BEFORE THE NATIONAL GREEN TRIBUNAL

SOUTHERN ZONE, CHENNAI

Original Application No. 136 of 2024 (SZ)

In the matter of:
K.Saravanan,
Chennai. …Applicant

Versus

The Commissioner of Fisheries and Fishermen Welfare,
Chennai and Others …Respondent(s)

The High Court of Judicature at Madras
Writ Petition No: 14661 of 2023

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Through
Dr. D. Shanmuganathan
Standing Counsel for Tamil Nadu
National Green Tribunal
Southern Zone, Chennai
Date: 26.11.2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

W.P. No. 14661 of 2023

Fisherman care,
Registered Association,
Bearing S.L. No. 386 of 2010
Rep by its President
L.T.A. Peter Rayan
No. 6, Nagalakshmi Salai,
Tiruchandur Nagar,
Old Pallavaram,
Chennai-600 117

... Petitioner

Vs.

1. The Union of India Rep by its
   Secretary to the Govt.
   Ministry of Environment, Forest & Climate Change,
   (MoEF & CC), Govt. of India,
   Indira ParyavaranBhavan, JorBagh Road,
   Aliganj, New Delhi - 110 003.

2. The Chief Secretary of Tamil Nadu,
   Secretariat,
   Chennai - 600 009.

3. The Principal Secretary of Tamil Nadu
   Environment Department,
   Secretariat, Chennai - 600 009.

4. The Chairperson
   Environmental Department,
   Panagal Malaigai, Saidapet
   Chennai 600 105.

5. The Chairman,
   Coastal Zone Management authority
   Paryavaran Bhavan, CGO Complex
   Lodhi Road, New Delhi - 110 003.

6. The Director
National Centre for Sustainable Coastal Management
(NCSCM),
Ministry of Environment, Forest & Climate Change
(MoEF&CC), Govt. of India,
Anna University Campus,
Chennai - 600 025.

7. The State of Tamil Nadu
Represented by its Secretary to Government
Fisheries Department,
Fort St. George,
Chennai - 600 009.

8. The State of Tami Nadu
Represented by its Secretary to Government
Public Works Department,
Fort St. George,
Chennai - 600 009.

9. The Commissioner of Fisheries and Fisherman Welfare,
3rd Floor, Integrated Animal Husbandry and Fisheries Buiding,
Nandanam, Chennai - 600 035.

10. The District Collector,
Collectorate,
Kokkirakulam,
Tirunelveli - 627 009.

11. The Registrar
National Green Tribunal(Southern Zone)
377J, Kalas Mahal, Kamaraj Salai,
PWD Estate, Chepauk
Chennai - 600 005.

12. C.H. Balamohan
7-8, Moovendar Street,
Mullainagar, Puducherry

... Respondents

AFFIDAVIT OF THE PETITIONER

I, L.T.A. Peter Rayan, son of Mr. Lourdu Pattengettiar, Christian, aged about 74 years, residing at No. 6, Nagalakshmi Salai, Tiruchandur Nagar, Old Pallavaram, Chennai-600 117, do hereby solemnly affirm and sincerely state as follows :

1. I am the President of the Petitioner Association namely, 'FISHERMAN CARE' and I have been authorised by the Association to file this petition. After my retirement as Deputy Secretary to the Government of Tamil Nadu, I formed the Association to promote and protect the interest of the fishermen and I have no personal interest in filing this Writ Petition. Our Association made a survey in the coastal area of Tamil Nadu and studied the problems of the fisher folk in Tamil Nadu and produced a documentary film namely 'Broken promises' portraying the problems of fishermen focusing on the human rights violations committed by the Sri Lankan Navy against the fisher folk of Tamil Nadu. I respectfully submit that our Association very recently conducted a survey in the coastal region of Tamil Nadu regarding the adverse impacts of Coastal erosion in the coastal districts and remedial measures to be undertaken by consulting the local fishermen. In that way, I am well aware of the facts of this case and I have no personal interest in filing the petition.

2. I respectfully submit that I and the members of the Association hail from coastal villages in Tamil Nadu and are interested in the welfare of the Fisherman. I respectfully submit that, to my knowledge, no public interest litigation has been filed anywhere on the same issue. I undertake that I will pay the cost, if any, if the present Petition is found

to be intended for personal gain or oblique motive. I submit that I am filing the Petition out of my own pension funds and my Aadhar card No. 2025 6626 8424 and Pan number is ALYPP7695R and the same has been filed in the typed set of papers. I respectfully submit that I am drawing a pension of Rs. 57,000/-.

3. I respectfully submit that large parts of Tamil Nadu Coast lines are situated on the east coast of India which has a sandy coastline and is therefore vulnerable to coastal erosion, and is thus ecologically sensitive. The coastal geomorphology and related eco-systems play a large and vital role in the economic development of the region, providing a large number of functions and services, from sustaining ecology, and traditional fishing communities, besides attracting visitors to the Tourism Industry. I further respectfully submit that severe and rapidly worsening coastal line erosion is damaging the subsistence-based, sustainable and lucrative sectors of the local economy, making the affected region increasingly ecologically, socially, and economically vulnerable.

4. I respectfully submit that for the past 2 decades, the coastal erosion along the coastline of Tamil Nadu has been increasing steadily. The rate of such continuous erosion is at a higher rate than in other areas. Such increased erosion has caused severe damage and losses to the local economy in coastal villages which predominantly rely on fishing and related activities . Due to coastal erosion, the sea level has been steadily increasing on a day-to-day basis which has reduced the coastal/beach area posing threat to the livelihood of the fisherfolk in the region.

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5. I respectfully submit that the specific fishermen community of Kooduthalai Village, Tirunelveli District, Thisiyan Villai Taluk, the fishermen community of Thomaiyarpuram coastal village of Radhapuram block, Tirunelveli District and the fisherman community of Kootapuli village of Radhapuram Taluk are the worst affected and they have been facing daily struggles against the tides from the sea, which has been caused by the heavy and continuous coastal erosion around the areas surrounding the village. In fact, due to the increased sea water flowing into the coast, caused by the coastal erosion; many houses, boats and catamarans owned by the local fishermen community have been totally damaged and the local fishermen in Kooduthalai Village have lost their source of livelihood.

6. I respectfully submit that the fisherfolk of the coastal village of Kooduthalai in Radhapuram Block engage in fishing in country boats. For the past twenty years, Koodutalai coastal village has been affected by sea erosion. In this connection, the Village committee of Kooduthalai village has represented to the concerned authorities for remedial measures. But since no action has been taken on their representation Kooduthalai village is under the threat of sea erosion as in the case of Thomaiyarpuram coastal village of Radhapuram block, Tirunelveli District and Kootapuli village of Radhapuram Taluk. I respectfully submit that it is also necessary to state that in order to protect the Koodankulam Nuclear Power plant sea walls were raised as a result of which sea erosion ravaged the coastal villages of Idunthakarai, Perumanal, Kotthanguli, Uvari and Kottapanai. I respectfully submit that the Government of Tamil Nadu immediately

addressed the concern of the aforesaid coastal villages by raising Bait Curve i.e Thoondil Vailaivu thus protecting the above said villages from sea erosion.

7. I respectfully submit that in a similar way at the eastern side of Kooduthalai coastal village, rough stones were pooled in the coast for nearly 8 KMs for Udankudi Thermal Power Project as a result of which sea erosion ravaged the coastal villages of Alantahlai, Veerapandiapattinam, Periyathalai and Manapadu. I respectfully submit that the Government of Tamil Nadu in order to protect the aforesaid coastal villages raised bait curve i.e. Thoondil Vailaivu thus protecting the above said villages from sea erosion. But however, when the Government of Tamil Nadu was trying to implement the aforesaid project of laying Bait Curves in the coastal villages of Kodduthalai, Thomaiyarpuram and Kootapuli village of Radhapuram Taluk, due to the order passed by the National Green Tribunal in OA.No.4/13(SZ) with Appeal No.18/2017(SZ), the project has come to a standstill which is evident from the communication of the Additional Chief Secretary in Letter No.18369/W2/2021 dated 08.06.2022.

8. I respectfully submit that the general public of Kooduthalai Coastal Village has made continuous representations seeking remedial measures to the Respondents ever since 25.03.2016, more specifically, a request was made for the erection of bait curve, i.e., "thoondil valivu" in the coastal village to prevent coastal erosion. I respectfully submit that the Executive engineer attached to the office of Fishing Harbour Project, Tuticorin vide communication dated 29.06.2017 informed the Kooduthalai village head that Rs 35.64 crores has been sanctioned under the Green Climate Fund for raising bait curve i.e Thoondil valaivu in Kooduthalai coastal village. It is further submitted that on 08.09.2021 the Executive Engineer attached to the office of the Fishing Harbour project,

Tuticorin has informed the head of the village committee that, 40 crores has been sanctioned under NABARD - RIDF XXVII (Phase II) project for the formation of breakwaters and construction of fishing docks under Sagarmala Scheme for Kooduthalai Village.

9. I respectfully submit that following the representation of the general public of Kooduthalai Coastal Village, the Government vide proceedings dated 01.11.2021 also informed one of the members of the Kooduthalai Coastal Village that, the Government of Tamil Nadu has announced in the State Assembly that a decision has been taken to erect Bait Curve "thoondil valaivu" in Kooduthalai Coastal Village. I further respectfully submit that the members of the village were also informed that the aforesaid work will be undertaken by the Public Works Department. I respectfully submit that however, since no action was taken, the fisherfolk of the Kooduthalai Coastal Village were affected to a great extent and they lost their boats, catamarans, and even some of their houses and even their life is in peril. I further respectfully submit that due to coastal erosion, during the ravages of cyclones and the North-West Monsoon, the fishermen are not in a position to return back safely after fishing due to the high tide caused by the coastal erosion. I further respectfully submit that in the aforesaid circumstances, the fishermen of Kooduthalai village, made representations to the concerned authorities, seeking remedial measures, such as constructing Groynes in their coastal village. It was also emphasised in their representations that due to the ravages caused by coastal erosion, the electrical poles in Kooduthalai village fell into the sea as a result of which the boats were not in a position to return to shore.

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10. I respectfully submit that hearing the pleas of the local fishermen of Kooduthalai Village, the Petitioner Association sent a representation dated 20.03.2023 requesting the 10th Respondent to immediately erect "*thoondil palam*" (bait bridge) to safeguard the coastal village affected by sea erosion. In the interregnum, a communication has been sent by the Additional Chief Secretary, Government of Tamil Nadu, to the Chief Engineer, Water Resource Development Plan Formulation vide letter No. 18369/W2/2021 dated 08.06.2022, stating that the Government has decided to defer the proposal of construction of hard structures like Groynes in view of the order of the Hon'ble National Green Tribunal, Special Bench, vide Order dated 11.04.2022. I respectfully submit that on reading the aforesaid order, I was able to find that the Hon'ble National Green Tribunal has passed an order dated 11.04.2022 in O.A. No. 4 of 2013(SZ) with Appeal No. 18/2017(SZ), directing the Chief Secretaries of the Coastal States to finalise the CZMP (Coastal Zone Management Plan) and to get them approved by the Ministry of Environment and Forests within 2 months. The operative portion of the Order has been extracted hereunder:

> "*Accordingly, we direct the Chief Secretaties of the Coastal State/UT to finalize the CZMP and get them approved by MoEF within 2 months. The approved CZMP shall contain the parameters as listed in the CRZ 2019 Notification including High, Medium and Low erosion stretches for such erosion prone areas. SMP shall be prepared as illustrated by NIOT for such erosion prone areas. We further direct preparation/updation of their SMPs for such identified eroding stretches shown in the CZMPs within six months. Pending prepartaion/updation of such SMPs by the Coastal States/UTs, no further hard structures for erosion control be raised or constructed. The application is disposed of*".

11. I respectfully submit that the Hon'ble National Green Tribunal in its Order dated 11.04.2022 had passed an Order to the effect that no further hard structures for erosion control can be raised or constructed till preparation/updation of SMPs by the Coastal States/UTs. I respectfully submit that the affected coastal villages of Kodduthalai, Thomaiyarpuram and Kootapuli village of Radhapuram Taluk, were not arrayed as parties in the aforesaid application before the National Green Tribunal and their concerns were not placed before the National Green Tribunal. I respectfully submit that though funds were sanctioned by the Government of Tamil Nadu for erecting Bait Curve i.e "thoondil valaivu" in Kooduthalai Coastal Village as early as 29.06.2017 the project of erecting Bait Curve i.e "thoondil valaivu" in Kooduthalai and other Coastal Villages namely Thomaiyarpuram and Kootapuli village of Radhapuram Taluk has been stalled due to the order passed by the National Green Tribunal.

12. I respectfully submit that the fishermen of Kooduthalai Village, Thomaiyarpuram coastal village and Kootapuli Village of Radhapuram Taluk are put to untold misery and agony due to coastal erosion and their lives and livelihoods are at stake due to the blanket ban of the Order of National Green Tribunal dated 11.04.2022 in erecting Bait Curve i.e "thoondil valaivu". I respectfully submit that the order of the National Green Tribunal imposing a blanket ban for raising hard structures for erosion control till the preparation/ updation of SMPs by the coastal states/Uts is per se illegal as the principles of natural justice have been violated by not putting the concerned stakeholders to notice and the same has led to substantial failure of justice since the fishing communities in the said village are left without any safeguards from coastal erosion which threaten their livelihood. The plight of the fisherfolk of the coastal

villages namely Kooduthalai Village, Thomaiyarpuram coastal village and Kootapuli Village of Radhapuram Taluk has not been considered by the National Green Tribunal thus depriving their valuable right of life and livelihood guaranteed under Article 19(1)(g) and Article 21 of the Constitution of India.

13. I respectfully submit that however., the National Green Tribunal in its order O.A. No. 14/2013(SZ) with appeal no. 18/2013(SZ) dated 11.04.2022 has recognized the Puducherry model SMP based on the report of NIOT submitted in March 2014 wherein the construction of wedge reef on the north end of the town of Puducherry foreshore and construction of offshore reef placed at the southern end, at 300 meter north of the pier and sand nourishment 4,500,000 m^3 of sand between the northern and southern reef along the coastal line of Pondicherry Town has been proposed. I respectfully submit that though the National Green Tribunal in the aforesaid order has recognized the Puducherry model of SMP, it has imposed a blanket ban on the construction of hard structures for erosion control pending preparation/ updation of SMPs by coastal states as a result of which the Government of Tamil Nadu is not in a position to address the problems faced by the fisherfolk of coastal villages of Kooduthazai, Thomaiyarpuram, and Kootapuli of Radhapuram District. Thus the construction of offshore reef and beach nourishment which has being carried out in the Puducherry can be adopted in the coastal villages of Tamil Nadu on war footing basis more specifically in the coastal villages of Kooduthazai, Thomaiyarpuram, and Kootapuli of Radhapuram District, since the same has been recognized to be not harmful for the environment in the order passed by the National Green Tribunal O.A. No. 04/2013(SZ) with Appeal No.

14. I respectfully submit that in the aforesaid circumstances, having no other alternative remedy, to the Petitioner Association begs to invoke the extraordinary jurisdiction under Article 226 of the Constitution of India for the following among other grounds:

GROUNDS

A) The Impugned order of the National Green Tribunal in O.A 04/2013(SZ) with Appeal 18/2017(SZ) dated 11.04.2022 imposing a complete ban with respect to the raising of hard structures pending preparation/updation of SMPz by coastal states without putting the consent stake holders namely the fisherfolk of the coastal villages particularly the Villages namely Kooduthazai, Thomaiyarpuram, and Kootapuli of Radhapuram District for whom funds were sanctioned for raising Bait Curve as early as 29.06.2017, is per se illegal violating the principle of natural justice and thus violative of Article 14 of Constitution of India.

B) The Impugned order of the National Green Tribunal in O.A 04/2013(SZ) with Appeal 18/2017(SZ) dated 11.04.2022 imposing a complete ban without considering the plight of the fisherfolk of the coastal villages namely Kooduthalai Village, Thomaiyarpuram coastal village and Kootapuli village of Radhapuram Taluk is per se illegal and has deprived the valuable right of life and livelihood of the fisherfolk guaranteed under Article 19(1)(g) and Article 21 of the Constitution of India.

C) The Government of Tamil Nadu considering the untold misery faced by the fisherman of Kooduthalai Village caused due to sea erosion, sanctioned funds for the construction of Bait Curve under the Green Climate Fund as early as 29.06.2017 and when the project was about to be implemented in the coastal villages of Kooduthalai Village, Thomaiyarpuram coastal village and Kootapuli village of Radhapuram Taluk the impugned order has been passed by the National Green Tribunal in O.A 04/2013(SZ) with Appeal 18/2017(SZ) dated 11.04.2022 without considering the fact that the life and livelihood of the fisherfolk of fishing villages Kooduthalai Village, Thomaiyarpuram coastal village and Kootapuli village of Radhapuram Taluk is at peril due to ravages caused by the coastal erosion.

D) The Government of Tamil Nadu by considering the plight of the fisherfolk in coastal villages of Idunthakarai, Perumanal, Kotthanguli, Uvari and Kottapanai, Alantahlai, Veerapandiapattinam, Periyathalai and Manapadu raised the Bait Curve to protect the Fisherfolk of the aforesaid villages from the ravages caused due to coastal erosion. But however, when the Government of Tamil Nadu was about to raise the Bait Curve in Kooduthalai Village, Thomaiyarpuram coastal village and Kootapuli village of Radhapuram Taluk the impugned order has been passed by the National Green Tribunal in O.A 04/2013(SZ) with Appeal 18/2017(SZ) dated 11.04.2022 without considering ground realities and the ravages caused by sea erosion in the Villages of Kooduthalai Village, Thomaiyarpuram coastal village and Kootapuli village of Radhapuram Taluk.

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E) In order to protect the Koodankulam Nuclear power plant, sea walls were raised as a result of which sea erosion ravaged the coastal villages of the Idunthakarai, Perumanal, Kotthanguli, Uvari and Kottapanai and consequently, the Government of Tamil Nadu raised the Bait Curve in the aforesaid villages. Similarly, at the eastern side of Kooduthalai coastal village, rough stones were pooled in the coast for nearly 8 KMs for Udankudi Thermal Power Project as a result of which sea erosion ravaged the coastal villages of Alantahlai, Veerapandiapattinam, Periyathalai and Manapadu. The Government of Tamil Nadu in order to protect the aforesaid coastal villages raised a Bait Curve i.e Thoondil Vailaivu, thus protecting the above said villages from sea erosion. But however, when the Government of Tamilnadu was about to address the issue with respect to the coastal villages of Kodduthalai, Thomaiyarpuram and Kootapuli village of Radhapuram Taluk, the impugned order have been passed by the National Green Tribunal without considering the fact that the Government of Tamil Nadu is addressing a long pending burning issue of sea erosion with respect to the villages of Kodduthalai, Thomaiyarpuram and Kootapuli village of Radhapuram Taluk.

F) The Impugned Order of the National Green Tribunal in O.A. No. 4 of 2013(SZ) with Appeal No. 18/2017(SZ) dated 11.04.2022 though proceeds on the footing that there is a need to replace hard structures like sea walls, groynes etc with a soft option such as beach nourishment, sand bypassing, dune planting, offshore submerged reefs by working with nature besides issuing a direction the Chief Secretaries of coastal states/union territories to finalize CZMP get the approval of the Ministry of Environmental and Forest within 2 months failed to consider that grave injustice has been caused to the coastal villages of Kodduthalai, Thomaiyarpuram and Kootapuli

villages of Radhapuram Taluk wherein raising of Bait Curve has been stalled due to the aforesaid order.

G) The implementation of the order of the National Green Tribunal in O.A. No. 4 of 2013(SZ) with Appeal No. 18/2017(SZ) dated 11.04.2022 will take some considerable time by the concerned coastal states and pending implementation of the aforesaid order if there is a complete ban of the raising of Bait Curve "Thoondil Valaivu", the coastal villages namely Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk will be under peril and there is a imminent risk of the fisherfolk of the aforesaid coastal villages in losing the lives and livelihood which cannot be compensated by any means.

H) The National Green Tribunal by imposing a blanket ban for raising hard structures for erosion control, till the preparation/ updation of SMPs by the coastal states/Uts is per se illegal. As the principles of natural justice have been violated by not putting the concerned stakeholders to notice and the same has led to substantial failure of justice since the fishing communities in the said village are left without any safeguards from coastal erosion which threaten their livelihood.

I) The impugned order of the National Green Tribunal in OA is per se arbitrary since the fact that not all coastal villages are similarly situated as in the case of coastal villages of Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk which are located in proximity to Kodunamkulam nuclear power which has a preexisting sea wall in the form of groynes, which results in accelerated coastal erosion

in the neighbouring aforesaid villages which poses an immediate and imminent threat to the life and livelihood of the fisherfolks of the above-mentioned villages.

15. I respectfully submit that the fishing community in Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk are facing life and death problem every day to the ravages caused by the coastal erosion and they have already lost their boats due to coastal erosion. I respectfully submit that the fisherfolk of the aforesaid village have been facing severe difficulties for the past 20 years and when the Government of Tamil Nadu is willing to carry out the remedial measures in the villages of Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk by raising Bait Curves, the impugned order of National Green Tribunal in O.A. No. 4 of 2013(SZ) with Appeal No. 18/2017(SZ) dated 11.04.2022 imposing a complete ban of raising hard structures of erosion control has resulted in untold hardship to the fisherfolk of their aforesaid coastal villages Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk. I respectfully submit that to prevent further loss of life and livelihood of the fishing community in Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk, the respondents 2,3,7,8,9,10 ought to take immediate steps to mitigate the coastal erosion by erecting bait curve known as "thoondil valivu" or in the alternative construct near shore wedge reef and carryout sand nourishment as an interim measure taking into consideration the imminent danger that looms over the Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk.

16. I respectfully submit that in view of the order passed by the Hon'ble National Green Tribunal in O.A. No. 4 of 2013(SZ) with Appeal No. 18/2017(SZ) dated 11.04.2022 imposing a blanket ban on the construction of hard structures like seawalls,

groynes etc, the Government of Tamil Nadu is not in a position to execute its decision to erect bait curves in the Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk, which has resulted in sea erosion taking away the life and livelihood of the fisherfolks in the Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk. I respectfully submit that if the order passed by the National Green Tribunal O.A. No. 4 of 2013(SZ) with Appeal No. 18/2017(SZ) dated 11.04.2022, is not stayed in so far as the coastal villages of Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk, the fisherfolk will be put to irreparable loss and their life and livelihood will be at stake. I respectfully submit in the aforesaid circumstances it is therefore prayed that this Hon'ble Court pleased to pass an order of interim stay of the order passed by the National Green Tribunal in O.A. No. 4 of 2013(SZ) with Appeal No. 18/2017(SZ) dated 11.04.2022 insofar as its bans the raising of the hard structures for erosion control in the coastal villages of Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk pending disposal of the Writ Petition and thus render Justice.

17. I respectfully submit that the certified copy of the order passed by the NGT is not available with the petitioner since the petitioner is not a party to the aforesaid application. However, the photocopy of the same is filed and the same may be dispensed, therefore it is prayed that this Hon'ble Court pleased to dispense with the production of the certified of the Order passed by the National Green Tribunal in O.A. No. 4 of 2013(SZ) with Appeal No. 18/2017(SZ) dated 11.04.2022. I respectfully submit that it is also necessary to state that if immediate remedial measures are not taken by the Respondents 2,3,7,9,10 in raising Bait Curves or construct near shore

wedge reef and carryout sand nourishment as an alternative in the coastal villages of Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk grave prejudice and irreparable injury will be caused to the fisherfolk of the aforesaid villages which cannot be compensated by any means.

For the aforesaid reasons, it is humbly prayed that this Hon'ble Court may be pleased to pass an Order of Interim Direction, directing the respondents 2,3,7,9,10 to erect a bait curve known as "thoondil valivu" or in the alternative construct near shore wedge reef and carryout sand nourishment in the Coastal region of Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk expeditiously as possible to prevent loss of life and livelihood of the fisherfolk of the coastal villages of Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk pending disposal of the above Writ Petition and thus render Justice.

For the aforesaid reasons, it is therefore prayed before this Hon'ble Court to pass an order of interim stay of the order passed by the National Green Tribunal in O.A. No. 4 of 2013(SZ) with Appeal No. 18/2017(SZ) dated 11.04.2022 insofar as its bans the raising of the hard structures in the coastal villages of Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk pending disposal of the Writ Petition and thus render Justice.

For the aforesaid reasons, it is therefore prayed that this Hon'ble Court pleased to dispense with the production of the certified copy of the Order passed by the National Green Tribunal in O.A. No. 4 of 2013(SZ) with Appeal No. 18/2017(SZ) dated 11.04.2022 and thus render justice.

For the aforesaid reason :-

a) It is therefore prayed before this Hon'ble Court to issue a WRIT OF CERTIORARIFIED MANDAMUS to call for the records related to the impugned order made by Special Bench of the National Green Tribunal in O.A. No. 4 of 2013(SZ) with Appeal No. 18/2017(SZ) dated 11.04.2022 quash the same insofar as it bans the construction of hard structures in the coastal villages of Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk and consequently direct respondents 2,3,7,9,10 to erect a bait curve known as "thoondil valivu" or in the alternative construct near shore wedge reef and carryout sand nourishment in the Coastal region of Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk expeditiously as possible or any other Writ, Order or Direction, in the nature of Writ directing the Respondents 2,3,7,9,10 within a time frame as fixed by this Hon'ble Court and thus render Justice.

b) Directing the Respondents 2,3,7,9,10 to identify the vulnerable coastal districts in the state of Tamil Nadu and construct near shore wedge reef and carryout sand nourishment as expeditiously as possible within a time frame fixed by the Hon'ble Court and thus render Justice.

Solemnly affirmed at Chennai on this

the day of May 2023 and

singed his name in my presence

BEFORE ME,

ADVOCATE, CHENNAI

MEMORANDUM OF WRIT PETITION FILED UNDER THE ARTICLE 226 OF THE CONSTITUTION OF INDIA

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

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... Respondents

WRIT PETITION

The Address of the Petitioner for all the service and process is that of their counsel M/s L.P. Maurya, S. Indrajith, Ragesh Bhagavath L, Harish Parvatham Advocates having office at III A High Court Chambers, High Court Campus , Chennai - 600 104. The addresss of service of the Respondent as stated as above.

For the reason stated in the affidavit:-

a) It is therefore prayed before this Hon'ble Court to issue a WRIT OF CERTIORARIFIED MANDAMUS to call for the records related to the impugned order made by Special Bench of the National Green Tribunal in O.A. No. 4 of 2013(SZ) with Appeal No. 18/2017(SZ) dated 11.04.2022 quash the same insofar as it bans the construction of hard structures in the coastal villages of Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk and consequently direct respondents 2,3,7,9,10 to erect a bait curve known as "thoondil valivu" or in the alternative construct near shore wedge reef and carryout sand nourishment in the Coastal region of Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk expeditiously as possible or any other Writ, Order or Direction, in the nature of Writ directing the Respondents 2,3,7,9,10 within a time frame as fixed by this Hon'ble Court and thus render Justice.

b) Directing the Respondents 2,3,7,9,10 to identify the vulnerable coastal districts in the state of Tamil Nadu and construct near shore wedge reef and carryout sand nourishment as expeditiously as possible within a time frame fixed by the Hon'ble Court and thus render Justice.

Dated at Chennai on 1st May of 2023

COUNSEL FOR PETITIONER

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Special Original Jurisdiction)

W.P. No. 14661 of 2023

Fisherman care,
Registered Association,
Bearing S.L. No. 386 of 2010
Rep by its Preseident
L.T.A. Peter Rayan
No. 6, Nagalakshmi Salai,
Tiruchandur Nagar,
Old Pallavaram,
Chennai-600 117 ... Petitioner

Vs.

Union of India rep by its.,
Secretary of Govt.
Ministry of Environment, Forest & Climate Change
(MoEF & CC), Govt. of India,
Indira ParyavaranBhavan, JorBagh Road,
Aliganj, New Delhi - 110 003 and 11 ors ... Respondents

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M/s L.P. Maurya
MS/1255/2008

S. Indrajith
MS/2686/2021

Ragesh Bhagavath
MS/7586/2021

Harish Parvatham
MS/5681/2021

COUNSEL FOR PETITIONER

+9444670816

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

WMP No. of 2023

In

W.P. No. 14661 of 2023

K.Saravanan,
S/o Kasinathan,
No. 30, Urur Kuppam, Besant Nagar,
Chennai – 600090 ... Petitioner / Proposed respondent

Vs

1. Fisherman Care
Registered Association, Bearing S.L No. 386 of 2010
Represented by its president, L.T.A Peter Rayan,
No.6, Nagalakshmi Salai,
Tiruchandur Nagar, Old Pallavaram ... Respondent / Petitioner

2. Union of India,
Secretary to the Government,
Ministry of Environment, Forest and Climate Change (Moef & CC)
Government of India, Indira Paryavaran Bhavan, Jorbagh Road, Alingan

3. The Chief Secretary of Tamil Nadu,
Secretariat,
Chennai-600 009.

4. The Principal Secretary Of Tamil Nadu,
Environment Department,
Secretariat,
Chennai- 600 009.

5. The Chairperson,
Environment Department,
Panagal Maligai, Saidapet,
Chennai- 600 115.

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5. The Chairperson,
Environment Department,
Panagal Maligai, Saidapet,
Chennai- 600 115.

6. The Chairman,
Coastal Zone Management Authority,
Paryavaran Bhavan, CGO Complex,
Lodhi Road, New Delhi - 110003,

7. The Director,
National Centre for Sustainable Coastal Management
(NCSCM),
Ministry of Environment, Forest & Climate Change
(MoEF&CC), Govt. of India,
Anna University Campus,
Chennai- 600025,

8. The State of Tamil Nadu
Represented by its secretary to Government
Public Works Department,
Fort St. George,
Chennai-600 009.

9. The State of Tamil Nadu
Represented by its secretary to Government
Fisheries Department,
Fort St. George,
Chennai-600 009.

10. The Commissioner of Fisheries and Fisherman Welfare,
3rd Floor, Integrated Animal Husbandary and Fisheries Building,
Nandanam, Chennai- 600 035.

11. The District Collector,
Collectorate, Kokkirakulam,
Tirunelveli- 627 009.

12. The Registrar,
National Green Tribunal (Southern Zone)
377J, Kalas Mahal, Kamaraj Salai,
PWD Estate, Chepauk,

Chennai- 600 005.
13. C.H. Balamohan
7-8, Moovendar Street, Mullai Nagar,
Puducherry. ... Respondents/ Respondents

AFFIDAVIT OF K. SARAVANAN

I, K. Sravanan Son of Kasinathan aged about... years old residing at No. 30, Urur Kuppam, Besant Nagar, Chennai – 600090 well versed with the facts and circumstances of the case and do solemnly affirm and sincerely states as follows:

1. I am a member of the fishing community and has been working on the protection of the coastal regions of Tamil Nadu for the last decade. I held positions of responsibility in the Fishing Panchayat of Urur Kuppam, and is currently an elected office bearer of the Urur Kuppam Fishermen's Cooperative Society.
2. I submit that I have filed Public Interest litigation before this Hon'ble Court and before the National Green Tribunal for issues concerning protection of the Environment and fishers livelihoods. I have filed W.P No 30292 of 2022 seeking publication of Costal Zone Management Plans in Tamil which was allowed by this court on 19.12.2022. Previously I have filed W.P No. 30237 of 2018 aggrieved by destruction of Mangroves in the Ennore Wetlands, this Hon'ble court vide order dated 19.11.2018 issued interim orders preventing destruction of Mangroves and this Writ Petion was Pending. I have filed W.P 13499 of 2021 and 13266 of 2021 challenging orders of the National Green Tribunal transferring the Original application filed before the Ld' Chennai bench to Delhi bench, this Hon'ble court stayed vide order Dated 29.06.2021 I have filed several Appeals and applications before the Ld' Green Tribunal seeking to inter alia protecting the Ennore Wetlands.

3. I submit that I am seeking impleadment as a party Respondent in the present proceeding in order to bring to the notice of this Hon'ble Court the destruction caused to the coastline by hard structures such as sea walls and groynes.

4. It is submitted that in 2013, OA No. 4 of 2013 was filed by one Mr. Ossie Fernandes and C.H. Balmohan, both representatives of the Coastal Action Network, a coalition of fisher and fishworker unions and organisations. The applicants filed the OA concerned by the rampant construction of seawalls and groynes by Tamilnadu and Pondicherry and the destruction of the shoreline. The Hon'ble NGT adjudicated the matter for almost a decade, called for reports from all coastal states, reviewed management plans submitted by different states and finally recongised that soft-solution like beach nourishment, off shore reefs etc are the best tools to tackle erosion and preserve the shoreline – which is important livelihood space for fishers and an ecologically significant habitat for coastal flora and fauna including endangered species. Both the original applicants before the NGT have passed away and hence I am filing the present petition seeking impleadment, to appraise this Hon'ble Court of the proceedings before the Hon'ble NGT and subsequent developments.

5. It is submitted that it is in the interest of the petitioner that a scientifically designed soft solution – measures like of-shore reefs, beach nourishment etc to combat erosion and stabilise the coast is undertaken instead of dumping rocks and constructing groynes or bait curves. Fishermen depend on the beach – it is a livelihood space and the solution to the problem of erosion must be sustainable, permanent and protect the shoreline. It is therefore necessary to ensure that shoreline management plans are drawn by the state as directed by the Hon'ble NGT. The Hon'ble NGT has passed a detailed judgment

after considering reports filed by the states and has recognised that soft solutions to address erosion will alone sustain the coast. The petitioner has not made out any grounds as to how the judgment of the Hon'ble NGT is flawed.

6. The State has now, in compliance with the orders of the Hon'ble NGT, has issued G.O Ms. No. 69, Environment, Forest and Climate Change Department dated 29.03.2023 and commissioned a study to prepare a shoreline management plan through National Centre for Coastal research (NCCR). This report is awaited.

Proceedings before the NGT

7. In Tamil Nadu, the Public works Department and Fisheries Department have over the last two decades constructed around 251 hard structures across 134 k.m of coast line. This does not include break waters constructed for harbours training walls etc. these groynes and sea walls which were constructed as anti-erosion measures, in reality has caused severe erosion along the coast and as render the coast vulnerable to sea level raise, ingress of sea water into coastal aqua fires and as resulted in the disappearance of sandy beach.

8. The sandy beach front is essential not only required for its ecological purposes but they are livelihood space for fishers who depend on sandy beach who park their boats, dry and mend their fishing nets and various purposes like drying fish etc.

9. Due to short sighted ill-advised and unscientific construction of sea walls and groynes, the coast of Tamil Nadu experiences severe erosion. According to the recent report by National Centre for Coastal Research (NCCR), out of the 991.47 km of Tamil Nadu's mapped coastline, a whopping 422.94 km (42.7%). According to a newsreport in the Indian Express newspaper on this report, NCCR director MV

Ramana Murthy, who is also a member of Expert Appraisal Committee (CRZ) of Union environment ministry, is reported to have said "in recent years, the hard structures due to their negative impacts are discouraged, instead 'soft' alternatives like beach nourishment are becoming favourable."

10. Sea walls are nothing but dumping of rocks or tetrapods along the coast i.e these are horizontal structure build along the coast. Groynes are constructed at a perpendicular angle to the coast. When a coastal structure is erected in the path of the freely moving sand along the coast, the structures prevent the natural flow of sand in the same manner as a dam across the path of river interrupts the flow of water. In such an instance one part of the coast gets an excess of sand and the other side on the down-drift is starved of sediment. The side that is starved of sediment starts and keeps eroding as long as fresh input of sand is not provided.

11. This process is evident of one sees the coastline north of the Chennai port – there is no beach till Ennore.

12. It is submitted that aggrieved by the unscientific and ill-advised construction of seawalls and groynes and the resultant erosion of the coast, application No. 4 of 2013 was filed before the Hon'ble National Green Tribunal, Chennai. During the course of proceedings before the Tribunal, State Governments of Pondicherry, Tamilnadu etc prepared and filed shoreline management plans. The State of Tamilnadu had prepared a report using IIT Chennai's Ocean Engineering Department, which only suggested hard structures like Seawalls and Groynes. It is relevant to note that predominantly, the hard structures were constructed based on IIT Madras's reports. Unfortunately, the shoreline management plan was also prepared by the same institute.

13. Pondicherry also faced severe erosion due to hard structures. The entire beach by the promenade (Gandhi statue) eroded and NIOT prepared a shoreline management plan using soft solutions which do not increase erosion but actually save the beach.

14. The Hon'ble Tribunal passed a detailed judgment on 11.04.2022 after considering all these issues, directing all the respondent states, including Tamilnadu to prepare shoreline management plans following the NIOT model of adopting soft solutions like beach nourishment.

15. It is submitted that the recent NCCR report in 2022 also proves that severe erosion is caused near the hard structures built. The writ petition however, seems to advocate for the construction of seawalls and groynes. The writ petition is nothing but an attempt to once again build disastrous seawalls and groynes – the most affected people by this monumental folly are the fishers.

16. The writ petitioner has obviously failed to appreciate these issues and has filed the writ petition, which is a thinly veiled attempt to defeat the judgment of the NGT in OA No. 4 of 2013.

17. I submit that the respondent authorities ought to prepare a shoreline management plan following the NIOT model as directed by the Hon'ble NGT, which will save coastal villages and the coast from erosion and refrain from constructing any hard structures that will cause further damage to our sensitive coastal environment – affecting both people and the ecology. The state has commissioned a study through NCCR and it is hoped that it will provide sustainable solutions to the man made problem of coastal erosion. No prejudice will be caused to any party if I am impleaded as a party to the present proceedings. I am in possession of documents and information that will aid in the adjudication of the present lis.

It is therefore prayed that this Hon'ble Court may be pleased to implead the petitioner as a party respondent in the present writ petition and thus render justice.

Solemnly affirmed at Chennai

On this the day of July 2023

And signed his name in my presence

BEFORE ME

ADVOCATE : CHENNAI

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

(54)

W.P. No. 14661 of 2023

Fisherman care,
Registered Association,
Bearing S.L. No. 386 of 2010
Rep by its Preseident
L.T.A. Peter Rayan
No. 6, Nagalakshmi Salai,
Tiruchandur Nagar,
Old Pallavaram,
Chennai-600 117

... Petitioner

Vs.

Union of India, rep by its.,
Secretary of Govt.
Ministry of Environment, Forest & Climate Change,
(MoEF & CC), Govt. of India,
Indira ParyavaranBhavan, JorBagh Road,
Aliganj, New Delhi - 110 003 and 11 ors

... Respondents

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T/C

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MS/7586/2021

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COUNSEL FOR PETITIONER

+9444670816

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

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Fisherman care,
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... Respondents

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It is certified that the above documents are true copies of their respective originals

Dated at Chennai on 1st day of May 2023.

COUNSEL FOR PETITIONER

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Special Original Jurisdiction)

W.P. No. of 2023

Fisherman care,
Registered Association ... Petitioner

Vs.

Union of India Rep by its.,
Secretary of Govt.
and 9 Ors ... Respondents

SYNOPSIS

The Petitioner Association espousing the cause of the fisher folk in the Coastal Districts in Tamil Nadu has filed the present Writ Petition in Public Interest seeking a Writ of Certiorarified Mandamus to call for the records related to the Impugned Order made by the special bench of the National Green Tribunal in OA.No.4 of 2013 (SZ) with Appeal No.18/2017 (SZ) dated 11.04.2022 and quash the same insofar as it bans the construction of hard structures in the coastal villages of Kooduthalai, Thomaiyarpuram and Kootapuli villages and a consequential direction directing the Respondents 2,3,7,9 and 10 to erect a Bait Curve known as Thoondil Valaivu or in the alternative construct near shore wedge reef and carryout sand nourishment in the Coastal region of Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk expeditiously as possible

The Petitioner submits that the specific fishermen community of Kooduthalai Village, Tirunelveli District, ThisiyanVillai Taluk, the fishermen community of Thomaiyarpuram coastal village of Radhapuram block, Tirunelveli District and the fisherman community of Kootapuli village of Radhapuram Taluk are the worst affected and they have been facing daily struggles against the tides from the sea, which has been caused by the heavy and continuous coastal erosion around the areas surrounding the village. In fact, due to the increased sea water flowing into the coast, caused by the coastal erosion; many houses, boats and catamarans owned by the local

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fishermen community have been totally damaged and the local fishermen in Kooduthalai Village have lost their source of livelihood.

The Petitioner submits that for the past twenty years, Koodutalai coastal village has been affected by sea erosion. In this connection, the Village committee of Kooduthalai village has represented to the concerned authorities for remedial measures. But since no action has been taken on their representation, Kooduthalai village is under the threat of sea erosion as in the case of Thomaiyarpuram coastal village of Radhapuram block, Tirunelveli District and Kootapuli village of Radhapuram Taluk. It is also necessary to state that in order to protect the Koodankulam Nuclear Power plant sea walls were raised as a result of which sea erosion ravaged the coastal villages of Idunthakarai, Perumanal, Kotthanguli, Uvari and Kottapanai. However the National Green Tribunal by Order dated 11.04.2022 in O.A. No. 4 of 2013(SZ) with Appeal No. 18/2017(SZ), directing the Chief Secretaries of the Coastal States to finalise the CZMP (Coastal Zone Management Plan) and to get them approved by the Ministry of Environment and Forests within 2 months and ***pending preparation/updation of such SMPs by the Coastal States/UTs, no further hard structures for erosion control be raised or constructed.*** The Petitioner submits that the affected coastal villages of Kodduthalai, Thomaiyarpuram and Kootapuli village of Radhapuram Taluk, were not arrayed as parties in the aforesaid application before the National Green Tribunal and their concerns were not placed before the National Green Tribunal. The Petitioner submits that though funds were sanctioned by the Government of Tamil Nadu for erecting Bait Curve i.e "thoondil valaivu" in Kooduthalai Coastal Village as early as 29.06.2017, the Government of Tamil Nadu is not in a position to implement the project due to the aforesaid order. Hence the present Writ petition.

DATES AND EVENTS

S. No	Dates	Events
1.	25.03.2016	The Coastal people of Kodduthalai village made a representation to the Respondent seeking erection of bait curve known as "Thoondil Valaivu" to prevent coastal

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		erosion
2	29.06.2017	The Executive engineer informed the head of the coastal village of Kodduthalai that Rs.35.65 crores has been sanctioned by the Government for constructing Bait Curves i.e Thoondil Valaivu under the Green Climate Fund
3	22.01.2018	Representation was made on behalf of the coastal village of Kodduthalai seeking to construct Curved Bait
4	8.09.2021	The Executive Engineer attached to the Office of the Fishing Harbour project,Thoothukudi has informed the head of the village committee that 40 crores has been sanctioned under NABARD - RIDF XXVII (Phase II) project for formation of break waters and construction of fishing docks under Sagarmala Scheme for Kooduthalai Village
5	1.11.2021	The Office of the 9th Respondent informed the one Mr.Johnson Arul of Kooduthalai village that decision has been taken in the Tamil Nadu assembly about the erection of Bait Curve in Kooduthalai village and the same would be executed by the Public Works Department
6	31.03.2022	Press release issued by the Ministry of Earth Sciences successfully demonstrating innovative coastal erosion mitigation methods at Puducherry Beach Restoration project in the form of submerged reef and in Cuddalore Periya Kuppam, Tamil Nadu in the form of Offshore submerged dyke.
7	11.04.2022	The National Green Tribunal vide Order dated 11.04.2022 in O.A.No.4/2013 along with Appeal No.18/2017 passed an Order directing the chief secretaries of Coastal States/Union Territories to finalise the Coastal Zone Management plan and get them approved by the Ministry of Environment and Forest pending preparation/updation of such SMP by Coastal banned construction of hard structures
8	8.06.2022	The Additional Chief Secretary to Government of Tamil Nadu sent a communication to the Chief Engineer water works Department, Plan Formulation Chennai informing that in light of the NGT Order dated 11.04.2022 in O.A.No.4/2013 along with Appeal No.18/2017, construction of groynes is not permitted till ShoreLine Management plan is prepared after getting the Coastal Zone Management approval

9	20.03.2023	Representation was made by the Petitioner association seeking intervention of the government authorities in preventing coastal erosion by erecting bait curves in Kooduthalai Village.

