

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE
INTERIM APPLICATION NO. 165 OF 2024
IN
ORIGINAL APPLICATION NO. 106 OF 2022**

IN THE MATTER OF:

Vanashakti & Anr.Applicants

Versus

Union of India & Ors.Respondents

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Filed by:



Zaman Ali,

Advocate for the Applicants

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AFFIDAVIT IN REPLY ON BEHALF OF THE APPLICANTS

I, Stalin Dayanand, aged 60 years, Applicant No. 2 and the Authorised Signatory of Applicant No. 1, 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 Respondent No. 1 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 misguide this Hon'ble Tribunal as the



Respondent No. 1 knows fully well that it is the Hon'ble Chairperson alone who can transfer the proceedings from a Zonal bench to the Principal Bench and R-1 has still chosen to file the instant IA in the present proceedings. 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) Only the Hon'ble Chairperson is empowered to transfer cases/proceedings from one place of sitting to another place of sitting.

I. **OA No. 795 of 2023 and OA No. 249 of 2023 pending before the Principal Bench are wholly distinct and separate with 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. I say that a CZMP will always follow the CRZ Notification and therefore, there is no embargo for this Hon'ble Tribunal to hear the present proceedings in any manner as the instant proceedings go to the very root of the matter.

II. *Only the Hon'ble Chairperson is empowered to transfer proceedings from a Zonal bench to the Principal Bench*

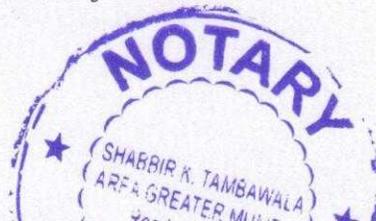
4. Without prejudice to what is stated earlier, I say that the relief sought by Respondent No. 1 in the present IA is to tag the instant OA with the two OAs that are pending before the Principal Bench, New Delhi (OA No. 795 of 2023 and OA No. 249 of 2023 respectively). Therefore, the nature of the present IA is to really seek a transfer of the present proceedings to the Principal Bench.



5. In that regard, it is pertinent to refer to the provisions under the NGT Act, 2010 read with the NGT Rules, 2011 concerning the transfer of proceedings. Section 35(2)(d) of the NGT Act, 2010 empowers the Central Government to “...make rules concerning the transfer of cases by the Chairperson from one place of sitting (including the ordinary place of sitting) to other place of sitting.” Therefore, NGT Act, 2010 refers to the powers of transfer being vested only with the Chairperson alone and empowered the Central Government to frame rules in the manner in which such a power can be exercised. I say that to exercise such powers, NGT (Practices and Procedure) Rules, 2011 were framed and Rule 3 states the following:

“3. Distribution of business amongst the different ordinary place or places of Sittings of Tribunal - (1) The Chairperson may constitute a bench of two or more members consisting of at least one Judicial Member and one Expert Member.

(2) The Chairperson shall have the power to decide the distribution of the business of the Tribunal amongst the members of the Tribunal sitting at different places by order and specify the matters which may be dealt with by each such sitting in accordance with the provisions of clause (d) of sub-section (4) of Section 4 of the Act.



(3) If any question arises as to whether any matter falls within the purview of the business allocated to a place of sitting, the decision of the Chairperson shall be final.

Explanation.- The expression "matter" includes application for interim relief."

6. I say that the reading of Section 35(2)(d) with Rules 3(2) & 3(3) of the NGT Rules, 2011 makes it amply clear that it is only the Chairperson who has been statutorily empowered to decide the distribution of the business of the Tribunal amongst the members of the Tribunal and thus, this Hon'ble Tribunal is not statutorily empowered to grant reliefs concerning the transfer of the proceedings to the Principal Bench and on this ground alone, this IA deserves to be dismissed. I say that the present application is *mala fide* and an attempt to misguide and protract the present proceedings for the simple reason that Respondent No. 1 is fully aware that the Hon'ble Chairperson alone is empowered to transfer proceedings and despite the same, it has not filed any application before the Principal Bench in OA No. 795 of 2023 and/or OA No. 249 of 2023 till date. In fact, this Hon'ble Tribunal had recorded in the previous order dated 14.05.2024 that the Principal Bench matters were to be listed next on 24.05.2024 and despite being fully aware of the next date before the Principal Bench, Respondent No. 1 has chosen to not file any



application before the Principal Bench to further delay the present proceedings. This is further substantiated from the fact that the order dated 24.05.2024 passed by the Principal Bench neither records any submission from R-1 nor reflects any IA filed by R-1 in this behalf and therefore, appropriate costs ought to be imposed on R-1 for misguiding this Hon'ble Tribunal. Annexed and marked hereto as **ANNEXURE R-1** is a copy of the order dated 24.05.2024 in OA No. 795 of 2023 and/or OA No. 249 of 2023 alongwith the screenshot of the case status with the IA section *qua* both OAs.

