA No. 165 of 2024 in OA No. 106 of 2022 (WZB), to approach the Hon'ble NGT, PB to seek an order of tagging, is entirely misplaced and incorrect.

6. I say that a perusal of the order dated 11.09.2024 makes it clear that the Hon'ble NGT, WZB has only suggested or requested the Applicant-MoEFCC to approach the Hon'ble NGT, PB with a prayer to constitute a 'larger bench' to hear the proceedings concerning the challenge to CRZ, 2019. I say that no direction of whatsoever nature has been given to the Applicant-MoEF by the Hon'ble WZB to approach this Hon'ble Tribunal to tag the proceedings as prayed for. In fact, for the reasons



stated in the 1st Segment of the present affidavit, no order of tagging can anyway be passed as the two causes of action are entirely distinct and have no bearing on each other.

7. Without prejudice to what is stated above, I say that the decision to constitute a larger bench ought to be taken by the Hon'ble Chairperson on the administrative side, under Rule 5 of the NGT Rules, 2011, and not on the judicial side, especially at the request of an interested party to the proceedings. I say that at any rate, the present IA of the MoEFCC does not seek a prayer to constitute a larger bench and only prays for 'tagging' of WZB matters with the PB matters and for the reasons already stated above, I say that no such order for tagging can be passed and that the present application deserves to be dismissed.

8. In light of what is stated hereinabove, I pray that this Hon'ble Tribunal be pleased to dismiss the present IA with costs and direct the Western Zone Bench to commence with the final hearing of the OA No. 106 of 2022 (*a/w connected matters therein*), especially since the Applicant-MoEFCC has taken a considerable number of adjournments before the WZB (*a total of 5 adjournments that has already delayed the matter by more than 16 months*) and has filed frivolous IAs time and again to misguide this Hon'ble Tribunal and to delay the proceedings.



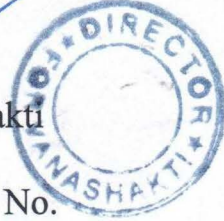


Solemnly affirmed in Mumbai

On this 23rd day of October, 2024



For Vanashakti



(Applicant in OA No.

106 of 2022 before the

NGT, WZB)



Identified by me

Signature of Zaman Ali

Zaman Ali

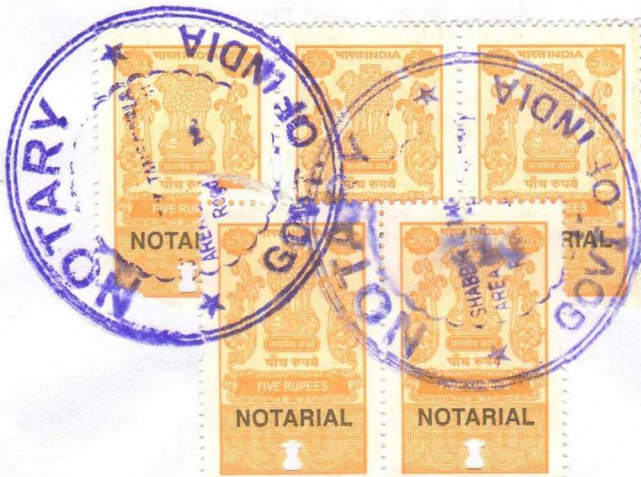
Advocate for the Original Applicant in

OA No. 106 of 2022 before the NGT, WZB

BEFORE ME

S. K. TONDAWALLA
ADVOCATE HIGH COURT
B-23 Tower Manzil
Nesbit Road, Mazgaon
Mumbai - 400 010

23/10/24



**BEFORE THE NATIONAL GREEN
TRIBUNAL, PRINCIPAL BENCH
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BEFORE NGT, WZB**

Dated this 22nd day of October, 2024

ZAMAN ALI

Advocate for Vanashakti in OA No. 106 of
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