Dated at Chennai on this the 1st day of May, 2023

Counsel for the Petitioner

MODEL PROFORMA

5

Single / DB

Senior Citizen ☐

Age ☐

CODING SHEET

High Court of Judicature at Madras

APPELLATE SIDE

(to be filled by the Registry)

Case Type ☐ No ☐ of ☐ Date of Filing d d m m y y y y

S.R.No. ☐ Date of Presentation

(To be filled by the Appellant/Petitioner/Party in person in Black ink)

Caveat No. and Year, if any_____ Name of the Caveator Counsel_____

Petitioner /Appellant _____

Respondent/Respondent _____

Counsel for Petitioner/ Appellant _____

Counsel for Respondent _____

Value of the Appeal Rs. ☐ Court Fee Paid ☐

Act including provision (s) of law involved in the appeal ☐

Subject matter, in brief ☐

Subject/Category Code ☐ Nature of Claim ☐

Connected /Previous/ Covered case, if any Type ☐ No ☐ of ☐

Lower Court Details

Trial Court : Type_____No_____Year_____
Date of Judgment

Lower Appellate Court : Type_____No_____Year_____

Date of Judgment_____

Passing Officer Counsel for Appellant/Petitioner/Party in person

(To be filled by the Court Officer/PA concerned in Court itself in Red Ink)

Nature of Disposal_____By _____

Date of Disposal d d m m y y y y

Government of Tamil Nadu

e-Court Fee

6

District : HighCourt

Date & Time :02-MAY-2023 17:17:56

Establishment : Principal Bench of Madras High Court

Stockholding Reference No : EPSTN0256051717946397

Party Transaction No : NHCMA01202344807L

Name of litigant : Fisherman care Rep by its President Peter Rayan

e-Court Fee Receipt No : TNCT0205E2319R876

e-Court Fee amount : Rs. 1130

(Rupees One Thousand One Hundred Thirty And Paise Zero Only)

TNCT0205E2319R876

Statutory Alert : The authenticity of this e-Court fee receipt should be verified at www.shcilestamp.com . Any discrepancy in the details on this receipt and as available on the website renders it invalid. In case of any discrepancy please inform the Competent Authority. This receipt is required to be verified & locked by the Court official for further process in the Court.

MEMORANDUM OF WRIT PETITION FILED UNDER THE ARTICLE 226 OF THE CONSTITUTION OF INDIA

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

W.P. No. 14661 of 2023

Fisherman care,
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Vs.

1. The Union of India Rep by its
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   Ministry of Environment, Forest & Climate Change,
   (MoEF & CC), Govt. of India,
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   Aliganj, New Delhi - 110 003.

2. The Chief Secretary of Tamil Nadu,
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   Chennai - 600 009.

3. The Principal Secretary of Tamil Nadu
   Environment Department,
   Secretariat, Chennai - 600 009.

4. The Chairperson
   Environmental Department,
   Panagal Malaigai, Saidapet
   Chennai 600 105.

5. The Chairman,
   Coastal Zone Management authority
   Paryavaran Bhavan, CGO Complex
   Lodhi Road, New Delhi - 110 003.

6. The Director
   National Centre for Sustainable Coastal Management

(NCSCM),
Ministry of Environment, Forest & Climate Change
(MoEF&CC), Govt. of India,
Anna University Campus,
Chennai - 600 025.

7. The State of Tamil Nadu
Represented by its Secretary to Government
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Fort St. George,
Chennai - 600 009.

8. The State of Tami Nadu
Represented by its Secretary to Government
Public Works Department,
Fort St. George,
Chennai - 600 009.

9. The Commissioner of Fisheries and Fisherman Welfare,
3rd Floor, Integrated Animal Husbandry and Fisheries Buiding,
Nandanam, Chennai - 600 035.

10. The District Collector,
Collectorate,
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Tirunelveli - 627 009.

11. The Registrar
National Green Tribunal(Southern Zone)
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PWD Estate, Chepauk
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12. C.H. Balamohan
7-8, Moovendar Street,
Mullainagar, Puducherry ... Respondents

WRIT PETITION

The Address of the Petitioner for all the service and process is that of their counsel M/s L.P. Maurya, S. Indrajith, Ragesh Bhagavath L, Harish Parvatham Advocates having office at III A High Court Chambers, High Court Campus , Chennai - 600 104. The addresss of service of the Respondent as stated as above.

For the reason stated in the affidavit:-

a) It is therefore prayed before this Hon'ble Court to issue a WRIT OF CERTIORARIFIED MANDAMUS to call for the records related to the impugned order made by Special Bench of the National Green Tribunal in O.A. No. 4 of 2013(SZ) with Appeal No. 18/2017(SZ) dated 11.04.2022 quash the same insofar as it bans the construction of hard structures in the coastal villages of Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk and consequently direct respondents 2,3,7,9,10 to erect a bait curve known as "thoondil valivu" or in the alternative construct near shore wedge reef and carryout sand nourishment in the Coastal region of Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk expeditiously as possible or any other Writ, Order or Direction, in the nature of Writ directing the Respondents 2,3,7,9,10 within a time frame as fixed by this Hon'ble Court and thus render Justice.

b) Directing the Respondents 2,3,7,9,10 to identify the vulnerable coastal districts in the state of Tamil Nadu and construct near shore wedge reef and carryout sand nourishment as expeditiously as possible within a time frame fixed by the Hon'ble Court and thus render Justice.

Dated at Chennai on 1st May of 2023

COUNSEL FOR PETITIONER

MEMORANDUM OF WRIT MISCELLANEOUS PETITION FILED UNDER THE ARTICLE 226 OF THE CONSTITUTION OF INDIA IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

W.M.P No. of 2023

In

W.P. No. of 2023

Fisherman care,
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Tiruchandur Nagar,
Old Pallavaram,
Chennai-600 117 ... Petitioner

Vs.

1. The Union of India Rep by its
   Secretary to the Govt.
   Ministry of Environment, Forest & Climate Change,
   (MoEF & CC), Govt. of India,
   Indira ParyavaranBhavan, JorBagh Road,
   Aliganj, New Delhi - 110 003.

2. The Chief Secretary of Tamil Nadu,
   Secretariat,
   Chennai - 600 009.

3. The Principal Secretary of Tamil Nadu
   Environment Department,
   Secretariat, Chennai - 600 009.

4. The Chairperson
   Environmental Department,
   Panagal Malaigai, Saidapet
   Chennai 600 105.

5. The Chairman,
   Coastal Zone Management authority
   Paryavaran Bhavan, CGO Complex

Lodhi Road, New Delhi - 110 003.

6. The Director
National Centre for Sustainable Coastal Management
(NCSCM),
Ministry of Environment, Forest & Climate Change
(MoEF&CC), Govt. of India,
Anna University Campus,
Chennai - 600 025.

7. The State of Tamil Nadu
Represented by its Secretary to Government
Fisheries Department,
Fort St. George,
Chennai - 600 009.

8. The State of Tami Nadu
Represented by its Secretary to Government
Public Works Department,
Fort St. George,
Chennai - 600 009.

9. The Commissioner of Fisheries and Fisherman Welfare,
3rd Floor, Integrated Animal Husbandry and Fisheries Buiding,
Nandanam, Chennai - 600 035.

10. The District Collector,
Collectorate,
Kokkirakulam,
Tirunelveli - 627 009.

11. The Registrar
National Green Tribunal(Southern Zone)
377J, Kalas Mahal, Kamaraj Salai,
PWD Estate, Chepauk
Chennai - 600 005.

12. C.H. Balamohan
7-8, Moovendar Street,
Mullainagar, Puducherry

... Respondents

INTERIM DIRECTION

For the reasons stated in the affidavit, it is humbly prayed that this Hon'ble Court may be pleased to pass an Order of Interim Direction, directing the respondents 2,3,7,9,10 to erect a bait curve known as "thoondil valivu" or in the alternative construct near shore wedge reef and carryout sand nourishment in the Coastal region of Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk expeditiously as possible to prevent loss of life and livelihood of the fisherfolk of the coastal villages of Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk pending disposal of the above Writ Petition and thus render Justice.

Dated at Chennai on 1st May of 2023

COUNSEL FOR PETITIONER

MEMORANDUM OF WRIT MISCELLANEOUS PETITION FILED UNDER THE ARTICLE 226 OF THE CONSTITUTION OF INDIA IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

W.M.P No. of 2023

In

W.P. No. of 2023

Fisherman care,
Registered Association,
Bearing S.L. No. 386 of 2010
Rep by its President
L.T.A. Peter Rayan
No. 6, Nagalakshmi Salai,
Tiruchandur Nagar,
Old Pallavaram,
Chennai-600 117

... Petitioner

Vs.

1. The Union of India Rep by its
   Secretary to the Govt.
   Ministry of Environment, Forest & Climate Change,
   (MoEF & CC), Govt. of India,
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Represented by its Secretary to Government
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377J, Kalas Mahal, Kamaraj Salai,
PWD Estate, Chepauk
Chennai - 600 005.

12. C.H. Balamohan
7-8, Moovendar Street,
Mullainagar, Puducherry ... Respondents

STAY PETITION

For the reasons stated in the affidavit, it is therefore prayed before this Hon'ble Court to pass an order of interim stay of the order passed by the National Green Tribunal in O.A. No. 4 of 2013(SZ) with Appeal No. 18/2017(SZ) dated 11.04.2022 insofar as its bans the raising of the hard structures in the coastal villages of Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk pending disposal of the Writ Petition and thus render Justice.

Dated at Chennai on 1st May of 2023

COUNSEL FOR PETITIONER

MEMORANDUM OF WRIT MISCELLANEOUS PETITION FILED UNDER THE ARTICLE 226 OF THE CONSTITUTION OF INDIA
IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Special Original Jurisdiction)

W.M.P No. of 2023
In
W.P. No. of 2023

Fisherman care,
Registered Association,
Bearing S.L. No. 386 of 2010
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    PWD Estate, Chepauk
    Chennai - 600 005.

12. C.H. Balamohan
    7-8, Moovendar Street,
    Mullainagar, Puducherry

... Respondents

DISPENSWITH PETITION

For the reasons stated in the affidavit, For the aforesaid reasons, it is therefore prayed that this Hon'ble Court pleased to dispense with the production of the certified copy of the Order passed by the National Green Tribunal in O.A. No. 4 of 2013(SZ) with Appeal No. 18/2017(SZ) dated 11.04.2022.

Dated at Chennai on 1st May of 2023

COUNSEL FOR PETITIONER

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

1466/

W.P. No. of 2023

Fisherman care,
Registered Association,
Bearing S.L. No. 386 of 2010
Rep by its President
L.T.A. Peter Rayan
No. 6, Nagalakshmi Salai,
Tiruchandur Nagar,
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7-8, Moovendar Street,
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... Respondents

AFFIDAVIT OF THE PETITIONER

I, L.T.A. Peter Rayan, son of Mr. Lourdu Pattengettiar, Christian, aged about 74 years, residing at No. 6, Nagalakshmi Salai, Tiruchandur Nagar, Old Pallavaram, Chennai-600 117, do hereby solemnly affirm and sincerely state as follows :

1. I am the President of the Petitioner Association namely, 'FISHERMAN CARE' and I have been authorised by the Association to file this petition. After my retirement as Deputy Secretary to the Government of Tamil Nadu, I formed the Association to promote and protect the interest of the fishermen and I have no personal interest in filing this Writ Petition. Our Association made a survey in the coastal area of Tamil Nadu and studied the problems of the fisher folk in Tamil Nadu and produced a documentary film namely 'Broken promises' portraying the problems of fishermen focusing on the human rights violations committed by the Sri Lankan Navy against the fisher folk of Tamil Nadu. I respectfully submit that our Association very recently conducted a survey in the coastal region of Tamil Nadu regarding the adverse impacts of Coastal erosion in the coastal districts and remedial measures to be undertaken by consulting the local fishermen. In that way, I am well aware of the facts of this case and I have no personal interest in filing the petition.

2. I respectfully submit that I and the members of the Association hail from coastal villages in Tamil Nadu and are interested in the welfare of the Fisherman. I respectfully submit that, to my knowledge, no public interest litigation has been filed anywhere on the same issue. I undertake that I will pay the cost, if any, if the present Petition is found

to be intended for personal gain or oblique motive. I submit that I am filing the Petition out of my own pension funds and my Aadhar card No. 2025 6626 8424 and Pan number is ALYPP7695R and the same has been filed in the typed set of papers. I respectfully submit that I am drawing a pension of Rs. 57,000/-.

3. I respectfully submit that large parts of Tamil Nadu Coast lines are situated on the east coast of India which has a sandy coastline and is therefore vulnerable to coastal erosion, and is thus ecologically sensitive. The coastal geomorphology and related eco-systems play a large and vital role in the economic development of the region, providing a large number of functions and services, from sustaining ecology, and traditional fishing communities, besides attracting visitors to the Tourism Industry. I further respectfully submit that severe and rapidly worsening coastal line erosion is damaging the subsistence-based, sustainable and lucrative sectors of the local economy, making the affected region increasingly ecologically, socially, and economically vulnerable.

4. I respectfully submit that for the past 2 decades, the coastal erosion along the coastline of Tamil Nadu has been increasing steadily. The rate of such continuous erosion is at a higher rate than in other areas. Such increased erosion has caused severe damage and losses to the local economy in coastal villages which predominantly rely on fishing and related activities . Due to coastal erosion, the sea level has been steadily increasing on a day-to-day basis which has reduced the coastal/beach area posing threat to the livelihood of the fisherfolk in the region.

5. I respectfully submit that the specific fishermen community of Kooduthalai Village, Tirunelveli District, Thisiyan Villai Taluk, the fishermen community of Thomaiyarpuram coastal village of Radhapuram block, Tirunelveli District and the fisherman community of Kootapuli village of Radhapuram Taluk are the worst affected and they have been facing daily struggles against the tides from the sea, which has been caused by the heavy and continuous coastal erosion around the areas surrounding the village. In fact, due to the increased sea water flowing into the coast, caused by the coastal erosion; many houses, boats and catamarans owned by the local fishermen community have been totally damaged and the local fishermen in Kooduthalai Village have lost their source of livelihood.

6. I respectfully submit that the fisherfolk of the coastal village of Kooduthalai in Radhapuram Block engage in fishing in country boats. For the past twenty years, Koodutalai coastal village has been affected by sea erosion. In this connection, the Village committee of Kooduthalai village has represented to the concerned authorities for remedial measures. But since no action has been taken on their representation Kooduthalai village is under the threat of sea erosion as in the case of Thomaiyarpuram coastal village of Radhapuram block, Tirunelveli District and Kootapuli village of Radhapuram Taluk. I respectfully submit that it is also necessary to state that in order to protect the Koodankulam Nuclear Power plant sea walls were raised as a result of which sea erosion ravaged the coastal villages of Idunthakarai, Perumanal, Kotthanguli, Uvari and Kottapanai. I respectfully submit that the Government of Tamil Nadu immediately

addressed the concern of the aforesaid coastal villages by raising Bait Curve i.e Thoondil Vailaivu thus protecting the above said villages from sea erosion.

7. I respectfully submit that in a similar way at the eastern side of Kooduthalai coastal village, rough stones were pooled in the coast for nearly 8 KMs for Udankudi Thermal Power Project as a result of which sea erosion ravaged the coastal villages of Alantahlai, Veerapandiapattinam, Periyathalai and Manapadu. I respectfully submit that the Government of Tamil Nadu in order to protect the aforesaid coastal villages raised bait curve i.e. Thoondil Vailaivu thus protecting the above said villages from sea erosion. But however, when the Government of Tamil Nadu was trying to implement the aforesaid project of laying Bait Curves in the coastal villages of Kodduthalai, Thomaiyarpuram and Kootapuli village of Radhapuram Taluk, due to the order passed by the National Green Tribunal in OA.No.4/13(SZ) with Appeal No.18/2017(SZ), the project has come to a standstill which is evident from the communication of the Additional Chief Secretary in Letter No.18369/W2/2021 dated 08.06.2022.

8. I respectfully submit that the general public of Kooduthalai Coastal Village has made continuous representations seeking remedial measures to the Respondents ever since 25.03.2016, more specifically, a request was made for the erection of bait curve, i.e., "thoondil valivu" in the coastal village to prevent coastal erosion. I respectfully submit that the Executive engineer attached to the office of Fishing Harbour Project, Tuticorin vide communication dated 29.06.2017 informed the Kooduthalai village head that Rs 35.64 crores has been sanctioned under the Green Climate Fund for raising bait curve i.e Thoondil valaivu in Kooduthalai coastal village. It is further submitted that on 08.09.2021 the Executive Engineer attached to the office of the Fishing Harbour project,

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Tuticorin has informed the head of the village committee that, 40 crores has been sanctioned under NABARD - RIDF XXVII (Phase II) project for the formation of breakwaters and construction of fishing docks under Sagarmala Scheme for Kooduthalai Village.

9. I respectfully submit that following the representation of the general public of Kooduthalai Coastal Village, the Government vide proceedings dated 01.11.2021 also informed one of the members of the Kooduthalai Coastal Village that, the Government of Tamil Nadu has announced in the State Assembly that a decision has been taken to erect Bait Curve "thoondil valaivu" in Kooduthalai Coastal Village. I further respectfully submit that the members of the village were also informed that the aforesaid work will be undertaken by the Public Works Department. I respectfully submit that however, since no action was taken, the fisherfolk of the Kooduthalai Coastal Village were affected to a great extent and they lost their boats, catamarans, and even some of their houses and even their life is in peril. I further respectfully submit that due to coastal erosion, during the ravages of cyclones and the North-West Monsoon, the fishermen are not in a position to return back safely after fishing due to the high tide caused by the coastal erosion. I further respectfully submit that in the aforesaid circumstances, the fishermen of Kooduthalai village, made representations to the concerned authorities, seeking remedial measures, such as constructing Groynes in their coastal village. It was also emphasised in their representations that due to the ravages caused by coastal erosion, the electrical poles in Kooduthalai village fell into the sea as a result of which the boats were not in a position to return to shore.

10. I respectfully submit that hearing the pleas of the local fishermen of Kooduthalai Village, the Petitioner Association sent a representation dated 20.03.2023 requesting the 10th Respondent to immediately erect "*thoondil palam*" (bait bridge) to safeguard the coastal village affected by sea erosion. In the interregnum, a communication has been sent by the Additional Chief Secretary, Government of Tamil Nadu, to the Chief Engineer, Water Resource Development Plan Formulation vide letter No. 18369/W2/2021 dated 08.06.2022, stating that the Government has decided to defer the proposal of construction of hard structures like Groynes in view of the order of the Hon'ble National Green Tribunal, Special Bench, vide Order dated 11.04.2022. I respectfully submit that on reading the aforesaid order, I was able to find that the Hon'ble National Green Tribunal has passed an order dated 11.04.2022 in O.A. No. 4 of 2013(SZ) with Appeal No. 18/2017(SZ), directing the Chief Secretaries of the Coastal States to finalise the CZMP (Coastal Zone Management Plan) and to get them approved by the Ministry of Environment and Forests within 2 months. The operative portion of the Order has been extracted hereunder:

> "*Accordingly, we direct the Chief Secretaties of the Coastal State/UT to finalize the CZMP and get them approved by MoEF within 2 months. The approved CZMP shall contain the parameters as listed in the CRZ 2019 Notification including High, Medium and Low erosion stretches for such erosion prone areas. SMP shall be prepared as illustrated by NIOT for such erosion prone areas. We further direct preparation/updation of their SMPs for such identified eroding stretches shown in the CZMPs within six months. Pending prepartaion/updation of such SMPs by the Coastal States/UTs, no further hard structures for erosion control be raised or constructed. The application is disposed of*".

11. I respectfully submit that the Hon'ble National Green Tribunal in its Order dated 11.04.2022 had passed an Order to the effect that no further hard structures for erosion control can be raised or constructed till preparation/updation of SMPs by the Coastal States/UTs. I respectfully submit that the affected coastal villages of Kodduthalai, Thomaiyarpuram and Kootapuli village of Radhapuram Taluk, were not arrayed as parties in the aforesaid application before the National Green Tribunal and their concerns were not placed before the National Green Tribunal. I respectfully submit that though funds were sanctioned by the Government of Tamil Nadu for erecting Bait Curve i.e "thoondil valaivu" in Kooduthalai Coastal Village as early as 29.06.2017 the project of erecting Bait Curve i.e "thoondil valaivu" in Kooduthalai and other Coastal Villages namely Thomaiyarpuram and Kootapuli village of Radhapuram Taluk has been stalled due to the order passed by the National Green Tribunal.

12. I respectfully submit that the fishermen of Kooduthalai Village, Thomaiyarpuram coastal village and Kootapuli Village of Radhapuram Taluk are put to untold misery and agony due to coastal erosion and their lives and livelihoods are at stake due to the blanket ban of the Order of National Green Tribunal dated 11.04.2022 in erecting Bait Curve i.e "thoondil valaivu". I respectfully submit that the order of the National Green Tribunal imposing a blanket ban for raising hard structures for erosion control till the preparation/ updation of SMPs by the coastal states/Uts is per se illegal as the principles of natural justice have been violated by not putting the concerned stakeholders to notice and the same has led to substantial failure of justice since the fishing communities in the said village are left without any safeguards from coastal erosion which threaten their livelihood. The plight of the fisherfolk of the coastal

villages namely Kooduthalai Village, Thomaiyarpuram coastal village and Kootapuli Village of Radhapuram Taluk has not been considered by the National Green Tribunal thus depriving their valuable right of life and livelihood guaranteed under Article 19(1)(g) and Article 21 of the Constitution of India.

13. I respectfully submit that however., the National Green Tribunal in its order O.A. No. 14/2013(SZ) with appeal no. 18/2013(SZ) dated 11.04.2022 has recognized the Puducherry model SMP based on the report of NIOT submitted in March 2014 wherein the construction of wedge reef on the north end of the town of Puducherry foreshore and construction of offshore reef placed at the southern end, at 300 meter north of the pier and sand nourishment 4,500,000 m^3 of sand between the northern and southern reef along the coastal line of Pondicherry Town has been proposed. I respectfully submit that though the National Green Tribunal in the aforesaid order has recognized the Puducherry model of SMP, it has imposed a blanket ban on the construction of hard structures for erosion control pending preparation/ updation of SMPs by coastal states as a result of which the Government of Tamil Nadu is not in a position to address the problems faced by the fisherfolk of coastal villages of Kooduthazai, Thomaiyarpuram, and Kootapuli of Radhapuram District. Thus the construction of offshore reef and beach nourishment which has being carried out in the Puducherry can be adopted in the coastal villages of Tamil Nadu on war footing basis more specifically in the coastal villages of Kooduthazai, Thomaiyarpuram, and Kootapuli of Radhapuram District, since the same has been recognized to be not harmful for the environment in the order passed by the National Green Tribunal O.A. No. 04/2013(SZ) with Appeal No.

14. I respectfully submit that in the aforesaid circumstances, having no other alternative remedy, to the Petitioner Association begs to invoke the extraordinary jurisdiction under Article 226 of the Constitution of India for the following among other grounds:

GROUNDS

A) The Impugned order of the National Green Tribunal in O.A 04/2013(SZ) with Appeal 18/2017(SZ) dated 11.04.2022 imposing a complete ban with respect to the raising of hard structures pending preparation/updation of SMPz by coastal states without putting the consent stake holders namely the fisherfolk of the coastal villages particularly the Villages namely Kooduthazai, Thomaiyarpuram, and Kootapuli of Radhapuram District for whom funds were sanctioned for raising Bait Curve as early as 29.06.2017, is per se illegal violating the principle of natural justice and thus violative of Article 14 of Constitution of India.

B) The Impugned order of the National Green Tribunal in O.A 04/2013(SZ) with Appeal 18/2017(SZ) dated 11.04.2022 imposing a complete ban without considering the plight of the fisherfolk of the coastal villages namely Kooduthalai Village, Thomaiyarpuram coastal village and Kootapuli village of Radhapuram Taluk is per se illegal and has deprived the valuable right of life and livelihood of the fisherfolk guaranteed under Article 19(1)(g) and Article 21 of the Constitution of India.

C) The Government of Tamil Nadu considering the untold misery faced by the fisherman of Kooduthalai Village caused due to sea erosion, sanctioned funds for the construction of Bait Curve under the Green Climate Fund as early as 29.06.2017 and when the project was about to be implemented in the coastal villages of Kooduthalai Village, Thomaiyarpuram coastal village and Kootapuli village of Radhapuram Taluk the impugned order has been passed by the National Green Tribunal in O.A 04/2013(SZ) with Appeal 18/2017(SZ) dated 11.04.2022 without considering the fact that the life and livelihood of the fisherfolk of fishing villages Kooduthalai Village, Thomaiyarpuram coastal village and Kootapuli village of Radhapuram Taluk is at peril due to ravages caused by the coastal erosion.

D) The Government of Tamil Nadu by considering the plight of the fisherfolk in coastal villages of Idunthakarai, Perumanal, Kotthanguli, Uvari and Kottapanai, Alantahlai, Veerapandiapattinam, Periyathalai and Manapadu raised the Bait Curve to protect the Fisherfolk of the aforesaid villages from the ravages caused due to coastal erosion. But however, when the Government of Tamil Nadu was about to raise the Bait Curve in Kooduthalai Village, Thomaiyarpuram coastal village and Kootapuli village of Radhapuram Taluk the impugned order has been passed by the National Green Tribunal in O.A 04/2013(SZ) with Appeal 18/2017(SZ) dated 11.04.2022 without considering ground realities and the ravages caused by sea erosion in the Villages of Kooduthalai Village, Thomaiyarpuram coastal village and Kootapuli village of Radhapuram Taluk.

E) In order to protect the Koodankulam Nuclear power plant, sea walls were raised as a result of which sea erosion ravaged the coastal villages of the Idunthakarai, Perumanal, Kotthanguli, Uvari and Kottapanai and consequently, the Government of Tamil Nadu raised the Bait Curve in the aforesaid villages. Similarly, at the eastern side of Kooduthalai coastal village, rough stones were pooled in the coast for nearly 8 KMs for Udankudi Thermal Power Project as a result of which sea erosion ravaged the coastal villages of Alantahlai, Veerapandiapattinam, Periyathalai and Manapadu. The Government of Tamil Nadu in order to protect the aforesaid coastal villages raised a Bait Curve i.e Thoondil Vailaivu, thus protecting the above said villages from sea erosion. But however, when the Government of Tamilnadu was about to address the issue with respect to the coastal villages of Kodduthalai, Thomaiyarpuram and Kootapuli village of Radhapuram Taluk, the impugned order have been passed by the National Green Tribunal without considering the fact that the Government of Tamil Nadu is addressing a long pending burning issue of sea erosion with respect to the villages of Kodduthalai, Thomaiyarpuram and Kootapuli village of Radhapuram Taluk.

F) The Impugned Order of the National Green Tribunal in O.A. No. 4 of 2013(SZ) with Appeal No. 18/2017(SZ) dated 11.04.2022 though proceeds on the footing that there is a need to replace hard structures like sea walls, groynes etc with a soft option such as beach nourishment, sand bypassing, dune planting, offshore submerged reefs by working with nature besides issuing a direction the Chief Secretaries of coastal states/union territories to finalize CZMP get the approval of the Ministry of Environmental and Forest within 2 months failed to consider that grave injustice has been caused to the coastal villages of Kodduthalai, Thomaiyarpuram and Kootapuli

villages of Radhapuram Taluk wherein raising of Bait Curve has been stalled due to the aforesaid order.

G) The implementation of the order of the National Green Tribunal in O.A. No. 4 of 2013(SZ) with Appeal No. 18/2017(SZ) dated 11.04.2022 will take some considerable time by the concerned coastal states and pending implementation of the aforesaid order if there is a complete ban of the raising of Bait Curve "Thoondil Valaivu", the coastal villages namely Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk will be under peril and there is a imminent risk of the fisherfolk of the aforesaid coastal villages in losing the lives and livelihood which cannot be compensated by any means.

H) The National Green Tribunal by imposing a blanket ban for raising hard structures for erosion control, till the preparation/ updation of SMPs by the coastal states/Uts is per se illegal. As the principles of natural justice have been violated by not putting the concerned stakeholders to notice and the same has led to substantial failure of justice since the fishing communities in the said village are left without any safeguards from coastal erosion which threaten their livelihood.

I) The impugned order of the National Green Tribunal in OA is per se arbitrary since the fact that not all coastal villages are similarly situated as in the case of coastal villages of Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk which are located in proximity to Kodunamkulam nuclear power which has a preexisting sea wall in the form of groynes, which results in accelerated coastal erosion

in the neighbouring aforesaid villages which poses an immediate and imminent threat to the life and livelihood of the fisherfolks of the above-mentioned villages.

15. I respectfully submit that the fishing community in Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk are facing life and death problem every day to the ravages caused by the coastal erosion and they have already lost their boats due to coastal erosion. I respectfully submit that the fisherfolk of the aforesaid village have been facing severe difficulties for the past 20 years and when the Government of Tamil Nadu is willing to carry out the remedial measures in the villages of Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk by raising Bait Curves, the impugned order of National Green Tribunal in O.A. No. 4 of 2013(SZ) with Appeal No. 18/2017(SZ) dated 11.04.2022 imposing a complete ban of raising hard structures of erosion control has resulted in untold hardship to the fisherfolk of their aforesaid coastal villages Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk. I respectfully submit that to prevent further loss of life and livelihood of the fishing community in Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk, the respondents 2,3,7,8,9,10 ought to take immediate steps to mitigate the coastal erosion by erecting bait curve known as "thoondil valivu" or in the alternative construct near shore wedge reef and carryout sand nourishment as an interim measure taking into consideration the imminent danger that looms over the Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk.

16. I respectfully submit that in view of the order passed by the Hon'ble National Green Tribunal in O.A. No. 4 of 2013(SZ) with Appeal No. 18/2017(SZ) dated 11.04.2022 imposing a blanket ban on the construction of hard structures like seawalls,

groynes etc, the Government of Tamil Nadu is not in a position to execute its decision to erect bait curves in the Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk, which has resulted in sea erosion taking away the life and livelihood of the fisherfolks in the Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk. I respectfully submit that if the order passed by the National Green Tribunal O.A. No. 4 of 2013(SZ) with Appeal No. 18/2017(SZ) dated 11.04.2022, is not stayed in so far as the coastal villages of Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk, the fisherfolk will be put to irreparable loss and their life and livelihood will be at stake. I respectfully submit in the aforesaid circumstances it is therefore prayed that this Hon'ble Court pleased to pass an order of interim stay of the order passed by the National Green Tribunal in O.A. No. 4 of 2013(SZ) with Appeal No. 18/2017(SZ) dated 11.04.2022 insofar as its bans the raising of the hard structures for erosion control in the coastal villages of Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk pending disposal of the Writ Petition and thus render Justice.

17. I respectfully submit that the certified copy of the order passed by the NGT is not available with the petitioner since the petitioner is not a party to the aforesaid application. However, the photocopy of the same is filed and the same may be dispensed, therefore it is prayed that this Hon'ble Court pleased to dispense with the production of the certified of the Order passed by the National Green Tribunal in O.A. No. 4 of 2013(SZ) with Appeal No. 18/2017(SZ) dated 11.04.2022. I respectfully submit that it is also necessary to state that if immediate remedial measures are not taken by the Respondents 2,3,7,9,10 in raising Bait Curves or construct near shore

wedge reef and carryout sand nourishment as an alternative in the coastal villages of Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk grave prejudice and irreparable injury will be caused to the fisherfolk of the aforesaid villages which cannot be compensated by any means.

For the aforesaid reasons, it is humbly prayed that this Hon'ble Court may be pleased to pass an Order of Interim Direction, directing the respondents 2,3,7,9,10 to erect a bait curve known as "thoondil valivu" or in the alternative construct near shore wedge reef and carryout sand nourishment in the Coastal region of Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk expeditiously as possible to prevent loss of life and livelihood of the fisherfolk of the coastal villages of Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk pending disposal of the above Writ Petition and thus render Justice.

For the aforesaid reasons, it is therefore prayed before this Hon'ble Court to pass an order of interim stay of the order passed by the National Green Tribunal in O.A. No. 4 of 2013(SZ) with Appeal No. 18/2017(SZ) dated 11.04.2022 insofar as its bans the raising of the hard structures in the coastal villages of Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk pending disposal of the Writ Petition and thus render Justice.

For the aforesaid reasons, it is therefore prayed that this Hon'ble Court pleased to dispense with the production of the certified copy of the Order passed by the National Green Tribunal in O.A. No. 4 of 2013(SZ) with Appeal No. 18/2017(SZ) dated 11.04.2022 and thus render justice.

For the aforesaid reason :-

a) It is therefore prayed before this Hon'ble Court to issue a WRIT OF CERTIORARIFIED MANDAMUS to call for the records related to the impugned order made by Special Bench of the National Green Tribunal in O.A. No. 4 of 2013(SZ) with Appeal No. 18/2017(SZ) dated 11.04.2022 quash the same insofar as it bans the construction of hard structures in the coastal villages of Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk and consequently direct respondents 2,3,7,9,10 to erect a bait curve known as "thoondil valivu" or in the alternative construct near shore wedge reef and carryout sand nourishment in the Coastal region of Kodduthalai, Thomaiyarpuram and Kootapuli villages of Radhapuram Taluk expeditiously as possible or any other Writ, Order or Direction, in the nature of Writ directing the Respondents 2,3,7,9,10 within a time frame as fixed by this Hon'ble Court and thus render Justice.

b) Directing the Respondents 2,3,7,9,10 to identify the vulnerable coastal districts in the state of Tamil Nadu and construct near shore wedge reef and carryout sand nourishment as expeditiously as possible within a time frame fixed by the Hon'ble Court and thus render Justice.

Solemnly affirmed at Chennai on this

the day of May 2023 and

singed his name in my presence

BEFORE ME,

ADVOCATE, CHENNAI

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Item Nos. 3 & 4 (Court No. 1)

BEFORE THE NATIONAL GREEN TRIBUNAL
SPECIAL BENCH

(By Video Conferencing)

Original Application No. 04/2013(SZ)
WITH
Appeal No.18/2017(SZ)

C. H. Balamohan Applicant

Versus

Union of India and Ors. Respondent(s)

Date of hearing: 11.04.2022

CORAM: **HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON**
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE MS. JUSTICE PUSHPA SATHYANARAYANA, JUDICIAL MEMBER
HON'BLE DR. SATYAGOPAL KORLAPATI, EXPERT MEMBER
HON'BLE PROF. A SENTHIL VEL, EXPERT MEMBER

O.A. No. 04/2013(SZ)

For Applicant(s): Mr. A. Yogeshwaran, Advocate

For Respondent(s): Mr. G.M. Syed Nurullah Sheriff, Advocate for R1 & R5.
Dr. D. Shanmuganathan, Advocate for R6 to R8.
Mr. V. Balamurugan and Mr. Alex, Advocates for R9, R10, R12, R20.
M/s. Suvitha, Advocate for R13.
Mrs. Madhuri Donti Reddy, Advocate for R16.
Mrs. V.K. Rema Smrithi, Advocate for R17.

Appeal No. 18/2017(SZ)

For Appellant(s): Mr. A. Yogeshwaran, Advocate
For Respondent(s): Mr. G.M. Syed Nurullah Sheriff, Advocate for R1 & R2.
Dr. D. Shanmuganathan, Advocate for R3.

ORDER

1. This order will deal with O.A. No. 04/2013(SZ) and Appeal No. 18/2017(SZ) as the both matters involve common issue of protection of stretches of coastal line affected by the human induced erosion caused by hard structures.

Introductory

2. O.A. No. 04/2013(SZ) was filed on 17.01.2013 raising the grievance of destruction of Puducherry and Tamil Nadu Coastal Environment due to construction of hard structures causing continuous erosion of the coast. It is submitted that not only the stretch in question but most parts of Indian Coastline - both on the East and West Coasts are under the influence of the Littoral Drift.

3. Appeal No. 18/2017(SZ) has been preferred against CRZ Clearance dated 06.10.2016 granted by the SEIAA, Tamil Nadu for proposed construction of series of 19 Groynes from Ennore to Ernavoorkuppam in Madhavaram Tuluk of Tiruvallur District, Tamil Nadu, by the Public Works Department (WRD). **The clearance has been granted subject to orders of this Tribunal in OA04/2013**. The said appeal was filed on 28.2.2017 and was admitted for consideration on 10.03.2017. To appreciate the issue involve, we may refer to some of the averments in the O.A.

Main contentions of the Applicant/Appellant

4. According to the applicant there is large scale human induced erosion and destruction. The Littoral Drift varies from one coastal compartment (or sediment cell) to another. Within each of these coastal compartments, the undisturbed coastal environment and habitat is usually in a state of equilibrium. For such a state of equilibrium to exist within a coastal compartment, the "sedimentary budget" within a compartment needs to be maintained. The sedimentary budget is something that has been arrived at and is determined by the prevailing natural phenomena along a particular coast. Just like the water level in

a river is maintained and determined by the "water budget" of its catchment area, similarly the "sediment budget" of the "river of sand" along the coast is determined by the related factors within its sediment cell.

5. When the "sedimentary budget" within a coastal compartment is disturbed and upset, i.e. when the natural movement of sand is disturbed and interrupted for example by man-made coastal structures, a cascading effect takes place along the shores of a given sediment cell. When a coastal structure is erected in the path of the freely moving sand along the coast, the structures prevent the natural flow of sand in the same manner as a dam across the path of river interrupts the flow of water. In such an instance one part of the coast gets an excess of sand and the other side on the down-drift is starved of sediment. The side that is starved of sediment starts and keeps eroding as long as fresh input of sand is not provided.

6. Because coastal compartments and sediment cells are large, often larger than artificial boundaries such as politically determined state boundaries, one sediment cell may overlap two neighboring states. This is particularly true along the East coast of India, where for instance stretches of coastline of the States of Tamil Nadu and Puducherry are part of the same coastal compartment and sediment cell. This is particularly relevant in the case of Puducherry as its territory is fragmented and surrounded by the territories of Tamil Nadu. Thus, if the sediment budget within a coastal compartment that is shared by two states is upset, the impact of such interference will be felt across states.

7. The environmental destruction caused by the construction of hard structures on the coastline which negatively affect the coastal

processes, the environment and the communities is a problem that is not confined to either the Union Territory of Puducherry, or to the State of Tamil Nadu. Rather, it is a situation in which the negligence and/or mismanagement of one government causes destruction both within its own jurisdiction and within the neighboring jurisdiction. Because **the damaging effects of these hard structures transcend state and union territory boundaries,** responsibility for preventing such damage rests equally with the Union Government of India, as well as with the governments of the Union Territory of Puducherry and Tamil Nadu.

8. The Puducherry Region of the Union Territory of Puducherry and large parts of the Tamil Nadu coastline, are situated on the east coast of India which has a sandy coastline and is therefore vulnerable to human-induced change and is thus ecologically sensitive and fragile. The coastal geomorphology and related ecosystems play a large and vital role in the economic development of the region, providing a large number of functions and services, from sustaining ecology, traditional fishing communities to attracting visitors to Puducherry's tourism industry. The severe and rapidly worsening coastal erosion is damaging the subsistence based, sustainable and lucrative sectors of the local economy making the affected region increasingly ecologically, socially and economically vulnerable.

9. Over the past two decades, Puducherry has suffered large scale coastal erosion induced by imprudent, ad hoc and unscientific construction of hard structures on the coast which have a constant, negative impact which is felt and aggravated with every single day that goes by. This problem of human-induced coastal erosion has not been addressed by the Government of Puducherry. Instead, the coastal

management measures adopted so far have only transferred and aggravated the problem of erosion down the coast to the neighbouring state of Tamil Nadu which has been facing the same ever-increasing problems of human-induced coastal erosion since over a decade.

10. The problem of large scale and rapid coastal erosion in Puducherry started in and around 1986 with the construction of an artificial harbour in Ariyankuppam estuary, situated 1.5 km to the south of the Puducherry town. The harbour was meant to provide an artificial channel from the open sea into the Ariyankuppam estuary to provide a safe entrance for barges and other sea-going crafts. The Harbour was finally commissioned in 1993.

11. To keep the mouth of the harbour open to the sea, two breakwaters were constructed to the south and north of the harbour mouth, at either side of the Ariyankuppam estuary. As a result, the northward flow of sediment along the coast was blocked at the southern breakwater, starving the coast to the north of the harbour of sand and causing severe erosion of the coast. The construction of breakwaters in the Puducherry harbour thus commenced the process of coastal erosion and, as a consequence, several kilometres of beach in Puducherry Town has been completely lost.

12. The process of massive erosion caused by the harbour construction was not unexpected. To the contrary, it was expressly anticipated by the studies and recommendations by Centre for Water, Power and Resource Studies ("CWPRS") and Consulting Engineering Services Private Limited ("CES"), which advised the Government of Puducherry while the project was still in the planning stage. Those studies accurately predicted that the breakwaters at the harbour

entrance could cause massive erosion to the north of the harbour, as the structure would block the natural, incessant migration of sand. The studies further predicted that sand would accumulate to the south of the breakwater and the harbour entrance would silt up due to littoral drift. The consultants warned that constant maintenance and dredging was required to clear the harbour mouth, to keep it open. The studies recommended that sand dredged from harbour mouth must be used for sand nourishment to the beaches north of the harbor in order to mitigate the negative impacts caused by the blockage of sand by the harbor breakwaters. The consultants further concluded that continuous sand by-passing -whereby sand blocked and accumulating at the southern breakwater would be mechanically transferred across the harbor mouth and allow it to resume its northward flow up the coast - was required to prevent and mitigate erosion of the coastline north of the harbour, where the town of Puducherry Town as well as several fishing hamlets are situated. An elaborate system of mechanical sand by-passing with dredgers to pump sand from the south side of the harbour to the north side, was therefore adopted when the port was constructed in order to mitigate the negative impacts of coastal erosion.

13. The planned process and system for mitigation which consisted of mechanical sand by-passing and beach nourishment was never efficiently operated by the Government of Puducherry as the system was never fully or properly implemented. Since 1993, when the Ariyankuppam harbour was formally commissioned and became fully operational, it is estimated that out of the total amount of maintenance dredging to be undertaken by the Government of Puducherry, less than about 25% of the total required volume of sand has been dredged till now. However, less than that (it is estimated about 50%) was used to

nourish the beaches as the dredged sand was instead wrongfully either used for land reclamation, disposed of into the deep sea or pilfered by illegal sand miners. As a consequence, the massive human-induced erosion predicted by CWPRS and CES occurred precisely as they said it would, completely wiping-out 10 kilometres of beautiful and important sandy beach along the historic promenade of Puducherry town, the fishing hamlets of Kuruchikuppam, Vaithikuppam, Solai Nagar in Puducherry and the fishing hamlets of Soudanikuppam, Nadu Kuppam, Thandirayan Kuppam and Chinnamudaliarchavadi Kuppam in Tamil Nadu. Other coastal communities further to the north are also witnessing the shrinking of their beaches as the human-induced erosion threateningly moves northwards.

14. In 2002, long after the beach in Puducherry town had disappeared, following several representations made by members of the civil society as well as by experts, the Government of Puducherry instituted a program of sand by-passing and artificial beach nourishment, using sediment dredged from the harbour to provide northward flowing sand. Within a short period of time, small areas of beach began to re-form adjacent to the town. However, unfortunately this program was not sustained and the new areas of beach quickly disappeared when artificial beach nourishment ended.

15. The massive erosion process unleashed by construction of the harbour did not stop with the evisceration of the sand beach. Without the presence of the beach and its corresponding off-shore sand bar, the waves which once formed some distance from shore and broke gently on the slope of the beach now crashed directly onto the once-dry land. Goubert Avenue, more commonly known in Puducherry as "Beach

Road", which runs for 1.5 kilometres along the shore where the sandy beach used to stretch, was threatened as the land beneath it was undermined by the ongoing erosion. Because of scouring of sand below the promenade, the road started to crack and crumble and had to be entirely re-laid.

16. With the natural flow of sand blocked at the harbour and the system of sand bypass neglected, the erosion which eliminated the beach now threatened the very heart of Puducherry town, including the very government offices, the Chief Secretariat, in which the decision to build the ill-considered harbour was originally taken. Instead of activating the sand by-passing system to mitigate the erosion and nourish the beaches as originally intended, the government of Puducherry chose to create a rip-rap seawall along Beach road, dumping crores of tonnes of massive rocks, trucked-in from quarries in Tamil Nadu to "defend" the town against further erosion.

17. In August 2001, a Preliminary Report Submitted by NOIT-IIT to the Govt. of Puducherry proposed the construction of groynes along the coast of the Puducherry Town. This proposal was opposed by members of civil society groups as it was deemed to be detrimental to the coastal environment. A second opinion on the proposed project was sought by the Government. This proposal was subsequently shelved and thankfully never saw the light of day.

18. A groyne is an impermeable wall extending perpendicularly from land into the sea. Along the Puducherry coast the objective of a groyne is to capture the northward-moving sand along the southern side of the groyne. Indeed, tiny scalloped beaches have formed along the massive groynes; but these small gains have come at an enormous cost. Just as

the breakwater at the harbour trapped sand to the south and caused massive erosion to the north, the groynes rapidly accelerated the northward process of coastal erosion.

19. Clearly, groynes were faulty as a solution as they would only succeed in moving erosion northwards and were no substitute for beach nourishment. Several groups were opposed to this wasteful and environmentally unsustainable exercise and sought scientific opinion to buttress what was clearly common sensical. In October 2001 DELFT TECHNICAL UNIVERSITY in their expert opinion to INTACH, Pondicherry on NIOT's proposal stated that the NIOT's proposal did not prevent structural erosion in the area north of the groyne field nor did it take away the causes of siltation of the harbour entrance. The University further suggested that more studies were needed to be undertaken, an Integrated Coastal Zone Management Plan had to be prepared and alternative solutions such as sand bypassing and beach nourishment to mitigate the coastal problems was to be explored. Although all of this information and suggestions were shared with concerned Government authorities no suitable' action was taken.

