

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI**

Original Application No. 183 of 2020 (SZ)

IN THE MATTER OF:

Tribunal on its own motion SUO MOTU
Based on the News Item in
Tamil Hindu E-magazine, Chennai
Dated 07.09.2020

.....Applicant(s)

-With-

1. The Secretary to Government of Tamil Nadu
Department of Environment
Govt. Secretariat, Fort St.George,
Chennai, Tamil Nadu-600009
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Email:forsec@tn.gov.in
2. The Principal Secretary to Govt. of Tamil Nadu
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3. Department of Environment,
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4. The Chairman,
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ASSISTANT CONSERVATOR OF FORESTS
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5. The District Collector
Kanniyakumari District
District Collector Office,
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6. The District Forest Officer,
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7. Fisheries Department,
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8. Manakkudi Village Panchayat
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..... Respondent(s)

COUNTER AFFIDAVIT FILED BY 6th RESPONDENT

I, T.K. ASHOK KUMAR, S/o. T.P. Kodhandaraman (Late) aged about 47 years working as District Forest Officer and Wildlife Warden, Kanniyakumari Division do hereby solemnly state and affirm as under;

1) I am the 6th respondent herein and filing this counter affidavit on my behalf based on facts and records.

2) It is submitted that the Hon'ble National Green Tribunal (SZ) on its own motion SUO MOTU registered based on the News Item " Setting up an Ecological Park by destroying Mangrove Forests with destruction of

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Environment? - Environmental activists Torment" in Tamil Hindu E-magazine, Chennai, Dated. 07.09.2020. It is alleged in the paper report that the existing mangrove forest is destroyed for the establishment of eco-park by Fisheries department in Keelamanakudi, Kanniyakumari district. The Hon'ble NGT vide order dated 3-3-2021 has directed the Committee as well as the official respondents to file the report and their independent statements before this Tribunal on or before 05.04.2021.

3) It is submitted that an application for Environmental Clearance under CRZ under Notification, 2011, for the Establishment of Eco-Conservation Park in the existing estuaries Fish Farm at R.S.No.807 (P), South Thamaraiikulam Village, Manakudy, Agastheeswaram Taluk, Kanniyakumari District was received from the Assistant Director, Fisheries Department, Nagercoil to the District Coastal Zone Management Authority, Nagercoil.

4) It is submitted that this said area R.S.Nos.807 (p), with Mangroves is not notified neither as Reserved Forest under Tamil Nadu Forest Act, 1882 nor as Protected Area under Wildlife (Protection) Act, 1972. As per the 'A' register extract of Revenue Department, the R.S.No.807 is river. Hence statutory provisions of the above acts could not be enforced by the Forest Department. The existing mangroves in estuarine fish farm at Managudy in R.S.No.807 (P), South Thamaraiikulam Village, Manakudy, Agastheeswaram Taluk, Kanniyakumari District was raised post Tsunami, 2004 which in turn act as a natural barrier for protection against the cyclones and other natural calamities.

5) It is submitted that the Fisheries Department in their proposal requesting permission for environmental clearance under CRZ notifications for the establishment of eco conservation park in the existing

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estuarine fish farm at Managudy, Agastheeswarm Taluk, have proposed to undertake the following major works besides some other activities:-

- i. Landscaping at 850 sq.mts
- ii. Construction of Interpretation Centre
- iii. Conservation of Mangroves
- iv. Conservation of existing Pond
- v. Construction of Bridge having 12 meter Vent size (Two Bay) for connecting the tow ponds
- vi. Retaining Block for strengthening the bund at river side
- vii. Concrete paver block along the road berms between the bunds of ponds and road and bunds and road side will be protected using concrete walls
- viii. Deepening and strengthening the bund to increase water holding capacity
- ix. Energy conservation through solar power- providing 30 Nos. illumination lights
- x. Walking Track over the bund for maintenance of the pond
- xi. Fencing arrangements
- xii. Boat Jetty of 30 mts length

6) It is submitted that the 6th respondent, one of the members in the District Coastal Zone Management Authority, conducted field inspection on 08.06.2019 along with Forest Range Officer and Field Staff, Boothapandy Range and furnished the following remarks to District Coastal Zone Management Committee, Kanniyakumari District vide C.No.D1/4662/2019 dated:10.06.2019.;

- The area falls in Coastal Regulation Zone I B as it is a Mangrove area
- From among the works proposed in the eco conservation park, the following work finds essentiality.
 1. Construction of connecting culvert

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2. Desilting and renovation of existing ponds and strengthening of embankment

- **Other works should be reconsidered**
- The area is a mangrove area & Rhizophora (mangrove species) of 10-15 feet are seen
- Typha (grass) is also seen
- Birds like black ibis, Spot billed pelican, Purple heron were seen during inspection
- Any attempt to open up the area will create disturbance and will affect the bird habitat
- But the culvert bridge will help connect the ponds. The pond is connected to Pazhayar river and shall help bring frequent flow if both ponds connected and desilted
- Any other activity will affect the nature of the site. Hence is not recommended. But, shall be reconsidered with suitable works.

7) It is submitted that the subject was placed before the 83rd District Coastal Zone Management Committee meeting for consideration and the committee recommended for Environmental Clearance under CRZ Notification 2011, to State Coastal Zone Management Authority (SCZMA), Chennai.