7. In light of what is stated hereinabove, I pray that this Hon'ble Tribunal be pleased to dismiss the present IA with costs and proceed to commence with the final hearing of the OA, especially since Respondent No. 1 has taken a considerable number of adjournments since 31.01.2023 (*a total of 5 adjournments that has already delayed the matter by more than 15 months*) and has filed the present IA to misguide this Hon'ble Tribunal and to further delay the proceedings.

Solemnly affirmed in Mumbai)

On this 2nd day of July, 2024)


Applicant No. 2



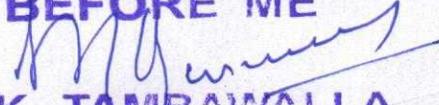
Identified by me



Zaman Ali

Advocate for the Applicants

BEFORE ME



S. K. TAMBAWALLA
ADVOCATE, HIGH COURT
H/ 23, Taheri Manzil
Narbit Road, Mazgaon
Mumbai - 400 010

2/7/24

NOTARY & REGISTERED
Sr. No. 19487 dt. 2/7/24



Item Nos.16 & 17

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 249/2023

News item on India's Sinking Islands appeared in the Hindu 19.03.2023

With

Original Application No. 795/2023

News Item titled "Third of India's coastline vulnerable to erosion - here are the worst-hit states" appearing in Indian Express dated 06.12.2023.

Date of hearing: 24.05.2024

**CORAM: HON'BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Respondent: Dr. Swait Jindal Garg, Mr. Sowmya China, Mr. Abhimanyu Kumar & Ms. Nidhi Kumar, Advs. for MoEF & CC (Through VC)Mr. Nalin Kohli, Mr. Abhay Anil Anturkar, Mr. Dhruv Tank, Mr. Anshul Malik, Ms. Shruti Agrawal & Mr. Kartikeya Sen, Advs. for the State of Goa Ms. Madhumita Bhattacharjee, Adv. for the State of West Bengal (Through VC)Mr. Gigi. C. George, Adv. Andaman & Nicobar Islands (Through VC)Mr. Jogy Scaria, Adv. for KSPCB
Mr. Nishe Rajen Shonker, Adv. for the State of Kerala
Mr. Maulik Nanavati, Adv. for Gujarat CZMA (Through VC)
Mr. Prabhu G, Adv. for Kerala CZMA (Through VC)
Ms. Madhuri Donti Reddy, Adv. for Andhra Pradesh CZMA (Through VC)
Mr. Abhimanyu Garg, Adv. for UT of Puducherry with Dr. Jayentra Kumar Ray, Chairman, PCZMA (Through VC) , Dr. N. Ramesh, Member Secretary, PPCC (Through VC) , Dr. R. Sagaya Alfred, SSO, PCZMA (Through VC) & Mr. P. Vipin Babu, Scientist, PCZMA (Through VC)

ORDER

1. In these Original Applications, issue involved relates to dangers of sea level rise and submergence of low lying islands. At this stage, Tribunal is considering preparation/finalization of CZMP-ICRZP-IIMP by Coastal States/Union Territories as per CRZ-ICRZ Notification-2019.
2. Tribunal in the proceedings dated 08.01.2024, had observed that respondent-14-Secretary, Ministry of Environment, Forest and Climate

Change was required to ensure that plan is prepared by each Coastal Management Authority and Union Territory Coastal Management Authority expeditiously within time-bound period. All the State and Union Territory Coastal Zone Management Authorities were issued notice and were directed to file their response.

3. Responses have been received from all the concerned States/Union Territories except from UT of Daman and Diu. It has been noticed that the States/Union Territories have found difficulty on account of discrepancy in ground truthing and the map prepared by MoEF & CC.

4. On examination of the response filed by concerned States/Union Territories, it is observed as under:-

i. With regard to State of Andhra Pradesh:-

The State Government is seeking assistance of National Centre for Coastal Research (NCCR) Ministry of Earth Sciences for preparing shoreline change map to device shoreline protection measures. Further the State has approached National Center for Sustainable Coastal Management, Chennai for CZMP. The State has indicated that CZMP will be completed by October, 2024 and submitted to MoEF.

ii. With regard to UT of Andaman and Nicobar:-

Only two island Great Nicobar and Little Andaman have approved ICRZ plan, for rest of the islands ICRZ/IIMP are under process. No final details with regard to the completion of these plans have been indicated. Though it is mentioned that the A & N Administration has entered into contract with

NCSCM for 30 islands. NCSCM is yet to complete these Plans. The Administration is constantly pursuing with NCSCM.

iii. With regard to State of Goa:-

There have been issues with regard to mapping and the State has engaged NCSCM and NCESS Trivandrum also. Further other institutes such as NIO Goa have also been engaged by the State to study beach nourishment. There is no clarity as to how the different studies undertaken by the various institutes would be incorporated in the CZMP.