20. In April 2002, a civic group called Citizens Forum of Pondicherry also raised objections to this proposal. The construction of groynes was opposed as the groynes would merely transfer the erosion northwards and not solve the root cause of the problem, the disruption of the littoral drift by the harbour. They instead suggested that detailed studies should be undertaken which included the redesigning of the harbour entrance. They also objected to the NIOT/IIT's concept of conducting trials in the Ocean at the detriment of the environment. Heeding to all

this criticism, the Government of Pondicherry sought a second opinion from Danish Hydraulics Institute (hereinafter referred to as "DHI").

21. Subsequently on October 2002, a Coastal Erosion Study was conducted by Study Group CF01 of DHI and they concluded as follows:

- Sand by-passing is the best solution.
- Construction of groynes is not a favorable solution.

The Study Group also recommended that:

- Viability of the harbour project was to be investigated.
- Preparation of an ICZMP.
- Dredging and by-pass were to be monitored closely.

DHI proposed to:

- Conduct site visit and review data.
- Assess annual sediment balance.
- Conduct preliminary design of Port entrance.
- Optimize port entrance layout.
- Prepare design for shoreline management scheme.
- Prepare guidelines for dredging and re-nourishment.

22. However, no suitable action was taken. Between 2002 and 2003, the Government of Puducherry constructed 6 kilometres of seawall along the Puducherry coast, at a cost of several crores of rupees. The decision to abandon the planned and existing mitigating measures of sand by-passing and beach nourishment in favour of seawalls were undertaken without conducting any detailed, comprehensive studies and were therefore undertaken on a purely ad hoc, arbitrary and unscientific manner. The construction of seawalls was undertaken in total disregard of the observation and recommendations made by Dr. Z.S. Tarapore and Dr. Vaidyarannan both erstwhile Directors of the CWPRS which were fully familiar with the design of the Puducherry harbor and Ariaynkuppam.

23. On 21 February 2003, Mr. P.P. Vaidyaraman, retired director of CWPRS, who was part of the design team of the Puducherry harbor at Ariyankuppam wrote to the GoP following his visit to Puducherry shortly after sand by-passing and beach nourishment had been undertaken at the Puducherry harbor. Mr. Vaidyaraman was not only extremely pleased with the results of beach nourishment, but also made several suggestions for the continuation of sand by-passing and beach nourishment which he stated should be replicated at several of the other Indian ports as well. However, few of his suggestions were implemented.

24. While the "hard structure" of the seawall has had the limited superficial effect of keeping the erosion from penetrating onto Beach Road, it accelerated two other erosion processes. First, the surf which now crashed against the hard barrier of the seawall carved-out and scoured the sea floor that was once safely beneath the sand beach. This would come to have dire effects on the quality of the drinking water in Puducherry, creating a short path for saline intrusion into the town's aquifers. It would also prevent any future beach from forming along that stretch of coast because the sea floor was now too deep and unstable to retain migrating sand, even if it had been allowed to flow as nature had intended.

25. The second erosion process accelerated by the seawall was to the north of the construction. At the end of the hard structure, the long shore currents form a powerful eddy, scooping-out the "unprotected" land in deep pockets of erosion. Thus began a vicious cycle of erosion and defense, more-erosion and more defenses. As the seawall transferred and spread the problem of erosion northward up the coast,

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more and more beach was los88more village land fell into the sea, and the disaster migrated further-and-further. Puducherry's coastal erosion problem had now become Tamil Nadu's problem as well.

26. In 2003 Tamil Nadu PWD initiated its own "hard structure" protection measures, in response to the erosion to its fishing villages caused by the hard structures built by its southern neighbor. Seawalls were built in Nadukuppam, then in Sothanaikuppam during 2005-2006, as the coastal erosion was forced northward. Today, these seawalls extend all the way to Kottakuppam and Chinnamudalaiyar Chavadi and Tamil Nadu is passing the problem back to Puducherry, as the erosion now reaches the Union Territory enclave at Pillaichavadi and beyond.

27. The fishing villages along the coast to the north of Puducherry town lost more than just beach and village land as the erosionary process crept northward. They also lost their industry. As the seawall lengthened, fishermen could no longer launch their traditional skiffs and catamarans. The beaches from which they launched their boats into the sea and landed their catch back on land were gone. It is impossible to launch from the steep seawall, which has waves crashing hard against it. The loss of the beach space has also affected the livelihoods of the fishing communities in several other ways as the beaches are also used to dry fish, repair nets and carry out several other related activities. Fishing communities complained to the Government of Puducherry that without beaches to fish from, their livelihoods were lost.

28. In 2004, Dr. Z.S. Tarapore, retired director of CWPRS, who was part of the design team of the Puducherry harbor at Ariyankuppam wrote to the GoP following his visit to Puducherry and warned the GoP against construction of groynes. He warned that the construction of groynes was a "dangerous proposition" since the groynes would only transfer the problem of erosion further down drift, where there were heavily populated areas. Among other things he suggested to undertake "a massive nourishment programme" to control the problem of erosion to the north of the harbor. During the same time, in his address to the 6th CPDAC (Coastal Protection & Development Advisory Committee of the Central Water Commission), in the year 2004, the problem of erosion was discussed and it suggested that groynes and seawalls were not the answer. The erstwhile Chief Secretary of Puducherry advocated that "cost-effective and environment friendly technologies" should be adopted to address the on-going problem of erosion. During the 10th CPDAC meeting it was once again emphasized that "coastal protection works and the coastal zone management should go together since one had impact on the other. Also, the States should not think only of the sea walls as a protection measure to protect the shoreline but also adopt other new technologies which preserve the beaches and ecology as well."

29. In 2004, the Tsunami struck the East coast of India. The coastal populations of the Puducherry region did not suffer much damage as most of the inhabited areas were located in areas that were in significantly elevated from the level of the sea. However, with an abundance of funds flowing into the Government's coffers, as a knee-jerk reaction and a populist measure, large amounts of money were

spent to enlarge the seawalls along the Puducherry coast instead of spending those funds on the much required and planned beach nourishment that would have restored the beaches and protected the Puducherry town and coastal villages more effectively against any future Tsunamis.

30. In spite of expert views on the dangers of constructing groynes and the necessity of conducting detailed studies off the coast, the PWD drew a fresh proposal to construct groynes along the Pondicherry coastline. In November 2006, a 50 m long groyne was constructed just adjacent and north of the New Pier. From enquiries it was learnt that this groyne was built without any environmental clearance and its construction was abruptly halted upon enquiries.

31. Notwithstanding the severe erosion along the coasts of Puducherry, the Government of Puducherry did not resume the dredging and sand bypass operations that might restore some portion of beach to its coastline. Instead, under pressure from fishing villages to artificially recreate sandy beaches from which to fish, both the Government of Puducherry and the Government of Tamil Nadu began building groynes at intervals along the coast in 2005.

32. In April 2007, the Government of Tamil Nadu constructed two large groynes at Thandirayankuppam. The southern groyne is 100 m long and the northern groyne is 170 m long. These groynes triggered severe erosion of the coastline to the north. About 70 m wide beach was lost in the same year to the north of the groyne. Since the construction of these groynes, about 2.5 acres of beach has been lost severely affecting the villages of Chinnamudaliarchavadikuppam and Bommayarpalayam.

The village of Chinnamudaliarchavadikuppam lost several homes as a result of the human-induced erosion. Several other private and public properties have also been damaged.

33. On 20th July 2007, members of civil society groups met the officials of PWD & Port Secretary, Mr. Anbarasu and discussed the urgency for the Pondicherry Government to resume dredging and sand nourishment activities at Pondicherry Harbour entrance. When queried about the status of the proposed construction of groynes, Mr. Anbarasu stated that there was no definite proposal and he was seriously considering dredging and sand nourishment.

34. In July and August of 2007, elected representatives from the seven fishing villages of Anichankuppam, Chinnamudalyarchavady, Koonimedu, Mudhaliarkuppam, Nadukuppam, Notchikuppam and Pudhukuppam, which are located in the Kottakupam and Marakanam Blocks of the Villupuram District wrote to the Hon'ble Chief Ministers of Puducherry and Tamil Nadu and also submitted resolutions to inform them about their plight caused by the human induced erosion of the coast and also demanded that the beaches in front of their villages be restored so that they may pursue their livelihoods. Being located to the north of Puducherry and seeing the human induced erosion spread towards their beaches they were understandably deeply concerned about the future of their coastal environment and their livelihoods that depended on it. However, no action was taken to fulfill their demands and needs.

35. Following public outcry by several environment groups the construction of other groynes that were also planned was stopped. On

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Nov. 3rd 2007 a public consultation meet was held in Auroville between Government officials of Puducherry, Tamil Nadu in the presence of experts (Governmental and Nongovernmental) and civil society groups. The following solutions and measures were unanimously agreed upon and proposed:

Immediate —

a. Activate sand by-passing system for nourishment and restoration of beach immediately north of Puducherry harbor.

b. Undertake model studies urgently to arrive at the best method of restoring the eroding beaches of Puducherry and Tamil Nadu. Study the impact of groyne fields with and without artificial nourishment, before embarking on new measures

c. Remodel the harbour entrance for maximizing natural sand by-passing:

i. Initially for the existing fishing harbour
ii. Later for proposed deep water commercial harbour

Long Term:

d. Restoration to include artificial nourishment, as universally accepted

e. Investigate off-shore sand deposits for nourishment

f. Identify suitable sand nourishment equipment to operate in wave environment

Administrative:

g. Coastal Zone Management Authorities (CZMA) of Tamil Nadu and Puducherry to coordinate and take up the issue of coastal erosion jointly

h. Initiate Puducherry component of Integrated Coastal Zone Management Plan (ICZMP), in conjunction with Tamil Nadu's ICZMP.

i. Funds to be provided for modeling and hydrographic survey

36. On 7th December 2007, Mr. C.V. Shankar, IAS, Officer on Special Duty (RR) & Project Director (ETRP & TEAP), GoTN who had attended the consultation meet on 3rd Nov. 2007 wrote to the GoP with regards to proposed construction of groyne filed from Kuruchikuppam to Solai Nagar. He requests that this should be undertaken only after the preparation of a comprehensive plan for the coastline, that is sustainable, livelihood sensitive and eco-friendly.

37. On 26th December 2007, the Pondicherry Government inaugurated Capital Dredging, to be taken up at Harbour Entrance. However, when the capital dredging operations began it was shockingly and disappointingly learnt that the dredged sand was being disposed of in deep waters, off shore outside the littoral zone and not used for beach nourishment. Ironically, during the inauguration of capital dredging operations that was held with much fanfare at the New Pier premises, large banners publicizing Beach Nourishment were displayed in spite of the fact that no beach nourishment was being undertaken.

38. On 27th December 2007, members of civil society held meetings with the Port Director of Pondicherry and expressed disappointment that the sand dredged from the harbour entrance was being dumped into the deep waters instead of being used for beach nourishment. Members of civil society met the officials of Pondicherry port and the

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Secretary, PWD on 28th December 2007 on the issue of sand nourishment not being undertaken. The officials promised to look into the issue but however on 1st January 2008 the construction of groyne at Kuruchikuppam was resumed without any environmental clearance.

39. In January 2008, representations were made to the Secretary, MoEF about the on-going problem of human-induced erosion along the Pondicherry-Tamil Nadu coastline. The Secretary wrote to the GoP asking them to discuss matters of erosion with GoTN in order to find a viable solution and save the beaches. In total disregard of the observations, recommendation and conclusions of the Nov. 2007 meet, the Govt. of Puducherry initiated a project of construction of groynes along the coast of Kuruchikuppam and Solai Nagar. With construction of groynes continuing to damage the coastline, Jesuratinam, convenor of Coastal Action Network from Nagapattinam filed a writ petition in the High Court at Chennai (W.P. No.1452 of 2008) seeking a Writ of Mandamus, directing the Government of Puducherry (a) to forbear from constructing groyne fields in the coastal region of Puducherry, (b) to conduct appropriate scientific studies for development of a sustainable and comprehensive coastal management plan for the restoration of the Puducherry/Tamil Nadu coastline, and (c) to frame a suitable scheme to ensure that the natural movement of sand is restored so that the coastal areas of Puducherry and Tamil Nadu are protected from erosion. The Government of Tamil Nadu was also a respondent to that petition.

40. This writ petition was disposed on 13 February 2008, after the learned pleader for Government of Puducherry declared in open court

that the activity of construction of groyne field would not be undertaken without the prior permission from the Ministry of Environment and Forestry, Government of India. On this representation by the Government of Puducherry, the High Court dismissed the petition and made no orders with respect to the incidental and ancillary prayers. However, contrary to the undertaking given in Court, construction has begun without obtaining environmental clearance, causing grave irreversible damage.

41. Following the above writ petition, the MoEF constituted a three member committee to visit the Puducherry site proposed for groyne construction. The Committee visited Puducherry on 11th and 12th June 2008 and subsequently reported that as a long-term measure, the GoP should seriously consider sand by-passing of the required amount of sand as this was likely to mitigate the problem of erosion. The committee also suggested that a study covering both Puducherry and adjacent Tamil Nadu coast should be undertaken by a reputed organization. Neither of these have been implemented so far.

42. At the national level, coastal erosion has also been become an increasingly pressing issue with every coastal state facing some form of coastal erosion or the other.

43. In April 2009 the Asian Development Bank prepared a report for itself and the Government of India for India's sustainable coastal protection and management. In this report, the following significant points are made:

Change of philosophy:

"The change to sustainable and soft engineering measures for protection needs to be supported by an effective institutional framework including the Government at different levels, communities and also the private sector. To achieve the necessary levels of support requires a shift in Government policy with a clear mandate for the concerned organizations. A key technical issue is the diagnosis and identification of appropriate solutions for coastal protection works. The projects presently being implemented in the states are based almost entirely on the continued expansion and rehabilitation of rock protection works. This type of development is and will continue to have very serious environmental and social implications. There is a need to completely reshape the approach and philosophy to planning, design and implementation of coastal erosion works. Soft solutions for erosion control are now well developed and are already beginning to be implemented in India. There is need to help and guide a well-planned and programmed transition process as well as ensure the planning and designs for the proposed investment program meet the highest standard of environmentally and socially appropriate solutions. There is also a need to identify and address the causes of erosion, frequently these are manmade and the most appropriate solution is to address the cause rather than the effect. This requires an integrated and coordinated approach to the planning and development of all coastal infrastructure and shoreline uses."

Sector assessment:

"The coastal protection strategy in India is synonymous with a prime objective to protect the land; the concept of protecting the beach and the environment are relatively new concepts; coastal protection is not perceived within the wider context of the economic development of the coastline. The most frequently applied methods for coastal protection have been through the use of hard structures such as seawalls or groynes. Despite many failures and environmental damage seawalls and groynes have continued to be constructed which in many cases has simply shifted the problem to neighboring coastal areas or left the real problem to be solved by future generations. As the pressure on the coastal zone due to human-induced activities as well as relative sea level rise keeps expanding, there is an urgent need to find sustainable solutions for coastal protection."

"There is a general awareness of the impacts of hard structures. Rock wall comes easily and soft solutions are largely untried and the technologies are not well understood. The continued use of hard technologies for coastal protection are being questioned by decision makers and there is now a widespread interest and realization of a need to change to softer and appropriate solutions The move to softer solutions although an easy and acceptable solution in principle but in practice requires significant behavioral changes by all those involved. The transition from hard to soft structures will require an integrated program of awareness, training, capacity building and other support initiatives."

"Presently measures to manage coastal erosion have generally been designed as a local emergency measure rather than sustainable and economically beneficial perspective. The most frequently applied protection methods are hard structures such as seawalls or groynes. Such interventions provide only land protection, and do not address the root cause of the problem; in many cases the protection structures actually accelerate erosion resulting in major losses of the beach."

Institutional arrangements:

"Central Water Commission (CWC), the technical arm of MoWR is the apex agency for shoreline protection / coastal erosion works in the country. CWC implements coastal protection works through two Directorates viz. the Coastal Erosion Directorate (CED) and the Beach Erosion Directorate (BED). The activities of the two directorates are not well coordinated and lateral communication between the two peer bodies is virtually non-existent. The apparent lack of an integrated approach to coastal erosion problems stems from this structural imbalance."

Policy:

"A major weakness in the current sector orientated sector development is the difficulty of addressing the processes and impacts of one sector on another. A prime cause of erosion is the interaction of coastal infrastructure on the natural coastal processes. To help this horizontal coordination is proposed to establish the CWC and the State Executing Agencies (SEA) as the lead group at National and State levels to coordinate coastal infrastructure activities. At National level the leading

organization should be the CWC. The CWC remit is presently restricted to erosion control but there is a key requirement for the coastal erosion directorate to take on a wider coordination role of all coastal infrastructure works including erosion control, ports and harbors, dredging etc. At the State Level it is proposed to establish a Coastal Infrastructure Management Unit (CIMU) within the State Executing Agencies. This unit would be given a mandate to coordinate all coastal infrastructure programs.

"There is requirement for a policy document to support the process of shoreline management planning. The policy document for shoreline management planning should include:

(i) Charging the Coastal District Authorities to prepare Shoreline Management Plans (in coordination with the State Executing Agencies and agencies) over an agreed period. The shoreline plans would be advisory and non-statutory. The plans would be participative involving the stakeholders and local level stakeholders in the primary planning, as well as lateral involvement of different government departments / sector agencies.

(ii) Increasing the mandates of the SEA and the CWC to take on a lead coordination role in the overall coastal management specifically to coordinate and guide the development and management of all coastal infrastructure.

(iii) Ensuring that all shoreline developments and interventions are properly studied and subject rigorous technical analysis including numerical modeling. Projects should be supported by environmental assessments."

44. In June 2009 an expert committee of the MoEF published the report "Final Frontier - Agenda to protect the ecosystem and habitat of India's coast for conservation and livelihood security." In this report the committee noted that currently, the shoreline of the country is undergoing a major change because of a large number of port and harbor projects. These projects involve large quantities of dredging, shore protection works, breakwaters, and reclamation. Experts are unanimous that each structure would impact the shoreline-particularly the beach formation. Already, many of these infrastructure projects have caused significant shoreline changes-like in Ennore, Puducherry, Alibag, Digha and Dahej. It is also observed that the shoreline is being impacted adversely by mining projects and by interventions like the building of shore-protection structures like groynes. The Committee was of the view that these developments have all led to serious threats to the coast, as especially beaches face severe erosion and shorelines are visibly changing. Given that the Central and state governments propose to construct several ports and harbours all along the shore in the coming years, these projects could have irreversible adverse impacts on the coast. The Committee recommended the following:

> "The government must immediately study the cumulative impacts of the individual projects on the coastline, pending which there should be a moratorium on expansion of existing ports and initiation of new projects."

45. Subsequently, in 2009 the MoEF assigned to the Ministry of Earth Sciences (MoES) to conduct a study for identifying the coastal stretches with regard to human-induced erosion/accretion caused by construction of shore protection measures and breakwaters of ports. Based on the discussions held with MoES, the study was initiated in

two phases namely - (a) phase-I to submit a report based on existing data/information by 15 th October, 2009; (b) phase - II of the study involves micro level analysis that would be carried out for the entire country for the purpose of examining shoreline changes due to existing projects and identify suitable sites for development.

46. In October 2009, ICMAM and INCOIS, MoES, submitted a joint report to the MoEF in which they stated that:

> "Coastal structures constructed for port operations and coastal protections works interfere with the littoral transport are found the most common cause of coastal erosion."
>
> "A groyne just shifts the erosion problem to the downstream area..: The more efficient the groyne field is in protecting the shoreline within the groyne field, the more lee side erosion will be experienced downstream."
>
> "When a breakwater is built on the shoreline it interferes with the littoral drift budget and the results are sedimentation and shoreline impact. Like a groyne, the breakwater acts as a blockage of the littoral transport, whereby it causes trapping of sand on the upstream side in the form of an accumulating sand filet, and the possible bypass causes sedimentation in the entrance. The sedimentation requires maintenance dredging and deposition of the dredged sand. The result is a deficit in the littoral drift budget which causes lee side erosion along the adjacent shoreline."
>
> "The major interventions which lead to morphological impact are listed as:

Coastal structures of any kind, which by their occupation directly impact the transport processes and thereby the coastal morphology. Such structures are typically the Ports and marinas, active coastal protection structures (groynes, breakwaters and all other structures occupying part of the foreshore and/or the shoreface), passive coastal protection structures (revetments, seawalls etc. which fix the coastline), reclamations and dikes, inlet jetties at tidal inlets and sea works at river mouths, embankments for bridges /runways, intake / outlet structures crossing the littoral zone."

The report also stated that about 23% or as much as 1248 km of shoreline along the Indian main land is affected by various degree of erosion varying from minor, moderate to severe.

47. In May 2010, the Department of Science, Technology and Environment (DSTE) and the Puducherry Coastal Zone Management Authority (PCZMA) of the Government of Puducherry held a consultation meeting on "Restoration and Protection of Puducherry Coastline" which was attended by various Government Departments, experts from the National Institute of Ocean Technology (NIOT), Anna University, members of the Auroville Foundation and of civil society. As reported in the Minutes of the Meeting "There was a consensus among the participants on the need to protect and nourish the coast of Puducherry and the adjoining areas by adopting site specific coastal protection and restoration techniques after carrying out scientific studies and in consultation with all stakeholders including fishermen community." However, no concrete measures have been implemented to date.

48. A May 2010 document of the CWPRS states that of the various methods used for protection of the coast such as seawalls, revetments, bunds, groynes, offshore breakwaters, etc., the nourishment beach is the best method that should be used for shore protection. However, due to other considerations beach nourishment is still seldom used. Later in the same year, the Indian Journal of Geo-Marine Sciences publishes a paper on coastal erosion and mitigation methods. The author of that study concludes "The recent trends in coastal erosion mitigation is shifting towards soft, innovative, and pro-active methods, since the hard methods have their own repercussions on coastal land and beaches such as down-drift erosion, high cost, poor aesthetics etc. Hard structures such as seawalls and revetments, stop erosion of coastal lands, but refocus the erosion onto the beach. A number of soft methods are available now for erosion mitigation and are being used popularly all over the world. They are very eco-friendly, cheap and construction-friendly too. They may be necessarily adopted on a larger scale in the future erosion mitigation projects, and choice of the particular solution depending upon the local hydrodynamics and site conditions."

49. In October 2010, the PWD, GoP had commenced a Sea Wall project along the coast of Chinnakalapet Village, Puducherry without obtaining prior clearance under the Coastal Regulation Zone Notification, 1991. The site was inspected by members of the Puducherry Coastal Zone Management Authority and direction was issued on 13.10.2010 to the Chief Engineer, PWD under Section 5 of Environment Protection Act, 1986 to stop the sea wall construction immediately and submit necessary application to PCZMA for obtaining the Coastal Regulation

Zone Clearance. PWD has complied and stopped the work. No further work has taken place since then.

50. In the month of November 2010 an official of the MoEF from the Southern Regional Office at Bangalore assessed the state of the coast of Puducherry in relation to the development of fishing harbor at Murthykuppam as it was being opposed by civil society groups. In this report it was observed that "For the old fishing harbor, it was informed that even though, on some earlier occasions, some of the concerned authorities have attempted to address the problem of coastal erosion, the measures taken for the old harbour remains inadequate and not comprehensive since the attempts made were too small and were on piecemeal basis, thus the efforts are not successful in controlling the erosion problems. In the new fishing harbor also a similar situation is arising. Now it is high time for the Government of Puducherry to prepare and launch a detailed implementation plan after due consultations with experts and by integrating all the concerned departments & stake holders for properly managing the coastline and to solve the issues arising out of developments which are taking place in the coast line of Puducherry and adjoining Tamil Nadu."

51. In the month of December 2010, the Project Implementation Agency for the Emergency Tsunami Reconstruction Project (PIA, ETRP) of the GoP issued a Tender for "Maintenance Dredging Works at Ariyankuppam River and the Sea Mouth for Puducherry Fishing Harbour" as part of the reconstruction and modernization of fishing harbor at Puducherry. The related maintenance dredging operations began in 2011 and are still continuing to date. However, while the dredging contractor is required to dispose the dredged material in the

ocean, the dredged material was instead dumped on the land and within the harbor limits. The dredged sand, estimated to be amounting to about 1,50,000 cubic meters is still lying on the land instead of being returned to the littoral drift. This subtraction of coastal sediment from the sedimentary budget of the Puducherry-Tamil Nadu coastal compartment and sediment cell is resulting in erosion of the coastline. Several representations to put the sand back into the sea to nourish the beaches have been made but no action has been taken till date.

52. In January 2011 the Puducherry PWD issued an Expression of Interest (EOI) for erosion control and reclamation of Puducherry beach with "soft solutions" such as geo tubes, clearly stating that all conventional "hard" measures such as "boulders, tetrapods, etc.," were excluded from the chosen solutions, as deemed harmful for the coastal environment. Additionally, it is stated that the proposed solution should have a short-term and long term perspective plan to ensure better coastal environment. Moreover, the proposed solutions should involve the authorities of neighbouring state and stake holders. Most importantly the consultant should "ensure that there is no adverse impact to the coastline due to the implementation of the project." This point is emphasized in the EOI repeating that "there is need to ensure that this does not affect the adjoining features of the coast line both in the state of Tamil Nadu and Puducherry." Finally, during the post-construction stage, the project proponent is supposed to achieve the objectives of coastal protection and reclamation in a "holistic manner." By undertaking such a project, the Government of Puducherry should be able to address its coastal erosion problems while ensuring that the

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neighbouring state and areas of Tamil Nadu not only do not get affected but also benefit from it.

53. On 18th August 2011 the Hon'ble Minister for Public Works Department, Govt. of Tamil Nadu writes to the Hon'ble Chief Minister of the Govt. of Puducherry to apprise him that the lack of sand by-passing and its effect on the littoral drift at the Ariyankuppam Harbour in Puducherry has caused severe erosion of the neighbouring Tamil Nadu coastline, as a result of which in the year 2006, 200 m of beach was eroded, several homes were destroyed and the life of a child was lost. The Hon'ble Minister draws the attention to an earlier letter from the Govt. of Tamil Nadu in which the GoP is requested not to continue construction of groynes without proper technical studies as it is likely to further affect the Tamil Nadu shoreline. He also informs that the proposed Deep Water Port would have a catastrophic effect on the shoreline of Villupuram District. He also requests the GoP to start sand by-passing and to desist going ahead with the proposed Deep-Water Port without obtaining the prior consent of the GoTN so that Tamil Nadu coastline is not further affected. On 29th November 2011, a second letter is sent to remind the GoP to start sand by-passing at the harbor and to stop further interruption of Littoral Drift that would take by construction of the proposed Deep Water Port which would further affect the Tamil Nadu coast and go against his Govt's interests.

54. On 29th Dec. 2011, the Secretary, Port Department, GoP held a stakeholder's meeting on restoration of Puducherry coastline as reported in the Minutes of the Meeting circulated on 23rd Feb 2012. During that the Secretary suggested that "all should work for a

sustainable solution to the problem of erosion." The Chief Engineer, PWD-cum Director of Ports-responded that "the PWD was called by the MoEF and had suggested that Geotubes be put up along the Puducherry coast towards restoring the coastline." During the meeting "all agreed that the rejuvenation of the lost beaches is of vital importance since it would not only help the fishermen but also facilitate tourism." To conclude, the Secretary assured that "a long term sustainable solution to the restoration of the coastline of Puducherry [was] for the benefit of one and all."

55. On 2nd February 2012 the Government of Puducherry constituted the Evaluation Committee for Assessing the consultant for the coastal protection work in Puducherry using Geotextile tubes. This committee is yet to meet.

56. In March 2012 the MoEF wrote to the Government of Tamil Nadu to enquire about the construction of groynes along the Chinnamudalyar Chavadi Kuppam coast based on a complaint against the proposed groynes that was made by the NGO Pondy CAN. No action was taken.

57. In its September 2012 report, the National Institute of Ocean Technology (NIOT) stated the following with regard to the groynes constructed in Puducherry and Tamil Nadu: "It is recognised that groynes should be used only to maintain existing conditions, rather than enhancing beach volume or eliminating erosion... But this should be used only after exhausting all other available options for restoration." The report also stated:

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"There is a need for a well-defined plan that seeks to treat the shoreline and the issue of erosion in a more integrated, sustainable and strategic manner."

"It is recommended to have a total and common shoreline management plan for the entire Puducherry and the adjacent Tamil Nadu coast so that short-term and long-term strategies can be drawn considering the coast in total. The short-term strategies required at specific sites can be designed and integrated in long-term strategies, if a shoreline management plan is prepared."

"As Puducherry is known for its tourism/recreation, it is advisable to restore the natural beach by implementing beach nourishment... The above option will not only help in gaining a natural beach but also help in controlling the erosion of the northern coast. The detailed design of beach nourishment scheme can be worked out based on discussions. Also, eco-friendly techniques and "soft engineering measures" to stabilize the coast could be implemented along with beach nourishment for retaining the sand and to restore the ecological functions and services that are provided by sandy beach ecosystems as well as enhance livelihood opportunities for the fishing communities and increase value to the coast." "A long term and permanent solution can be found if both the Tamil Nadu and Puducherry Governments jointly work towards a common, long-term and sustainable shore restoration strategy. Short-term solutions may need to be implemented, but these have to take into account the long-term solutions and should be "no-regret" solutions." "The general principle of "working with nature" would be a better

approach for cost-effective and sustainable coastal protection measures. Puducherry needs to consider modern protection practices which achieve a more effective and sustainable means of coastal protection while also addressing local amenity and economic development aspects. It is most important to ensure that the natural movement and flow of sediment along the shoreline is maintained."

"The beach restoration will primarily benefit the coastal dwellers living along the Puducherry and nearby Tamil Nadu coast including fishing households, the owners, operators and employees of fishing boats, hotels and other tourism related businesses and their employees. But mostly it will benefit all the residents of this peaceful coastline whose young children have never even seen its beautiful beaches."

58. The report "The Challenged Coast of India" published in October 2012 also points out with regard to the performance of the groynes that were built along the Soudanikuppam-Thandiriayankuppam coast that for every square meter of beach that has been artificially gained with the use of groynes, about 4 square meters of beach space is damaged and lost on the down drift side of the groynes. Therefore, it is unequivocally demonstrated that groynes are causing more damage to the coast and that they are exacerbating the problem of erosion.

59. Neither the Government of Puducherry, nor the Government of Tamil Nadu examined any available options for beach restoration. Mechanical sand bypass was not implemented. More importantly, there is no record that the Government of Puducherry ever considered the simplest, most effective way to' restore the beaches, end the massive

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erosion of village land into the sea, restore the livelihoods of the local fishing communities, and reverse the trend of increasing saline infiltration into the local aquifers; to remove the damaging harbour at Ariyankuppam and allow the natural flow of sand to resume. When one compares the insignificant economic benefit conferred by the harbour with the enormous economic, social, and environmental cost of the ravaged coastline for 18 kilometres to the north (and moving ever-northward as hard structures proliferate), it is astonishing that the Government of Puducherry never considered this obvious alternative.

60. A comprehensive plan for coastal protection has not yet been considered in spite of the fact that both the Governments of Puducherry and Tamil Nadu are fully aware that the erosion is spreading northwards. Instead of taking proactive measures to mitigate the erosion, the erosion is instead allowed to go on, increase and further degrade the coastal environment. Both the governments jump into action only when it is too late and the erosion of the coast has become a manmade disaster in which the homes and livelihoods of the coastal communities have been destroyed. It is only in such belated circumstances that the concerned Government authorities resort to the construction of seawalls as emergency measures. Under these disastrous circumstances, the concerned authorities justify the construction of seawalls as their only option available. Such tardy actions, ad hoc-ism and poor planning and negligence only results in the destruction of a greater extent of the coastal environment.

61. The destruction of sandy beaches represents a very significant economic loss to Puducherry's tourism industry and to the traditional

fishing industry all along the damaged coast. It is estimated that thousands of traditional fishermen have been unable to pursue their livelihoods since the beaches were lost and seawalls have come up; and thousands more are now forced to launch their boats from places outside their own villages. An estimated 300 acres of land mass has been taken by the sea, including numerous houses and other buildings in coastal villages. The governments of Puducherry and Tamil Nadu have spent hundreds of crores of rupees dumping boulders to create riprap seawalls and groynes. In addition to the environmental and aesthetic loss to the immediate coastline, this construction activity entails collateral environmental damage to the mountains from which the boulders are quarried and the energy used to transport them from mountain to seaside. The hard structures on the coastline have radically transformed the morphology and morphodynamics of the coast and intertidal marine zone. This has far-reaching consequences for the entire ecosystem.

62. The endangered Olive Ridley sea turtles which are listed under Schedule I of the Indian Wildlife Protection Act (1972) nest along the Puducherry-Tamil Nadu coastline. Olive Ridleys are known to return to their natal beaches to lay their eggs. But when man-made structures have been built in the place of their nesting beaches, as is the case in Puducherry and Tamil Nadu, these structures prevent sea turtles from continuing their innate life cycles. Coastal structures therefore directly threaten and further endanger sea turtles by reducing suitable nesting habitat and displacing turtles into less-than-optimal nesting areas. The destruction of the natural beach space and habitat by human induced erosion followed by the armouring of the coast with seawalls

and groynes makes it impossible for sea turtles to make their nests on the beaches. The ad hoc and unscientific construction of seawalls and groynes along the coast is therefore directly endangering the existence of sea turtles.

63. The armouring of the coast with seawalls and groynes also results in the destruction of intertidal habitat that is required by marine flora and fauna such as planktons, crustaceans, bi-valves, mollusks, other invertebrates and even fishes. These flora and fauna also form part of the marine food chain which supports fish stocks. The destruction of inter-tidal habitat therefore impacts large numbers of marine species and ecosystems.

64. Without the beach providing the crucial sandy buffer between the sea and the land, erosion of the seabed at the coastal margin has resulted in salt water infiltration into the local aquifers. The Central Ground Water Board has reported that the ground water development in the Puducherry region is rather very high and no further groundwater development is to be encouraged. On the other hand, there is an urgent need for regulation of over-exploitation, protection and augmentation of ground water resources to recharge the depleted aquifer systems. An assessment of the vulnerability of seawater intrusion in Puducherry coastal region is indicating that both the northern and southern coasts of the Puducherry region are vulnerable to seawater intrusion. As the groundwater resources of the Puducherry region are already stressed, the increase of seawater intrusion due to human induced coastal erosion has to be avoided at all costs.

65. The increased salinity in Puducherry's fresh water has resulted in hundreds of hectares of farm land becoming fallow. In addition to ruining the taste of the local drinking water, increased salinity is well-known to cause kidney disease. Several of the shallow wells along the coast on which the local communities depend for their freshwater requirements have already turned saline. The loss of freshwater resources is causing severe hardship to the local communities as they have to find alternative sources of freshwater.

66. It is also important to note that at the national level the coastline also represent the boundary of the nation and its territories. The indiscriminate, uncontrolled, and unnatural alteration of the coastline is resulting in the uncontrolled alteration of the national boundary, both on land as well as offshore, of the international maritime border and that of the Exclusive Economic Zone (EEZ). This is something that has political and economic implications which are of national concern.

67. The seawalls and groynes are being built without any carrying capacity studies. The coastal environment of the Puducherry-Tamil Nadu region is already heavily and to a large extent impacted by the on-going human induced erosion of the coast caused by the Puducherry harbor. Further armouring of the coast with seawalls and groynes will only result in reducing the carrying capacity of the coastal environment beyond the point of self-sustainability.

68. The coastal environment is a highly dynamic and therefore complex environment to manage. Experience has shown that the less one interferes with coastal processes, the lower is the likelihood of having coastal management problems. Across the world, increasingly

the scientific community is of the opinion that particularly on the coast it is preferable to "work with Nature" rather to try to "fight against Nature." This approach is also akin to the approach of the Precautionary Principle which advocates that if the coastline is eroding, particularly due to human induced causes, it is preferable to address the root causes of the problem and try to return to the original, natural, stable state of the coastline, rather than to attempt to re-engineer the coastal environment which results in perpetual alteration of the coastal environment with all its accompanying negative impacts.

69. Despite the recognition by the Union and State Governments, as well as that of related Government agencies such as the CWPRS and the NIOT, private and professional consultancy firms, local communities, civil society groups that "soft" engineering measures such as beach nourishment, which are environmentally and socially friendly and increasingly adopted world-wide, should be adopted tackle coastal erosion, especially to mitigate and reverse human induced coastal erosion, there is however a lack of well-defined scientific and technically sound processes and systems for sand nourishment of eroding beaches which the Government and their respective agencies can follow or implement. As a result of the lack of such well-defined processes and systems, Governments and their agencies fall back upon past experience, even though it is obsolete and go about "business as usual." In this regard, it is also important to note that the "business as usual" favours vested interests, such as the consultants who get to design more and more coastal structures as they cause more and more erosion, the quarry owners, the transporters and the contractors who keep on benefitting

as long as coastal structures need to be built even though it is at the cost of the coastal environment.

70. Seeing the unwillingness of concerned agencies to restore and nourish the beaches, very often the local communities that have at first lost their livelihoods when their beaches have eroded, eventually get desperate when nothing is done to control the erosion particularly when they start losing their habitations. As a last and desperate measure to save their homes, these communities start to demand that their homes be immediately protected in whichever way possible, even with the use of hard structures such as seawalls and even if it is at the cost of the coastal environment. The measures, particularly those that are environmentally destructive, that are demanded in a state of desperation by the local communities and followed out of popular demand are not necessarily the best for their livelihoods, the environment, the society at large and the future generations, especially in the long term.

71. Since the construction of the harbor, seawalls and groynes commenced in Puducherry and Tamil Nadu, numerous civic groups, including Coastal Action Network, have complained to the Government of Puducherry and Government of Tamil Nadu and warned of the worsening environmental and economic disaster. Both governments have ignored these warnings and continued to build hard structures, in the Cuddalore, Puducherry and Villupuram Districts, disrupting the natural flow of coastal sediment, damaging their own coast and their neighbor's, in complete disregard of the economic, social, and environmental consequences of this construction.

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72. The Government of Tamil Nadu currently proposes to build a series of 12 more groynes from Chinnamudalaiyar Chavadi to Bommiyarpalayam, as well as additional seawalls and groynes to the south of Puducherry, as far south as Cuddalore. Some of the work has already commenced. The Government of Tamil Nadu has not sought or been given prior permission and approval by the Ministry of Environment and Forests, Government of India to construct these groynes.

73. On or about 18 November 2012, the Government of Tamil Nadu began dumping rocks on the coast at Chinnamudalaiyar Chavadi, thereby commencing construction of a planned 180m groyne. This activity will cause further damage to the coastline, and to the lives and livelihoods of those who live along the coastline, if it is allowed to proceed. The Government has, without considering the hazards of undertaking such activity has commenced and is continuing with the construction of the groyne, the fact that the detriment caused to the coastal environment is not limited only to that particular sector has not, even been considered. No proper environmental impact assessment has been done by the concerned authorities, in violation of governing laws and violating rights guaranteed under Article 21 of the Indian Constitution. The economic consequences of the damage caused by the construction of the groyne will be disastrous.

74. On 27th December 2012 the Puducherry Coastal Zone Management Authority (PCZMA) wrote to the MoEF requesting it to impress upon the Government of Tamil Nadu to refrain from undertaking ad hoc coastal protection measures such as seawalls and groynes without consulting and taking the consent of the Government

of Puducherry and required CRZ clearances. The PCZMA also expressed its apprehension that the proposed and on-going coastal protection measures erected in adjacent Tamil Nadu would cause erosion of the Puducherry coastline. Moreover, the PCZMA also expressed the need to follow the recommendations of the stated NIOT report which suggests that a common shoreline management plan for the entire Puducherry and adjacent Tamil Nadu coastline should be prepared so that short-term and long-term strategies can be drawn considering the coast in total.

75. According to the CRZ Notification 2011, Section 3, (iv), activities that disturb the natural course of seawater such as for erosion control are prohibited if constructed without an Environmental Impact Assessment study. Section 4.2, (i), (c) of the same notification also states that the procedure for clearance of such activities should be undertaken after comprehensive EIA with cumulative studies for projects in the stretches classified as low and medium eroding by MoEF based on scientific studies and in consultation with the State Governments and Union territory Administration. The seawalls and groynes being built by the GoTN at Chinnamudalaiyar Chavadi Kuppam and in Villupuram District and Devanampattinam in Cuddalore District are being undertaken without an EIA, neither with a comprehensive EIS with cumulative studies and without consultation with the State Governments and Union territory Administration and are therefore in violation of CRZ Notification 2011.

76. According to the Environmental Impact Assessment Notification 2006, the construction of seawalls and groynes being built by the GoTN at Chinnamudalaiyar Chavadi Kuppam and in Villupuram District and Devanampattinam in Cuddalore District are classified as "Category A"

projects as they fall within 10 km of the inter-state boundary and would therefore require an EIA. The natural flow of sediment and beach sand along the coast is an essential phenomenon and process which supports natural habitats, flora and fauna, human populations and their fundamental right to life and livelihood. Coastal sediment is a public good that forms the very foundation of the sandy coastal environment, without which none of the sandy coastal environments can be sustained. The human induced loss of sediment from the coast and the resulting erosion and destruction of coastal habitats therefore directly results in the violation of the fundamental right to life and livelihood of all that which is dependent on coastal sediment. Just as water, food, air, light, etc., are an essential part of the life and livelihood of every citizen of this country, similarly coastal sediment is equally an essential public good which is a part of the life and livelihood of all that which depends on the coastal environment. The human induced loss of coastal sediment within and even across state boundaries therefore results in the violation of the fundamental right to life and livelihood of all that which depends on the coastal environment. Numerous representations on the above issues described above, particularly such as the human induced coastal erosion, mitigation and restoration through sand nourishment, restoration of the sandy beach ecosystems and the livelihoods of the local communities, etc., spanning a period of more than a decade have been made by several citizen and civil society groups. However, not only is the human induced erosion of the coast increasing unabated, but it is even being aggravated by adhoc, unscientific and unsustainable coastal management measures which are arbitrary and illegal. The Respondents have not undertaken any scientific studies with regard to the exacerbation of erosion due to the

groynes already constructed, and erosion is rapidly progressing with no intervention to prevent the same on the part of the statutory authorities.

77. On 29th Sep 2012, a representation was submitted to the District Collector, Cuddalore, the 2nd applicant submitted representation to several authorities including the respondents herein. On 06th Jan 2012, a representation was submitted to the Government of Tamil Nadu, requesting them to refrain from construction of groynes. On 20th Nov 2012 and 12th Dec 2012, further representations were made by the applicants to the authorities, requesting them to take appropriate action. However, no reply has been received from the authorities and the damage caused to the environment due to the indiscriminate construction of hard structures along the coast continues to this day.

Stand of Puducherry Coastal Zone Management Authority (PCZMA) and MoEF&CC

78. Replies have been filed by contesting respondents. It is not necessary to refer to all the replies. It will suffice to refer to the affidavit filed by Puducherry Coastal Zone Management Authority (PCZMA) on 06.10.2021 and the reply filed by the MoEF&CC. PCZMA refers to comprehensive Shoreline Management Plan (SMP) for Puducherry in May, 2015 by the National Institute of Ocean Technology (NIOT), Ministry of Earth Sciences, after monitoring the coastal processes responsible for the shoreline changes from 2012. The SMP was submitted to the MoEF&CC. NIOT designed a hybrid solution for the first time in the country with two reefs and sand nourishment for restoring the eroding beach along Puducherry town. The proposed hybrid solution involved the following:-

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i. Construction of one Nearshore Wedge Reef opposite to the Chief Secretariat on the north end of Puducherry town foreshore, with the crest at Chart Datum.

ii. Construction of one Offshore Reef placed at the south end, at 300 m north of the pier, with the crest at 1 m above Chart Datum.

iii. Sand nourishment using 4,50,000 m3 of sand between northern and southern reef along the Coastline of Pondichery Town and Gandhi Statue

79. The above project has been adopted in Puducherry for which CRZ Clearance has been granted.

80. The executive summary in the report of the NIOT is as follows:-

"Many beaches along East coast of India are subjected to erosion, which threatens habitat, property, public infrastructure, and the tourist industry. Loss of sand can be attributed natural changes (sea level rise, storms, and more recently persistent low pressures due to climate change) and man-made activities (harbors, jetties, seawalls, groins, dredging of tidal inlets and damning of rivers). Pondicherry coast is not exceptional and after construction of Pondicherry harbour, coast north of harbour Is subjected to sea erosion. Initially, sand bypassing was carried out by harbour authorities to prevent down drift erosion and to maintain channel free from siltation. Later, discontinuing of sand bypassing due to various technical reasons, lead to erosion on Pondicherry city. UT Pondicherry and Tamil Nadu State Government resorted to short term measures to protect the coast from erosion. Seawall of length 6 Km was constructed by UT Pondicherry, which covers city of Pondicherry and the coastal stretch (2 km) from Sodhanaikuppam to Thanthriyankuppam was protected groin field combined with seawall by Tamil Nadu government. The erosion problem shifted further north, Chinnamudalaiyar Chavadi is experiencing increased erosion and many buildings were lost to sea. Highly eroding fishing hamlet, north of Chinnamudalaiyar Chavadi, and Chinnakalapettai village in UT Pondicherry were also protected by seawall. As on date, 8 km length of the coast was protected by seawall and groin field along Pondicherry coast by UT Pondicherry and Tamil Nadu Government. The above solutions could protect the coast under threat but the authorities and stake holders need an integrated long-term solution for protection of coast and restoration of natural beach.