8) The SCZMA issued Environmental Clearance for the Establishment of Eco Conservation Park in the existing Estuarine Fish Farm at R.S.No.807 (P), South Thamaraiikulam Village, Manakudy, Agastheeswaram Taluk, Kanniyakumari District under para 3(iv) (a) (c), 4(i) (a), 8(i) I CRZ-I (ii) (g) of the CRZ Notification 2011 for the above project, subject to the following conditions vide Proceedings No.P1/1741/2019 dated: 31.10.2019.

- a) The existing features of the project site should be conserved as a Eco-nature park and should not be converted/ used for the recreational or entertainment activities.


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- b) No activity shall be carried out in CRZ - I - Eco Sensitive area and in the 50 mts buffer zone around the Mangrove area except activities directly relate to the Conservation of Mangroves.
- c) The Project Proponent should not construct any new concrete structures such as Boat Jetty, Bridge, Laying of Paver Block, Constructing of Concrete Walls, Walking Track, interpretation centre, in CRZ-IA and CRZ-IB areas.
- d) Landscaping is not allowed in CRZ area. Planting of native species may be done in consultation with Forest Department in CRZ area.
- e) No drawal of ground water in CRZ area
- f) Deepening of pond and excavation of sand/ dredging should not be carried out.
- g) Live fencing is only allowed.
- h) New Road should not be formed. The existing road may be strengthened.
- i) The walkway for maintenance of pond should be made with natural stones and the walkway should not be allowed for public utilities/ entertainment/ recreational activities.
- j) Strengthening of bund shall be carried out without putting concrete walls/ retaining walls.
- k) Bridge may be constructed, if necessary, but without affecting free flow of water and shall be constructed only outside CRZ-IA Eco Sensitive area.
- l) Food court, canteen, restaurant and the like are not allowed in CRZ area.
- m) Dressing shall not be carried out for proving Car parking.
- n) Existing boat jetty may be strengthened / repaired without any expansion.

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9) It is further submitted that the Fisheries department had commenced the work in December 2019. Later, a complaint was received by District Administration, regarding dumping of soil, damaging in the existing mangroves etc. during the execution of the project and as desired by the District Collector, Nagercoil, the following members of DCZMA - Kanniyakumari District made an inspection at the said site on 15.02.2020

- i. District Environmental Engineer, TNPCB, Nagercoil
- ii. Deputy Director, Town and Country planning, Tirunelveli
- iii. Forest Ranger, Boothapandy Range (representative of District Forest Officer, Nagercoil)
- iv. Inspector of Fisheries, Fisheries Department, Nagercoil (representative of Assistant Director, Fisheries Department, Nagercoil)

During the inspection, the following officials were also present

- i. Executive Engineer, Fishing Harbour Project Division, Fisheries Department, Nagercoil
- ii. Zonal Deputy Tahsildhar, Agastheeswaram Taluk, Nagercoil

10) After the inspection the above committee submitted to the following remarks in their inspection note dated: 17.02.2020

1. The Project proponent may be directed to remove the embankments provided on the Eastern Side of both ponds (Northern Pond and Southern Pond) which runs through the CRZ IA area (mangroves buffer zone)
2. The project proponent may also be directed to remove the gravel dumping for the strengthening of the roadside berms, and to restore the area in CRZ IA without any changes in the existing land use, land cover or topography etc.,
3. The project proponent shall ensure the complete rehabilitation of the affected mangroves in the South east and Eastern

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Embankments of Pond 2 (Northern Pond). The project proponent shall also ensure that the mangroves in the Northern side of Pond 1 (Southern Pond) shall not be affected due to the dumping of gravel.

4. The project proponent has to plant native species of mangroves at the project site in consultation with the Forest Department with full effective utilization of the funds allocated for the said purpose.
5. The project proponent has to provide red soil with alluvial soil for the turfing of the existing gravel embankments in the area not covered under CRZ IA.

11) It is submitted that the project proponent, 7th respondent herein has to ensure the compliance of specific conditions laid down in the environmental clearance issued by the Tamil Nadu State Coastal Zone Management Authority and the suggestions / remarks made by the District committee.

12) It is submitted that as per the specific conditions laid down by the State Coastal Zone Management Authority vide Proceedings No.P1/1741/2019 dated: 31.10.2019 "No activity shall be carried out in CRZ - I - Eco-Sensitive Area and in the 50 mts buffer zone around the mangrove area except activities directly relate to the conservation of mangroves". **It is ascertained that during the work progress for strengthening of embankments on the eastern side of the ponds by the Fisheries department, four mangrove trees were damaged.** Pursuant to this, a committee comprising members of DCZMA-Kanniyakumari District as briefed in Para 9 above, have inspected to the said site on 15.02.2020 and submitted their observations and remarks. **Based on the observation of the committee and direction, the bund was reduced to 2.80m width (originally the embankment was proposed for 5m top width) so that there would not be any**

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further damage to mangroves. Further dumped gravel was removed for the width of 2.20m and in order to restore the damages caused to four mangrove trees, 50 Nos. of *Rhizophora* species mangrove saplings were planted and at present 28 Nos of mangrove saplings are surviving successfully.

Therefore it is most humbly prayed before this Hon'ble Tribunal to accept this counter affidavit and pass such further or any other orders that may be deem fit and proper according to the circumstances of case and thus render justice.


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VERIFICATION:-

I, the above named Deponent, do hereby verify that the contents of the above Affidavit are true and correct to my knowledge, no part of it is false and nothing material has been concealed there from.

Verified at Nagercoil on this th day of April 2021.


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