iv. With regard to UT of Lakshadweep:-

The IIMP for 11 islands are under process. The draft final plans for three islands will be submitted to MoEF for approval by 31.12.2024.

v. With regard to UT of Puducherry:

Draft CZMP have been received from NCSCM and public hearing will be held in May 2024. After incorporating the comments the draft CZMP will be submitted to MoEF & CC by 31.07.2024.

vi. With regard to State of Gujarat:

The draft CZMP for 13 Districts has been received and three are in process. The public comments are being addressed. No final date has been given for competition of the CZMP.

vii. With regard to State of Kerala:

The public comments have been obtained on the draft CZMP. Shoreline management plan is being incorporated in the draft

CZMP and the final draft of CZMP will be submitted to MoEF by June, 2024.

viii. With regard to State of Tamil Nadu:

NCSCM and NCCR have been engaged. There are several issues raised by the stakeholders on the CZMP. The State has indicated that the final draft will be sent to MoEF & CC by October, 2024.

ix. With regard to State of West Bengal:

Institute of Environmental Studies and Wetland Management has been assigned the work. Further NCSCM is also being approached for preparing the CZMP. The State has indicated that the draft final CZMPs will be submitted to MoEF & CC by first week of October, 2024.

5. No response has been received from Daman & Diu and Dadar Nagar Haveli.

6. The Counsel for MoEF & CC has stated that CZMPs have been approved by MoEF & CC for the State of Maharashtra and Karnataka so far and MoEF has taken up with coastal States & UTs to submit the CZMPs.

7. However it is observed that coastal States/UTs are facing various problems especially with regard to scale of mapping, incorporation of the comments received from the stakeholders in the final draft CZMP, issues with regard to the classification of CRZ area, incorporation of the shoreline management plans & ecological sensitive areas in the draft final CZMPs etc, therefore, the coastal States & UTs are unable to complete the exercise and comply with the provisions of CRZ Notification, 2019. It is also observed that the Island UTs of Andaman & Nicobar and

Lakshadweep Islands where IPZ 2011 notification is applicable, are yet to prepare the ICRZ/IIMPS for the entire islands though more than a decade has passed. These islands lack technical expertise and institutions to assist them. MoEF has done very little to assist these Coastal States & UTs in finalizing CZMP especially the islands. MoEF has NCSCM as an Expert Body which has been specifically established to assist the Coastal States & UTs. The response filed by the States & UTs shows that there is lack of coordination between Coastal State/UTs Governments with NCSCM and MoEF. It is not denied that the coastal environment plays an import role in Countries economy. Hence, it is imperative that the coastal environment is protected and conserved keeping in view the developmental activities and the adverse impact of climate change. Preparation of Coastal Zone Management Plans which provide for scientific development and addresses the issues of climate change is a crucial step.

8. We are of the view that MoEF&CC should issue suitable clarification/directions and provide assistance to all the Coastal States/UTs for completing the CZMPs in time.

9. Learned Counsel appearing for MoEF & CC has submitted that stand of the respective States/Union Territories reflected in the reply will be tabulated and summarized tabulated information by MoEF & CC will be filed at least one week before the next date of hearing. The above observation be also considered by the MoEF&CC while filing the response.

10. Let response by UT of Daman and Diu be also filed at least one week before the next date of hearing.

11. A copy of this order be forwarded to Secretary, MoEF & CC by email for compliance.

12. List on 11.09.2024.

Prakash Shrivastava, CP

Sudhir Agarwal, JM

Dr. A. Senthil Vel, EM

May 24, 2024
Original Application No. 249/2023
& Original Application No. 795/2023
JG

Case Details

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Party Name	NEWS ITEM TITLED "THIRD OF INDIA,S COASTLINE VULNERABLE TO EROSION - HERE ARE THE WORST-HIT STATES" APPEARING IN INDIAN EXPRESS DATED 06.12.2023. VS		
Petitioner Advocate(s)		Respondent Advocate(s)	
Act	ENVIRONMENT (PROTECTION) ACT, 1986		
Case Number	Original Application No. 795/2023	Registered On	28-12-2023
Last Listed	24-05-2024	Next Hearing Date	11-09-2024
Case Status	PENDING		

[⊕ All Parties](#)[⊕ Listing History \(Orders\)](#)[⊖ IA/MA](#)

S.No.	Filing No.	Case Type	Case Number
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Case Details

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Party Name	NEWS ITEM ON INDIA'S SINKING ISLANDS APPEARED IN THE HINDU 19.03.2023 VS		
Petitioner Advocate(s)		Respondent Advocate(s)	
Act	ENVIRONMENT (PROTECTION) ACT, 1986		
Case Number	Original Application No. 249/2023	Registered On	23-03-2023
Last Listed	24-05-2024	Next Hearing Date	11-09-2024
Case Status	PENDING		

⊕ All Parties

⊕ Listing History (Orders)

☐ IA/MA

S.No.	Filing No.	Case Type	Case Number
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Along with

OA No 106 of 2022

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