Since, the available information on Pondicherry coast is not sufficient for working out suitable strategies; NIOT was consulted by both UT Pondicherry and Tamil Nadu government to work out long

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term/ short term strategies for management of coast from erosion and impact of cyclones. ***NIOT has initiated studies to evolve strategies for protection of Pondicherry coast under the project "Demonstration of Shore Protection Measures through Pilot project", with financial support from Ministry of Earth Sciences. NIOT has taken p task of developing strategies for protection of Pondicherry coast with objectives: 1) Assessment of status of existingprotection measures and its performance 2) To Understanding the processes responsible for shoreline changes through monitoring waves, tides, currents, sediment characteristics and coastal morphology 3) Analysis of long/short term trends of shoreline along Pondicherry coast and 4) Development of shore protection measures through numerical models. The first three activities were completed and documented in the present report. The final report with strategies for protection of coast will be arrived at based on the discussion with the governments of Tamil Nadu and UT Pondicherry and stake holders.***

The study aims at understanding various dynamical aspects of coast (water level variations, currents & circulation, tides, waves, bathymetric variations, sediment transport, shoreline changes etc.) to develop hind cast, now cast and forecast models on shoreline changes in priority areas for identification of vulnerable areas of erosion/ accretion to arrive at remedial measures for protection of coastline from natural and human perturbations. The strategy proposed in the present study aims at obtaining a comprehensive picture on shoreline changes along Pondicherry coast and to take remedial measures for shoreline management along the stretch.

The study area with coastline length of 18 km was divided into four distinct zones, namely 1) Pondicherry harbour and adjoining areas, 2 km 2) Pondicherry city, protected by seawall, 6 km 3) Groin field, 2 km and 4) Open coast, 8 km. The shoreline changes in these four zones were analyzed using remote sensing data and field measurements. The result indicate that the average rate of erosion and accretion is 4m/yr and 5m/yr respectively and the coast needs immediate attention for its protection from natural causes or man-1made activities. The estimated rate of net drift would be in the order of 0.28 -0.30 million cum, which needs to be confirmed by detailed shoreline monitoring.

Coastal processes responsible for shoreline changes were monitored during 2012, where data on winds, waves, tides, currents, sediments, bathymetry etc. were collected between Pondicherry Port and Kalapettai village, covering a coastline of 18 km. Seasonal variations on water levels, wave climate, currents and circulation sediment transport, shoreline changes etc. were studied. The measurements made indicated that the tide propagates from south to north. Currents measured upto a depth of 20 m were found to be seasonal, northerly during SW monsoon and southerly during NE monsoon. The average currents during SW and NE monsoon would be 0.3m/s and 0.5m/s. The near shore currents generated by waves follow pattern of coastal Currents In Tamil Nadu coast, which is added

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advantage in developing shore protection measures. Wave climate indicate that 70% of the waves approach the coast from SE direction and the remaining 30% from NE direction.

Pondicherry, known for tourism/recreation, has lost its natural beach due to construction of seawall. ***It is advisable to restore natural beach by implementing beach nourishment. Initial estimates indicate that sand to extent of 3.0 million cum need to be placed north of harbour for length of 600 m near the Gandhi statue. The above option not only helps in gaining natural beach but also helps in controlling the erosion of northern coast. The detailed design of beach nourishment scheme can be worked based on the discussions. Also, eco-friendly techniques and "soft engineering measures" could be implemented along with beach nourishment for retaining of sand and also to restore ecological functions of the coast.***

Short-term solutions may need to be implemented, but these solutions have to take into account the long-term solutions and should be "no-regret" solutions.

A long-term and permanent solution can be found if both the Tamil Nadu and Pondicherry governments jointly work towards a common, long-term and sustainable shore restoration strategy."

81. Summary and recommendations in the report are as follows:-

"Summary and Reeommendations

The coast along Pondicherry and the adjacent areas of the Villupuram district has been experiencing severe erosion for the past 20 years. Natural causes interception of littoral drift by the harbour at Ariyankuppam village, Pondicherry constructed in 1990 and the subsequent construction of coastal defence structures such as seawalls and groins caused erosion in this and groins regions. Pondicherry and Tamil Nadu governments made several attempts to protect the coast under threat using options like seawalls and groins. Though these protection measures have offered some relief to the coast under threat, adjacent parts of coast areas are eroding, more unstable and are constantly under threat.

There is a need for a well-defined plan that seeks to treat the shoreline and the issue of erosion in a more integrated, sustainable and strategic manner. This can be achieved by a Shoreline Management Plan (SMP), which considers the issues at a reasonable scale and focuses on restoring the natural sandy beaches. Policy makers, engineers and stakeholders seek a long term solution to restore the sandy beaches of this entire affected region. The basic questions which need to be answered and understood before attempting any such coastal restoration scheme are following:

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1. *Present status of coast (geomorphic setting and functional performance of already implemented protection measures)*
2. *Coastal processes along this coast in relation to proposed coastal restoration schemes.*
3. *Priorities of policy makers and stakeholders*
4. *Requirements of stakeholders*
5. *Economical, environmental and social sustainability of proposed restoration measures.*

Considering the above, the overall objective of the coastal restoration project should be to address the coastal restoration needs through the implementation of economically viable restoration works using environmental and socially appropriate solutions. This report describes the present status of the coast and the performance of existing coastal protection schemes. The data on sea bathymetry, land topography, hydrodynamics (tides, waves, currents and sediment characteristics) and shoreline changes was collected for analyzing the coastal processes. A joint meeting with Tamil Nadu and Pondicherry governments is required to draw strategies for coastal restoration measures where various technical alternatives can be analysed in relation to the priorities of the government keeping in view that the solution adopted should be sustainable, long term and permanent without affecting the coastline located further north.

The analysis of long-term shoreline change data indicate that the average rate of Shoreline recession and progression over a period of 30 years is in order of 4 m/yr and 5 7yr respectively. However, localized shoreline change rates. recession specifically, of 50 1n in a season were observed. However, the rate of shoreline change and/or erosion is dependent on gradient of sediment transport along the coast, which is dependent on Configuration of the coast, near shore current and availability of the sediments.

The 18 km length of coastline of Pondicherry was divided into four zones for analysis. The first zone (Zone A) covering a length of 3.5 km represents the zone of direct influence of the Pondichery harbour. The sand has accumulated up to the tip of the south breakwater with maximum accretion of 180 m and the sediment started bypassing to the north. The northern side of the harbour is protected by a seawall and sediment deposition is noticed, during the NE monsoon due to the southerly drift. The maximum erosion is about 40 m at distance of 600 m from north breakwater from 1991 to 2000. The second zone (Zone B- 4 km), which is part of Pondicherry township is protected by a seawall. Securing at the foot of the seawall is noticed during active monsoon. The third zone (Zone C- 2.5 km) is protected by a series of disjointed groins. These groins were constructed during 2005-2007 and. accretion to an extent of 90 m is noticed at northern longest groin located at Thathiriyankuppam. The accretion at all groin compartments indicate availability of sediments along the Pondicherry coast during both monsoons.

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The CWPRS (1971) has reported that the net drift was estimated to be about 500,000 cu.m. at the time of design of Pondicherry Harbour but the present estimated rate of net drift by us would be in the order of 2,00,000 - 2,80,000 cu m, which needs to be confirmed by detailed shoreline monitoring. The coast north of longest groin at Chinnamudalaiyar Chavadi village has experienced increased erosion and shoreline recession during2008to an extent of 70 m. South of this coast regained some lost material during 2012 due to southerly drift and bypassing of sediments from the groin with a net accretion of 20 m. The Zone D with a length of 8 km is not protected by major scheme and maximum erosion observed 1991-2010 is around 25m. A sea wall of length 165 m was constructed at village Chinnakalapettai to protect the coast from erosion.

The following are major observations for arriving at coastal restoration strategies for both the Pondicherry and adjacent Tamil Nadu coast.

- *Pondicherry has been known as a beautiful beach town. The beaches here, particularly along the famous beach road were used for all kinds of activities by a large cross-section of people. Children chased crabs and looked for interesting shells. The famous Masi Magam festival of Pondicherry relied on the big beach where the chariots of all the gods from all the temples near and far would come. With the beach almost gone and the rocky sea wall, all these little everyday pleasures of each and every resident of Pondicherry and all those who throng to its shores, have been snatched away.*
- *The basic objective of shore restoration projects moderate the long-term average erosion rate and shoreline change from man-made causes, which can be achieved only if the natural dynamics of the coast is well understood.*
- *The medium term analysis of shoreline change data from 1991 -2012, indicate that this region needs immediate attention.*
- *Protection schemes till date have been implemented in isolation both in Pondicherry and Tamil Nadu, a common phenomenon even in developed countries. This has happened because of various constraints like scientific/engineering understanding of nature, economics of the scheme t be implemented, institutional issues, lack of interstate coordination and acceptance by stakeholders. It is recommended that short-term and long-term strategies can be drawn.considering the coast in total by Pondicherry and Tamil Nadu Government. The short-term strategies required at specific sites can be designed and*

integrated in long-term strategies, if a shoreline management plan is prepared.

- *Pondicherry harbour is causing a deficit in sediment supply to the northern coast. Sand bypassing carried out by harbour authorities for certain period could maintain the beach north of the harbour. Later, discontinuing the sand bypassing resulted in loss of beaches in the northern coast. The recent analysis of satellite data suggests that parts of the littoral sediments are bypassed naturally to northern coast. While designing the shore restoration scheme for Pondicherry coast, the configuration of harbour and its relation to natural bypassing of sand at harbour should be studied.*

- *Pondicherry wave climate is influenced by both the SE and NE waves With occasional cyclonic storms crossing the coast. The maximum surge level observed above tide is 0.7m with a tidal range of 1.2 m. The waves approaches from SE direction from April September with mean direction 135 deg, while during NE mo1nsoon. the direction is 90 deg. The coastal currents are seasonal, directed to north during SW monsoon and south during NE monsoon. The average currents during SW and NE monsoon would be 0.3m/s and 0.5 m/s. The near shore currents generated by waves follow similar pattern like coastal currents in Tamil Nadu coast, which is an added advantage in developing Common shore restoration measures. A detailed study conducted at Vellar estuary and Ennore shows shoreline change governed by wave climate and tidal influence is insignificant. Low pressure systems 1ike events of 2007 can cause significant damage to coast and some of its changes could be permanent. The coastal protection scheme seawall built along the Pondicherry town for length of 6 km need to be assed carefully to avoid further damage during cyclone or low pressure periods.*

- *Pondicherry is known for its tourism/recreation, it is advisable t0 restore the natural beach by implementing beach nourishment. At Ennore, sand dredged from harbour to an extent of 3.5 million cum was placed. on, north of harbour to prevent down drift erosion. The performance of beach nourishment was assessed based on long-term data at Ennore which shows nourishment has supplied sand to northern coast for period of 5 years and coastline was stable even after the construction of harbour. Initial estimates indicate that sand to the extent: of 3.0 million cum needs to be placed north of the harbor for length of600mnearthe Gandhi statue. The above option will not only help in gaining a natural beach but also help in controlling the erosion of the northern coast. The detailed design of beach nourishment scheme can be worked out based on discussions. Also, eco-friendly techniques and "soft*

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engineering measures" to stabilize the coast could be implemented along with beach nourishment for retaining the sand and to restore the ecological functions and services that are provided by sandy beach ecosystems as well as enhance livelihood opportunities for the fishing communities and increase value to the coast.

- *A long term and permanent solution can be found if both the Tamil Nadu and Pondicherry Governments jointly work towards a common; long-term and sustainable shore restoration strategy.*

- *Short-term solutions may need to be implemented, but these have to take into account the long-term solutions and should be "no-regret" solutions.*
- *Worldwide there is now increasing examples of replacement of hard structures like seawalls with softer options Such as beach nouishment, Sand bypassing, dune planting and offshore submerged reefs. Thus, the general principle of "working with nature" Would be a better approach for cost-effective and sustainable coastal protection measures. Pondicherry needs to consider modern protection practices which achieve more effective and sustainable means of coastal protection while also addressing local amenity and economic development aspects. It is most important to ensure that the natural movement and flow of sediment along the shoreline is maintained.*

- *All Shore protection schemes should be monitored scientifically under technical guidance of expert institutes by Tamil Nadu and Pondicherry governments for improvement in its performance. The crest of berm data collected by Tamil Nadu PWD do not cover any location along Pondicherry coast. The closest locations considered for analyzing the data along this coast are Devanampattinam and Oyyalikuppam at south and north of Pondicherry respectively.*

- *Given the social and economical importance of the Pondicherry beaches, the coastal restoration option should consider the protection of land, buildings, groundwater, ecology, livelihoods and public and private infrastructure against future loss and damage caused by erosion and storms.*

- *The beach restoration will primarily benefit the coastal dwellers living along the Pondicherry and nearby Tamil Nadu coast including fishing households, the owners, operators and employees of fishing boats, hotels and other tourism related businesses and their employees. But mostly it will benefit all the residents of this peaceful coastline whose young children have never even seen its beautiful beaches. No One expected that waves due to monsoon or cyclone take away the natural beach."*

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Reply of MoEF&CC

82. Reply of the MoEF&CC dated 02.02.2021 deals with the status of updation/revision of CZMPs as follows:-

> *"2. That in exercise of the powers conferred by the sub-section (1) and Clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 read with clause (d) of the sub-rule 5 of the Environment (Protection) Rules, 1986, Ministry of Environment and Forest had notified the Coastal Regulation Zone Notification, 1991 on 19th February, 1991, which, inter-alia, provided classification of Coastal Regulation Zone (hereinafter referred to as CRZ) areas and norms for regulating developmental activities therein. This Notification was subsequently amended from time to time.*
>
> *3. That it is submitted that in supersession of the* ***CRZ Notification, 1991, the Coastal Regulation Zone Notification, 2011 was notified on 6 January, 2011 for regulation of developmental activities along the coastal stretches and to ensure the livelihood security to the fisher communities and other local communities, living in the coastal areas, to conserve and protect coastal stretches.***
>
> *4. The validity of the Coastal Zone Management Plans (hereinafter referred to as CZMPs) approved under CRZ Notification, 1991 was extended from time to time, the last such extension being upto 31.07.2018, pending preparation and subsequent approval of fresh CZMPs under the CRZ Notification, 2011. All the developmental activities in the CRZ areas of coastal States were required to be regulated as per the above mentioned notifications and within the framework of approved CZMPs.*
>
> *5. It is humbly submitted that the CZMPs of all coastal States except State of Goa has been approved under the provisions of the CRZ Notification, 2011.*
>
> *6. That it is submitted that in supersession of the CRZ Notification, 2011, the Coastal Regulation Zone Notification, 2019 was notified on 18th January, 2019 for regulation of developmental activities along the coastal stretches and to ensure the livelihood security to the fisher communities and other local communities, living in the coastal areas, to conserve and protect coastal stretches, specifically focused on conservation and management plans of Ecologically Sensitive Areas (ESAs) which did not feature in the CRZ Notification,2011.*
>
> *7. It is humbly submitted that the High Tide Line (HTL) has been mapped out and standardized for the entire coast of the country unlike the HTL earlier allowed to be demarcated by one of the seven authorized agencies, that too only for identified stretches/sites, and*

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thereby bringing in standardization and authenticity and removing arbitrariness.

8. It is submitted that the Hazard Line for the entire coast of the country has also been mapped and is required to be incorporated in CZMPs of the coastal States or Union territories.

9. It is humbly submitted that the CRZ Notification, 2019 shall, however, come in force only after the respective CZMP framed to the CRZ Notification, 2011 have been revised/updated by the States/UTs, as per the provisions of the new CRZ Notification and approved by the Ministry of Environment, Forest & Climate Change. Para 6 (i) of CRZ Notification, 2019 inter alia states as under:

> *"All coastal States and Union territory administrations shall revise or update their respective coastal zone management plan (CZMP) framed under CRZ Notification, 2011 number S.O 19(E), dated 6th January, 2011, as per provisions of this notification and submit to the Ministry of Environment, Forest and Climate Change for approval at the earliest and all the project activities attracting the provisions of this notification shall be required to be appraised as per the updated CZMP under this notification and until and unless the CZMPs is so revised or updated, provisions of this notification shall not apply and the CZMP as per provisions of CRZ Notification, 2011 shall continue to be followed for appraisal and CRZ clearance to such projects."*

Before finalizing the CZMP concerned State/ Union Territories/ Coastal Zone Management Authorities are required to adopt due procedure in preparation of CZMPs as stipulated in Para 6 (ii) of CRZ Notification, 2019 which includes public consultation. Para 6 (iii) of said notification inter alia states as under:

> *"The coastal States and Union territories shall prepare draft CZMP in 1:25,000 scale map identifying and classifying the CRZ areas within the respective territories in accordance with the guidelines given in Annexure-IV to this notification, which involve public consultation."*

A true copy of CRZ Notification, 2019 is annexed herewith and marked as ANNEXURE-R/1.

10. It is humbly submitted that the National Centre for Sustainable Coastal Management (hereinafter referred to as NCSCM) made a presentation on the status of the updation/revision of CZMPs) prepared based on provisions of CRZ Notification, 2019, in the 40 meeting of National Coastal Zone Management Authority (NCZMA) held on 28.08.2020, as under:

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S.No.	State/UT	Status of Approved CZMP2011	Status of Draft CZMP 2019	Agency preparing CZMP-2019	Time Required to Complete
1.	Maharashtra	Approved	COMPLETED Public hearing completed in all districts other than Palghar and Sindhudurg districts	NCSCM	COMPLETED
2.	Odisha	Approved	COMPLETED Public hearing completed	ORSAC/ SAC	COMPLETED
3.	Andhra Pradesh	Approved	80% work Completed including Buffering of CRZ boundaries	NCSCM	4 MONTHS-DEC 2020
4.	Karnataka	Approved	50% work Completed including Buffering of CRZ boundaries	NCSCM	4 MONTHS-DEC 2020
5.	Puducherry	Approved	30% work Completed including Buffering of CRZ boundaries	NCSCM	3 MONTHS-NOV 2020
6.	Daman&Diu	Approved	50% work Completed including Buffering of CRZ boundaries	NCSCM	3 MONTHS-NOV 2020
7.	Tamil Nadu	Approved	20% work completed	NCSCM	5 MONTHS-JAN 2021
8.	Gujarat	Approved	20% work completed	NCSCM	6 MONTHS-FEB 2021
9.	Kerala	Approved	In progress Being monitored by Kerala High Court	NCSCM	Status to be obtained from NCESS
10.	West Bengal	Approved	Pending. Status not known	IESWM	Status to be obtained from IESWM
11.	Goa	Draft published in website for public hearing. Revision based on amendments, in	Pending	Not Known	Amendments to CRZ Notification 2011 notified on 1st May 2020

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		progress (NCSCM)			
12	Andaman & Nicobar Islands	ICRZ pans:9 Islands IIM Plans:5 Islands Approved	ICRZ Plans of Great Nicobar & Little Andaman Islands completed and submitted to ANCZMA for public hearing	NCSCM	6 MONTHS-FEB 2021
13	Lakshadweep Islands	Approved	Revision of IIMPs of Suheli, Kadamat & Minicoy Islands in progress	NCSCM	6 MONTHS-FEB 2021

11. It is humbly submitted that the answering Ministry is yet to receive the draft CZMPs updated/revised as per the provisions of the CRZ Notification, 2019 from all the coastal State Governments for further consideration and approval.

12. It is further humbly submitted that the CRZ Regulations are to be implemented and monitored including violations thereof by the concerned State Coastal Zone Management Authority in accordance with the proved CZMPs of the respective region of the coastal state."

Consideration of the Issue, finding and Directions

83. We have given due consideration to the issue of protection of the beaches from human induced erosion caused by hard structures. It is a fact that these hard structures may prevent erosion at the said stretch temporarily but the adverse impact of such measures are felt upstream or downstream where erosion starts. Thereby such hard measures only transfer the problem of shoreline change until and unless a holistic study is undertaken keeping in view that sediment cells and appropriate scientific measures taking into consideration both soft and hard. The problem exhaustively highlighted by the applicant, noted above raises substantial question of environment. We are satisfied that the same needs to be addressed by all coastal States/UTs for protection of beaches from human induced erosion caused by hard structures. We find that

Puducherry model of SMP based on report of NIOT submitted in March 2015 addresses the issue comprehensively and can be adopted subject to any suitable change based on further study in terms of the recommendations in the said report. As suggested in the report, there is need to replace hard structures like seawalls, Groynes etc. with softer options such as beach nourishment, sand bypassing, dune planting, offshore submerged reefs, etc. Thus, the general principle of "working with nature" would be a better approach for cost-effective and sustainable coastal protection measures. There is no objection to the said model by any of the appearing parties. Further, the Tribunal also notes that depiction of high, Medium and low erosion stretches along the coast line is mandatory in the CZMPs. The CRZ Notification, 2019 regulates foreshore developmental activities based on these parameters as well. Like ports and harbours are prohibited in high erosion stretches. We also note that inspite of the CRZ Notification being issued in Jan, 2019, the CZMPs have not been finalized and approved for 11 State/UT. This is gross violation of Hon'ble Supreme Court judgment in *Indian Council For Enviro Legal ... vs Union of India & Ors.*, (1996) 5 SSC 281. Accordingly, we direct Chief Secretaries of the Costal State/UT to finalise the CZMP and get them approved by MoEF within 2 months. The approved CZMP shall contain the parameters as listed in the CRZ 2019 Notification including High, Medium and Low erosion stretches for such erosion prone areas. SMP shall be prepared as illustrated by NIOT for such erosion prone areas. We further direct preparation/updation of their SMPs for such identified eroding stretches shown in the CZMPs within six months. Pending preparation/updation of such SMPs by the Coastal States/UTs, no further hard structures for erosion control be raised or constructed.

The application is disposed of.

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A copy of this order be forwarded to all the Coastal States/UTs and MoEF&CC for compliance by e-mail.

Appeal No. 18/2017 (SZ)

84. As noted earlier challenge in the appeal is to the proposed construction of series of 19 Groynes from Ennore to Ernavoorkuppam in Madhavaram Tuluk of Tiruvallur District, Tamil Nadu by the Public Works Department (WRD). The main ground challenge of the CRZ Clearance is that construction of groynes in coastal area has adverse impact by obstructing littoral drift. The impugned clearance ignores this aspect. The impugned CRZ clearance itself mentions that the same is subject to further orders in O.A. 04/2013 which was pending on the date when CRZ Clearance was granted.

85. While dealing with the O.A. No. 4/2013 (SZ), we have approved the report of the NIOT recommending preparation of SMP which should be environmentally compatible, in the manner suggested and discussed above. We have also directed all the Coastal States/UTs in the Country to prepare their respective SMPs accordingly. The impugned CRZ Clearance is not sustainable in view of above discussion. The same is accordingly set aside without prejudice to fresh clearance being granted in accordance with the approved SMP.

The appeal is allowed in above terms.

Adarsh Kumar Goel, CP

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K. Ramakrishnan, JM

Sudhir Agarwal, JM

Pushpa Sathyanarayana, JM

Dr. Satyagopal Korlapati, EM

Prof. A. Senthil Vel, EM

April 11, 2022
O.A. No. 04/2013(SZ)
With Appeal No.18/2017(SZ)
A

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FORM No. II
(See Rule 8 of the TamilNadu Societies Registration Rules, 1978)

CERTIFICATE OF REGISTRATION UNDER SECTION 10 OF THE TAMIL NADU SOCIETIES REGISTRATION ACT, 1975 (TAMILNADU ACT 27 OF 1975)

CERTIFICATE OF REGISTRATION OF SOCIETIES

SL. NO. : 386 of 2010

I hereby Certify that

"FISHERMAN CARE"

has this day been Registered Under The Tamil Nadu Societies Registration Act, 1975 (Tamil Nadu Act 27 of 1975).

Given under my hand at CHENNAI SOUTH this 13th day of AUGUST 2010

Seal :

Station :

Signature of the Registrar

List of Executive Committee Members
Fisherman Care
மீனவர் நல பேரவை

SI No.	Name	Designation	Occupation	Address
1.	L.T.A. Peter Rayan	President	Deputy Secretary (R)	6, Nagalakshmi Salai, Tiruchendur Nagar, Old Pallavaram, Chennai – 600 117.
2.	P.N. Daiz	Vice President	Professor(R) Loyola College	261, A.N. Colony Chennai – 600 029
3.	A. J. Emurius Fernando	General Secretary	Physical Education Director (R)	23/38, V5.enkatesan Street, New Washermanpet, Chennai – 600 081.
4.	S.V. Antony	Secretary	Formal Panchayat President Uvary	3/77 St. Antony Street UVARI Trunelveli 627 651
5.	J. Antony Micheal Selvaraj	Treasurer	Business	74, North Car Street Vailior, Tirunelveli 627 177
6.	A. Jerald Johnny	E.C. Member	Student M.B.A., 2nd Year Jeppiar S.R.R. Engineering College, Chennai	4/2955A, Victoria Nagar, Thankachi Madam Ramanad District Pin- 623529
7.	Spencer Gomez	E.C. Member	Senior Manager, SYSTECH	5/145a, Workers estate, Neelakarai, Chennai – 600 041

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இந்திய அரசாங்கம்
Government of India

பீட்டர் எல் டி ஏ
Peter L T A

DOB 05/12/1949
Male

ஆதார் - சாதாரண மனிதனின் அதிகாரம்

ஆதார்

இந்திய தனித்துவ அடையாள ஆணையம் அமைப்பு
Unique Identification Authority of India

முகவரி: தந்தை தாய் பெயர்
ஓரிரு பட்டெங்கெட்டியார் 6
நாகலட்சுமி சாலை திருச்செந்தூர் நகர்
பல்லாவரம் பழைய பல்லாவரம்
காஞ்சிபுரம் தமிழ் நாடு

Address: S/O: Lourdu
Pattengettiar. 6,
NAGALAKSHMI SALAI,
THIRUCHENDUR NAGAR,
Pallavaram, Old Pallavarm,
Kancheepuram, Tamil Nadu,
600117

1947
1800 300 1947

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www.uidai.gov.in

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आयकर विभाग
INCOME TAX DEPARTMENT

भारत सरकार
GOVT. OF INDIA

L T A PETER
J LOURDUPATTENGETTIAR
06/12/1949
Permanent Account Number

Signature

ஊர் பொதுமக்கள்

கூடுதாழை - 627 651

திருநெல்வேலி மாவட்டம். தொலைபேசி எண். 04637 - 279145

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தேதி 25/3/2016

பெறுநர்

மீன்வள உதவி இயக்குநர் அவர்கள்,
இராதாபுரம்.

பொருள் : கூடுதாழை கிராமத்தில், கடல் அடியாலும் அரிப்பாலும் ஏற்படும் உயிர் விபத்துக்களையும் பொருள் சேதங்களையும் தடுக்கும் பொருட்டு தூண்டில் வளைவு அமைக்க வேண்டி விண்ணப்பம்.

கடந்த சில ஆண்டுகளாக கடல் அடியாலும் அரிப்பாலும் எமது ஊர் மிகவும் பாதிப்புள்ளாகியுள்ளது. கடலிலிருந்து கரைக்கு வருவதற்கு பாறைகளுக்கு இடுக்கே அமைந்துள்ள ஆழி வழியாகத்தான் படகைச் செலுத்த வேண்டும். இந்த ஆழியில் அடிபட்டுக் கடந்த ஆண்டுகளில் மூன்று பேர் இறந்துள்ளனர். ஆழிக்கடலில் அடிபட்டு படகு கவிழ்வதும், படகோட்டிகள் அடிபடுவதும், வலைகளும், மீன்பிடிக்கருவிகளும் தொலைந்துபோவதும் வாடிக்கையாகிவிட்டது. கடல் அடியாலும் அரிப்பாலும் எங்களை படகுகளை கடற்கரையில் நிறுத்தி வைத்துத் தொழில் செய்ய முடியாத நிலை ஏற்பட்டள்ளது.

கூடுதாழை கிராமத்திலும் கடல் அடியையும், அரிப்பையும் தடுக்கும் பொருட்டு தூண்டு வளைவு அமைத்து தங்களது ஆட்சிக் காலத்தில் இப்பேருதவியைச் செய்து எம் ஊரையும் மக்களையும் காக்க வேண்டுமெனத் தாழ்மையுடன் கேட்டுக்கொள்கிறேன்.

நன்றி,

இவண்,
ஊர் பொதுமக்கள்
கூடுதாழை.

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மின்துறை

அனுப்புநர்:
அ.ஹரிலால்அஹமத் M.Sc.,
செயற்பொறியாளர்,
மின்பிடி துறைமுக திட்டகோட்டம்,
தூத்துக்குடி.

பெறுநர்: திரு.[illegible]
ஊர்—பொதுமக்கள்,
கூடுதாழை — 627 651
திருநெல்வேலி மாவட்டம்.

க.எண்:வப/கோ.7/2017 நாள்: 29/06/2017

ஐயா,

பொருள்: மனு — திருநெல்வேலி மாவட்டம், இராதாபுரம் வட்டம், கூடுதாழை மீனவ கிராமத்தில் தூண்டில் வளைவு அமைக்க கேட்டு வரப்பெற்ற மனு — பதில் அனுப்புதல் - தொடர்பாக.

பார்வை: தலைமைப் பொறியாளர், மீன்வளத்துறை, சென்னை அவர்கள்கடித எண்.வ1/கோ.618(பொது)/2017 நாள்.25.05.2017.

******

பார்வையில் காணும் தலைமைப் பொறியாளர், சென்னை அவர்களின் கடிதம் வாயிலாக பெறப்பட்ட மனுவுக்கு கீழ்க்கண்டவாறு பதில் தெரிவிக்கப்படுகிறது.

திருநெல்வேலி மாவட்டம், இராதாபுரம் வட்டம், கூடுதாழை மீனவ கிராமத்தில் தூண்டில் வளைவு அமைப்பதற்காக ரூ.35.64 கோடியில் மதிப்பீடு தயாரிக்கப்பட்டு Green Climate Fund (GCF) மூலம் செயலாக்கம் செய்வதற்காக தலைமைப் பொறியாளர், சென்னை அவர்களுக்கு சமர்ப்பிக்கப்பட்டுள்ளது என்பதை தெரிவித்துக் கொள்ளப்படுகிறது.

29/6/17.
செயற்பொறியாளர்,
மீன்பிடி துறைமுக திட்ட கோட்டம்,
தூத்துக்குடி.

நகல்: தலைமைப் பொறியாளர், மீன்வளத்துறை, சென்னை அவர்களுக்கு பணிந்து சமர்ப்பிக்கப்படுகிறது.

மீனவர் பெரமாதுமக்கள்
கூடுதாழை - 627 651
திருநெல்வேலி மாவட்டம். தொலைபேசி எண். 04637 - 279145

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தேதி 22-01-2018

மீனவர் பங்கேற்புக் கூட்டம்

நாள் : 31.07.2017 நேரம் : மாலை 4.30

இடம் : கூடுதாழை

கூட்டத்தில் பங்கேற்றவர்கள் :

1. திரு. A. கண்ணன், உத்தவி செயற்பொறியாளர்,
   மீன்பிடி துறைமுக திட்ட உபகோட்டம்,
   திருநெல்வேலி.
2. திரு. J. செந்தில் குமார், உதவி பொறியாளர்
3. திரு. E. கார்த்திகேயன், மீன்துறை ஆய்வாளர்,
   இராதாபுரம்.
4. அருட்திரு. அந்தோணி ஜெகதீசன், பங்குத்தந்தை,
   கூடுதாழை
   மற்றும்
   மீனவ பிரதிநிதிகள்.

கூடுதாழை மீனவ கிராமம் திருநெல்வேலி மாவட்டம், இராதாபுரம் தாலுகாவில் அமைந்துள்ளது. இக்கிராமத்தில் 280 மீனவ குடும்பத்தில் சுமார் 1100 மீனவ மக்கள் வசித்து வருகிறோம். இக்கிராமத்தில் 125 பைபர் படகுகள் மூலம் மீன்பிடி தொழிலை தினசரி செய்து வருகின்றோம். இதுவே எங்களின் வாழ்வாதாரம் ஆகும். புயல் மற்றும் தென்மேற்கு பருவக்காற்று காலங்களில் கடலில் அலைகள் அதிகமான உயரத்திற்கு எழும்பி வருவதால் நாங்கள் மீன்பிடிப்புக்காக கடலுக்குள் பாதுகாப்பாக சென்று மீன்பிடித்து திரும்பி வர இயலாத நிலை உள்ளது. இதனால் மீன் பிடிக்க கடலுக்குள் செல்லும் போது கடல் ஆழி அலையினால் படகுகள் மற்றும் சில நேரங்களில் மனித உயிருக்கே ஆபத்து ஏற்பட்டு விடுகிறது. ஆகவே கடலுக்குள் பாதுகாப்பாக சென்று மீன்பிடித்து திரும்பி வர கடற்கரையில் இருந்து ஆழி அலை கடல் பகுதியை கடந்து செல்லுமாறு பாதுகாப்பான கடல் பகுதியை உருவாக்கும் வகையில் அலை தடுப்பு சுவர் வடிவமைத்து செயல்படுத்தி தருமாறு கேட்டுக் கொள்ளப்படுகிறது. இப்பணியினை செயல்படுத்தும் போது மீனவர்களின் வாழ்வாதாரம் மேம்படும் என தீர்மானம் நிறைவேற்றப்படுகிறது.

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Monday Petition

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or send 2018/9005/29/087773/0122 as SMS to 155250 to know the states as reply SMS

Petition No. & Date	2018/9005/29/087773/0122 (New Petition) & Dt. 22/01/2018
Department, Petition Main & Sub Category	Miscellaneous,Miscellaneous & Other Demands (to) Request.
Petition Detail: துாண்டில் வலைவு	
Concerned Officer	Deputy Director Fisheries, District Level Agri. Offices, TIRUNELVELI
Petitioner Name	வசா பொதுமக்கள் , Father / Spouse Name:
Address: ... ... குட்டம், KUTTAMTaluk Office , Radhapuram-District - GDP / TUPMS, TIRUNELVELINote : - Mobile Number: 0000000000	
Note : SMS is sent to your mobile number on submission and disposal of your petition.	

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Monday Petition

Petition Processing Portal (PPP) - Collectorate - Acknowledgement
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or send 2018/9005/29/087773/0122 as SMS to 155250 to know the status as reply SMS

Petition No. & Date	2018/9005/29/087773/0122 (New Petition) & Dt. 22/01/2018
Department, Petition Main & Sub Category	Miscellaneous.Miscellaneous & Other Demands (ie) Request.
Petition Detail: துரிதமாக வேலைகள்	
Concerned Officer	Deputy Director Fisheries. District Level Agri. Offices. TIRUNELVELI
Petitioner Name	அரசு பெயர்கள் . Father / Spouse Name: ..
Address: ... ... தூத்துக்குடி. KUTTAMTaluk Office . Ramanathapuram-District - GDP / TOPMS. TIRUNELVELIPostcode - Mobile Number: 0000000000	

Note : SMS is sent to your mobile number on submission and disposal of your petition.

பதிவேற்றம் செய்யப்படுகிறது

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மீன்வளம் மற்றும் மீனவர் நலத்துறை

அனுப்புநர்
சு.கங்காதரன்.எம்.இ,
செயற்பொறியாளர்,
மீன்பிடிதுறைமுக திட்ட உபகோட்டம்,
தூத்துக்குடி.

பெறுநர்
தலைவர்,
ஊர்நிர்வாகம்,
கூடுதாழை – 627651,
திருநெல்வேலி.

கு.எண்: வபி / கோ.7 / 2021 நாள்: 08 / 09 / 2021

அன்புடையீர்,

பொருள்: மீன்வளம் மற்றும் மீனவர் நலத்துறை - மாண்புமிகு மீன்வளம் மற்றும் மீனவர் நலத்துறை அமைச்சர் அவர்களால் பெறப்பட்ட மனு – பதில் அனுப்புவது தொடர்பாக.

பார்வை:
1. தலைவர், ஊர்நிர்வாகம், கூடுதாழை – 627651 திருநெல்வேலி. மனு நாள்: 14.06.2021.
2. மீன்வளம் மற்றும் மீனவர் நலத்துறை ஆணையர், சென்னை - 35 அவர்களது குறிப்பாணை எண்: 15374/சி4/2021 நாள்: 27.07.2021.
3. தலைமைப்பொறியாளர், மீன்வளத்துறை, சென்னை – 35 அவர்களது மேற்குறிப்பாணை எண்: வபி/கோ.618G/2021 நாள்: 09.08.2021.

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பார்வை 2 மற்றும் 3ல் காணும் குறிப்பாணைகளுடன் இணைத்து பெறப்பட்ட மாண்புமிகு மீன்வளம் மற்றும் மீனவர் நலத்துறை அமைச்சர் அவர்களால் பெறப்பட்ட கூடுதாழை ஊர்நிர்வாகம் சார்பில் அளித்த கோரிக்கைகள் தொடர்பான விபரம் பின்வருமாறு தெரிவிக்கப்படுகிறது.

1. திருநெல்வேலி மாவட்டம் கூடுதாழையில் NABARD – RIDF XXVII (PHASE II) திட்டத்தின் கீழ் மீன் இறங்குதளம் ரூ.40.00 கோடி மதிப்பீட்டில் அமைப்பதற்கு விரிவான திட்ட அறிக்கை சமர்ப்பிக்கப்பட்டுள்ளது. இத்திட்ட அறிக்கையில், அலை தடுப்பச்சுவர்கள் (Break Waters) 2-எண்ணம் 800மீ நீளத்திற்கு ஒன்றும், 280மீ நீளத்திற்கு ஒன்றும் அமைப்பதற்கான பணிகள் பரிசீலனையில் உள்ளன.
2. திருநெல்வேலி மாவட்டம் கூடுதாழையில் SAGARMALA திட்டத்தின் கீழ் மீன் இறங்குதளம் ரூ.10.00 கோடி மதிப்பீட்டில் அமைப்பதற்கு விரிவான திட்ட அறிக்கை (DPR) மற்றும் விரிவான திட்ட மதிப்பீடு (Detailed Estimate) சமர்ப்பிக்கப்பட்டுள்ளது. இம்மதிப்பீட்டில் ஏலக்கூடம் (30X12மீ) ஒன்றும் வலை பின்னும் கூடாரம் (30 x 12 மீ) ஒன்றும் கான்கிரீட் சாலை 125மீ நீளத்திற்கும் மற்றும் படகு அணையும் சுவர் (Wharf) 150 மீ நீளத்திற்கும் அமைக்கும் பணிகள் பரிசீலனையில் உள்ளன.

மேற்காணும் பணிகளை மேற்கொள்வதற்கான உரிய ஒப்புதல் அரசிடமிருந்து பெறப்பட்டவுடன் பணிகள் துவங்கப்படும் என்ற விபரம் தெரிவித்துக்கொள்ளப்படுகிறது.

8/9/21

செயற்பொறியாளர்
மீன்பிடிதுறைமுக திட்டக்கோட்டம்
தூத்துக்குடி.

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மீன்வளம் மற்றும் மீனவர் நலத்துறை

அனுப்புநர்:-
திரு.ஏ.த. மோகன் குமார்,
மீன்வளம் மற்றும் மீனவர்நலத்துறை
உதவி இயக்குநர்,
(விரிவாக்கம் மற்றும் பயிற்சி),
இராதாபுரம்.

பெறுநர்:-
திரு. ஜான்சன் அருள்,
5/13, வடக்குத் தெரு,
கூடுதாழை,
திசையன்விளை வட்டம்
திருநெல்வேலி மாவட்டம்.

ஐயா,

ந.க.எண். 568/ஆ1/2021 நாள்: 01.11.2021.

பொருள்: மீன்வளம் - அரசால் உங்கள் தொகுதியில் முதல்மைச்சர் துறை - இணையதள வாயிலாக பெறப்பட்ட மனு - பதில் தெரிவித்தல் - தொடர்பாக.

பார்வை: திசையன்விளை, திரு. ஜான்சன் அருள், என்பவரின் இணையதள வாயிலாக பெறப்பட்ட மனு எண்: 2326178, நாள்: 27.10.2021.

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பார்வையில் காணும் மனுவில் கடல் அரிப்பால் ஏற்படும் அபாயத்தை தவிர்க்கும் பொருட்டு கூடுதாழை மீனவர் கிராமத்தில் தூண்டில் வளைவு அமைத்துத் தருமாறு கோரப்பட்டுள்ளது.

இது தொடர்பாக தமிழக சட்டசபை கூட்டத்தொடரில் பொதுப்பணித்துறை - நீர்வள ஆதார அமைப்பு மூலம் கூடுதாழை மீனவர் கிராமத்தில் தூண்டில் வளைவு அமைக்கப்படும் என தமிழக அரசால் சட்டசபையில் அறிவிக்கப்பட்டுள்ளது. எனவே இம்மனுவில் கோரப்பட்டிருந்த விவரங்களுக்கான நடவடிக்கைகள் பொதுப்பணித்துறையால் மேற்கொள்ளப்படும் என்பதை தெரிவித்துக் கொள்கிறேன்.

ஏ.த. மோகன் குமார்
உதவி இயக்குநர்
மீன்வளம் மற்றும் மீனவர் நலத்துறை
(விரிவாக்கம் மற்றும் பயிற்சி)
இராதாபுரம்

/ஆன்லைன்/

கண்காணிப்பாளர்

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Union Minister Dr Jitendra Singh says, about 33.6% of the coastline is under varying degree of erosion

National Center for Coastal Research (NCCR), an attached office of MoES analyzed shoreline erosion from 1990 to 2018

Posted On: 31 MAR 2022 3:19PM by PIB Delhi

Union Minister of State (Independent Charge) Science & Technology; Minister of State (Independent Charge) Earth Sciences; MoS PMO, Personnel, Public Grievances, Pensions, Atomic Energy and Space, Dr Jitendra Singh said that a total of 6,632 km long Indian coastline of mainland has been analyzed from 1990 to 2018 and it is noted that about 33.6 % of the coastline is under varying degree of erosion.

In a written reply to a question in the Rajya Sabha today, Dr Jitendra Singh said, National Center for Coastal Research (NCCR), an attached office of MoES is monitoring the shoreline erosion since 1990 using remote sensing data and GIS mapping techniques.

Dr Jitendra Singh said, the reasons for coastal erosions include increase in frequency of Cyclones and Sea level rise and anthropogenic activities such as construction of harbours, beach mining and building of dams. He said, there are 526 maps prepared for entire Indian coast for identifying areas vulnerable to coastal erosion in 1:25000 scale along with 66 district maps, 10 state /UT maps. A Report on "National Assessment of Shoreline Changes along Indian Coast" is released in July, 2018 and shared with various Central and State government Agencies and Stakeholders for implementing shore line protection measures. The digital and hard copy of all the Maps is released on 25th March, 2022.

Dr Jitendra Singh said, the Ministry of Earth Sciences (MoES) had successfully demonstrated innovative coastal erosion mitigation measures at two pilot locations.

(i) Puducherry Beach Restoration Project, Puducherry

The Submerged Reef has been implemented by MoES and beach nourishment is implemented by Govt of Puducherry. This helped in restoration of 1.5 km long city beach after 30 years and helped in improving tourism and fishing activities in addition to protection of coast during extreme cyclonic events.

(ii) Kadalur Periya Kuppam, Tamil Nadu

An Offshore submerged dyke was implemented. This helped in protection of three fishing Villages during extreme cyclonic events and restored lost beach that is being used for landing of fishing boats and other fishing activities.

In addition, NCCR is also providing technical support to state governments of Kerala (Chellanam, Kollamkode, Poonthura, Varkala and Shangumugham) , Odisha (Ramayapatnam, Puri, Konark and Pentha), Andhra Pradesh (Vishakapatnam) and Goa for implementation of coastal protection measures at vulnerable stretches.

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The state wise details of erosion are given below:

S.No	State		Coast Length (in km)	Erosion	
				Km	%
1	West Coast	Gujarat	1945.60	537.5	27.6
2		Daman & Diu	31.83	11.02	34.6
3		Maharashtra	739.57	188.26	25.5
4		Goa	139.64	26.82	19.2
5		Karnataka	313.02	74.34	23.7
6		Kerala	592.96	275.33	46.4
7	East Coast	Tamil Nadu	991.47	422.94	42.7
8		Puducherry	41.66	23.42	56.2
9		Andhra Pradesh	1027.58	294.89	28.7
10		Odisha	549.50	140.72	25.6
11		West Bengal	534.35	323.07	60.5
Total			6907.18	2318.31	33.6

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SNC/RR

(Release ID: 1811914)

Item Nos. 3 & 4 (Court No. 1)

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BEFORE THE NATIONAL GREEN TRIBUNAL
SPECIAL BENCH

(By Video Conferencing)

Original Application No. 04/2013(SZ)
WITH
Appeal No.18/2017(SZ)

C. H. Balamohan Applicant

Versus

Union of India and Ors. Respondent(s)

Date of hearing: 11.04.2022

CORAM: **HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON**
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE MS. JUSTICE PUSHPA SATHYANARAYANA, JUDICIAL MEMBER
HON'BLE DR. SATYAGOPAL KORLAPATI, EXPERT MEMBER
HON'BLE PROF. A SENTHIL VEL, EXPERT MEMBER

O.A. No. 04/2013(SZ)

For Applicant(s) Mr. A. Yogeshwaran, Advocate

For Respondent(s) Mr. G.M. Syed Nurullah Sheriff, Advocate for R1 & R5.
Dr. D. Shanmuganathan, Advocate for R6 to R8.
Mr. V. Balamurugan and Mr. Alex, Advocates for R9, R10, R12, R20.
M/s. Suvitha, Advocate for R13
Mrs. Madhuri Donti Reddy, Advocate for R16
Mrs. V.K. Rema Smrithi, Advocate for R17.

Appeal No. 18/2017(SZ)

For Appellant(s) Mr. A. Yogeshwaran, Advocate
For Respondent(s): Mr. G.M. Syed Nurullah Sheriff, Advocate for R1 & R2.
Dr. D. Shanmuganathan, Advocate for R3.

ORDER

1 This order will deal with O.A. No. 04/2013(SZ) and Appeal No. 18/2017(SZ) as the both matters involve common issue of protection of stretches of coastal line affected by the human induced erosion caused by hard structures.

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Introductory

2. O.A. No. 04/2013(SZ) was filed on 17.01.2013 raising the grievance of destruction of Puducherry and Tamil Nadu Coastal Environment due to construction of hard-structures causing continuous erosion of the coast. It is submitted that not only the stretch in question but most parts of Indian Coastline - both on the East and West Coasts are under the influence of the Littoral Drift.

3. Appeal No. 18/2017(SZ) has been preferred against CRZ Clearance dated 06.10.2016 granted by the SEIAA, Tamil Nadu for proposed construction of series of 19 Groynes from Ennore to Ernavoorkuppam in Madhavaram Tuluk of Tiruvallur District, Tamil Nadu, by the Public Works Department (WRD). **The clearance has been granted subject to orders of this Tribunal in OA04/2013**. The said appeal was filed on 28.2.2017 and was admitted for consideration on 10.03.2017. To appreciate the issue involve, we may refer to some of the averments in the O.A.

Main contentions of the Applicant/Appellant

4. According to the applicant there is large scale human induced erosion and destruction. The Littoral Drift varies from one coastal compartment (or sediment cell) to another. Within each of these coastal compartments, the undisturbed coastal environment and habitat is usually in a state of equilibrium. For such a state of equilibrium to exist within a coastal compartment, the "sedimentary budget" within a compartment needs to be maintained. The sedimentary budget is something that has been arrived at and is determined by the prevailing natural phenomena along a particular coast. Just like the water level in

a river is maintained and determined by the "water budget" of its catchment area, similarly the "sediment budget" of the "river of sand" along the coast is determined by the related factors within its sediment cell.

5. When the "sedimentary budget" within a coastal compartment is disturbed and upset, i.e. when the natural movement of sand is disturbed and interrupted for example by man-made coastal structures, a cascading effect takes place along the shores of a given sediment cell. When a coastal structure is erected in the path of the freely moving sand along the coast, the structures prevent the natural flow of sand in the same manner as a dam across the path of river interrupts the flow of water. In such an instance one part of the coast gets an excess of sand and the other side on the down-drift is starved of sediment. The side that is starved of sediment starts and keeps eroding as long as fresh input of sand is not provided.

6. Because coastal compartments and sediment cells are large, often larger than artificial boundaries such as politically determined state boundaries, one sediment cell may overlap two neighboring states. This is particularly true along the East coast of India, where for instance stretches of coastline of the States of Tamil Nadu and Puducherry are part of the same coastal compartment and sediment cell. This is particularly relevant in the case of Puducherry as its territory is fragmented and surrounded by the territories of Tamil Nadu. Thus, if the sediment budget within a coastal compartment that is shared by two states is upset, the impact of such interference will be felt across states.

7. The environmental destruction caused by the construction of hard structures on the coastline which negatively affect the coastal

processes, the environment and the communities is a problem that is not confined to either the Union Territory of Puducherry, or to the State of Tamil Nadu. Rather, it is a situation in which the negligence and/or mismanagement of one government causes destruction both within its own jurisdiction and within the neighboring jurisdiction. Because **the damaging effects of these hard structures transcend state and union territory boundaries,** responsibility for preventing such damage rests equally with the Union Government of India, as well as with the governments of the Union Territory of Puducherry and Tamil Nadu.

8. The Puducherry Region of the Union Territory of Puducherry and large parts of the Tamil Nadu coastline, are situated on the east coast of India which has a sandy coastline and is therefore vulnerable to human-induced change and is thus ecologically sensitive and fragile. The coastal geomorphology and related ecosystems play a large and vital role in the economic development of the region, providing a large number of functions and services, from sustaining ecology, traditional fishing communities to attracting visitors to Puducherry's tourism industry. The severe and rapidly worsening coastal erosion is damaging the subsistence based, sustainable and lucrative sectors of the local economy making the affected region increasingly ecologically, socially and economically vulnerable.

9. Over the past two decades, Puducherry has suffered large scale coastal erosion induced by imprudent, ad hoc and unscientific construction of hard structures on the coast which have a constant, negative impact which is felt and aggravated with every single day that goes by. This problem of human-induced coastal erosion has not been addressed by the Government of Puducherry. Instead, the coastal

management measures adopted so far have only transferred and aggravated the problem of erosion down the coast to the neighbouring state of Tamil Nadu which has been facing the same ever-increasing problems of human-induced coastal erosion since over a decade.

10. The problem of large scale and rapid coastal erosion in Puducherry started in and around 1986 with the construction of an artificial harbour in Ariyankuppam estuary, situated 1.5 km to the south of the Puducherry town. The harbour was meant to provide an artificial channel from the open sea into the Ariyankuppam estuary to provide a safe entrance for barges and other sea-going crafts. The Harbour was finally commissioned in 1993.

11. To keep the mouth of the harbour open to the sea, two breakwaters were constructed to the south and north of the harbour mouth, at either side of the Ariyankuppam estuary. As a result, the northward flow of sediment along the coast was blocked at the southern breakwater, starving the coast to the north of the harbour of sand and causing severe erosion of the coast. The construction of breakwaters in the Puducherry harbour thus commenced the process of coastal erosion and, as a consequence, several kilometres of beach in Puducherry Town has been completely lost.

12. The process of massive erosion caused by the harbour construction was not unexpected. To the contrary, it was expressly anticipated by the studies and recommendations by Centre for Water, Power and Resource Studies ("CWPRS") and Consulting Engineering Services Private Limited ("CES"), which advised the Government of Puducherry while the project was still in the planning stage. Those studies accurately predicted that the breakwaters at the harbour

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entrance could cause massive erosion to the north of the harbour, as the structure would block the natural, incessant migration of sand. The studies further predicted that sand would accumulate to the south of the breakwater and the harbour entrance would silt up due to littoral drift. The consultants warned that constant maintenance and dredging was required to clear the harbour mouth, to keep it open. The studies recommended that sand dredged from harbour mouth must be used for sand nourishment to the beaches north of the harbor in order to mitigate the negative impacts caused by the blockage of sand by the harbor breakwaters. The consultants further concluded that continuous sand by-passing -whereby sand blocked and accumulating at the southern breakwater would be mechanically transferred across the harbor mouth and allow it to resume its northward flow up the coast - was required to prevent and mitigate erosion of the coastline north of the harbour, where the town of Puducherry Town as well as several fishing hamlets are situated. An elaborate system of mechanical sand by-passing with dredgers to pump sand from the south side of the harbour to the north side, was therefore adopted when the port was constructed in order to mitigate the negative impacts of coastal erosion.

13. The planned process and system for mitigation which consisted of mechanical sand by-passing and beach nourishment was never efficiently operated by the Government of Puducherry as the system was never fully or properly implemented. Since 1993, when the Ariyankuppam harbour was formally commissioned and became fully operational, it is estimated that out of the total amount of maintenance dredging to be undertaken by the Government of Puducherry, less than about 25% of the total required volume of sand has been dredged till now. However, less than that (it is estimated about 50%) was used to

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nourish the beaches as the dredged sand was instead wrongfully either used for land reclamation, disposed of into the deep sea or pilfered by illegal sand miners. As a consequence, the massive human-induced erosion predicted by CWPRS and CES occurred precisely as they said it would, completely wiping-out 10 kilometres of beautiful and important sandy beach along the historic promenade of Puducherry town, the fishing hamlets of Kuruchikuppam, Vaithikuppam, Solai Nagar in Puducherry and the fishing hamlets of Soudanikuppam, Nadu Kuppam, Thandirayan Kuppam and Chinnamudaliarchavadi Kuppam in Tamil Nadu. Other coastal communities further to the north are also witnessing the shrinking of their beaches as the human-induced erosion threateningly moves northwards.

14. In 2002, long after the beach in Puducherry town had disappeared, following several representations made by members of the civil society as well as by experts, the Government of Puducherry instituted a program of sand by-passing and artificial beach nourishment, using sediment dredged from the harbour to provide northward flowing sand. Within a short period of time, small areas of beach began to re-form adjacent to the town. However, unfortunately this program was not sustained and the new areas of beach quickly disappeared when artificial beach nourishment ended.

15. The massive erosion process unleashed by construction of the harbour did not stop with the evisceration of the sand beach. Without the presence of the beach and its corresponding off-shore sand bar, the waves which once formed some distance from shore and broke gently on the slope of the beach now crashed directly onto the once-dry land. Goubert Avenue, more commonly known in Puducherry as "Beach

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Road", which runs for 1.5 kilometres along the shore where the sandy beach used to stretch, was threatened as the land beneath it was undermined by the ongoing erosion. Because of scouring of sand below the promenade, the road started to crack and crumble and had to be entirely re-laid.

16. With the natural flow of sand blocked at the harbour and the system of sand bypass neglected, the erosion which eliminated the beach now threatened the very heart of Puducherry town, including the very government offices, the Chief Secretariat, in which the decision to build the ill-considered harbour was originally taken. Instead of activating the sand by-passing system to mitigate the erosion and nourish the beaches as originally intended, the government of Puducherry chose to create a rip-rap seawall along Beach road, dumping crores of tonnes of massive rocks, trucked-in from quarries in Tamil Nadu to "defend" the town against further erosion.

17. In August 2001, a Preliminary Report Submitted by NOIT-IIT to the Govt. of Puducherry proposed the construction of groynes along the coast of the Puducherry Town. This proposal was opposed by members of civil society groups as it was deemed to be detrimental to the coastal environment. A second opinion on the proposed project was sought by the Government. This proposal was subsequently shelved and thankfully never saw the light of day.

18. A groyne is an impermeable wall extending perpendicularly from land into the sea. Along the Puducherry coast the objective of a groyne is to capture the northward-moving sand along the southern side of the groyne. Indeed, tiny scalloped beaches have formed along the massive groynes; but these small gains have come at an enormous cost. Just as

the breakwater at the harbour trapped sand to the south and caused massive erosion to the north, the groynes rapidly accelerated the northward process of coastal erosion.

19. Clearly, groynes were faulty as a solution as they would only succeed in moving erosion northwards and were no substitute for beach nourishment. Several groups were opposed to this wasteful and environmentally unsustainable exercise and sought scientific opinion to buttress what was clearly common sensical. In October 2001 DELFT TECHNICAL UNIVERSITY in their expert opinion to INTACH, Pondicherry on NIOT's proposal stated that the NIOT's proposal did not prevent structural erosion in the area north of the groyne field nor did it take away the causes of siltation of the harbour entrance. The University further suggested that more studies were needed to be undertaken, an Integrated Coastal Zone Management Plan had to be prepared and alternative solutions such as sand bypassing and beach nourishment to mitigate the coastal problems was to be explored. Although all of this information and suggestions were shared with concerned Government authorities no suitable action was taken.

20. In April 2002, a civic group called Citizens Forum of Pondicherry also raised objections to this proposal. The construction of groynes was opposed as the groynes would merely transfer the erosion northwards and not solve the root cause of the problem, the disruption of the littoral drift by the harbour. They instead suggested that detailed studies should be undertaken which included the redesigning of the harbour entrance. They also objected to the NIOT/IIT's concept of conducting trials in the Ocean at the detriment of the environment. Heeding to all

this criticism, the Government of Pondicherry sought a second opinion from Danish Hydraulics Institute (hereinafter referred to as "DHI").

21. Subsequently on October 2002, a Coastal Erosion Study was conducted by Study Group CF01 of DHI and they concluded as follows:

- Sand by-passing is the best solution.
- Construction of groynes is not a favorable solution.

The Study Group also recommended that:

- Viability of the harbour project was to be investigated.
- Preparation of an ICZMP.
- Dredging and by-pass were to be monitored closely.

DHI proposed to:

- Conduct site visit and review data.
- Assess annual sediment balance.
- Conduct preliminary design of Port entrance.
- Optimize port entrance layout.
- Prepare design for shoreline management scheme.
- Prepare guidelines for dredging and re-nourishment.

22. However, no suitable action was taken. Between 2002 and 2003, the Government of Puducherry constructed 6 kilometres of seawall along the Puducherry coast, at a cost of several crores of rupees. The decision to abandon the planned and existing mitigating measures of sand by-passing and beach nourishment in favour of seawalls were undertaken without conducting any detailed, comprehensive studies and were therefore undertaken on a purely ad hoc, arbitrary and unscientific manner. The construction of seawalls was undertaken in total disregard of the observation and recommendations made by Dr. Z.S. Tarapore and Dr. Vaidyarannan both erstwhile Directors of the CWPRS which were fully familiar with the design of the Puducherry harbor and Ariaynkuppam.

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23. On 21 February 2003, Mr. P.P. Vaidyaraman, retired director of CWPRS, who was part of the design team of the Puducherry harbor at Ariyankuppam wrote to the GoP following his visit to Puducherry shortly after sand by-passing and beach nourishment had been undertaken at the Puducherry harbor. Mr. Vaidyaraman was not only extremely pleased with the results of beach nourishment, but also made several suggestions for the continuation of sand by-passing and beach nourishment which he stated should be replicated at several of the other Indian ports as well. However, few of his suggestions were implemented.

24. While the "hard structure" of the seawall has had the limited superficial effect of keeping the erosion from penetrating onto Beach Road, it accelerated two other erosion processes. First, the surf which now crashed against the hard barrier of the seawall carved-out and scoured the sea floor that was once safely beneath the sand beach. This would come to have dire effects on the quality of the drinking water in Puducherry, creating a short path for saline intrusion into the town's aquifers. It would also prevent any future beach from forming along that stretch of coast because the sea floor was now too deep and unstable to retain migrating sand, even if it had been allowed to flow as nature had intended.

25. The second erosion process accelerated by the seawall was to the north of the construction. At the end of the hard structure, the long shore currents form a powerful eddy, scooping-out the "unprotected" land in deep pockets of erosion. Thus began a vicious cycle of erosion and defense, more-erosion and more defenses. As the seawall transferred and spread the problem of erosion northward up the coast,

more and more beach was lost, more village land fell into the sea, and the disaster migrated further-and-further. Puducherry's coastal erosion problem had now become Tamil Nadu's problem as well.

26. In 2003 Tamil Nadu PWD initiated its own "hard structure" protection measures, in response to the erosion to its fishing villages caused by the hard structures built by its southern neighbor. Seawalls were built in Nadukuppam, then in Sothanaikuppam during 2005-2006, as the coastal erosion was forced northward. Today, these seawalls extend all the way to Kottakuppam and Chinnamudalaiyar Chavadi and Tamil Nadu is passing the problem back to Puducherry, as the erosion now reaches the Union Territory enclave at Pillaichavadi and beyond.

27. The fishing villages along the coast to the north of Puducherry town lost more than just beach and village land as the erosionary process crept northward. They also lost their industry. As the seawall lengthened, fishermen could no longer launch their traditional skiffs and catamarans. The beaches from which they launched their boats into the sea and landed their catch back on land were gone. It is impossible to launch from the steep seawall, which has waves crashing hard against it. The loss of the beach space has also affected the livelihoods of the fishing communities in several other ways as the beaches are also used to dry fish, repair nets and carry out several other related activities. Fishing communities complained to the Government of Puducherry that without beaches to fish from, their livelihoods were lost.

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28. In 2004, Dr. Z.S. Tarapore, retired director of CWPRS, who was part of the design team of the Puducherry harbor at Ariyankuppam wrote to the GoP following his visit to Puducherry and warned the GoP against construction of groynes. He warned that the construction of groynes was a "dangerous proposition" since the groynes would only transfer the problem of erosion further down drift, where there were heavily populated areas. Among other things he suggested to undertake "a massive nourishment programme" to control the problem of erosion to the north of the harbor. During the same time, in his address to the 6th CPDAC (Coastal Protection & Development Advisory Committee of the Central Water Commission), in the year 2004, the problem of erosion was discussed and it suggested that groynes and seawalls were not the answer. The erstwhile Chief Secretary of Puducherry advocated that "cost-effective and environment friendly technologies" should be adopted to address the on-going problem of erosion. During the 10th CPDAC meeting it was once again emphasized that "coastal protection works and the coastal zone management should go together since one had impact on the other. Also, the States should not think only of the sea walls as a protection measure to protect the shoreline but also adopt other new technologies which preserve the beaches and ecology as well."

29. In 2004, the Tsunami struck the East coast of India. The coastal populations of the Puducherry region did not suffer much damage as most of the inhabited areas were located in areas that were in significantly elevated from the level of the sea. However, with an abundance of funds flowing into the Government's coffers, as a knee-jerk reaction and a populist measure, large amounts of money were

spent to enlarge the seawalls along the Puducherry coast instead of spending those funds on the much required and planned beach nourishment that would have restored the beaches and protected the Puducherry town and coastal villages more effectively against any future Tsunamis.

30. In spite of expert views on the dangers of constructing groynes and the necessity of conducting detailed studies off the coast, the PWD drew a fresh proposal to construct groynes along the Pondicherry coastline. In November 2006, a 50 m long groyne was constructed just adjacent and north of the New Pier. From enquiries it was learnt that this groyne was built without any environmental clearance and its construction was abruptly halted upon enquiries.

31. Notwithstanding the severe erosion along the coasts of Puducherry, the Government of Puducherry did not resume the dredging and sand bypass operations that might restore some portion of beach to its coastline. Instead, under pressure from fishing villages to artificially recreate sandy beaches from which to fish, both the Government of Puducherry and the Government of Tamil Nadu began building groynes at intervals along the coast in 2005.

32. In April 2007, the Government of Tamil Nadu constructed two large groynes at Thandirayankuppam. The southern groyne is 100 m long and the northern groyne is 170 m long. These groynes triggered severe erosion of the coastline to the north. About 70 m wide beach was lost in the same year to the north of the groyne. Since the construction of these groynes, about 2.5 acres of beach has been lost severely affecting the villages of Chinnamudaliarchavadikuppam and Bommayarpalayam.

The village of Chinnamudaliarchavadikuppam lost several homes as a result of the human-induced erosion. Several other private and public properties have also been damaged.

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33. On 20th July 2007, members of civil society groups met the officials of PWD & Port Secretary, Mr. Anbarasu and discussed the urgency for the Pondicherry Government to resume dredging and sand nourishment activities at Pondicherry Harbour entrance. When queried about the status of the proposed construction of groynes, Mr. Anbarasu stated that there was no definite proposal and he was seriously considering dredging and sand nourishment.

34. In July and August of 2007, elected representatives from the seven fishing villages of Anichankuppam, Chinnamudalyarchavady, Koonimedu, Mudhaliarkuppam, Nadukuppam, Notchikuppam and Pudhukuppam, which are located in the Kottakupam and Marakanam Blocks of the Villupuram District wrote to the Hon'ble Chief Ministers of Puducherry and Tamil Nadu and also submitted resolutions to inform them about their plight caused by the human induced erosion of the coast and also demanded that the beaches in front of their villages be restored so that they may pursue their livelihoods. Being located to the north of Puducherry and seeing the human induced erosion spread towards their beaches they were understandably deeply concerned about the future of their coastal environment and their livelihoods that depended on it. However, no action was taken to fulfill their demands and needs.

35. Following public outcry by several environment groups the construction of other groynes that were also planned was stopped. On

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Nov. 3rd 2007 a public consultation meet was held in Auroville between Government officials of Puducherry, Tamil Nadu in the presence of experts (Governmental and Nongovernmental) and civil society groups. The following solutions and measures were unanimously agreed upon and proposed:

Immediate —

a. Activate sand by-passing system for nourishment and restoration of beach immediately north of Puducherry harbor.

b. Undertake model studies urgently to arrive at the best method of restoring the eroding beaches of Puducherry and Tamil Nadu. Study the impact of groyne fields with and without artificial nourishment, before embarking on new measures

c. Remodel the harbour entrance for maximizing natural sand by-passing:

i. Initially for the existing fishing harbour
ii. Later for proposed deep water commercial harbour

Long Term:

d. Restoration to include artificial nourishment, as universally accepted

e. Investigate off-shore sand deposits for nourishment

f. Identify suitable sand nourishment equipment to operate in wave environment

Administrative:

g. Coastal Zone Management Authorities (CZMA) of Tamil Nadu and Puducherry to coordinate and take up the issue of coastal erosion jointly

h. Initiate Puducherry component of Integrated Coastal Zone Management Plan (ICZMP), in conjunction with Tamil Nadu's ICZMP.

i. Funds to be provided for modeling and hydrographic survey

36. On 7th December 2007, Mr. C.V. Shankar, IAS, Officer on Special Duty (RR) & Project Director (ETRP & TEAP), GoTN who had attended the consultation meet on 3rd Nov. 2007 wrote to the GoP with regards to proposed construction of groyne filed from Kuruchikuppam to Solai Nagar. He requests that this should be undertaken only after the preparation of a comprehensive plan for the coastline, that is sustainable, livelihood sensitive and eco-friendly.

37. On 26th December 2007, the Pondicherry Government inaugurated Capital Dredging, to be taken up at Harbour Entrance. However, when the capital dredging operations began it was shockingly and disappointingly learnt that the dredged sand was being disposed of in deep waters, off shore outside the littoral zone and not used for beach nourishment. Ironically, during the inauguration of capital dredging operations that was held with much fanfare at the New Pier premises, large banners publicizing Beach Nourishment were displayed in spite of the fact that no beach nourishment was being undertaken.

38. On 27th December 2007, members of civil society held meetings with the Port Director of Pondicherry and expressed disappointment that the sand dredged from the harbour entrance was being dumped into the deep waters instead of being used for beach nourishment. Members of civil society met the officials of Pondicherry port and the

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Secretary, PWD on 28th December 2007 on the issue of sand nourishment not being undertaken. The officials promised to look into the issue but however on 1st January 2008 the construction of groyne at Kuruchikuppam was resumed without any environmental clearance.

39. In January 2008, representations were made to the Secretary, MoEF about the on-going problem of human-induced erosion along the Pondicherry-Tamil Nadu coastline. The Secretary wrote to the GoP asking them to discuss matters of erosion with GoTN in order to find a viable solution and save the beaches. In total disregard of the observations, recommendation and conclusions of the Nov. 2007 meet, the Govt. of Puducherry initiated a project of construction of groynes along the coast of Kuruchikuppam and Solai Nagar. With construction of groynes continuing to damage the coastline, Jesuratinam, convenor of Coastal Action Network from Nagapattinam filed a writ petition in the High Court at Chennai (W.P. No.1452 of 2008) seeking a Writ of Mandamus, directing the Government of Puducherry (a) to forbear from constructing groyne fields in the coastal region of Puducherry, (b) to conduct appropriate scientific studies for development of a sustainable and comprehensive coastal management plan for the restoration of the Puducherry/Tamil Nadu coastline, and (c) to frame a suitable scheme to ensure that the natural movement of sand is restored so that the coastal areas of Puducherry and Tamil Nadu are protected from erosion. The Government of Tamil Nadu was also a respondent to that petition.

40. This writ petition was disposed on 13 February 2008, after the learned pleader for Government of Puducherry declared in open court

that the activity of construction of groyne field would not be undertaken without the prior permission from the Ministry of Environment and Forestry, Government of India. On this representation by the Government of Puducherry, the High Court dismissed the petition and made no orders with respect to the incidental and ancillary prayers. However, contrary to the undertaking given in Court, construction has begun without obtaining environmental clearance, causing grave irreversible damage.

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41. Following the above writ petition, the MoEF constituted a three member committee to visit the Puducherry site proposed for groyne construction. The Committee visited Puducherry on 11th and 12th June 2008 and subsequently reported that as a long-term measure, the GoP should seriously consider sand by-passing of the required amount of sand as this was likely to mitigate the problem of erosion. The committee also suggested that a study covering both Puducherry and adjacent Tamil Nadu coast should be undertaken by a reputed organization. Neither of these have been implemented so far.

42. At the national level, coastal erosion has also been become an increasingly pressing issue with every coastal state facing some form of coastal erosion or the other.

43. In April 2009 the Asian Development Bank prepared a report for itself and the Government of India for India's sustainable coastal protection and management. In this report, the following significant points are made:

Change of philosophy:

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"The change to sustainable and soft engineering measures for protection needs to be supported by an effective institutional framework including the Government at different levels, communities and also the private sector. To achieve the necessary levels of support requires a shift in Government policy with a clear mandate for the concerned organizations. A key technical issue is the diagnosis and identification of appropriate solutions for coastal protection works. The projects presently being implemented in the states are based almost entirely on the continued expansion and rehabilitation of rock protection works. This type of development is and will continue to have very serious environmental and social implications. There is a need to completely reshape the approach and philosophy to planning, design and implementation of coastal erosion works. Soft solutions for erosion control are now well developed and are already beginning to be implemented in India. There is need to help and guide a well-planned and programmed transition process as well as ensure the planning and designs for the proposed investment program meet the highest standard of environmentally and socially appropriate solutions. There is also a need to identify and address the causes of erosion, frequently these are manmade and the most appropriate solution is to address the cause rather than the effect. This requires an integrated and coordinated approach to the planning and development of all coastal infrastructure and shoreline uses."

Sector assessment:

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"The coastal protection strategy in India is synonymous with a prime objective to protect the land; the concept of protecting the beach and the environment are relatively new concepts; coastal protection is not perceived within the wider context of the economic development of the coastline. The most frequently applied methods for coastal protection have been through the use of hard structures such as seawalls or groynes. Despite many failures and environmental damage seawalls and groynes have continued to be constructed which in many cases has simply shifted the problem to neighboring coastal areas or left the real problem to be solved by future generations. As the pressure on the coastal zone due to human-induced activities as well as relative sea level rise keeps expanding, there is an urgent need to find sustainable solutions for coastal protection."

"There is a general awareness of the impacts of hard structures. Rock wall comes easily and soft solutions are largely untried and the technologies are not well understood. The continued use of hard technologies for coastal protection are being questioned by decision makers and there is now a widespread interest and realization of a need to change to softer and appropriate solutions The move to softer solutions although an easy and acceptable solution in principle but in practice requires significant behavioral changes by all those involved. The transition from hard to soft structures will require an integrated program of awareness, training, capacity building and other support initiatives."

"Presently measures to manage coastal erosion have generally been designed as a local emergency measure rather than sustainable and economically beneficial perspective. The most frequently applied protection methods are hard structures such as seawalls or groynes. Such interventions provide only land protection, and do not address the root cause of the problem; in many cases the protection structures actually accelerate erosion resulting in major losses of the beach."

Institutional arrangements:

"Central Water Commission (CWC), the technical arm of MoWR is the apex agency for shoreline protection / coastal erosion works in the country. CWC implements coastal protection works through two Directorates viz. the Coastal Erosion Directorate (CED) and the Beach Erosion Directorate (BED). The activities of the two directorates are not well coordinated and lateral communication between the two peer bodies is virtually non-existent. The apparent lack of an integrated approach to coastal erosion problems stems from this structural imbalance."

Policy:

"A major weakness in the current sector orientated sector development is the difficulty of addressing the processes and impacts of one sector on another. A prime cause of erosion is the interaction of coastal infrastructure on the natural coastal processes. To help this horizontal coordination is proposed to establish the CWC and the State Executing Agencies (SEA) as the lead group at National and State levels to coordinate coastal infrastructure activities. At National level the leading

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organization should be the CWC. The CWC remit is presently restricted to erosion control but there is a key requirement for the coastal erosion directorate to take on a wider coordination role of all coastal infrastructure works including erosion control, ports and harbors, dredging etc. At the State Level it is proposed to establish a Coastal Infrastructure Management Unit (CIMU) within the State Executing Agencies. This unit would be given a mandate to coordinate all coastal infrastructure programs.

"There is requirement for a policy document to support the process of shoreline management planning. The policy document for shoreline management planning should include:

(i) Charging the Coastal District Authorities to prepare Shoreline Management Plans (in coordination with the State Executing Agencies and agencies) over an agreed period. The shoreline plans would be advisory and non-statutory. The plans would be participative involving the stakeholders and local level stakeholders in the primary planning, as well as lateral involvement of different government departments / sector agencies.

(ii) Increasing the mandates of the SEA and the CWC to take on a lead coordination role in the overall coastal management specifically to coordinate and guide the development and management of all coastal infrastructure.

(iii) Ensuring that all shoreline developments and interventions are properly studied and subject rigorous technical analysis including numerical modeling. Projects should be supported by environmental assessments."

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44. In June 2009 an expert committee of the MoEF published the report "Final Frontier - Agenda to protect the ecosystem and habitat of India's coast for conservation and livelihood security." In this report the committee noted that currently, the shoreline of the country is undergoing a major change because of a large number of port and harbor projects. These projects involve large quantities of dredging, shore protection works, breakwaters, and reclamation. Experts are unanimous that each structure would impact the shoreline-particularly the beach formation. Already, many of these infrastructure projects have caused significant shoreline changes-like in Ennore, Puducherry, Alibag, Digha and Dahej. It is also observed that the shoreline is being impacted adversely by mining projects and by interventions like the building of shore-protection structures like groynes. The Committee was of the view that these developments have all led to serious threats to the coast, as especially beaches face severe erosion and shorelines are visibly changing. Given that the Central and state governments propose to construct several ports and harbours all along the shore in the coming years, these projects could have irreversible adverse impacts on the coast. The Committee recommended the following:

> "The government must immediately study the cumulative impacts of the individual projects on the coastline, pending which there should be a moratorium on expansion of existing ports and initiation of new projects."

45. Subsequently, in 2009 the MoEF assigned to the Ministry of Earth Sciences (MoES) to conduct a study for identifying the coastal stretches with regard to human-induced erosion/accretion caused by construction of shore protection measures and breakwaters of ports. Based on the discussions held with MoES, the study was initiated in

two phases namely - (a) phase-I to submit a report based on existing data/information by 15 th October, 2009; (b) phase - II of the study involves micro level analysis that would be carried out for the entire country for the purpose of examining shoreline changes due to existing projects and identify suitable sites for development.

46. In October 2009, ICMAM and INCOIS, MoES, submitted a joint report to the MoEF in which they stated that:

"Coastal structures constructed for port operations and coastal protections works interfere with the littoral transport are found the most common cause of coastal erosion."

"A groyne just shifts the erosion problem to the downstream area..: The more efficient the groyne field is in protecting the shoreline within the groyne field, the more lee side erosion will be experienced downstream."

"When a breakwater is built on the shoreline it interferes with the littoral drift budget and the results are sedimentation and shoreline impact. Like a groyne, the breakwater acts as a blockage of the littoral transport, whereby it causes trapping of sand on the upstream side in the form of an accumulating sand filet, and the possible bypass causes sedimentation in the entrance. The sedimentation requires maintenance dredging and deposition of the dredged sand. The result is a deficit in the littoral drift budget which causes lee side erosion along the adjacent shoreline."

"The major interventions which lead to morphological impact are listed as:

Coastal structures of any kind, which by their occupation directly impact the transport processes and thereby the coastal morphology. Such structures are typically the Ports and marinas, active coastal protection structures (groynes, breakwaters and all other structures occupying part of the foreshore and/or the shoreface), passive coastal protection structures (revetments, seawalls etc. which fix the coastline), reclamations and dikes, inlet jetties at tidal inlets and sea works at river mouths, embankments for bridges /runways, intake / outlet structures crossing the littoral zone."

The report also stated that about 23% or as much as 1248 km of shoreline along the Indian main land is affected by various degree of erosion varying from minor, moderate to severe.

47. In May 2010, the Department of Science, Technology and Environment (DSTE) and the Puducherry Coastal Zone Management Authority (PCZMA) of the Government of Puducherry held a consultation meeting on "Restoration and Protection of Puducherry Coastline" which was attended by various Government Departments, experts from the National Institute of Ocean Technology (NIOT), Anna University, members of the Auroville Foundation and of civil society. As reported in the Minutes of the Meeting "There was a consensus among the participants on the need to protect and nourish the coast of Puducherry and the adjoining areas by adopting site specific coastal protection and restoration techniques after carrying out scientific studies and in consultation with all stakeholders including fishermen community." However, no concrete measures have been implemented to date.

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48. A May 2010 document of the CWPRS states that of the various methods used for protection of the coast such as seawalls, revetments, bunds, groynes, offshore breakwaters, etc., the nourishment beach is the best method that should be used for shore protection. However, due to other considerations beach nourishment is still seldom used. Later in the same year, the Indian Journal of Geo-Marine Sciences publishes a paper on coastal erosion and mitigation methods. The author of that study concludes "The recent trends in coastal erosion mitigation is shifting towards soft, innovative, and pro-active methods, since the hard methods have their own repercussions on coastal land and beaches such as down-drift erosion, high cost, poor aesthetics etc. Hard structures such as seawalls and revetments, stop erosion of coastal lands, but refocus the erosion onto the beach. A number of soft methods are available now for erosion mitigation and are being used popularly all over the world. They are very eco-friendly, cheap and construction-friendly too. They may be necessarily adopted on a larger scale in the future erosion mitigation projects, and choice of the particular solution depending upon the local hydrodynamics and site conditions."

49. In October 2010, the PWD, GoP had commenced a Sea Wall project along the coast of Chinnakalapet Village, Puducherry without obtaining prior clearance under the Coastal Regulation Zone Notification, 1991. The site was inspected by members of the Puducherry Coastal Zone Management Authority and direction was issued on 13.10.2010 to the Chief Engineer, PWD under Section 5 of Environment Protection Act, 1986 to stop the sea wall construction immediately and submit necessary application to PCZMA for obtaining the Coastal Regulation

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Zone Clearance. PWD has complied and stopped the work. No further work has taken place since then.

50. In the month of November 2010 an official of the MoEF from the Southern Regional Office at Bangalore assessed the state of the coast of Puducherry in relation to the development of fishing harbor at Murthykuppam as it was being opposed by civil society groups. In this report it was observed that "For the old fishing harbor, it was informed that even though, on some earlier occasions, some of the concerned authorities have attempted to address the problem of coastal erosion, the measures taken for the old harbour remains inadequate and not comprehensive since the attempts made were too small and were on piecemeal basis, thus the efforts are not successful in controlling the erosion problems. In the new fishing harbor also a similar situation is arising. Now it is high time for the Government of Puducherry to prepare and launch a detailed implementation plan after due consultations with experts and by integrating all the concerned departments & stake holders for properly managing the coastline and to solve the issues arising out of developments which are taking place in the coast line of Puducherry and adjoining Tamil Nadu."

51. In the month of December 2010, the Project Implementation Agency for the Emergency Tsunami Reconstruction Project (PIA, ETRP) of the GoP issued a Tender for "Maintenance Dredging Works at Ariyankuppam River and the Sea Mouth for Puducherry Fishing Harbour" as part of the reconstruction and modernization of fishing harbor at Puducherry. The related maintenance dredging operations began in 2011 and are still continuing to date. However, while the dredging contractor is required to dispose the dredged material in the

ocean, the dredged material was instead dumped on the land and within the harbor limits. The dredged sand, estimated to be amounting to about 1,50,000 cubic meters is still lying on the land instead of being returned to the littoral drift. This subtraction of coastal sediment from the sedimentary budget of the Puducherry-Tamil Nadu coastal compartment and sediment cell is resulting in erosion of the coastline. Several representations to put the sand back into the sea to nourish the beaches have been made but no action has been taken till date.

52. In January 2011 the Puducherry PWD issued an Expression of Interest (EOI) for erosion control and reclamation of Puducherry beach with "soft solutions" such as geo tubes, clearly stating that all conventional "hard" measures such as "boulders, tetrapods, etc.," were excluded from the chosen solutions, as deemed harmful for the coastal environment. Additionally, it is stated that the proposed solution should have a short-term and long term perspective plan to ensure better coastal environment. Moreover, the proposed solutions should involve the authorities of neighbouring state and stake holders. Most importantly the consultant should "ensure that there is no adverse impact to the coastline due to the implementation of the project." This point is emphasized in the EOI repeating that "there is need to ensure that this does not affect the adjoining features of the coast line both in the state of Tamil Nadu and Puducherry." Finally, during the post-construction stage, the project proponent is supposed to achieve the objectives of coastal protection and reclamation in a "holistic manner." By undertaking such a project, the Government of Puducherry should be able to address its coastal erosion problems while ensuring that the

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neighbouring state and areas of Tamil Nadu not only do not get affected but also benefit from it.

53. On 18th August 2011 the Hon'ble Minister for Public Works Department, Govt. of Tamil Nadu writes to the Hon'ble Chief Minister of the Govt. of Puducherry to apprise him that the lack of sand by-passing and its effect on the littoral drift at the Ariyankuppam Harbour in Puducherry has caused severe erosion of the neighbouring Tamil Nadu coastline, as a result of which in the year 2006, 200 m of beach was eroded, several homes were destroyed and the life of a child was lost. The Hon'ble Minister draws the attention to an earlier letter from the Govt. of Tamil Nadu in which the GoP is requested not to continue construction of groynes without proper technical studies as it is likely to further affect the Tamil Nadu shoreline. He also informs that the proposed Deep Water Port would have a catastrophic effect on the shoreline of Villupuram District. He also requests the GoP to start sand by-passing and to desist going ahead with the proposed Deep-Water Port without obtaining the prior consent of the GoTN so that Tamil Nadu coastline is not further affected. On 29th November 2011, a second letter is sent to remind the GoP to start sand by-passing at the harbor and to stop further interruption of Littoral Drift that would take by construction of the proposed Deep Water Port which would further affect the Tamil Nadu coast and go against his Govt's interests.

54. On 29th Dec. 2011, the Secretary, Port Department, GoP held a stakeholder's meeting on restoration of Puducherry coastline as reported in the Minutes of the Meeting circulated on 23rd Feb 2012. During that the Secretary suggested that "all should work for a

sustainable solution to the problem of erosion." The Chief Engineer, PWD-cum Director of Ports-responded that "the PWD was called by the MoEF and had suggested that Geotubes be put up along the Puducherry coast towards restoring the coastline." During the meeting "all agreed that the rejuvenation of the lost beaches is of vital importance since it would not only help the fishermen but also facilitate tourism." To conclude, the Secretary assured that "a long term sustainable solution to the restoration of the coastline of Puducherry [was] for the benefit of one and all."

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55. On 2nd February 2012 the Government of Puducherry constituted the Evaluation Committee for Assessing the consultant for the coastal protection work in Puducherry using Geotextile tubes. This committee is yet to meet.

56. In March 2012 the MoEF wrote to the Government of Tamil Nadu to enquire about the construction of groynes along the Chinnamudalyar Chavadi Kuppam coast based on a complaint against the proposed groynes that was made by the NGO Pondy CAN. No action was taken.

57. In its September 2012 report, the National Institute of Ocean Technology (NIOT) stated the following with regard to the groynes constructed in Puducherry and Tamil Nadu: "It is recognised that groynes should be used only to maintain existing conditions, rather than enhancing beach volume or eliminating erosion... But this should be used only after exhausting all other available options for restoration." The report also stated:

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"There is a need for a well-defined plan that seeks to treat the shoreline and the issue of erosion in a more integrated, sustainable and strategic manner."

"It is recommended to have a total and common shoreline management plan for the entire Puducherry and the adjacent Tamil Nadu coast so that short-term and long-term strategies can be drawn considering the coast in total. The short-term strategies required at specific sites can be designed and integrated in long-term strategies, if a shoreline management plan is prepared."

"As Puducherry is known for its tourism/recreation, it is advisable to restore the natural beach by implementing beach nourishment... The above option will not only help in gaining a natural beach but also help in controlling the erosion of the northern coast. The detailed design of beach nourishment scheme can be worked out based on discussions. Also, eco-friendly techniques and "soft engineering measures" to stabilize the coast could be implemented along with beach nourishment for retaining the sand and to restore the ecological functions and services that are provided by sandy beach ecosystems as well as enhance livelihood opportunities for the fishing communities and increase value to the coast." "A long term and permanent solution can be found if both the Tamil Nadu and Puducherry Governments jointly work towards a common, long-term and sustainable shore restoration strategy. Short-term solutions may need to be implemented, but these have to take into account the long-term solutions and should be "no-regret" solutions." "The general principle of "working with nature" would be a better

approach for cost-effective and sustainable coastal protection measures. Puducherry needs to consider modern protection practices which achieve a more effective and sustainable means of coastal protection while also addressing local amenity and economic development aspects. It is most important to ensure that the natural movement and flow of sediment along the shoreline is maintained."

"The beach restoration will primarily benefit the coastal dwellers living along the Puducherry and nearby Tamil Nadu coast including fishing households, the owners, operators and employees of fishing boats, hotels and other tourism related businesses and their employees. But mostly it will benefit all the residents of this peaceful coastline whose young children have never even seen its beautiful beaches."

58. The report "The Challenged Coast of India" published in October 2012 also points out with regard to the performance of the groynes that were built along the Soudanikuppam-Thandiriayankuppam coast that for every square meter of beach that has been artificially gained with the use of groynes, about 4 square meters of beach space is damaged and lost on the down drift side of the groynes. Therefore, it is unequivocally demonstrated that groynes are causing more damage to the coast and that they are exacerbating the problem of erosion.

59. Neither the Government of Puducherry, nor the Government of Tamil Nadu examined any available options for beach restoration. Mechanical sand bypass was not implemented. More importantly, there is no record that the Government of Puducherry ever considered the simplest, most effective way to restore the beaches, end the massive

erosion of village land into the sea, restore the livelihoods of the local fishing communities, and reverse the trend of increasing saline infiltration into the local aquifers: to remove the damaging harbour at Ariyankuppam and allow the natural flow of sand to resume. When one compares the insignificant economic benefit conferred by the harbour with the enormous economic, social, and environmental cost of the ravaged coastline for 18 kilometres to the north (and moving ever-northward as hard structures proliferate), it is astonishing that the Government of Puducherry never considered this obvious alternative.

60. A comprehensive plan for coastal protection has not yet been considered in spite of the fact that both the Governments of Puducherry and Tamil Nadu are fully aware that the erosion is spreading northwards. Instead of taking proactive measures to mitigate the erosion, the erosion is instead allowed to go on, increase and further degrade the coastal environment. Both the governments jump into action only when it is too late and the erosion of the coast has become a manmade disaster in which the homes and livelihoods of the coastal communities have been destroyed. It is only in such belated circumstances that the concerned Government authorities resort to the construction of seawalls as emergency measures. Under these disastrous circumstances, the concerned authorities justify the construction of seawalls as their only option available. Such tardy actions, ad hoc-ism and poor planning and negligence only results in the destruction of a greater extent of the coastal environment.

61. The destruction of sandy beaches represents a very significant economic loss to Puducherry's tourism industry and to the traditional

fishing industry all along the damaged coast. It is estimated that thousands of traditional fishermen have been unable to pursue their livelihoods since the beaches were lost and seawalls have come up; and thousands more are now forced to launch their boats from places outside their own villages. An estimated 300 acres of land mass has been taken by the sea, including numerous houses and other buildings in coastal villages. The governments of Puducherry and Tamil Nadu have spent hundreds of crores of rupees dumping boulders to create riprap seawalls and groynes. In addition to the environmental and aesthetic loss to the immediate coastline, this construction activity entails collateral environmental damage to the mountains from which the boulders are quarried and the energy used to transport them from mountain to seaside. The hard structures on the coastline have radically transformed the morphology and morphodynamics of the coast and intertidal marine zone. This has far-reaching consequences for the entire ecosystem.

62. The endangered Olive Ridley sea turtles which are listed under Schedule I of the Indian Wildlife Protection Act (1972) nest along the Puducherry-Tamil Nadu coastline. Olive Ridleys are known to return to their natal beaches to lay their eggs. But when man-made structures have been built in the place of their nesting beaches, as is the case in Puducherry and Tamil Nadu, these structures prevent sea turtles from continuing their innate life cycles. Coastal structures therefore directly threaten and further endanger sea turtles by reducing suitable nesting habitat and displacing turtles into less-than-optimal nesting areas. The destruction of the natural beach space and habitat by human induced erosion followed by the armouring of the coast with seawalls

and groynes makes it impossible for sea turtles to make their nests on the beaches. The ad hoc and unscientific construction of seawalls and groynes along the coast is therefore directly endangering the existence of sea turtles.

63. The armouring of the coast with seawalls and groynes also results in the destruction of intertidal habitat that is required by marine flora and fauna such as planktons, crustaceans, bi-valves, mollusks, other invertebrates and even fishes. These flora and fauna also form part of the marine food chain which supports fish stocks. The destruction of inter-tidal habitat therefore impacts large numbers of marine species and ecosystems.

64. Without the beach providing the crucial sandy buffer between the sea and the land, erosion of the seabed at the coastal margin has resulted in salt water infiltration into the local aquifers. The Central Ground Water Board has reported that the ground water development in the Puducherry region is rather very high and no further groundwater development is to be encouraged. On the other hand, there is an urgent need for regulation of over-exploitation, protection and augmentation of ground water resources to recharge the depleted aquifer systems. An assessment of the vulnerability of seawater intrusion in Puducherry coastal region is indicating that both the northern and southern coasts of the Puducherry region are vulnerable to seawater intrusion. As the groundwater resources of the Puducherry region are already stressed, the increase of seawater intrusion due to human induced coastal erosion has to be avoided at all costs.

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65. The increased salinity in Puducherry's fresh water has resulted in hundreds of hectares of farm land becoming fallow. In addition to ruining the taste of the local drinking water, increased salinity is well-known to cause kidney disease. Several of the shallow wells along the coast on which the local communities depend for their freshwater requirements have already turned saline. The loss of freshwater resources is causing severe hardship to the local communities as they have to find alternative sources of freshwater.

66. It is also important to note that at the national level the coastline also represent the boundary of the nation and its territories. The indiscriminate, uncontrolled, and unnatural alteration of the coastline is resulting in the uncontrolled alteration of the national boundary, both on land as well as offshore, of the international maritime border and that of the Exclusive Economic Zone (EEZ). This is something that has political and economic implications which are of national concern.

67. The seawalls and groynes are being built without any carrying capacity studies. The coastal environment of the Puducherry-Tamil Nadu region is already heavily and to a large extent impacted by the on-going human induced erosion of the coast caused by the Puducherry harbor. Further armouring of the coast with seawalls and groynes will only result in reducing the carrying capacity of the coastal environment beyond the point of self-sustainability.

68. The coastal environment is a highly dynamic and therefore complex environment to manage. Experience has shown that the less one interferes with coastal processes, the lower is the likelihood of having coastal management problems. Across the world, increasingly

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the scientific community is of the opinion that particularly on the coast it is preferable to "work with Nature" rather to try to "fight against Nature." This approach is also akin to the approach of the Precautionary Principle which advocates that if the coastline is eroding, particularly due to human induced causes, it is preferable to address the root causes of the problem and try to return to the original, natural, stable state of the coastline, rather than to attempt to re-engineer the coastal environment which results in perpetual alteration of the coastal environment with all its accompanying negative impacts.

69. Despite the recognition by the Union and State Governments, as well as that of related Government agencies such as the CWPRS and the NIOT, private and professional consultancy firms, local communities, civil society groups that "soft" engineering measures such as beach nourishment, which are environmentally and socially friendly and increasingly adopted world-wide, should be adopted tackle coastal erosion, especially to mitigate and reverse human induced coastal erosion, there is however a lack of well-defined scientific and technically sound processes and systems for sand nourishment of eroding beaches which the Government and their respective agencies can follow or implement. As a result of the lack of such well-defined processes and systems, Governments and their agencies fall back upon past experience, even though it is obsolete and go about "business as usual." In this regard, it is also important to note that the "business as usual" favours vested interests, such as the consultants who get to design more and more coastal structures as they cause more and more erosion, the quarry owners, the transporters and the contractors who keep on benefitting

as long as coastal structures need to be built even though it is at the cost of the coastal environment.

70. Seeing the unwillingness of concerned agencies to restore and nourish the beaches, very often the local communities that have at first lost their livelihoods when their beaches have eroded, eventually get desperate when nothing is done to control the erosion partic larly when they start losing their habitations. As a last and desperate measure to save their homes, these communities start to demand that their homes be immediately protected in whichever way possible, even with the use of hard structures such as seawalls and even if it is at the cost of the coastal environment. The measures, particularly those that are environmentally destructive, that are demanded in a state of desperation by the local communities and followed out of popular demand are not necessarily the best for their livelihoods, the environment, the society at large and the future generations, especially in the long term.

71. Since the construction of the harbor, seawalls and groynes commenced in Puducherry and Tamil Nadu, numerous civic groups, including Coastal Action Network, have complained to the Government of Puducherry and Government of Tamil Nadu and warned of the worsening environmental and economic disaster. Both governments have ignored these warnings and continued to build hard structures, in the Cuddalore, Puducherry and Villupuram Districts, disrupting the natural flow of coastal sediment, damaging their own coast and their neighbor's, in complete disregard of the economic, social, and environmental consequences of this construction.

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72. The Government of Tamil Nadu currently proposes to build a series of 12 more groynes from Chinnamudalaiyar Chavadi to Bommiyarpalayam, as well as additional seawalls and groynes to the south of Puducherry, as far south as Cuddalore. Some of the work has already commenced. The Government of Tamil Nadu has not sought or been given prior permission and approval by the Ministry of Environment and Forests, Government of India to construct these groynes.

73. On or about 18 November 2012, the Government of Tamil Nadu began dumping rocks on the coast at Chinnamudalaiyar Chavadi, thereby commencing construction of a planned 180m groyne. This activity will cause further damage to the coastline, and to the lives and livelihoods of those who live along the coastline, if it is allowed to proceed. The Government has, without considering the hazards of undertaking such activity has commenced and is continuing with the construction of the groyne, the fact that the detriment caused to the coastal environment is not limited only to that particular sector has not, even been considered. No proper environmental impact assessment has been done by the concerned authorities, in violation of governing laws and violating rights guaranteed under Article 21 of the Indian Constitution. The economic consequences of the damage caused by the construction of the groyne will be disastrous.

74. On 27th December 2012 the Puducherry Coastal Zone Management Authority (PCZMA) wrote to the MoEF requesting it to impress upon the Government of Tamil Nadu to refrain from undertaking ad hoc coastal protection measures such as seawalls and groynes without consulting and taking the consent of the Government

of Puducherry and required CRZ clearances. The PCZMA also expressed its apprehension that the proposed and on-going coastal protection measures erected in adjacent Tamil Nadu would cause erosion of the Puducherry coastline. Moreover, the PCZMA also expressed the need to follow the recommendations of the stated NIOT report which suggests that a common shoreline management plan for the entire Puducherry and adjacent Tamil Nadu coastline should be prepared so that short-term and long-term strategies can be drawn considering the coast in total.

75. According to the CRZ Notification 2011, Section 3, (iv), activities that disturb the natural course of seawater such as for erosion control are prohibited if constructed without an Environmental Impact Assessment study. Section 4.2, (i), (c) of the same notification also states that the procedure for clearance of such activities should be undertaken after comprehensive EIA with cumulative studies for projects in the stretches classified as low and medium eroding by MoEF based on scientific studies and in consultation with the State Governments and Union territory Administration. The seawalls and groynes being built by the GoTN at Chinnamudalaiyar Chavadi Kuppam and in Villupuram District and Devanampattinam in Cuddalore District are being undertaken without an EIA, neither with a comprehensive EIS with cumulative studies and without consultation with the State Governments and Union territory Administration and are therefore in violation of CRZ Notification 2011.

76. According to the Environmental Impact Assessment Notification 2006, the construction of seawalls and groynes being built by the GoTN at Chinnamudalaiyar Chavadi Kuppam and in Villupuram District and Devanampattinam in Cuddalore District are classified as "Category A"

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projects as they fall within 10 km of the inter-state boundary and would therefore require an EIA. The natural flow of sediment and beach sand along the coast is an essential phenomenon and process which supports natural habitats, flora and fauna, human populations and their fundamental right to life and livelihood. Coastal sediment is a public good that forms the very foundation of the sandy coastal environment, without which none of the sandy coastal environments can be sustained. The human induced loss of sediment from the coast and the resulting erosion and destruction of coastal habitats therefore directly results in the violation of the fundamental right to life and livelihood of all that which is dependent on coastal sediment. Just as water, food, air, light, etc., are an essential part of the life and livelihood of every citizen of this country, similarly coastal sediment is equally an essential public good which is a part of the life and livelihood of all that which depends on the coastal environment. The human induced loss of coastal sediment within and even across state boundaries therefore results in the violation of the fundamental right to life and livelihood of all that which depends on the coastal environment. Numerous representations on the above issues described above, particularly such as the human induced coastal erosion, mitigation and restoration through sand nourishment, restoration of the sandy beach ecosystems and the livelihoods of the local communities, etc., spanning a period of more than a decade have been made by several citizen and civil society groups. However, not only is the human induced erosion of the coast increasing unabated, but it is even being aggravated by adhoc, unscientific and unsustainable coastal management measures which are arbitrary and illegal. The Respondents have not undertaken any scientific studies with regard to the exacerbation of erosion due to the

groynes already constructed, and erosion is rapidly progressing with no intervention to prevent the same on the part of the statutory authorities.

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77. On 29th Sep 2012, a representation was submitted to the District Collector, Cuddalore, the 2nd applicant submitted representation to several authorities including the respondents herein. On 06th Jan 2012, a representation was submitted to the Government of Tamil Nadu, requesting them to refrain from construction of groynes. On 20th Nov 2012 and 12th Dec 2012, further representations were made by the applicants to the authorities, requesting them to take appropriate action. However, no reply has been received from the authorities and the damage caused to the environment due to the indiscriminate construction of hard structures along the coast continues to this day.

Stand of Puducherry Coastal Zone Management Authority (PCZMA) and MoEF&CC

78. Replies have been filed by contesting respondents. It is not necessary to refer to all the replies. It will suffice to refer to the affidavit filed by Puducherry Coastal Zone Management Authority (PCZMA) on 06.10.2021 and the reply filed by the MoEF&CC. PCZMA refers to comprehensive Shoreline Management Plan (SMP) for Puducherry in May, 2015 by the National Institute of Ocean Technology (NIOT), Ministry of Earth Sciences, after monitoring the coastal processes responsible for the shoreline changes from 2012. The SMP was submitted to the MoEF&CC. NIOT designed a hybrid solution for the first time in the country with two reefs and sand nourishment for restoring the eroding beach along Puducherry town. The proposed hybrid solution involved the following:-

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i. Construction of one Nearshore Wedge Reef opposite to the Chief Secretariat on the north end of Puducherry town foreshore, with the crest at Chart Datum.

ii. Construction of one Offshore Reef placed at the south end, at 300 m north of the pier, with the crest at 1 m above Chart Datum.

iii. Sand nourishment using 4,50,000 m3 of sand between northern and southern reef along the Coastline of Pondichery Town and Gandhi Statue

79. The above project has been adopted in Puducherry for which CRZ Clearance has been granted.

80. The executive summary in the report of the NIOT is as follows:-

"Many beaches along East coast of India are subjected to erosion, which threatens habitat, property, public infrastructure, and the tourist industry. Loss of sand can be attributed natural changes (sea level rise, storms, and more recently persistent low pressures due to climate change) and man-made activities (harbors, jetties, seawalls, groins, dredging of tidal inlets and damning of rivers). Pondicherry coast is not exceptional and after construction of Pondicherry harbour, coast north of harbour is subjected to sea erosion. Initially, sand bypassing was carried out by harbour authorities to prevent down drift erosion and to maintain channel free from siltation. Later, discontinuing of sand bypassing due to various technical reasons, lead to erosion on Pondicherry city. UT Pondicherry and Tamil Nadu State Government resorted to short term measures to protect the coast from erosion Seawall of length 6 Km was constructed by UT Pondicherry, which covers city of Pondicherry and the coastal stretch (2 km) from Sodhanaikuppam to Thanthriyankuppam was protected groin field combined with seawall by Tamil Nadu government. The erosion problem shifted further north, Chinnamudalaiyar Chavadi is experiencing increased erosion and many buildings were lost to sea. Highly eroding fishing hamlet, north of Chinnamudalaiyar Chavadi, and Chinnakalapettai village in UT Pondicherry were also protected by seawall. As on date, 8 km length of the coast was protected by seawall and groin field along Pondicherry coast by UT Pondicherry and Tamil Nadu Government. The above solutions could protect the coast under threat but the authorities and stake holders need an integrated long-term solution for protection of coast and restoration of natural beach.

Since, the available information on Pondicherry coast is not sufficient for working out suitable strategies; NIOT was consulted by both UT Pondicherry and Tamil Nadu government to work out long

term/ short term strategies for management of coast from erosion and impact of cyclones. ***NIOT has initiated studies to evolve strategies for protection of Pondicherry coast under the project "Demonstration of Shore Protection Measures through Pilot project", with financial support from Ministry of Earth Sciences. NIOT has taken p task of developing strategies for protection of Pondicherry coast with objectives: 1) Assessment of status of existingprotection measures and its performance 2) To Understanding the processes responsible for shoreline changes through monitoring waves, tides, currents, sediment characteristics and coastal morphology 3) Analysis of long/short term trends of shoreline along Pondicherry coast and 4) Development of shore protection measures through numerical models. The first three activities were completed and documented in the present report. The final report with strategies for protection of coast will be arrived at based on the discussion with the governments of Tamil Nadu and UT Pondicherry and stake holders.***

The study aims at understanding various dynamical aspects of coast (water level variations, currents & circulation, tides, waves, bathymetric variations, sediment transport, shoreline changes etc.) to develop hind cast, now cast and forecast models on shoreline changes in priority areas for identification of vulnerable areas of erosion/ accretion to arrive at remedial measures for protection of coastline from natural and human perturbations. The strategy proposed in the present study aims at obtaining a comprehensive picture on shoreline changes along Pondicherry coast and to take remedial measures for shoreline management along the stretch.

The study area with coastline length of 18 km was divided into four distinct zones, namely 1) Pondicherry harbour and adjoining areas, 2 km 2) Pondicherry city, protected by seawall, 6 km 3) Groin field, 2 km and 4) Open coast, 8 km. The shoreline changes in these four zones were analyzed using remote sensing data and field measurements. The result indicate that the average rate of erosion and accretion is 4m/yr and 5m/yr respectively and the coast needs immediate attention for its protection from natural causes or man-1made activities. The estimated rate of net drift would be in the order of 0.28 -0.30 million cum, which needs to be confirmed by detailed shoreline monitoring.

Coastal processes responsible for shoreline changes were monitored during 2012, where data on winds, waves, tides, currents, sediments, bathymetry etc. were collected between Pondicherry Port and Kalapettai village, covering a coastline of 18 km. Seasonal variations on water levels, wave climate, currents and circulation sediment transport, shoreline changes etc. were studied. The measurements made indicated that the tide propagates from south to north. Currents measured upto a depth of 20 m were found to be seasonal, northerly during SW monsoon and southerly during NE monsoon. The average currents during SW and NE monsoon would be 0.3m/s and 0.5m/s. The near shore currents generated by waves follow pattern of coastal Currents In Tamil Nadu coast, which is added

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advantage in developing shore protection measures. Wave climate indicate that 70% of the waves approach the coast from SE direction and the remaining 30% from NE direction.

Pondicherry, known for tourism/recreation, has lost its natural beach due to construction of seawall. ***It is advisable to restore natural beach by implementing beach nourishment. Initial estimates indicate that sand to extent of 3.0 million cum need to be placed north of harbour for length of 600 m near the Gandhi statue. The above option not only helps in gaining natural beach but also helps in controlling the erosion of northern coast. The detailed design of beach nourishment scheme can be worked based on the discussions. Also, eco-friendly techniques and "soft engineering measures" could be implemented along with beach nourishment for retaining of sand and also to restore ecological functions of the coast.***

Short-term solutions may need to be implemented, but these solutions have to take into account the long-term solutions and should be "no-regret" solutions.

A long-term and permanent solution can be found if both the Tamil Nadu and Pondicherry governments jointly work towards a common, long term and sustainable shore restoration strategy."

81. Summary and recommendations in the report are as follows:

"Summary and Recommendations

The coast along Pondicherry and the adjacent areas of the Villupuram district has been experiencing severe erosion for the past 20 years. Natural causes interception of littoral drift by the harbour at Ariyankuppam village, Pondicherry constructed in 1990 and the subsequent construction of coastal defence structures such as seawalls and groins caused erosion in this and groins regions. Pondicherry and Tamil Nadu governments made several attempts to protect the coast under threat using options like seawalls and groins. Though these protection measures have offered some relief to the coast under threat, adjacent parts of coast areas are eroding, more unstable and are constantly under threat.

There is a need for a well-defined plan that seeks to treat the shoreline and the issue of erosion in a more integrated, sustainable and strategic manner. This can be achieved by a Shoreline Management Plan (SMP), which considers the issues at a reasonable scale and focuses on restoring the natural sandy beaches. Policy makers, engineers and stakeholders seek a long term solution to restore the sandy beaches of this entire affected region. The basic questions which need to be answered and understood before attempting any such coastal restoration scheme are following:

1. *Present status of coast (geomorphic setting and functional performance of already implemented protection measures)*
2. *Coastal processes along this coast in relation to proposed coastal restoration schemes.*
3. *Priorities of policy makers and stakeholders*
4. *Requirements of stakeholders*
5. *Economical, environmental and social sustainability of proposed restoration measures.*

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Considering the above, the overall objective of the coastal restoration project should be to address the coastal restoration needs through the implementation of economically viable restoration works using environmental and socially appropriate solutions. This report describes the present status of the coast and the performance of existing coastal protection schemes. The data on sea bathymetry, land topography, hydrodynamics (tides, waves, currents and sediment characteristics) and shoreline changes was collected for analyzing the coastal processes. A joint meeting with Tamil Nadu and Pondicherry governments is required to draw strategies for coastal restoration measures where various technical alternatives can be analysed in relation to the priorities of the government keeping in view that the solution adopted should be sustainable, long term and permanent without affecting the coastline located further north.

The analysis of long-term shoreline change data indicate that the average rate of Shoreline recession and progression over a period of 30 years is in order of 4 m/yr and 5 7yr rsspectively. However, localized shoreline change rates. recession specifically, of 50 1n in a season were observed. However, the rate of shoreline change and/or erosion is dependent on gradient of sediment transport along the coast, which is dependent on Configuration of the coast, near shore current and availability of the sediments.

The 18 km length of coastline of Pondicherry was divided into four zones for analysis. The first zone (Zone A) covering a length of 3.5 km represents the zone of direct influence of the Pondichery harbour. The sand has accumulated up to the tip of the south breakwater with maximum accretion of 180 m and the sediment started bypassing to the north. The northern side of the harbour is protected by a seawall and sediment deposition is noticed, during the NE monsoon due to the southerly drift. The maximum erosion is about 40 m at distance of 600 m from north breakwater from 1991 to 2000. The second zone (Zone B- 4 km), which is part of Pondicherry township is protected by a seawall. Securing at the foot of the seawall is noticed during active monsoon. The third zone (Zone C- 2.5 km) is protected by a series of disjointed groins. These groins were constructed during 2005-2007 and. accretion to an extent of 90 m is noticed at northern longest groin located at Thathiriyankuppam. The accretion at all groin compartments indicate availability of sediments along the Pondicherry coast during both monsoons.

The CWPRS (1978) has reported that the net drift was estimated to be about 500,000 cu.m. at the time of design of Pondicherry Harbour but the present estimated rate of net drift by us would be in the order of 2,00,000 - 2,80,000 cu m, which needs to be confirmed by detailed shoreline monitoring. The coast north of longest groin at Chinnamudalaiyar Chavadi village has experienced increased erosion and shoreline recession during2008to an extent of 70 m. South of this coast regained some lost material during 2012 due to southerly drift and bypassing of sediments from the groin with a net accretion of 20 m. The Zone D with a length of 8 km is not protected by major scheme and maximum erosion observed 1991-2010 is around 25m. A sea wall of length 165 m was constructed at village Chinnakalapettai to protect the coast from erosion.

The following are major observations for arriving at coastal restoration strategies for both the Pondicherry and adjacent Tamil Nadu coast.

- *Pondicherry has been known as a beautiful beach town. The beaches here, particularly along the famous beach road were used for all kinds of activities by a large cross-section of people. Children chased crabs and looked for interesting shells. The famous Masi Magam festival of Pondicherry relied on the big beach where the chariots of all the gods from all the temples near and far would come. With the beach almost gone and the rocky sea wall, all these little everyday pleasures of each and every resident of Pondicherry and all those who throng to its shores, have been snatched away.*

- *The basic objective of shore restoration projects moderate the long-term average erosion rate and shoreline change from man-made causes, which can be achieved only if the natural dynamics of the coast is well understood.*

- *The medium term analysis of shoreline change data from 1991 -2012, indicate that this region needs immediate attention.*

- *Protection schemes till date have been implemented in isolation both in Pondicherry and Tamil Nadu, a common phenomenon even in developed countries. This has happened because of various constraints like scientific/engineering understanding of nature, economics of the scheme t be implemented, institutional issues, lack of interstate coordination and acceptance by stakeholders. It is recommended that short-term and long-term strategies can be drawn.considering the coast in total by Pondicherry and Tamil Nadu Government. The short-term strategies required at specific sites can be designed and*

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integrated in long-term strategies, if a shoreline management plan is prepared.

- *Pondicherry harbour is causing a deficit in sediment supply to the northern coast. Sand bypassing carried out by harbour authorities for certain period could maintain the beach north of the harbour. Later, discontinuing the sand bypassing resulted in loss of beaches in the northern coast. The recent analysis of satellite data suggests that parts of the littoral sediments are bypassed naturally to northern coast. While designing the shore restoration scheme for Pondicherry coast, the configuration of harbour and its relation to natural bypassing of sand at harbour should be studied.*

- *Pondicherry wave climate is influenced by both the SE and NE waves With occasional cyclonic storms crossing the coast. The maximum surge level observed above tide is 0.7m with a tidal range of 1.2 m. The waves approaches from SE direction from April September with mean direction 135 deg, while during NE mo1nsoon. the direction is 90 deg. The coastal currents are seasonal, directed to north during SW monsoon and south during NE monsoon. The average currents during SW and NE monsoon would be 0.3m/s and 0.5 m/s. The near shore currents generated by waves follow similar pattern like coastal currents in Tamil Nadu coast, which is an added advantage in developing Common shore restoration measures. A detailed study conducted at Vellar estuary and Ennore shows shoreline change governed by wave climate and tidal influence is insignificant. Low pressure systems like events of 2007 can cause significant damage to coast and some of its changes could be permanent. The coastal protection scheme seawall built along the Pondicherry town for length of 6 km need to be assed carefully to avoid further damage during cyclone or low pressure periods.*

- *Pondicherry is known for its tourism/recreation, it is advisable t0 restore the natural beach by implementing beach nourishment. At Ennore, sand dredged from harbour to an extent of 3.5 million cum was placed. on, north of harbour to prevent down drift erosion. The performance of beach nourishment was assessed based on long-term data at Ennore which shows nourishment has supplied sand to northern coast for period of 5 years and coastline was stable even after the construction of harbour. Initial estimates indicate that sand to the extent: of 3.0 million cum needs to be placed north of the harbor for length of600mnearthe Gandhi statue. The above option will not only help in gaining a natural beach but also help in controlling the erosion of the northern coast. The detailed design of beach nourishment scheme can be worked out based on discussions. Also, eco-friendly techniques and "soft*

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engineering measures" to stabilize the coast could be implemented along with beach nourishment for retaining the sand and to restore the ecological functions and services that are provided by sandy beach ecosystems as well as enhance livelihood opportunities for the fishing communities and increase value to the coast.

- *A long term and permanent solution can be found if both the Tamil Nadu and Pondicherry Governments jointly work towards a common; long-term and sustainable shore restoration strategy.*
- *Short-term solutions may need to be implemented, but these have to take into account the long-term solutions and should be "no-regret" solutions.*
- *Worldwide there is now increasing examples of replacement of hard structures like seawalls with softer options Such as beach nouishment, Sand bypassing, dune planting and offshore submerged reefs. Thus, the general principle of "working with nature" Would be a better approach for cost-effective and sustainable coastal protection measures. Pondicherry needs to consider modern protection practices which achieve more effective and sustainable means of coastal protection while also addressing local amenity and economic development aspects. It is most important to ensure that the natural movement and flow of sediment along the shoreline is maintained.*
- *All Shore protection schemes should be monitored scientifically under technical guidance of expert institutes by Tamil Nadu and Pondicherry governments for improvement in its performance. The crest of berm data collected by Tamil Nadu PWD do not cover any location along Pondicherry coast. The closest locations considered for analyzing the data along this coast are Devanampattinam and Oyyalikuppam at south and north of Pondicherry respectively.*
- *Given the social and economical importance of the Pondicherry beaches, the coastal restoration option should consider the protection of land, buildings, groundwater, ecology, livelihoods and public and private infrastructure against future loss and damage caused by erosion and storms.*
- *The beach restoration will primarily benefit the coastal dwellers living along the Pondicherry and nearby Tamil Nadu coast including fishing households, the owners, operators and employees of fishing boats, hotels and other tourism related businesses and their employees. But mostly it will benefit all the residents of this peaceful coastline whose young children have never even seen its beautiful beaches. No One expected that waves due to monsoon or cyclone take away the natural beach."*

Reply of MoEF&CC

82. Reply of the MoEF&CC dated 02.02.2021 deals with the status of updation/revision of CZMPs as follows:-

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"2. That in exercise of the powers conferred by the sub-section (1) and Clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 read with clause (d) of the sub-rule 5 of the Environment (Protection) Rules, 1986, Ministry of Environment and Forest had notified the Coastal Regulation Zone Notification, 1991 on 19th February, 1991, which, inter alia, provided classification of Coastal Regulation Zone (hereinafter referred to as CRZ) areas and norms for regulating developmental activities therein. This Notification was subsequently amended from time to time.

3. That it is submitted that in supersession of the ***CRZ Notification, 1991, the Coastal Regulation Zone Notification, 2011 was notified on 6 January, 2011 for regulation of developmental activities along the coastal stretches and to ensure the livelihood security to the fisher communities and other local communities, living in the coastal areas, to conserve and protect coastal stretches.***

4. The validity of the Coastal Zone Management Plans (hereinafter referred to as CZMPs) approved under CRZ Notification, 1991 was extended from time to time, the last such extension being upto 31.07.2018, pending preparation and subsequent approval of fresh CZMPs under the CRZ Notification, 2011. All the developmental activities in the CRZ areas of coastal States were required to be regulated as per the above mentioned notifications and within the framework of approved CZMPs.

5. It is humbly submitted that the CZMPs of all coastal States except State of Goa has been approved under the provisions of the CRZ Notification, 2011.

6. That it is submitted that in supersession of the CRZ Notification, 2011, the Coastal Regulation Zone Notification, 2019 was notified on 18th January, 2019 for regulation of developmental activities along the coastal stretches and to ensure the livelihood security to the fisher communities and other local communities, living in the coastal areas, to conserve and protect coastal stretches, specifically focused on conservation and management plans of Ecologically Sensitive Areas (ESAs) which did not feature in the CRZ Notification,2011.

7. It is humbly submitted that the High Tide Line (HTL) has been mapped out and standardized for the entire coast of the country unlike the HTL earlier allowed to be demarcated by one of the seven authorized agencies, that too only for identified stretches/sites, and

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thereby bringing in standardization and authenticity and removing arbitrariness.

8. It is submitted that the Hazard Line for the entire coast of the country has also been mapped and is required to be incorporated in CZMPs of the coastal States or Union territories.

9. It is humbly submitted that the CRZ Notification, 2019 shall, however, come in force only after the respective CZMP framed to the CRZ Notification, 2011 have been revised/updated by the States/UTs, as per the provisions of the new CRZ Notification and approved by the Ministry of Environment, Forest & Climate Change. Para 6 (i) of CRZ Notification, 2019 inter alia states as under:

> *"All coastal States and Union territory administrations shall revise or update their respective coastal zone management plan (CZMP) framed under CRZ Notification, 2011 number S.O 19(E), dated 6th January, 2011, as per provisions of this notification and submit to the Ministry of Environment, Forest and Climate Change for approval at the earliest and all the project activities attracting the provisions of this notification shall be required to be appraised as per the updated CZMP under this notification and until and unless the CZMPs is so revised or updated, provisions of this notification shall not apply and the CZMP as per provisions of CRZ Notification, 2011 shall continue to be followed for appraisal and CRZ clearance to such projects."*

Before finalizing the CZMP concerned State/ Union Territories/ Coastal Zone Management Authorities are required to adopt due procedure in preparation of CZMPs as stipulated in Para 6 (ii) of CRZ Notification, 2019 which includes public consultation. Para 6 (iii) of said notification inter alia states as under:

> *"The coastal States and Union territories shall prepare draft CZMP in 1:25,000 scale map identifying and classifying the CRZ areas within the respective territories in accordance with the gudelines given in Annexure-IV to this notification, which involve public consultation."*

A true copy of CRZ Notification, 2019 is annexed herewith and marked as ANNEXURE-R/1.

10. It is humbly submitted that the National Centre for Sustainable Coastal Management (hereinafter referred to as NCSCM) made a presentation on the status of the updation/revision of CZMPs) prepared based on provisions of CRZ Notification, 2019, in the 40 meeting of National Coastal Zone Management Authority (NCZMA) held on 28.08.2020, as under:

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S.No.	State/UT	Status of Approved CZMP2011	Status of Draft CZMP 2019	Agency preparing CZMP-2019	Time Required to Complete
1.	Maharashtra	Approved	COMPLETED Public hearing completed in all districts other than Palghar and Sindhudurg districts	NCSCM	COMPLETED
2.	Odisha	Approved	COMPLETED Public hearing completed	ORSAC/ SAC	COMPLETED
3.	Andhra Pradesh	Approved	80% work Completed including Buffering of CRZ boundaries	NCSCM	4 MONTHS-DEC 2020
4.	Karnataka	Approved	50% work Completed including Buffering of CRZ boundaries	NCSCM	4 MONTHS-DEC 2020
5.	Puducherry	Approved	30% work Completed including Buffering of CRZ boundaries	NCSCM	3 MONTHS-NOV 2020
6.	Daman&Diu	Approved	50% work Completed including Buffering of CRZ boundaries	NCSCM	3 MONTHS-NOV 2020
7.	Tamil Nadu	Approved	20% work completed	NCSCM	5 MONTHS-JAN 2021
8.	Gujarat	Approved	20% work completed	NCSCM	6 MONTHS-FEB 2021
9.	Kerala	Approved	In progress Being monitored by Kerala High Court	NCSCM	Status to be obtained from NCESS
10.	West Bengal	Approved	Pending Status not known	IESWM	Status to be obtained from IESWM
11.	Goa	Draft published in website for public hearing Revision based on amendments, in	Pending	Not Known	Amendments to CRZ Notification 2011 notified on 1st May 2020

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		progress (NCSCM)			
12	Andaman & Nicobar Islands	ICRZ pans 9 Islands IIM Plans 5 Islands Approved	ICRZ Plans of Great Nicobar & Little Andaman Islands completed and submitted to ANCZMA for public hearing	NCSCM	6 MONTHS-FEB 2021
13	Lakshadweep Islands	Approved	Revision of IIMPs of Suheli, Kadamat & Minicoy Islands in progress	NCSCM	6 MONTHS-FEB 2021

11. It is humbly submitted that the answering Ministry is yet to receive the draft CZMPs updated/revised as per the provisions of the CRZ Notification, 2019 from all the coastal State Governments for further consideration and approval.

12. It is further humbly submitted that the CRZ Regulations are to be implemented and monitored including violations thereof by the concerned State Coastal Zone Management Authority in accordance with the proved CZMPs of the respective region of the coastal state."

Consideration of the Issue, finding and Directions

83. We have given due consideration to the issue of protection of the beaches from human induced erosion caused by hard structures. It is a fact that these hard structures may prevent erosion at the said stretch temporarily but the adverse impact of such measures are felt upstream or downstream where erosion starts. Thereby such hard measures only transfer the problem of shoreline change until and unless a holistic study is undertaken keeping in view that sediment cells and appropriate scientific measures taking into consideration both soft and hard. The problem exhaustively highlighted by the applicant, noted above raises substantial question of environment. We are satisfied that the same needs to be addressed by all coastal States/UTs for protection of beaches from human induced erosion caused by hard structures. We find that

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Puducherry model of SMP based on report of NIOT submitted in March 2015 addresses the issue comprehensively and can be adopted subject to any suitable change based on further study in terms of the recommendations in the said report. As suggested in the report, there is need to replace hard structures like seawalls, Groynes etc. with softer options such as beach nourishment, sand bypassing, dune planting, offshore submerged reefs, etc. Thus, the general principle of "working with nature" would be a better approach for cost-effective and sustainable coastal protection measures. There is no objection to the said model by any of the appearing parties. Further, the Tribunal also notes that depiction of high, Medium and low erosion stretches along the coast line is mandatory in the CZMPs. The CRZ Notification, 2019 regulates foreshore developmental activities based on these parameters as well. Like ports and harbours are prohibited in high erosion stretches. We also note that inspite of the CRZ Notification being issued in Jan, 2019, the CZMPs have not been finalized and approved for 11 State/UT. This is gross violation of Hon'ble Supreme Court judgment in *Indian Council For Enviro Legal ... vs Union of India & Ors.*, (1996) 5 SSC 281. Accordingly, we direct Chief Secretaries of the Costal State/UT to finalise the CZMP and get them approved by MoEF within 2 months. The approved CZMP shall contain the parameters as listed in the CRZ 2019 Notification including High, Medium and Low erosion stretches for such erosion prone areas. SMP shall be prepared as illustrated by NIOT for such erosion prone areas. We further direct preparation/updation of their SMPs for such identified eroding stretches shown in the CZMPs within six months. Pending preparation/updation of such SMPs by the Coastal States/UTs, no further hard structures for erosion control be raised or constructed.

The application is disposed of.

A copy of this order be forwarded to all the Coastal States/UTs and MoEF&CC for compliance by e-mail.

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Appeal No. 18/2017 (SZ)

84. As noted earlier challenge in the appeal is to the proposed construction of series of 19 Groynes from Ennore to Ernavoorkuppam in Madhavaram Tuluk of Tiruvallur District, Tamil Nadu by the Public Works Department (WRD). The main ground challenge of the CRZ Clearance is that construction of groynes in coastal area has adverse impact by obstructing littoral drift. The impugned clearance ignores this aspect. The impugned CRZ clearance itself mentions that the same is subject to further orders in O.A. 04/2013 which was pending on the date when CRZ Clearance was granted.

85. While dealing with the O.A. No. 4/2013 (SZ), we have approved the report of the NIOT recommending preparation of SMP which should be environmentally compatible, in the manner suggested and discussed above. We have also directed all the Coastal States/UTs in the Country to prepare their respective SMPs accordingly. The impugned CRZ Clearance is not sustainable in view of above discussion. The same is accordingly set aside without prejudice to fresh clearance being granted in accordance with the approved SMP.

The appeal is allowed in above terms.

Adarsh Kumar Goel, CP

K. Ramakrishnan, JM

Sudhir Agarwal, JM

Pushpa Sathyanarayana, JM

Dr. Satyagopal Korlapati, EM

Prof. A. Senthil Vel, EM

April 11, 2022
O.A. No. 04/2013(SZ)
With Appeal No.18/2017(SZ)
A

163

Water Resources Department
Coastal Protection

Letter No. 18369 / W2 / 2021 B, dated 08.06.2022

From
Dr. Sandeep Saxena, I.A.S.,
Additional Chief Secretary to Government

To
The Chief Engineer,
Water Resources Department,
Plan Formulation,
Chennai-5

1898

C.E
J.C.E
D.C.E
A.O
Sup.ill

Sir,

Sub: Water Resources Department – Announcement for the year 2021-2022 – Construction of 16 Groynes and PIP Walls in Tirunelveli, Kanniyakumari, Ramanathapuram, Thoothukudi and Chennai District – Estimate amount of Rs.499.01 crore – Administrative Sanction requested – Reg.

Ref: 1. Your letter No. B4 / 2308 / Anna 21-22 / Coastal works / AE 3 / AE 3 / dated 30.09.2021.
2. Government letter No.18369/W2/2021 G, dated 09.02.2022.

.....

I am directed to invite your attention to the references cited, wherein, in the Government letter 2nd cited you have been informed that the Government have decided to defer your proposal. Since, the order of NGT in O.A No.4/2013 staying any construction of hard structures in Coastal areas is still continue.

2. In continuation of this I am directed to state that on 11.04.2022, NGT, Special Bench has passed orders in the O.A. No 4/2013. The key conclusions / directions in the NGT order are:

I. Hard structures like Groynes only transfer the Problems of Shoreline change.

II. There is a need to replace hard structures like Seawalls, Groynes with softer options such as Beach nourishment, Sand bypassing, dune planting etc., "Working with nature" would be a better approach for cost effective and sustainable coastal protection measures.

III. States including Tamil Nadu have to get the their Coastal Zone Management Plan (CZMP) approved by the Ministry of Environment, Forest and Climate Change (MoEF&CC).

IV. States including Tamil Nadu have to get the Shoreline Management Plan (SMP) prepared as illustrated by National Institute of Ocean Technology) NIOT for such erosion prone areas.

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V. Pending preparation / updation of such SMP by Coastal States, no further hand structures for erosion control raised or constructed.

VI. The Coastal Regulation Zone Authority (CRZA) clearance given for construction of 19 Groynes from Ennore to Ernavoor Kuppam by PWD(WRD) is not sustainable and is set aside.

3. I am also directed to state that in the light of the above said NGT order, it is clear that construction of Groynes is not permitted till Shoreline Management Plan are prepared after getting the Coastal Zone Management Authority (CZMA) approved. NGT has also indicated that it favours softer options to hard structures like Groynes.

4. Hence, I am directed to state that your proposal to conduct studies at a cost of Rs 8.29 crore to prepare DPRs for construction of Groynes is not agreeable in Government. The proposal can be re-examined once the Shoreline Management Plan (SMP) is prepared by the Environment Department and after looking at the options provided in the Shoreline Management Plan (SMP) and the Government have decided to defer your proposal.

Yours faithfully

10.6.2022

for Additional Chief Secretary to Government

10/6/22

Copy to:-

The O/o the Hon'ble Minister (Water Resources), Secretariat, Chennai-9.

The Engineer-in-Chief and Chief Engineer (General), Water Resources Department, ~~Secretariat~~, Chennai-5.

The Water Resources (ISpl.1) Department, Chennai-9.

SMP

Clean Copy

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Letter No.18369/W2/2021 dated 08.06.2022

From

Sandeep Saxena,IAS,

Additional Chief Secretary to the Government.

To

The Chief Engineer,

Water Resources Department,

Plan Formulation

Chennai

Sir,

Sub : Water Resources Department Announcement for the year 2021-2022. Construction of 16 Groynes and PMS walls in Tirunelveli, Kanyakumari, Ramanathapuram, Thoothukudi and Chennai District Estimate amount of Rs.499.01 Crore. Administrative sanction requested - Reg

Ref 1. Your letter No.B4/23OB/Anno 21 22/coastal works/AE 3 /AEE 3/ dated 30.09.2021

2. Government Letter No.18369/W2/2021 6, dated 09.02.2022

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II. There is a need to replace hard structures like Seawalls, Groynes with softer options such as Beach nourishment, sand bypassing, dune planting etc., "Working with nature" would be a better approach for cost effective and sustainable coastal protection measures.

III. States including Tamil Nadu have to get the then Coastal Zone Management Plan (CZMP) approved by the Ministry of Environment, Forest and Climate Change (MoEF & CC)

IV. States including Tamil Nadu have to get the Shoreline Management Plan (SMP) prepared as illustrated by (National Institute of Ocean Technology) NIOT for such erosion prone areas.

V. Pending preparation/ updation of such SMP by Coastal States, no further hand structures for erosion control raised or constructed.

VI. The Coastal Regulation Zone Authority (CRZA) clearance given for construction of 19 Groynes from Ennore to Ernavoor Kuppam by PWD(WRD) is not sustainable and is set aside

3. I am also directed to state that in the light of the above said NGT order, it is clear that construction of Groynes is not permitted till Shoreline Management Plans are prepared after getting the Coastal Zone Management Authority (CZMA) approved. NGT has also indicated that it favours softer options to hard structures like Groynes

4. Hence, I am directed to state that your proposal to conduct studies at a cost of Rs 8.29 crore to prepare DPRS for construction of Groynes is not agreeable in Government. The proposal can be re-examined once the Shoreline Management Plan (SMP) is prepared by the Environment Department and after looking at the options provided in the Shoreline Management Plan (SMP) and the Government has decided to defer your proposal.

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மீனவ பாதுகாப்பு பேரவை

தலைவர் : பீட்டர் ராயன் அவர்கள் - சென்னை
செல் : 9444622923

அனுப்புநர்

S.V. அந்தோனி,
பொது செயலாளர்.
செல் : 9442576459.

பெறுநர்

உயர்திரு. மாவட்ட ஆட்சி தலைவர் அவர்கள்,
திருநெல்வேலி மாவட்டம்.

ஐயா,

ஆழிபேரலையின் கடல் அரிப்பால் அழிந்து கொண்டிருக்கும் கூடுதாழை கிராமத்தை பாதுகாத்து காப்பாற்ற தூண்டில் பாலம் அமைக்க தமிழக அரசை கேட்டு.

திருநெல்வேலி மாவட்டம், திசையன்விளை வட்டம், கூடுதாழை மீனவர் கிராமம் கடல் அரிப்பால் பாதிக்கப்பட்டு முழு கிராமமும் அழிந்து விடக்கூடிய அபாய நிலையில் உள்ளது. மீனவ மக்கள் குடியிருப்புகளை இழந்து தவிக்கும் நிலைக்கு தள்ளப்பட்டுருக்கிறார்கள். மீன் பிடி படகுகளை கடற்கரையில் நிறுத்தி மீன்பிடி தொழில் செய்ய இயலாது வாழ்வாதாரத்தை இழந்து வறுமை நிலைக்கு தள்ளப்பட்டு கொண்டிருக்கிறார்கள். ஊரையும், குடியிருப்புகளையும், மீன்பிடி தொழிலையும் வாழ்வாதாரத்தையும் ஆழிபேரலையின் அழிவில் இருந்து பாதுகாக்க வேண்டி தினம் தினம் கடற்கரையில் போராடி கொண்டிருக்கிறார்கள். எனவே கனம் மாவட்ட ஆட்சி தலைவர் அவர்கள் உடனடியாக மேற்படி கிராம மக்களை பாதுகாக்க தூண்டில் பாலம் அமைத்து கொடுக்க தமிழக அரசு கவனத்திற்கு கொண்டு சென்று பரிந்துரைக்கும்மாறு பணிந்து வேண்டுகிறேன்.

நன்றி

நாள் : 20/3/2023
இடம் : உவரி

இப்படிக்கு

S.V. அந்தோனி,
பொது செயலாளர்
மீனவ பாதுகாப்பு பேரவை
3/77, அந்தோணியார் கோவில் தெரு,
உவரி, நெல்லை மாவட்டம்

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Success Story
Restoration of Puducherry Beach

Puducherry U.T. Action Plan on Climate Change - Coastal and Disaster Management Mission

सत्यमेव जयते
Government of Puducherry

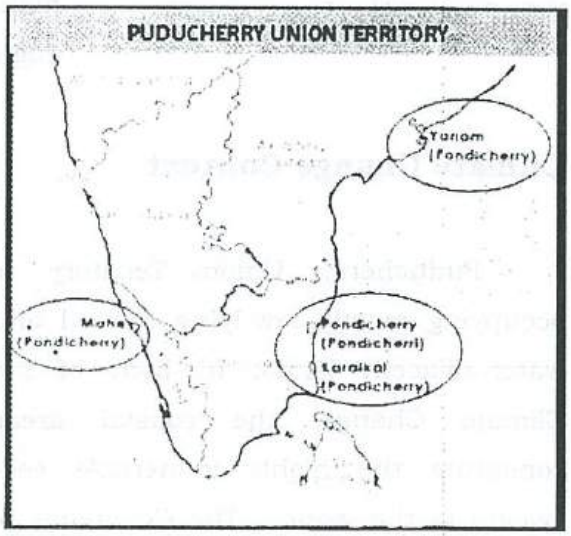
GOVERNMENT OF PUDUCHERRY
DEPARTMENT OF SCIENCE, TECHNOLOGY & ENVIRONMENT
PUDUCHERRY CLIMATE CHANGE CELL (PCCC)

Abstract

The pristine coastline of Puducherry which is the lifeline of this small coastal town is facing significant erosion over the last three decades, which has threatened development and resulted in substantial protection works. As on date, eight km length of the coastline is protected by seawall and groyne field. The beautiful historical beach in front of the town has disappeared, leaving only the rock wall which prevents access to the seaside, and is out of harmony with the city's tourism aspirations. Hence, restoration of the beaches has become one of the top priorities for the Puducherry Government.

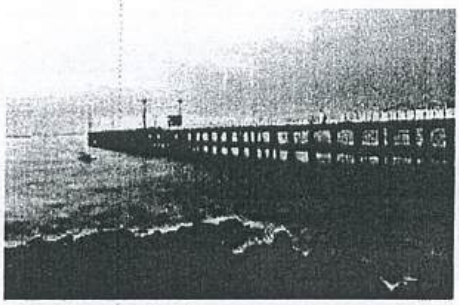
About Puducherry

Puducherry, formerly known as Pondicherry, is a Union Territory consisting of four enclaves of former French India, namely Puducherry, Karaikal, Mahe and Yanam. Puducherry and Karaikal are interwoven with the State of Tamil Nadu, Mahe are Yanam are located within the states of Kerala and Andhra Pradesh respectively.



Map of Puducherry Union Territory

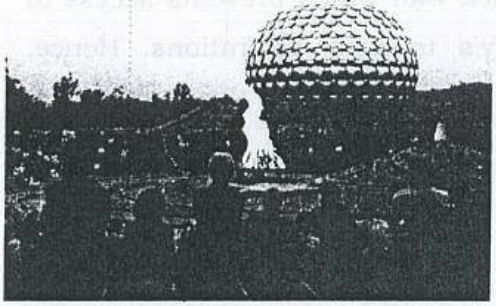
Puducherry is popularly known as "French Riviera of India". It is gifted with abundant scenic beauty, serene beaches, tree lined boulevards, quaint colonial heritage buildings and spiritual legacy.



Pondicherry Harbour

Pondicherry Promenade

Puducherry still remains the window of French culture in India and retains its distinct French character. It attracts large number of national and international visitors every year who come for spiritual enlightenment and coastal tourism to "Give time a break!". Also the town has grown into an educational hub attracting students from distant places aspiring for higher education in arts, science, medical and engineering streams.



Meditation around bonfire near Auroville Golden Globe, Pondicherry

French Quarter - Pondicherry

Climate Change Context

Puducherry Union Territory is occupying mostly low-lying coastal and water-adjacent lands. In light of the Climate Change, the coastal areas constitute the highly vulnerable eco-system in the world. The Coastlines of

Pondicherry promenade beach after Thane cyclone 2011

Puducherry is distinctly vulnerable to rising sea levels and intensifying tropical cyclones exacerbated by climate change. Puducherry in its recent past witnessed increased incidence of natural hazards resulting in extensive economic and losses of life. The tsunami in December 2004 and the Thane cyclone in 2011 have resulted in extensive human and economic loss along the coastal areas of Puducherry. The coastline of Puducherry is facing significant erosion, which has threatened development and resulted in substantial protection works.

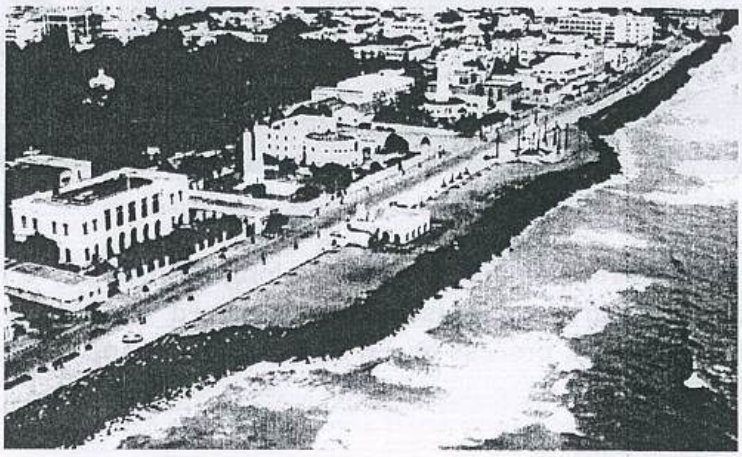
Puducherry Action Plan on Climate Change

To strengthen the UT against Climate threat, Puducherry Action Plan on Climate Change was formulated with an objective of identifying and prioritizing strategies that addressing the implications of Climate Change for Puducherry and the necessity to implement various mitigation and adaptation measures in line with the National Action Plan for Climate Change.

From the eight fold national mission, Puducherry in turn picked up and strategized actions for the seven missions that are relevant to Puducherry Union Territory. One of the key missions is the Coastal and Disaster Management Mission.

Coastal and Disaster Management Mission

This mission assess the vulnerability of the coastal community in light of the projected variation in climate, weather variability and climate extremes and strategize measures towards effective disaster risk reduction and promotes the concept of disaster resilience.



Pondicherry Coastline

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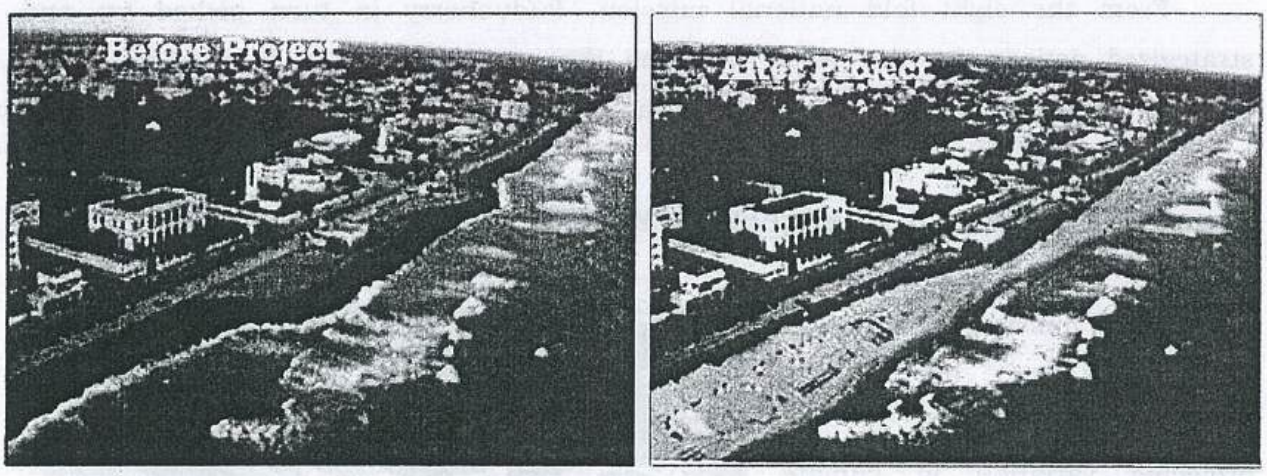
The pristine coastline of Puducherry which is the lifeline of this small coastal town is facing significant erosion over the last three decades, which has threatened development and resulted in substantial protection works. As on date, eight km length of the coastline is protected by seawall and groyne field. The beautiful historical beach in front of the town has disappeared, leaving only the rock wall which prevents access to the seaside, and is out of harmony with the city's tourism aspirations. Hence, restoration of the beaches has become one of the top priorities for the Puducherry Government.

Project on Restoration of Puducherry Beach

The project involves carrying out coastal protection measures along the Puducherry Beach near Gandhi Statue to solve the severe coastal erosion problem and restore the beach. Significant erosion has occurred in Puducherry over the last 3 decades, which has threatened development and resulted in substantial protection works.



View of Proposed Project - Puducherry Beach Restoration

To restore the lost beach along Puducherry a hybrid solution with two reefs and beach nourishment is proposed based on the learning from experimental beach nourishment, process based measurements and numerical studies.

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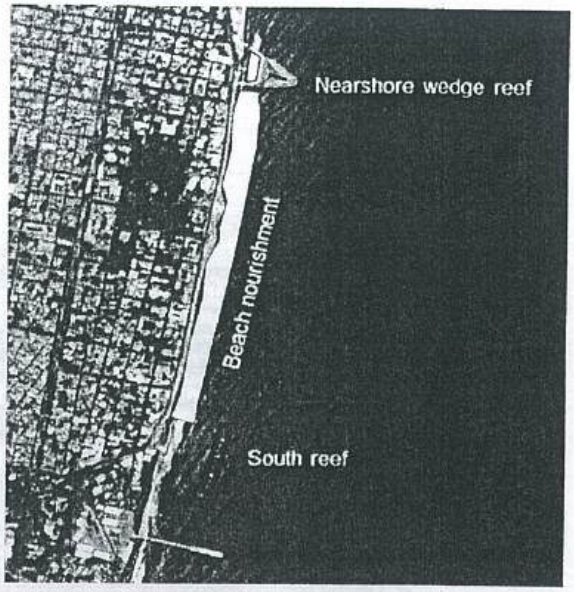
The proposed solution involves

- Construction of one Nearshore Wedge reef opposite to the Chief Secretariat on the north end of Pondicherry town foreshore, with the crest at Chart Datum.
- Construction of one Offshore reef placed at the south end, at 300 m north of the pier, with the crest at 1 m above Chart Datum.
- Sand nourishment using 4,50,000 m^3 of sand between northern and southern reef along the Coastline of Pondicherry Town near Gandhi Statue.



Layout of Restoration of Puducherry Beach

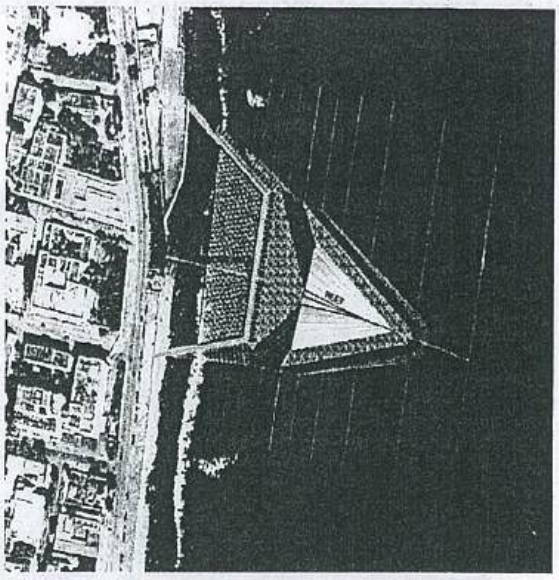
The goal of the near-shore wedge reef in the north is to provide a mild barrier to sediment losses, thus enabling sand to move naturally to the north while slowing the losses of sand from the town foreshore.

The goal of the offshore reef at the south is to create a salient or tombolo which will hold the sand on the town beaches which also acts to prevent sand losses from the town back to the Port.

National Institute of Ocean Technology (NIOT) under the Ministry of Earth Sciences has monitored the coastal processes responsible for shoreline changes from 2012 and has prepared a comprehensive Shoreline Management Plan for Puducherry in May 2015.

Based on the detailed Hydrodynamic and Coastal process studies carried out, NIOT has designed and implemented the project - Restoration of Puducherry Beach.

The project was commenced in March 2017 and construction of northern wedge reef and sand nourishment is under progress.



Construction Plan of Nearshore Wedge reef

The beach nourishment using 3 lakh cubic metres is implemented by the Puducherry government in two ways.

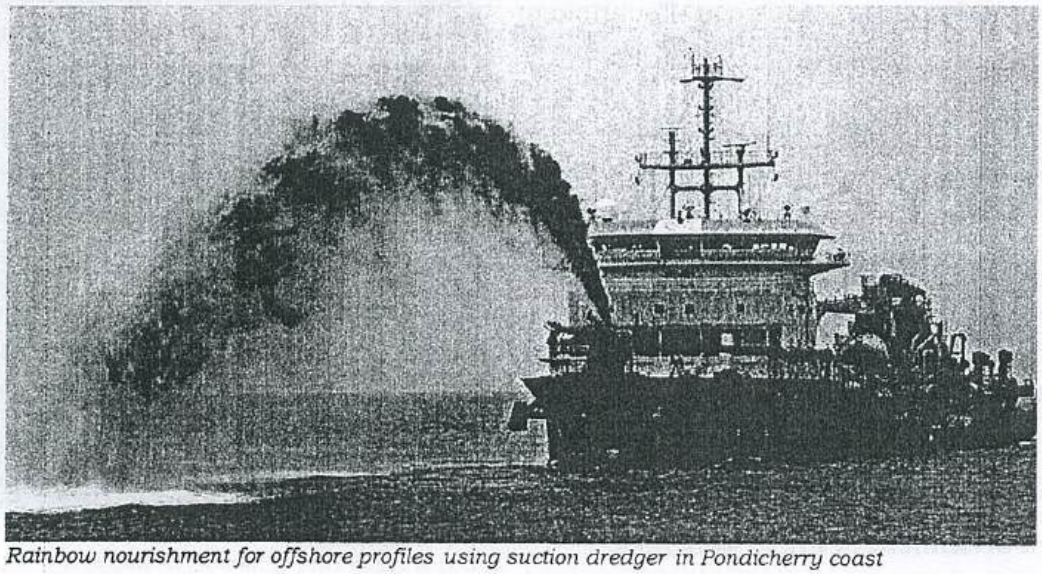
i) Rainbow nourishment for offshore profiles using suction dredger

ii) Pipe line nourishment for nearshore profiles using cutter suction dredger. The sand for both the schemes is dredged from port mouth.

Arial view - Construction of Nearshore Wedge reef opposite to the Chief Secretariat, Pondicherry

The Puducherry government is also planning to cover existing stone walls with 1.5 lakh m^3 of sand.

The Beach is already taking shape near the seawall and with the steady progress of the beach restoration project the city's coastline could soon travel back in time to its sandy past.



Rainbow nourishment for offshore profiles using suction dredger in Pondicherry coast

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Highlights of Restoration of Puducherry Beach Project

Benefits

- Strengthened resilience of the Puducherry coast to the impacts of climate change.
- Protection to the economic and social sector from rising seas.
- Mainstreaming climate change resilience into coastal protection and shoreline management through scientific intervention
- Successful implementation climate resilient coastal protection measures that could be scaled up to the neighboring coasts.
- Dissemination of strategic knowledge on application of adaptation measures to protect vulnerable coastal areas.

Studies:

- The National Centre for Sustainable Coastal Management under the Ministry of Environment, Forests & Climate Change prepared the National Shoreline Changes Assessment Report- Puducherry in 2011.
- National Institute of Ocean Technology (NIOT) under the Ministry of Earth Sciences has prepared a comprehensive Shoreline Management Plan and has designed the project - Restoration of Puducherry Beach.

Technicalities:

- Area of near-shore reef - 28,540 m^2 of 4 m height.
- Area of offshore reef - 4,200 m^2 of 4 m height.
- Reclamation/ beach nourishment using dredged sand of 4,50,000 m3 provided by Port Department, Puducherry.

Budget:

- Total Project cost – Rs. 65 crores.

Funded by:

- Construction of near-shore reef is taken up under the funding from Ministry of Earth Sciences.
- Construction of offshore reef and beach nourishment is done with funding from Puducherry Government.

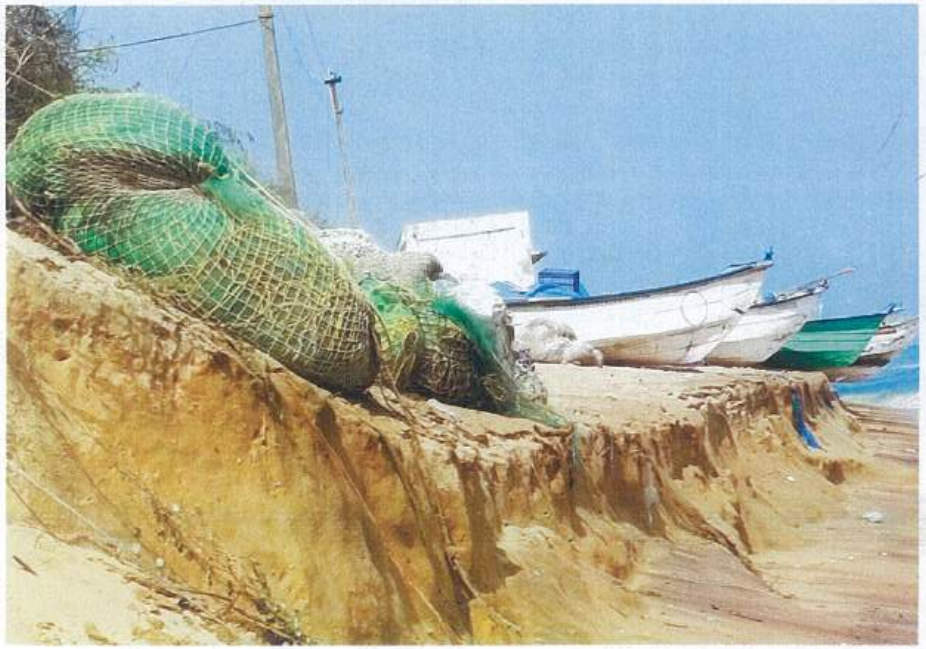
PONDICHERRY SHORE

1960's.. Beach along the Puducherry town

Late 1990's.. Eroded and Rocky Beach

2017... New Beach Forming due to Restoration Project

அன்று இருந்த அழகிய கூடுதாழை கிராமம்



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Court Fees Stamp
affixed For Rs.

W.P. No. of 2023

Notice Returned

Application for Service of process

Respondents

Name	Father's Name or if minor Name of guardian	Occupation if any	Residence		
			District	Taluk	Village or town of town St & door no.
1. The Union of India Rep by its Secretary to the Govt. Ministry of Environment, Forest & Climate Change, (MoEF & CC), Govt. of India, Indira ParyavaranBhavan, JorBagh Road, Aliganj, New Delhi - 110 003.					
2. The Chief Secretary of Tamil Nadu, Secretariat, Chennai - 600 009.					
3. The Principal Secretary of Tamil Nadu Environment Department, Secretariat, Chennai - 600 009.					
4. The Chairperson Environmental Department, Panagal Malaigai, Saidapet Chennai 600 105.					
5. The Chairman, Coastal Zone Management authority Paryavaran Bhavan, CGO Complex Lodhi Road, New Delhi - 110 003.					
6. The Director National Centre for Sustainable Coastal Management (NCSCM), Ministry of Environment, Forest & Climate Change (MoEF&CC), Govt. of India, Anna University Campus, Chennai - 600 025.					

7. The State of Tamil Nadu
   Represented by its Secretary to Government
   Fisheries Department,
   Fort St. George,
   Chennai - 600 009.

8. The State of Tami Nadu
   Represented by its Secretary to Government
   Public Works Department,
   Fort St. George,
   Chennai - 600 009.

9. The Commissioner of Fisheries and Fisherman Welfare,
   3rd Floor, Integrated Animal Husbandry and Fisheries Buiding,
   Nandanam, Chennai - 600 035.

10. The District Collector,
    Collectorate,
    Kokkirakulam,
    Tirunelveli - 627 009.

11. The Registrar
    National Green Tribunal(Southern Zone)
    377J, Kalas Mahal, Kamaraj Salai,
    PWD Estate, Chepauk
    Chennai - 600 005.

12. C.H. Balamohan
    7-8, Moovendar Street,
    Mullainagar, Puducherry

COUNSEL FOR PETITIONER

1st Notice 2nd Notice 3rd Notice

HIGH COURT: MADRAS

Date of Hearing

Notice Issued

Notice Returned

Respondent 1

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3

4

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(AppellateJurisdiction)

W.P. No. of 2023

BATTA

M/s. L.P. Maurya
MS/1255/2008

S. Indrajith
MS/2686/2021

Ragesh Bhagavath L
MS/7586/2021

Harish Parvatham
MS/5681/2022

COUNSEL FOR PETITIONER
+9444670816

Assisting Counsel S. Prabhakaran G.A

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Special Original Jurisdiction)

W.P. No. 14661 of 2023

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Fisherman care,
Registered Association,
Bearing S.L. No. 386 of 2010
Rep by its Preseident
L.T.A. Peter Rayan
No. 6, Nagalakshmi Salai,
Tiruchandur Nagar,
Old Pallavaram,
Chennai-600 117

... Petitioner

Vs.

Union of India rep by its,
Secretary of Govt.
Ministry of Environment, Forest & Climate Change
(MoEF & CC), Govt. of India,
Indira ParyavaranBhavan, JorBagh Road,
Aliganj, New Delhi - 110 003 and 11 ors

HIGH COURT OF JUDICATURE APPELLATE SIDE MADRAS
RECEIVING WRIT
-3 MAY 2023
SECTION

... Respondents

INDEX TO WRIT PETITION BOOKLET

M/s L.P. Maurya
MS/1255/2008

S. Indrajith
MS/2686/2021

Ragesh Bhagavath
MS/7586/2021

Harish Parvatham
MS/5681/2021

COUNSEL FOR PETITIONER

+9444670816

IN THE HIGH COURT JUDICATURE OF MADRAS
(Special Original Jurisdiction)

W.P. No. 14661 of 2023

Fisherman care,
Rep by its President
L.T.A. Peter Rayan ... Petitioner

Vs.

The Union of India Rep by its
Secretary to the Govt.
Ministry of Environment, Forest & Climate Changes,
and 11 Ors ... Respondents

INDEX TO ADDITONAL TYPED SET II

It is certified that the above documents are true to be the respective ginals

Dated at Chennai on 3rd May of 2023

COUNSEL FOR PETITIONER

2022 SCC OnLine SC 639

In the Supreme Court of India

(BEFORE K.M. JOSEPH AND HRISHIKESH ROY, JJ.)

Madhya Pradesh High Court Advocates Bar Association and Another ... Petitioner(s);

Versus

Union of India and Another ... Respondent(s).

Writ Petition (Civil) No. 433 of 2012

Decided on May 18, 2022

Environment Law — Regulatory Framework, Bodies and Judicial Intervention — National Green Tribunal — National Green Tribunal Act, 2010 — Ss. 3, 14 and 22 — Constitutionality of — Held, (i) Ss. 14 & 22 do not oust the High Court's jurisdiction under Article 226 & 227; (ii) direct appeal to the Supreme Court under S. 22 is intra vires the Constitution of India; (iii) S. 3 is not a case of excessive delegation of power to the Central Government; and (iv) Not necessary to locate the seat of the NGT benches in every State

The Judgment of the Court was delivered by

HRISHIKESH ROY, J.:— Through this writ petition filed under Article 32 of the Constitution of India, the petitioners who are the Madhya Pradesh High Court Advocates Bar Association and the District Bar Association, both with their registered offices at Jabalpur, have raised a challenge to the vires of *the National Green Tribunal Act, 2010* (hereinafter referred to as "the NGT Act"), and pray for the following reliefs: —

"(a) Issue an appropriate writ of certiorari or any other writ of similar nature directing that the Bench of National Green Tribunal be set up at all the places where the principal seat of High Court is situated.

(b) Hold and declare that the proposed sitting up of Bench of NGT at Bhopal is not constitutionally and/or sustainable,

(c) Declare the provision of Section 14 r/w 22 of the National Green Tribunal Act, as unconstitutional insofar as they purport to exclude the writ jurisdiction of High Court under Article 226/227 of the Constitution of India."

2. The issues to be considered in this writ petition are:—

A. *Whether the National Green Tribunal (hereinafter referred to as "the NGT") ousts the High Court's jurisdiction under Sections 14 & 22 of the NGT Act?*

B. *Whether a seat of the NGT should be in every State? If yes, should they invariably be established at the principal seat of High Court, which in this case would be Jabalpur instead of Bhopal?*

C. *Whether the remedy of direct appeal to the Supreme Court from the decisions of the NGT under Section 22 of the NGT Act is ultra vires to the Constitution? Whether an appeal mechanism be provided to the High Courts from the decisions of the NGT?*

D. *Whether Section 3 of the NGT Act is ultra vires to the Constitution as suffering from the vice of excessive delegation?*

3. We have heard Mr. Siddhartha R. Gupta, the learned counsel for the petitioners. The Union of India is represented by Mr. K.K. Venugopal, the learned Attorney General for India together with Ms. Aishwarya Bhati, learned Additional Solicitor General. The State of Madhya Pradesh (respondent No. 2) is represented by Mr. Sunny Choudhary, learned counsel.

Arguments on behalf of Petitioners

4. The petitioners, who are espousing the cause of the Jabalpur based lawyers practicing before the High Court and the Civil Courts, contend that the Bhopal Bench of the NGT is located arbitrarily and the decision is inconsistent with the direction in *S.P. Sampath Kumar* v. *Union of India*[1] where this Court observed that for ensuring the efficacy and efficiency of any Tribunal, its seat should be at a place where the principal seat of the High Court is situated. As the Bench of the NGT is set up at Bhopal for catering to the environment related cases covering three States i.e., Madhya Pradesh, Chhattisgarh, and Rajasthan, the petitioners pray for setting up the Benches of the NGT at the principal seats of the High Courts in each of the three States and for their State of MP, the petitioners want it at Jabalpur.

5. According to the petitioners, environmental litigation is predominantly related to local factors and therefore, an easily accessible and available forum is necessary to be constituted, without requiring the litigants to move to distant places to secure environmental justice.

6. The petitioners argue that through incorporation of Section 14 and Section 22 in the NGT Act, the jurisdiction and the role of the High Courts under Article 226/227 is extinguished. This, therefore, has impacted the basic feature of the Constitution and as such the provisions of Section 14 read with Section 22 of the NGT Act should be struck down to the extent they divest the High Courts of their power as a superior Court.

7. Adverting to the power of the Central Government to identify the ordinary place of sitting of the NGT and specifying their respective territorial jurisdiction under Section 4(3) of the NGT Act, the petitioners argue that such power being unguided, suffers from the vice of excessive delegation. Laying stress on location of the NGT Bench at Jabalpur where adequate infrastructure is available, the petitioners question the choice of the seat at Bhopal instead of at Jabalpur, which is the principal seat of the Madhya Pradesh High Court. According to the petitioners, this impacts the right of the litigant in the field of environmental law, to access justice.

8. The remedy of appeal to the Supreme Court under Section 22 of the NGT Act in the petitioner's perception, practically amounts to denial of access to justice for the economically vulnerable litigants and this is contended to defeat the inherent objective of access to justice by bypassing the conveniently accessible remedy before the High Courts under Article 226 and 227 of the Constitution of India.

9. The petitioners next argue that the NGT does not enjoy the authority and autonomy available to judges in the High Courts and bearing in mind the conditions of service, tenure, and other aspects of the judicial and non-judicial members of the NGT, according to the petitioners, it is neither an effective nor an appropriate substitute of the High Courts, which were entertaining environmental disputes through respective Green Benches, prior to the enactment of the NGT Act. More specifically, the process of appointment, service conditions and other related provisions for appointment of presiding members of the NGT are not at par with the judges of the High Court and therefore, the NGT can only play a *"supplemental or subservient role instead of being an effective and appropriate substitute for the High Courts."*

Arguments on behalf of Respondent

10. Per contra, Mr. K K Venugopal, the learned Attorney General leading the arguments for the respondent's project that the NGT was set up because of the prodding and recommendations made by the Supreme Court while dealing with environmental cases and the Parliament was repeatedly entreated by the Court to create specialized environmental court with qualified judges and technical experts on the Bench. The learned Attorney General refers to the exhortations made by the Supreme Court in *M.C. Mehta* v. *Union of India*[2], *Indian Council for Enviro-Legal Action*

v. *Union of India*[3], *Vellore Citizens' Welfare Forum* v. *Union of India*[4], *A.P. Pollution Control Board* v. *Prof. M.V. Nayudu*[5] and *A.P. Pollution Control Board II* v. *Prof. M.V. Nayudu*[6] and their acceptance by the Parliament, following the 186th Report of the Law Commission which lead to the establishment of environmental courts. The Law Commission suggested in its Report that appeals from the environmental courts should lie before the Supreme Court. It is in this backdrop the learned AG submits that the NGT Act was enacted and the environmental cases which were hitherto heard by green benches in the High Court, were ordered to be transferred to the NGT by the Supreme Court itself as the same would help in rendering expeditious and specialized justice in the field of environment.

11. Insofar as the creation and setting up of the NGT and the location of their Benches, the learned AG submits that this was done under the active supervision of the Supreme Court and only after the proposed places of sitting recommended by the Central Government received the concurrence of this Court, the concerned Benches and their place of sitting was notified by the Central Government. It is therefore argued that the related notification had the imprimatur of the Supreme Court. The respondents point out that the Supreme Court monitored and oversaw the implementation of the NGT Act and setting up of its Benches in *Union of India* v. *Vimal Bhai* (SLP(C) No. 12065 of 2009) and the various orders passed on 19.9.2011, 6.12.2012 and 15.3.2013 by this Court would reflect that individual Bench of the NGT was set up to cater to multiple States and the location so chosen for the NGT at Bhopal, also had the approval of the Supreme Court.

12. The learned Attorney General next contends that the remedy before the High Court for a litigant under Article 226 and 227 continues to be available notwithstanding the enactment of the NGT Act and the provision for appeal to the Supreme Court under Section 22 of the NGT Act. It is specifically submitted by the learned AG that the High Court's power of judicial review remains unaffected by the NGT Act as it is a part of the basic structure of our constitution, as was declared in *L Chandra Kumar* v. *UOI*[7].

BACKDROP OF THE NATIONAL GREEN TRIBUNAL

13. The precursor to the NGT Act was the 186th Report of the Law Commission of India dated 29.3.2003 which came after the Supreme Court repeatedly urged Parliament through various judgments to establish specialized environmental courts, with qualified judges and technical experts on the bench. The Supreme Court also put forward that there should be direct appeals to the Supreme Court from such environmental courts. The Law Commission then recommended creation of a specialized court to deal with the environmental issues. The Law Commission expressed the view that it is not convenient for the High Courts and the Supreme Court to make local inquiries or to receive evidence. Moreover, the superior Courts will not have access to expert environmental scientists on permanent basis to assist them. The NGT was conceived as a complementary specialized forum to deal with all multi-disciplinary environmental issues, both as original as well as an appellate authority. The specialized forum was also made free from the rules of evidence applicable to normal courts and was permitted to lay down its own procedure to entertain oral and documentary evidence, consult experts etc., with specific mandate to observe the principles of natural justice.

14. In order to understand the objective of the NGT Act, we may usefully extract the following from the *Municipal Corporation of Greater Mumbai* v. *Ankita Sinha*[8] where the following was stated by one of us (Justice Hrishikesh Roy) for the 3 Judges Bench: —

> "**24** *The Statement of Objects and Reasons of the NGT Act will now require attention. Paras 2,3,4,5 and 6 of the Statement of Objects and Reasons being*

relevant are extracted hereinbelow:—

"2. India is a party to the decisions taken at the United Nations Conference on the Human Environment held at Stockholm in June, 1972, in which India participated, calling upon the States to take appropriate steps for the protection and improvement of the human environment. The United Nations Conference on Environment and Development held at Rio de Janeiro in June, 1992, in which India participated, has also called upon the States to provide effective access to judicial and administrative proceedings, including redress and remedy, and to develop National laws regarding liability and compensation for the victims of pollution and other environmental damage.

3. The right to healthy environment has been construed as a part of the right to life under article 21 of the Constitution in the judicial pronouncement in India.

4. The National Environment Tribunal Act, 1995 was enacted to provide for strict liability for damages arising out of any accident occurring while handling any hazardous substance and for the establishment of a National Environmental Tribunal for effective and expeditious disposal of cases arising from such accident, with a view to giving relief and compensation for damages to persons, property and the environment. However, the National Environment Tribunal, which had a very limited mandate, was not established. The National Environment Appellate Authority Act, 1997 was enacted to establish the National Environment Appellate Authority to hear appeals with respect to restriction of areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards under the Environment (Protection) Act, 1986. The National Environment Appellate Authority has a limited workload because of the narrow scope of its jurisdiction.

5. Taking into account account the large number of environmental cases pending in higher courts and the involvement of multidisciplinary issues in such cases, the Supreme Court requested the Law Commission of India to consider the need for constitution of specialized environmental courts. Pursuant to the same, the Law Commission has recommended the setting up of environmental courts having both original and appellate jurisdiction relating to environmental laws.

6. In view of the foregoing paragraphs, a need has been felt to establish a specialized tribunal to handle the multidisciplinary issues involved in environmental cases. Accordingly, it has been decided to enact a law to provide for the establishment of the National Green Tribunal for effective and expeditious disposal of civil cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment."

***25.** A reading of the Statement of Objects and Reasons shows that paragraph 4 thereof refers to the National Environmental Tribunal Act, 1995 (NET) which provided for strict liability and damages arising out of accidents occurring while handling hazardous substances. In the same context it was observed that the NET had a very limited and narrow mandate and jurisdiction. Thereafter, in Para 5 it has been recorded that a large number of environmental cases are pending in higher Courts which involve multi-disciplinary issues and, in such cases, the Supreme Court had requested the Law Commission of India to consider the need for constitution of specialized environmental Courts.*

***26.** Significantly, the Statement of Objects and Reasons also refers to right to a healthy environment being a part of the right to life under Article 21 of the Constitution of India. This was consistent with the earlier mentioned 186th Law Commission Report highlighting that the body so created, would aim to "achieve*

the objectives of Article 21, 47, 48A, 51A (g) of the Constitution of India by means of a fair, fast and satisfactory judicial procedure". An institution concerned with a significant aspect of right to life necessarily should be given the most liberal construction.

27. *The paragraph 2 of the Statement of Objects and Reasons refers to the United Nations Conference on the Human Environment held at Stockholm in June 1972 which called upon governments and peoples to exert common efforts for the preservation and improvement of the human environment when it involved people and for their posterity. Therefore, the municipal law enacted with such a laudatory objective of not only preventing damage to the environment but also to protect it, must be provided with the wherewithal to discharge its protective, preventive and remedial function towards protection of the environment. The mandate and jurisdiction of the NGT is therefore conceived to be of the widest amplitude and it is in the nature of a sui generis forum.*

28. *The United Nations Conference on Environment and Development held at Rio De Janeiro in June, 1992 where India participated, impressed upon the States to provide effective access to judicial and administrative proceedings, lay out redress and remedy and to develop national laws regarding liability and compensation for the victims of pollution and other environmental damage. The Preamble of the Act significantly emphasized on construing the right to healthy environment as a part of the Right to Life under Article 21 of the Constitution which was accepted by various judicial pronouncements in India. The National Green Tribunal was born in our country with such lofty dreams to deal with multi-disciplinary issues, relating to the environment.*

29. *The limited mandate conferred on the earlier forum i.e. the NET and the narrow scope of jurisdiction of the National Environment Appellate Authority along with the involvement of multi-disciplinary issues arising in environmental cases, were intended to be addressed through the constitution of the NGT."*

15. Explaining the purpose to constitute the specialized court to deal with environmental issues, in *Mantri Techzone (P) Ltd.* v. *Forward Foundation*[9], Justice S. Abdul Nazeer writing for the three Judges Bench made the following pertinent observation, on the status of the NGT:—

*"**40.** The Tribunal has been established under a constitutional mandate provided in Schedule VII List I Entry 13 of the Constitution of India, to implement the decision taken at the United Nations Conference on Environment and Development. The Tribunal is a specialised judicial body for effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to the environment. The right to healthy environment has been construed as a part of the right to life under Article 21 by way of judicial pronouncements. Therefore, the Tribunal has special jurisdiction for enforcement of environmental rights."*

16. The NGT is set up under the constitutional mandate under Entry 13 List I of Schedule VII to enforce Article 21 in regard to the environment and the Tribunal was conferred special jurisdiction for enforcement of environmental rights. It thus appears that the role of the NGT was not simply adjudicatory, but it also had the equally vital role which is preventive, ameliorative, or of the remedial category. The functional capacity of the NGT was intended to leverage wide powers to do full justice in the field of environment. The NGT came into existence as a sui generis institution established for the enforcement of environmental rights emanating from Article 21 of the Constitution[10].

17. After the NGT was set up, the Supreme Court pertinently directed the transfer of environmental cases pending before the High Courts to the NGT for expeditious and

specialized justice for all concerned. The Supreme Court also actively oversaw the implementation of the Act and creation of the NGT itself through various Orders[11]. Those also pertained to, inter-alia, the location of the NGT benches. In other words, the Supreme Court was not only conscious of the location of the benches of the NGT but also had given its imprimatur to the NGT's creation and other aspects.

18. With the above prefatory contexts in mind, we may now look at the challenge.

ISSUE WISE DISCUSSION

A. Whether the NGT ousts the High Court's jurisdiction under Sections 14 & 22 of the NGT Act?

19. Insofar as the contention of the petitioners that there is ouster of jurisdiction of the High Courts under Article 226 and 227 of the Constitution because of Sections 14 & 22 of the NGT Act, it must be recalled that in *L. Chandra Kumar* v. *Union of India* [supra], it has been categorically declared that the power of judicial review under Articles 226, 227, and 32 are part of the basic structure of our constitution and the same is inviolable. The following pertinent opinion rendered by the 7 Judges' bench of this Court must be remembered on this aspect:—

> *"**78.....** We, therefore, hold that the power of judicial review over legislative action vested in the High Courts under Article 226 and in this Court under Article 32 of the Constitution is an integral and essential feature of the Constitution, constituting part of its basic structure. Ordinarily, therefore, the power of High Courts and the Supreme Court to test the constitutional validity of legislations can never be ousted or excluded.*
>
> ***79.** We also hold that the power vested in the High Courts to exercise judicial superintendence over the decisions of all courts and tribunals within their respective jurisdictions is also part of the basic structure of the Constitution. This is because a situation where the High Courts are divested of all other judicial functions apart from that of constitutional interpretation, is equally to be avoided."*

20. Apart from the clear enunciation on legal position to the effect that the NGT is within the purview of Article 226 and 227 jurisdiction of the High Courts, the learned Attorney General on behalf of the Union of India has also made submissions consistent with *L. Chandra Kumar* [supra] and conceded the legal position.

21. It can further be noted that in terms of the above ratio in *L. Chandra Kumar* [supra], the High Courts have been entertaining petitions under Article 226 and 227 of the Constitution against orders of the NGT. While exercising such jurisdiction, the Courts necessarily exercise due discretion on whether to entertain or to reject the petition, as per the test broadly laid down in *Whirlpool Corpn.* v. *Registrar of Trade Marks, Mumbai*[12];

> *"**14.** The power to issue prerogative writs under Article 226 of the Constitution is plenary in nature and is not limited by any other provision of the Constitution. This power can be exercised by the High Court not only for issuing writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari for the enforcement of any of the Fundamental Rights contained in Part III of the Constitution but also for "any other purpose".*
>
> ***15.** Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is*

challenged. There is a plethora of case-law on this point but to cut down this circle of forensic whirlpool, we would rely on some old decisions of the evolutionary era of the constitutional law as they still hold the field."

22. It is also noteworthy that nothing contained in the NGT Act either impliedly or explicitly, ousts the jurisdiction of the High Courts under Article 226 and 227 and the power of judicial review remains intact and unaffected by the NGT Act. The prerogative of writ jurisdiction of High Courts is neither taken away nor it can be ousted, as without any doubt, it is definitely a part of the basic structure of the Constitution. The High Court's exercise their discretion in tandem with the law depending on the facts of each particular case. Since the High Court's jurisdiction remain unaffected, the first question is answered in the negative, against the petitioners.

B. Whether a seat of the NGT should be in every State? If yes, should they invariably be established at the principal seat of High Court, which in this case would be Jabalpur instead of Bhopal?

23. The petitioners in pleading for a NGT Bench in each state, place heavy reliance on *S.P. Sampath* [supra]. To appreciate this, the Court's following observation needs consideration in the context of administrative tribunals:—

*"**8.** I may also add that if the Administrative Tribunal is to be an equally effective and efficacious substitution for the High Court on the basis of which alone the impugned Act can be sustained, there must be a permanent or if there is not sufficient work, then a Circuit Bench of the Administrative Tribunal at every place where there is a seat of the High Court. I would, therefore, direct the government to set up a permanent Bench and if that is not feasible having regard to the Vol. of work, then at least a circuit Bench of the Administrative Tribunal wherever there is a seat of the High Court, on or before March 31, 1987. That would be necessary if the provisions of the impugned Act are to be sustained. So far as rest of the points dealt with in the judgment of Ranganath Misra, J. are concerned, I express my entire agreement with the view taken by him."*

24. As is seen, Justice Bhagwati made the above observation in the case where the Supreme Court was concerned with the Central Administrative Tribunal [in short, "CAT"] where the volume of litigation is substantially higher. This is why the direction to establish permanent benches or circuit benches in every State is predicated on assessing feasibility by reference to the volume of litigation. Here we must follow the principle of proportionality. To underscore the issue, the CAT have 17 Benches and 21 Circuit Benches as opposed to only five Benches of the NGT. The NGT caters to a limited number of cases unlike the CAT, where the volume of cases is substantially higher. As per the report[13] tabled in Rajya Sabha by the Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice, the CAT have over 48,000 cases pending as on 6th March, 2020.

25. While on this, we may also notice the data available on the website of the National Green Tribunal[14] which reflects the pendency of cases before the NGT as on 28.02.2022:—

ZONE WISE Pendency as on 28/02/2022	
Bench	Pendency
Principal Bench (Delhi)	621
SZB(Chennai)	517
CZB(Bhopal)	107
WZB(Pune)	694
EZB(Kolkata)	298
Total:	**2237**

26. As is apparent from the above chart the volume of cases handled by the NGT

and the CAT are not comparable. Looking at the large volume of service-related cases, it was suggested that the Benches of the CAT should be located at the seat of each High Court. But such logic cannot apply to the NGT, where the zone wise pendency in aggregate is only 2237 cases as on 31.3.2022 from the date of its inception. Therefore, the ratio in *S.P. Sampath* [supra] does not aid the petitioners who want the NGT Bench to be relocated from Bhopal to Jabalpur, where the Madhya Pradesh High Court is located.

27. It is also worthy of attention that the total disposal by all Benches of the NGT is 2799 cases during 12 months i.e., March, 2021 to February, 2022. The pendency figure for this period is 2237 only. The rate of disposal being higher than the pendency, no major backlog issue is seen before the NGT. The strikingly small 107 cases in the NGT's Bhopal Bench must also receive our due attention. These data do not provide for a reasonable basis to entertain a prayer for a NGT Bench at Jabalpur or for that matter, an individual NGT Bench in each of those three States.

28. With the low case load, if the NGT Benches are set up in all 28 States and 8 union territories as is suggested by the petitioners, the judges and other members in these forums might be left twiddling their thumbs. Accordingly, no basis is seen to allow one NGT bench in every State.

29. With the above answer to the first part of the issue B, the second part becomes superfluous. However, since earnest submission is made by the petitioner's counsel, the issue needs to be decided. The petitioner put forth that the seat of the NGT must be at Jabalpur where the principal seat of the Madhya Pradesh High Court is located as per the dicta in *S.P. Sampath* [supra]. On this aspect, the cited case is entirely inapplicable as the Bhopal Bench caters to multiple States. In such a situation, the location of the Bench to the extent possible, should be convenient and accessible to litigants of all three States. Here the respondents project that Bhopal is centrally located in relation to Rajasthan, Madhya Pradesh, & Chhattisgarh. Moreover, Bhopal being the capital of Madhya Pradesh, is well connected and accessible without much difficulty. This would commend to us that Bhopal is a sound locational choice for the NGT which caters to the litigants from three States.

30. The low case load in the Bhopal Bench, do not match with the strident plea of the petitioners to locate the Bench at Jabalpur. This is therefore perceived as an attempt by the petitioners (who are practicing lawyers in Jabalpur), to primarily espouse their professional interest. No other rational basis is seen for the Association's plea for relocation of the NGT Bench to Jabalpur from Bhopal. We see no justification to grant such relief to the petitioners and the second segment of issue B is accordingly answered against them.

C. *Whether the remedy of direct appeal to the Supreme Court from the decisions of the NGT under Section 22 of the NGT Act is ultra vires to the Constitution? Whether an appeal mechanism be provided to the High Courts from the decisions of the NGT?*

31. The petitioners have also pleaded that instead of appeal to the Supreme Court under Section 22 from the orders passed by the NGT, an appeal mechanism as a matter of right should also be provided before the concerned High Courts. According to them, appeal to the Supreme Court is inadequate and unaffordable and therefore inaccessible. On this aspect it needs to be observed that even when a direct appeal to the Supreme Court is provided by a statute[15] against the decision of a tribunal[16], the remedy under Article 226 or 227 before the High Court remains unextinguished. Moreover, the Appeal under Section 22 of the NGT Act, is limited to the grounds under Section 100 of the CPC and the Supreme Court does not function as a regular first appellate Court. However, under Article 226 or 227, remedies on issues of jurisdiction and also under the principles set out in *Associated Provincial Picture Houses Ltd.* v. *Wednesbury Corporation*[17], are available for an aggrieved party. Subject to discretion

being exercised, the affected litigants can move High Court under Article 226 or 227 and in such cases, a SLP under Article 136 of the Constitution could also be maintained to the Supreme Court from the High Court's verdict.

32. Also importantly, the right to appeal before the High Court is a creature of the statute and is not an inherent right. The provision for appeal to High Court should not therefore be created by issuing a writ of Mandamus as that would be legislating through judicial order, and would impinge upon the well-founded concept of separation of powers[18].

33. The options available to a litigant to either move to the Supreme Court in a case where a substantial question of law arises or proceed under Article 226 or 227 must not also be overlooked. If necessary, a party can also approach this Court by way of an Article 136 petition. With such choices being available for a party no rational justification is found for striking down Section 22 of the Act which provides for a direct appeal to the Supreme Court.

34. A litigating party must also realise that in any event, if the opposite side approaches the Supreme Court, the litigant on the other side would have to defend his case before this Court and at that stage they cannot be complaining about the distance to Delhi. Thus, the remedy of direct appeal to the Supreme Court under the NGT Act from the NGT's decision cannot be seen as denial of access to justice to the litigants in the field of environmental law.

35. The issue of direct appeals to the Supreme Court, or entertaining petitions under Article 136 to challenge tribunal's decision, was considered in the case of *R.K. Jain* v. *Union of India*[19]. In paragraph 76 of the said judgment, this Court addressed similar submission to the effect that appeal mechanism should be provided from a tribunal's decision, to a division bench of the High Court. The three Judges bench of this Court, however, expressly refrained from issuing direction for creation of appeal provisions to the High Courts, which was perceived to be an impermissible judicial function. So far, the legislature has not acted on the recommendation of this Court but then that issue is within the policy domain of the legislative wing of the State.

36. The implication of the Supreme Court being conceived as the first appellate forum was considered in *Rojer Mathew* v. *South Indian Bank Ltd.*[20], and in that case the Union Government was directed to do a study on the effect of direct appeals to the Supreme Court and place the resultant report before Parliament. But even in *Rojer Mathew* [supra], the Supreme Court had no occasion to say that direct appeals to the Supreme Court is constitutionally impermissible.

37. It must also be underscored that the ground raised by the Petitioners about Supreme Court being inaccessible, would equally apply to litigants, from all across the country, who have to travel to the Supreme Court, either by way of Article 136 or Article 32 or any other provision. Despite the provision under Article 130 of the Constitution, the Supreme Court has no other bench away from Delhi. In these circumstances by pleading inaccessibility, the petitioners are also incidentally questioning, the location of the Supreme Court at New Delhi. Such a contention on the face of it would be irrational and not acceptable.

38. It cannot also be overlooked that it is the Supreme Court itself which had recommended the setting up of environmental court with direct appeals to the Supreme Court. This would also support the proposition on constitutional validity of Section 22 of the NGT Act and that it is not ultra vires to the Constitution. Consequently, the answer to both aspects of the question C is answered in favour of the respondents.

D. Whether Section 3 of the NGT Act is ultra vires to the Constitution as suffering from the vice of excessive delegation?

39. Adverting next to the argument of the petitioners that Section 3 is a case of

excessive delegation to the Union Government. It must be borne in mind that the operationalization of the NGT, including the location of its Benches, was closely monitored by the Supreme Court. It is further seen that the Union Government is to specify the ordinary place of sitting of NGT and its territorial jurisdiction under Section 3 of the NGT Act being mindful of the demand for environment litigation within a particular territorial area. The Government is also to be guided by the objects of the Act as also the directions given by the Supreme Court from time to time. Since, the Government is acting on the issue with the guidance of this Court, and the Government is obliged to follow the objectives of the NGT Act, adequate safeguards are seen to guide the government. We are therefore of the opinion that Section 3 of the NGT Act is not a case of excessive delegation.

40. The petitioners are seen to have founded their contentions with considerable reliance on the decision in *Madras Bar Association* v. *Union of India*[21] to argue that the NGT is neither accessible nor it is independent in dealing with environmental cases. In the relied case, this Court struck down certain provisions of the *National Tax Tribunal Act, 2005* (for short, 'NTT Act') but this must be appreciated in the context of that case. Moreover, one must not overlook the distinction between the operation of the NTT Act vis-à-vis the NGT Act. To be specific, the NTT Act provided that the NTT would ordinarily sit at New Delhi. The NGT Act however provides for the creation of benches across the country. Additionally, the NTT was vested with the power of adjudicating appeals arising from orders passed by the Income Tax Appellate Tribunal on substantial questions of law. This was a jurisdiction that the High Courts were exercising under Article 227 in certain cases, and in that context, it was found that the NTT was indirectly impinging on the jurisdiction of the High Courts under Article 227. The jurisdiction exercised by the NGT is however distinct, and different, and not comparable. Also glaring was the fact that Union Government had the power to transfer members of the NTT from one bench to another. No such provision exists in the NGT Act. Besides, the NTT was constituted only to determine substantial questions of law and it was unclear how accountants and other technical members with no legal training would deal with the issues raised in such matters. Those troubling issues do not arise in the NGT Act. One must also be cognizant of the fact that the Selection Committee under Section 7 of the NTT Act was dominated by two secretaries of the Government, as opposed to the Selection Committee for the NGT under the Tribunal Reforms Act which clearly has judicial dominance.

41. Taking into account all the striking distinctions between the operation of the NGT Act and the NTT Act, the petitioners' reliance on the NTT judgment, which was rendered in the context of the provisions of the NTT Act, is found to be wholly misplaced.

42. Addressing next, the argument of the petitioners that the NGT does not enjoy the same status and independence as the High Courts on account of the conditions of service and tenure etc., it would be appropriate to say that although in paragraph 33 of the written submissions, the petitioners deal with specific provisions of the *Tribunal Reforms Act, 2021* and the Rules framed, those were neither raised in the petition nor any relief is claimed in reference to the *Tribunal Reforms Act.* Conspicuously, those were also not argued during the oral hearing. Therefore, we need not delve into those aspects as the same is beyond the scope of the instant proceeding.

43. It must also be borne in mind that the question of validity of the *Tribunal Reforms Act*, is pending in this Court in a batch of cases tagged with WP(C) 1018/2021 *Madras Bar Association* v. *Union of India*. Few similar issues like the present have also been raised in the pending cases where the Union of India has filed counter affidavit indicating their stand. As those issues are under consideration in the pending case, the same is left to be decided in those matters.

44. For all the aforesaid reasons, section 3 of the NGT Act is found to be intra vires to the Constitution of India. However, it is clarified that our conclusion is based on the specific facts of this case, and we make no comments on the issues which are sub-judice in the WP(C) 1018/2021 *Madras Bar Association* v. *Union of India*.

Conclusions

45. In consequence of the above analysis, our conclusions are,

A. The National Green Tribunal under Section 14 & 22 of the NGT Act does not oust the High Court's jurisdiction under Article 226 & 227 as the same is a part of the basic structure of the Constitution.

B. The remedy of direct appeal to the Supreme Court under Section 22 of the NGT Act is intra vires the Constitution of India.

C. Section 3 of the NGT Act is not a case of excessive delegation of power to the Central Government.

D. The seat of the NGT benches can be located as per exigencies and it is not necessary to locate them in every State. The prayer for relocating the Bhopal NGT to Jabalpur is unmerited and is rejected.

46. With the foregoing conclusions, the Writ Petition is found devoid of merit and is dismissed. The parties to bear their own cost.

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[1] (1987) 1 SCC 124, Para. 8

[2] (1986) 2 SCC 176, Para. 22

[3] (1996) 3 SCC 212, Para. 6

[4] (1996) 5 SCC 647, Para. 25

[5] (1999) 2 SCC 718, Para. 23, 42, 47, 48, 52

[6] (2001) 2 SCC 62, Para. 73

[7] (1997) 3 SCC 261

[8] 2021 SCC OnLine SC 897.

[9] (2019) 18 SCC 494.

[10] 2021 SCC OnLine SC 897, Para. 44, 98

[11] SLP (C) 12065 of 2009

[12] (1998) 8 SCC 1

[13] 100_2020_9_11.pdf (rajyasabha.nic.in)

[14] National Green Tribunal

[15] *Inter alia*, Electricity Act, 2003; Telecom Regulatory Authority of India Act, 1997

[16] *Inter alia*, Armed Forces Tribunal under the Armed Forces Tribunal Act, 2007

[17] [1948] 1 K.B. 223

[18] (2017) 7 SCC 221, Para. 36

[19] (1993) 4 SCC 119

[20] (2020) 6 SCC 1, Para. 218

[21] (2014) 10 SCC 1

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Order reserved on : 02.12.2022

Order pronounced on : 25.01.2023

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR.JUSTICE J. SATHYA NARAYANA PRASAD

Writ Petition (MD) No. 26139 of 2022
and
W.M.P. (MD) No. 20295 of 2022
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1. M. Swaminathan
2. A. Oliraja
3. Maruthasalamurthy
4. Sundarapandian
5. V. Jeyapandi
6. S. Vijayakumar
7. S. Jaheer Hussain
8. K.M. Dharmarajan
9. G. Duraiswamy
10. K.L.Shanmugasundaram
11. Balamurugan
12. Krishnamurthy
13. James
14. S.J. Ithaya
15. O. Murugan
16. S. Srinivasan
17. S. Sathik
18. P. Murugan
19. P. Selvakumar

20. P. Kumarapandian .. Petitioners

Versus

1. The State of Tamil Nadu
Through its Chief Secretary
Secretariat, Chennai

2. The District Collector
Madurai District
Collectorate
Madurai - 625 020

3. A.M. Vinodh .. Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorari calling for the records relating to the impugned order made by the Principal Bench of the National Green Tribunal in O.A. No. 125 of 2021 dated 23.08.2021 and quash the same as illegal.

For Petitioner : Mr. Ajmal Khan, Senior Advocate
for M/s. Ajmal Associates

For Respondents : Mr. Veera Kathiravan, Additional Advocate General
assisted by Mr. P. Thillai Kumar
Government Pleader for RR1 and 2
Mr. R. Rajamohan for R3

ORDER

R. MAHADEVAN, J.

The petitioners have come forward with this writ petition assailing the order dated 23.08.2021 passed by the Principal Bench of the National Green Tribunal, New Delhi, (in short, "the Tribunal") in O.A. No. 125 of 2021.

2. The third respondent herein has filed O.A. No. 125 of 2021 before the Tribunal challenging the orders passed by the Government of Tamil Nadu viz., G.O. (Ms). No. 76 and G.O. (Ms). No. 77, Revenue & Disaster Management Department, Land Disposal Wing [LD1(2)] Department, dated 28.02.2019 and G.O. (Ms). No. 329 dated 02.07.2020 alleging that a water body namely "Pudukulam Kanmoi" has been allotted to certain journalists as house sites. The Tribunal, after hearing the applicant/third respondent therein and the respondents/Government, disposed of the said application, by order dated 23.08.2021, the relevant passage of which is extracted below for ready reference:

> *"13. In view of the above, no compelling social need has been shown to destroy the water bodies merely on the ground that allotment of housing sites for journalists is required and water body has dried up. On such specious plea, any water body can be allotted for construction, ignoring public trust doctrine and need for protection of such water bodies. Having regard to the ecological significance of water bodies, approach adopted by the State of Tamil Nadu cannot be sustained. The Tribunal, under Section 20 of the NGT Act, has to uphold precautionary and sustainable development principles of Environmental Law by issuing appropriate directions for protection of environment under Section 15 of the said Act. In the course of doing so, the Tribunal can annul a decision of the State as held in Mantri Techzone Pvt Ltd., v. Forward Foundation and others (2019) 18 SCC 494 and The Director General (Road Development) NHAI vs. Aam Aadmi Lok Manch (2020) SCC Online 572. .....*
>
> *14. Accordingly, we allow this application and direct the State of Tamil Nadu to restore water body known as PudukulamKanmoiin Survey Nos. 134/2 and 134/2A1 in PudukulamKanmoi of Thallakulam Village, Madurai North Taluk, Madurai District, Tamil Nadu to its original position removing the construction, if any, raised thereon, within one month.*
>
> *The application is disposed of.*
>
> *A copy of this order be forwarded to the Chief Secretary, Tamil Nadu and*

District Magistrate, Madurai by e-mail for compliance."

The aforesaid order of the Tribunal is challenged in this writ petition by the petitioners herein, who are beneficiaries of the orders of allotment issued by the Government of Tamil Nadu.

3.(i) Mr. Ajmal Khan, learned senior counsel appearing for the petitioners would submit that the Tribunal, without hearing the petitioners herein, who are beneficiaries of the allotment of house site, has passed the order dated 23.08.2021 impugned herein, which is in violation of the principles of natural justice. In fact, the petitioners have filed an application to implead themselves as parties to the aforesaid application viz., O.A. No. 125 of 2021, but it was rejected. Therefore, on this ground alone, the learned senior counsel sought to set aside the order impugned in this writ petition.

(ii) Adding further, the learned senior counsel submitted that even in the year 1997, the Government has taken a policy decision and issued G.O. Ms. No.573 Revenue [LD-1(2)] Department dated 18.06.1997 allotting the lands in Old Survey No.134/4 and New Survey No.134/2A1, Thallakulam Village, Madurai measuring an extent of 3.70 acres to 61 members of Madurai Press Club Association. Pursuant to such allotment, the allottees have constructed residential houses and are residing. Subsequently, following the orders of allotment made in the year 1997, representations were made for some

more allotment. By considering the said representations, the second respondent, after making an intense study, had written a letter dated 26.12.2006, recommending to make allotment of house sites in the land in Survey No.134/2A1 of Thallakulam Village. The Government, acting upon the recommendation made by the second respondent, issued G.O. Ms. No.365, Revenue [Nee.Mu.1(2)] Department dated 24.06.2008 allotting the land measuring 0.76.5 hectares in favour of the petitioners. However, an order of assignment has not been made for a long time and therefore, the Secretary of the Madurai Press Club Association, filed WP (MD) No. 15221 of 2016 seeking to direct the first respondent to assign the land measuring 0.76.5 hectares in Survey No.134/2A1 of Thallakulam Village, Madurai. The said writ petition was disposed of on 18.08.2016, pursuant to which the Government issued G.O. (Ms). No.329, Revenue and Disaster Management Department, Land Disposal Wing [LD1(2)] Department, dated 02.07.2020 assigning the said land in favour of the petitioners on payment of the price fixed by the Government. Accordingly, the petitioners have remitted the price and obtained the orders of assignment in their favour. Thereafter, the petitioners have made construction and are living there along with their family. While so, another set of Journalists, who according to the learned Senior counsel, have not been favoured with such assignment, filed WP (MD) Nos. 18208 of 2019, 10244, 10810, 9547 and 8982 of 2020, challenging the orders

of assignment made in favour of the petitioners herein. By a common order dated 18.03.2021, the said writ petitions were dismissed by upholding the orders of assignment made in favour of the petitioners.

(iii) Elaborating further, the learned senior counsel submitted that what could not be achieved directly by filing an appeal as against the common order dated 18.03.2021 passed in WP (MD) No.18208 of 2019 etc. batch, the third respondent herein, claiming himself to be a journalist, has filed O.A. No. 125 of 2021 before the Tribunal on the ground that the land originally classified as water body viz., *Pudukulam Kanmoi* was allotted to the petitioners herein by converting it as house site and thereby, the precious water resource was destroyed. However, the petitioners have not been arrayed as parties to the said application. Therefore, the said application ought to have been dismissed by the Tribunal as non-joinder of necessary parties.

(iv) The learned senior counsel appearing for the petitioners further submitted that there was no water inlet or water flow into the land in Survey No.134/2A1 for several decades. A major portion of the so-called water body has been occupied by way of construction of various offices including the staff quarters of this Court, Law College Hostel, office of the Regional Transport Officer, Telecom Department, Audit Department, State Transport Corporation, TWAD Board and building to accommodate the forest department offices.

That apart, a sizeable portion of the land in Survey No.134/2A1 has been utilised where crematorium/burial grounds have been established. Thus, there is no possibility for the land to hold water nor can it be regarded as a water body.

(v) The learned senior counsel for the petitioners also submitted that before allotting the land in question in favour of the petitioners, the Additional Chief Secretary/Commissioner of Land Administration had sought the opinion of the learned Advocate General of the State. Thereafter, the classification of the land has been changed by a letter dated 27.06.2019. Thus, at the time of passing the orders of assignment, the classification of the land has been changed to natham residential site from Pudukulam Kanmoi. The third respondent, without challenging the order of classification, has devised a novel idea to file the application before the Tribunal alleging that a precious water body has been encroached upon by the petitioners herein. In any event, taking note of the fact that the land is no longer treated as a water body and that, the Government had taken a policy decision to allot the same in favour of the petitioners, the order passed by the Tribunal directing the respondent officials to restore the water body to its original position, has to be set aside.

(vi) The learned senior counsel for the petitioners has invited the attention of this Court to the order dated 23.06.2022 passed by a Division

Bench of this Court in WP (MD) Nos. 13259 and 15335 of 2022, which were filed as Public Interest Litigation restraining the Government from establishing an Electric Hi-tech Gasified crematorium in the very same land in Survey No. 134/2 in Thallakulam Village on the ground that such facility, if established, would cause health hazard to the residents of the locality. By order dated 23.06.2022, the said writ petitions were dismissed.

(vii) The learned senior counsel for the petitioners also placed reliance on the order dated 14.11.2022 passed by us in WP (MD) No. 2078 of 2016, which was filed as a Public Interest Litigation to remove all the constructions put up in the water body - Thallakulam Kanmoi located in Survey No.805/1A (previously Survey No.805) over an extent of 21.19.098 hectares = 52.34 acres. It was stated by the respondent authorities in the said writ petition that for decades, the land has not been utilised as a water body nor was there any flow of water. It was further submitted that several buildings have come up over a period of five decades in the said land and therefore, it is not possible to restore the said land or treat it as a water body. After hearing the counsel on either side, the said writ petition was dismissed.

(viii) By pointing out the aforesaid decisions of this Court, the learned senior counsel for the petitioners submitted that the land in question can no

longer be treated as a water body and several residential buildings have come up in the land in question. While so, the order passed by the Tribunal, directing the Government to remove all the encroachments and restore the water body to its original position cannot be feasible for consideration and hence, the same is liable to be set aside.

4.(i) Mr. Veerakathiravan, learned Additional Advocate General appearing for the respondents 1 and 2 would submit that the Government had taken a policy decision to allot certain house sites to the petitioners/journalists. In this regard, three Government Orders came to be passed. By G.O. Ms. No. 76 dated 28.02.2019, the Government ordered to issue house site pattas to 86 journalists by converting the classification of the land in T.S. No.5, Block No. 4, Ward No.16 of Thallakulam Village measuring an extent of 3.10 acres from "Assessed Wet Waste" into "Natham (residential site). In G.O. Ms. No.77, Revenue and Disaster Management Department dated 28.02.2019 relates to the conversion of the land in Survey No.43/2 in Sakkimangalam Bit II Village, Madurai to an extent of 1.50.71 Hectares out of 14.47.5 Hectares in S.No.43/2, which was classified as "Assessed Waste Dry" into "Natham" for house site assignment in favour of 74 persons. In G.O(Ms) No.329 dated 02.07.2020, house site assignment was granted to 25 members of Madurai Press Club, in respect of the land in S.No.134/4 which was classified as Pudukulam Kanmoi

into Natham. Therefore, out of the three Government Orders challenged by the third respondent before the Tribunal, only one pertains to the water body and the other two orders relates to the conversion of land, which was classified as "Assessed waste dry".

(ii) The learned Additional Advocate General appearing for the respondent authorities further submitted that the land in Survey No.134/2 measuring an extent of 47.32 acres was classified as *Pudukkulam Kanmoi*. Even prior to the year 1997, the Government had taken a policy decision and assigned a portion of land measuring 3.70 acres by classifying it from 'Kanmoi' to 'Natham' in favour of Madurai Press Club Association to be divided among 61 beneficiaries of an extent of 4 cents of land each at Rs.25/- per square feet. Based on such assignment, further assignment of the land measuring 0.76.5 hectares was made in favour of the petitioners herein who are members of Madurai Press Club Association after re-classifying the same into Natham lands. The above said lands allotted in favour of the petitioners are surrounded by various Central and State Government offices. Such allotments were made taking note of the fact that there is no water flow in the land in question for several decades. Therefore, after re-classification, due to paucity of lands to be allotted for accommodating various departments of the Government, a major portion of the lands have been sub-divided and transferred to various departments of the Government a couple of decades earlier. Out of the total

extent of 47.32 acres, only an extent of 5.58.0 Hectares (13.78 acres) left that too in pieces as T.S. Nos.75, 90 (part), 91, 92 and 103. Out of the available extent of 5.58.0 hectares (13.78 acres), 0.76.5 hectares (1.89 acres) has been assigned to the petitioners who are members of Madurai Press Club Association and the remaining extent of 4.81.5 (11.89 acres) of land has been retained as "Kanmoi" only. The Tribunal, without taking note of the fact that constructions have come up decades earlier, has passed the order dated 23.08.2021 for restoration of the water body. Thus, the learned Additional Advocate General prayed this Court to pass appropriate orders in this writ petition.

5. The learned counsel for the third respondent would at the outset, submit that as against the order dated 23.08.2021 of the Tribunal, the State of Tamil Nadu has filed Civil Appeal No. 6120 of 2021 before the Honourable Supreme Court and the same was dismissed on 12.11.2021. While so, the challenge made to the order dated 23.08.2021 passed by the Tribunal, by the petitioners herein, cannot be countenanced, also in view of Section 22 of the NGT Act. Above all, it is submitted by the learned counsel that by virtue of allotment of land in favour of the petitioners, water body or water source is degraded. There is no special reason assigned by the Government for allotting the land in favour of the petitioners, who are affluent persons. When the land

in question is classified as water body, the Government is not justified in re-classifying the nature of land and allotting it to the petitioners, who are members of Madurai Press Club Association. On the other hand, the Tribunal, by applying the principles of public trust doctrine, passed the order impugned herein, by directing the respondents 1 and 2 herein to ensure that the water body is fully protected. In support of the same, the Tribunal placed reliance on various orders passed by the Hon'ble Supreme Court as well as the Division Bench of this Court and concluded that water body has to be restored to its original position by removing the construction, if any, raised thereon, within a period of one month. However, the directions of the Tribunal have not been complied with by the State. Therefore, the learned counsel prayed for dismissal of the writ petition filed by the petitioners and for direction to the official respondents to ensure compliance of the directions issued by the Tribunal.

6. We have heard the learned Senior counsel for the petitioners, the learned Additional Advocate General for the State and the learned counsel for the third respondent and also perused the materials placed on record.

7. Admittedly, the Government of Tamil Nadu passed orders in G.O. (Ms) No. 76, Revenue & Disaster Management Department, Land Disposal Wing [LD1(2)] Department, dated 28.02.2019, G.O. (Ms) No. 77, Revenue &

Disaster Management Department, Land Disposal Wing [LD1(2)] Department, dated 28.02.2019 and G.O. (Ms) No. 329 Revenue & Disaster Management Department, Land Disposal Wing [LD1(2)] Department, dated 02.07.2020 allotting certain lands in favour of the petitioners, who are journalists by profession. Pursuant to such allotment, it is stated that the petitioners have constructed houses and some of them are residing thereon. At this stage, the third respondent herein filed Original Application No. 125 of 2021 before the National Green Tribunal, Principal Bench, New Delhi, challenging the orders of assignment to the petitioners, without arraying them as parties to the proceedings. The Tribunal, after hearing the official respondents as well as the applicant/third respondent herein, has passed the order dated 23.08.2021 impugned herein, by applying the precautionary and sustainable development principles of environment law and directed the respondents 1 and 2/Government to restore water body in Survey Nos.134/2 and 134/2A1 in Pudukulam Kanmoi of Thallakulam Village, Madurai North Taluk, Madurai District, Tamil Nadu to its original position by removing the construction, if any, raised thereon, within one month. This Court, even for a moment, has no doubt about the role of the State to preserve the natural resources including the water bodies and for that matter, would not hesitate to extend its arm. However, the judgments relied upon, would have to be juxtaposed to the facts of each case and the omnibus application of the same, without consideration of

all the facts, would undermine the system of justice dispensation. Keeping the same in mind, this court proceeds to deal with the issue involved in this writ petition.

8. At the first instance, we deal with the issue of maintainability. The 3rd respondent has raised an objection as to the maintainability of the writ petition on two counts viz., (a) in view of Section 22 of the NGT Act, only an appeal will lie to the Hon'ble Apex Court and (b) the order of the Tribunal was unsuccessfully challenged by the State. The issue with respect to maintainability of a writ petition under Article 226 of the Constitution of India is no longer *res integra*. In a recent judgment in ***Madhya Pradesh High Court Advocate Bar Association and another v. Union of India & Others [2022 SCC Online SC 639],*** the Hon'ble Apex Court held as follows:

> "***19.*** *Insofar as the contention of the petitioners that there is ouster of jurisdiction of the High Courts under Article 226 and 227 of the Constitution because of Sections 14 & 22 of the NGT Act, it must be recalled that in L.Chandra Kumar v. Union of India [(1997) 3 SCC 261 : 1997 SCC (L&S) 577], it has been categorically declared that the power of judicial review under Articles 226, 227, and 32 are part of the basic structure of our constitution and the same is inviolable. The following pertinent opinion rendered by the 7 Judges' bench of this Court must be remembered on this aspect:—*
>
> > "***78.....*** *We, therefore, hold that the power of judicial review over legislative action vested in the High Courts under Article 226 and in this Court under Article 32 of the Constitution is an integral and essential feature of the Constitution, constituting part of its basic structure. Ordinarily, therefore, the power of High Courts and the Supreme Court to test the constitutional validity of legislations can never be ousted or excluded.*
> >
> > ***79.*** *We also hold that the power vested in the High Courts to exercise*

judicial superintendence over the decisions of all courts and tribunals within their respective jurisdictions is also part of the basic structure of the Constitution. This is because a situation where the High Courts are divested of all other judicial functions apart from that of constitutional interpretation, is equally to be avoided."

20. *Apart from the clear enunciation on legal position to the effect that the NGT is within the purview of Article 226 and 227 jurisdiction of the High Courts, the learned Attorney General on behalf of the Union of India has also made submissions consistent with L. Chandra Kumar [supra] and conceded the legal position.*

21. *It can further be noted that in terms of the above ratio in L. Chandra Kumar [supra], the High Courts have been entertaining petitions under Article 226 and 227 of the Constitution against orders of the NGT. While exercising such jurisdiction, the Courts necessarily exercise due discretion on whether to entertain or to reject the petition, as per the test broadly laid down in Whirlpool Corpn. v. Registrar of Trade Marks, Mumbai;*

> *"**14.** The power to issue prerogative writs under Article 226 of the Constitution is plenary in nature and is not limited by any other provision of the Constitution. This power can be exercised by the High Court not only for issuing writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari for the enforcement of any of the Fundamental Rights contained in Part III of the Constitution but also for "any other purpose".*
>
> ***15.** Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged. There is a plethora of case-law on this point but to cut down this circle of forensic whirlpool, we would rely on some old decisions of the evolutionary era of the constitutional law as they still hold the field."*

22. *It is also noteworthy that nothing contained in the NGT Act either impliedly or explicitly, ousts the jurisdiction of the High Courts under Article 226 and 227 and the power of judicial review remains intact and unaffected by the NGT Act. The prerogative of writ jurisdiction of High Courts is neither taken away nor it can be ousted, as without any doubt, it is definitely a part of the basic structure of the Constitution. The High Court's exercise their discretion in tandem with the law depending on the facts of each particular*

case. Since the High Court's jurisdiction remain unaffected, the first question is answered in the negative, against the petitioners.

31. The petitioners have also pleaded that instead of appeal to the Supreme Court under Section 22 from the orders passed by the NGT, an appeal mechanism as a matter of right should also be provided before the concerned High Courts. According to them, appeal to the Supreme Court is inadequate and unaffordable and therefore inaccessible. On this aspect it needs to be observed that even when a direct appeal to the Supreme Court is provided by a statute against the decision of a tribunal, the remedy under Article 226 or 227 before the High Court remains unextinguished. Moreover, the Appeal under Section 22 of the NGT Act, is limited to the grounds under Section 100 of the CPC and the Supreme Court does not function as a regular first appellate Court. However, under Article 226 or 227, remedies on issues of jurisdiction and also under the principles set out in Associated Provincial Picture Houses Ltd. v. Wednesbury Corporation, are available for an aggrieved party. Subject to discretion being exercised, the affected litigants can move High Court under Article 226 or 227 and in such cases, a SLP under Article 136 of the Constitution could also be maintained to the Supreme Court from the High Court's verdict.

.....

Conclusions

38. In consequence of the above analysis, our conclusions are,

A. The National Green Tribunal under Section 14 & 22 of the NGT Act does not oust the High Court's jurisdiction under Article 226 & 227 as the same is a part of the basic structure of the Constitution....."

9. In ***L. Chandra Kumar v. Union of India*** **[(1997) 3 SCC 261] : 1997 SCC (L&S) 577,** the Hon'ble Apex Court, while deciding on the maintainability of a petition under Article 226/227 as against the orders of Tribunals, held as follows:

"78. The legitimacy of the power of courts within constitutional democracies to review legislative action has been questioned since the time it was first conceived. The Constitution of India, being alive to such criticism, has, while conferring such power upon the higher judiciary, incorporated important safeguards. An analysis of the manner in which the Framers of our Constitution incorporated provisions relating to the judiciary would indicate that they were very greatly concerned with securing the independence of the

judiciary. [See Chapter VII, "The Judiciary and the Social Revolution" in Granville Austin, The Indian Constitution : Cornerstone of a Nation, Oxford University Press, 1972; the chapter includes exhaustive references to the relevant preparatory works and debates in the Constituent Assembly.] These attempts were directed at ensuring that the judiciary would be capable of effectively discharging its wide powers of judicial review. While the Constitution confers the power to strike down laws upon the High Courts and the Supreme Court, it also contains elaborate provisions dealing with the tenure, salaries, allowances, retirement age of Judges as well as the mechanism for selecting Judges to the superior courts. The inclusion of such elaborate provisions appears to have been occasioned by the belief that, armed by such provisions, the superior courts would be insulated from any executive or legislative attempts to interfere with the making of their decisions. The Judges of the superior courts have been entrusted with the task of upholding the Constitution and to this end, have been conferred the power to interpret it. It is they who have to ensure that the balance of power envisaged by the Constitution is maintained and that the legislature and the executive do not, in the discharge of their functions, transgress constitutional limitations. It is equally their duty to oversee that the judicial decisions rendered by those who man the subordinate courts and tribunals do not fall foul of strict standards of legal correctness and judicial independence. The constitutional safeguards which ensure the independence of the Judges of the superior judiciary, are not available to the Judges of the subordinate judiciary or to those who man tribunals created by ordinary legislations. Consequently, Judges of the latter category can never be considered full and effective substitutes for the superior judiciary in discharging the function of constitutional interpretation. We, therefore, hold that the power of judicial review over legislative action vested in the High Courts under Article 226 and in this Court under Article 32 of the Constitution is an integral and essential feature of the Constitution, constituting part of its basic structure. Ordinarily, therefore, the power of High Courts and the Supreme Court to test the constitutional validity of legislations can never be ousted or excluded.

***79.** We also hold that the power vested in the High Courts to exercise judicial superintendence over the decisions of all courts and tribunals within their respective jurisdictions is also part of the basic structure of the Constitution. This is because a situation where the High Courts are divested of all other judicial functions apart from that of constitutional interpretation, is equally to be avoided.*

.....

***90.** We may first address the issue of exclusion of the power of judicial review of the High Courts. We have already held that in respect of the power of judicial review, the jurisdiction of the High Courts under Articles 226/227 cannot wholly be excluded. It has been contended before us that the Tribunals should not be allowed to adjudicate upon matters where the vires of legislations is questioned, and that they should restrict themselves to handling matters where constitutional issues are not raised. We cannot bring ourselves*

to agree to this proposition as that may result in splitting up proceedings and may cause avoidable delay. If such a view were to be adopted, it would be open for litigants to raise constitutional issues, many of which may be quite frivolous, to directly approach the High Courts and thus subvert the jurisdiction of the Tribunals. Moreover, even in these special branches of law, some areas do involve the consideration of constitutional questions on a regular basis; for instance, in service law matters, a large majority of cases involve an interpretation of Articles 14, 15 and 16 of the Constitution. To hold that the Tribunals have no power to handle matters involving constitutional issues would not serve the purpose for which they were constituted. On the other hand, to hold that all such decisions will be subject to the jurisdiction of the High Courts under Articles 226/227 of the Constitution before a Division Bench of the High Court within whose territorial jurisdiction the Tribunal concerned falls will serve two purposes. While saving the power of judicial review of legislative action vested in the High Courts under Articles 226/227 of the Constitution, it will ensure that frivolous claims are filtered out through the process of adjudication in the Tribunal. The High Court will also have the benefit of a reasoned decision on merits which will be of use to it in finally deciding the matter.

91. *It has also been contended before us that even in dealing with cases which are properly before the Tribunals, the manner in which justice is dispensed by them leaves much to be desired. Moreover, the remedy provided in the parent statutes, by way of an appeal by special leave under Article 136 of the Constitution, is too costly and inaccessible for it to be real and effective. Furthermore, the result of providing such a remedy is that the docket of the Supreme Court is crowded with decisions of Tribunals that are challenged on relatively trivial grounds and it is forced to perform the role of a first appellate court. We have already emphasised the necessity for ensuring that the High Courts are able to exercise judicial superintendence over the decisions of the Tribunals under Article 227 of the Constitution. In R.K. Jain case [(1993) 4 SCC 119 : 1993 SCC (L&S) 1128 : (1993) 25 ATC 464] , after taking note of these facts, it was suggested that the possibility of an appeal from the Tribunal on questions of law to a Division Bench of a High Court within whose territorial jurisdiction the Tribunal falls, be pursued. It appears that no follow-up action has been taken pursuant to the suggestion. Such a measure would have improved matters considerably. Having regard to both the aforestated contentions, we hold that all decisions of Tribunals, whether created pursuant to Article 323-A or Article 323-B of the Constitution, will be subject to the High Court's writ jurisdiction under Articles 226/227 of the Constitution, before a Division Bench of the High Court within whose territorial jurisdiction the particular Tribunal falls."*

10. A Division Bench of the Bombay High Court in ***Windsor Realty Pvt Ltd v. Ministry of Environment and Forest and others [2016 SCC Online***

Bombay 5613] on the maintainability and limitation, held as follows:

*"**20.** Though this objection is not pressed, in our view, the said objection is without any substance. This Court in PIL No. 88 of 2013 by Judgment and Order dated 11/09/2015, relying on the judgment of Hon'ble Supreme Court in L. Chandrakumar v. Union of India [(2014) 10 SCC 1] held that Writ Petition challenging the order of NGT is maintainable before Division Bench of the High Court. Division Bench of this Court presided over by Chief Justice Mohit Shah (as he then was) has taken a similar view in Writ Petition No. 5754 of 2015 (Sham Resorts and Hotels Pvt. Ltd. v. Maria Rebillet) and entertained the Petition against the order of NGT. Another Division Bench of this Court also took a similar view in Writ Petition No. 433 of 2015 (Leading Hotels Ltd. v. Mr. Anthony Mendis).*

***21.** The Supreme Court in L. Chandrakumar v. Union of India [(1997) 3 SCC 261] held that all decisions of Tribunals which are created under Articles 323A and 323B of the Constitution of India, would be subject to High Court's writ jurisdiction under Article 226 and 227 of the Constitution of India.*

***22.** In view of this settled position in law, we have no manner of doubt that this Court has jurisdiction to entertain Writ Petitions challenging the orders passed by NGT.*

***23.** The second submission was regarding alternative remedy which was available to the Petitioner of filing an appeal against the order of NGT to the Supreme Court of India. This objection is also without any substance. The Apex Court in Whirpool Corporation v. Register of Trade Marks, Mumbai [(1998) 8 SCC 1] has held that writ court can exercise its discretionary jurisdiction of judicial review in respect of the Petitioner having an alternative remedy available to file an appeal, particularly in three contingencies viz (I) where Writ Petition seeks enforcement of fundamental right, (ii) where there is a violation of principles of natural justice and (iii) where the Order from the proceedings are wholly without jurisdiction or virus of the Act is challenged."*

.....

***35.** A bare perusal of the said section clearly discloses that period of limitation is six months from the date on which the cause of action first arose. Prima facie, therefore it cannot be interpreted by any stretch of imagination that it would arose from the date of knowledge of the original applicant of the alleged violation taking place or from the date on which the Environmental Authorities were informed about violation and inaction on their part. There appears to be a lot of confusion in the mind of NGT Bench, Pune on various aspects of continuous cause of action. Perusal of the said Section indicates that the concept of continuous cause of action cannot apply to the complaints which are filed before the NGT because had it been so, the legislature would not have stated that the limitation would be six months from the date on which the cause of action for such dispute first arose. If the interpretation*

which is sought to be given to the provision by the NGT Bench, Pune in the impugned order is accepted, the complaint could be filed by the aggrieved person at any point of time, claiming that he came to know about the violation after 10 or 20 years. At the same time, if there is any violation of the provisions of the Environment (Protection) Act, 1986, the same have to be addressed and looked into. The only question is by which Authority."

11. The Telengana High Court in ***State of Telengana v. Md. Hayath Udin and others [2017 SCC OnLine Hyd 356]*** on the maintainability of a writ petition and on the availability of alternative remedy under Section 22 of the NGT Act, held as under:

*"**19.** The power of judicial review over legislative action, and the power to exercise judicial superintendence over the decisions of all courts and tribunals within their respective jurisdictions, vested in the High Courts under Article 226 of the Constitution, is an integral and essential feature of the Constitution, constituting part of its basic structure (L. Chandra Kumar). The power of judicial review vested in the High Courts cannot, therefore, be ousted or abridged even by a Constitutional amendment. No Act of Parliament can exclude or curtail the powers of Constitutional Courts under Article 226/227 of the Constitution. (I.R. Coelho1; Kollidam Aaru Pathukappu Nala Sangam).*

***20.** In L. Chandra Kumar, the Supreme Court held that, the exclusion of jurisdiction clauses in all legislations enacted under the aegis of Articles 323-A and 323-B of the Constitution would be unconstitutional; under the existing system, direct appeals were provided from the decisions of all Tribunals to the Supreme Court under Article 136 of the Constitution; this situation would also stand modified; no appeal from the decision of a Tribunal would directly lie before the Supreme Court under Article 136 of the Constitution; instead, the aggrieved party would be entitled to move the High Court under Articles 226/227 of the Constitution and, from the decision of the Division Bench of the High Court, the aggrieved party could move the Supreme Court under Article 136 of the Constitution; and the jurisdiction conferred upon the High Courts, under Articles 226/227 of the Constitution, is a part of the inviolable basic structure of our Constitution and cannot be ousted.*

***21.** In State of Karnataka v. Vishwabharathi House Building Cooperative Society, the Supreme Court held that, by reason of the provisions of the Consumer Protection Act, 1986, the power of judicial review of the High*

Court, which is a basic feature of the Constitution, has not been, nor could it be, taken away. In Union of India v. Delhi High Court Bar Association, the Supreme Court held that the Recovery of Debts due to Banks and Financial Institutions Act, 1993, provided for a remedy of appeal to an Appellate Tribunal, whose decision was also not final in view of the fact that the same could be subjected to judicial review by the High Court under Articles 226 and 227; and, among the grounds on which the 1993 Act was saved, was that the power of judicial review of the High Court was not taken away by the creation of the Tribunal. (Kollidam Aaru Pathukappu Nala Sangam).

22. *In Windsor Realty Pvt. Ltd. v. Secretary, Ministry of Environment and Forest, a Division Bench of the Bombay High Court held that a Writ Petition, challenging the order of the NGT, is maintainable before the Division Bench. In Sham Resorts and Hotels Pvt. Ltd. v. Maria Rebillet another Division Bench of the Bombay High Court had entertained a Writ Petition against the order of NGT. A similar view was taken by yet another Bench of the Bombay High Court, in Leading Hotels Ltd. v. Mr. Anthony Mendis, and it was held that the High Court had jurisdiction to entertain Writ Petitions challenging the orders passed by NGT. A Division Bench of the Madras High Court, in Kollidam Aaru Pathukappu Nala Sangam, held that the jurisdiction of the High Court under Article 226, to entertain a Writ Petition against the order of the NGT, is not barred by the provisions of the 2010 Act. A similar view was taken by a Division bench of this Court in G.J. Multiclave (India) Pvt. Ltd. v. State of Telangana, rep., by its Secretary, Environment, Forest, Science & Technology Dept, Secretariat.*

23. *The 2010 Act does not expressly exclude the jurisdiction of the High Court under Articles 226/227, though it excludes the jurisdiction of the normal Civil Courts under Section 29. (KollidamAaruPathukappu Nala Sangam). While Section 29 of the 2010 Act explicitly bars the jurisdiction of the Civil Courts, the jurisdiction of the High Court under Articles 226 and 227 cannot be excluded even by implication for, even if the 2010 Act itself had contained a specific provision excluding the jurisdiction of the High Court under Articles 226 and 227, it would have been invalid in view of the specific declaration made in L. Chandrakumar that Articles 226 and 227 form part of the Constitutions basic structure. If an express exclusion, assuming that it had been provided, cannot be saved, an implied exclusion undoubtedly cannot. (KollidamAaruPathukappu Nala Sangam). We see no reason, therefore, to refuse to entertain this Writ Petition, filed questioning the interim order passed by the NGT, on the specious plea that the jurisdiction of this High Court is barred by the provisions of the 2010 Act."*

....

26. *Section 22 of the 2010 Act stipulates that any person, aggrieved by any award, decision or order of the Tribunal, may file an appeal to the Supreme Court, within 90 days from the date of communication of the award, decision or order of the Tribunal, to him, on any one or more of the grounds specified in Section 100 CPC. The right of appeal, under Section 22 of the National*

Green Tribunal Act, 2010, is subject to the restriction that it should pass the same test as is stipulated in Section 100 of the Civil Procedure Code. (KollidamAaruPathukappu Nala Sangam).

27. *Section 100(1) CPC provides for an appeal to the High Court from every decree passed in appeal by any Court subordinate to the High Court, if the High Court is satisfied that the case involves a substantial question of law. Apart from the fact the jurisdiction under Article 226 of the Constitution of India must be exercised in furtherance of larger public interest, or where substantial injustice would be caused by its non-interference, exercise of judicial review is on grounds not very different from that stipulated under Section 100 CPC. Even if we were to proceed on the premise that an appeal would lie, to the Supreme Court under Section 22 of the 2010 Act, even against the interlocutory order passed by the Principal Bench of the NGT at New Delhi, the question which necessitates examination is whether existence of a statutory remedy of an appeal to the Supreme Court, under Section 22 of the 2010 Act, would require this Court to refrain from exercising its jurisdiction under Article 226 of the Constitution of India.*

28. *Article 226 of the Constitution confers discretion on the High Court, having regard to the facts and circumstances of the case, either to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that, if an effective and efficacious remedy is available, it would, normally, not exercise its extra-ordinary jurisdiction. The existence of an alternative remedy does not operate as a bar in at least three contingencies. The extraordinary remedy under Article 226 of the Constitution of India can be invoked, despite the availability of an alternate statutory remedy, in cases where (a) the writ petition is filed for enforcement of any of the fundamental rights, (b) where there has been a violation of the principles of natural justice, and (c) where the order or proceedings are wholly without jurisdiction (Whirlpool Corporation v. Registrar of Trademarks). The petitioner contends that the NGT lacks jurisdiction to entertain the O.A, on the ground that the O.A was filed beyond the period prescribed in Section 14(3) of the 2010 Act and its proviso, and the cause of action arose beyond the territorial limits of the NGT Principal bench at New Delhi. Mere existence of an alternate remedy under Section 22 of the 2010 Act would, therefore, not operate as a bar for the Writ Petition to be entertained under Article 226 of the Constitution of India."*

12. In a recent judgment, the Telengana High Court in ***Pradeep Reddy Badvelu v. Anumula Revanth Reddy [2022 SCC Online TS 989]*** while dealing with an order of NGT passed under similar circumstances regarding constructions in prohibition zone near water bodies, held as under:

"43. Section 19 (1) & (2) which deals with procedure and powers of Tribunal says that the Tribunal is not bound by procedure laid down by Civil Procedure Code, 1908, but shall be guided by the principles of natural justice. Sub-section (4), the Tribunal for the purpose of discharging its function under the Act, the same powers as are vested in a civil Court under the Civil Procedure Code, 1908, while trying a suit in respect of matters stated under (a) to (k). Sub-section (4) (i) mandates for providing opportunity of being heard to the concerned parties before any interim orders are passed on any application or appeal under the Act. The Legislature intent is very clear and specifically wanted the Tribunal to observe principles of natural justice before passing any interim orders unlike in many other statues where such contingency is not provided. When the provision of law mandates that principles of natural justice have to be followed even before grant of interim order, observance of such a mandate under the statue cannot be abdicated and has to be followed in its true spirit. But, in the present case, the impugned order is violative of Section 19 (4) (i) of the Act.

44. It is vehemently contended that Section 22 of the NGT Act provides for remedy of appeal against any order passed by the Tribunal and even a non-party before the Tribunal also can avail the said remedy. It is an efficacious remedy. All the pleas urged herein can as well be raised in the appeal. When an effective and efficacious alternative remedy is available, the writ petition is not maintainable.

45. This issue is no longer res-integra. It is settled law that availability of alternate remedy is no bar for exercise of extraordinary jurisdiction under Article 226 of Constitution of India especially when the impugned order is patently in violation of the provisions of the Act and the power of judicial review is declared to be the basic feature of the Constitution. (see WHIRLPOOL CORPORATION v. REGISTRAR OF TRADEMARK & L. CHANDRA KUMAR v. UNION OF INDIA). The Act also does not provide for exclusion of power of judicial review by the High Court under Article 226 of the Constitution of India. The Division Bench in MD. HAYATHUDDIN's case (supra), by relying on various case laws, especially on the ruling in L. CHANDRA KUMAR's case(supra) concluded the issue which arose under the self same statue and held impugned action of the Tribunal is not in accordance with the procedure envisaged under the Act and writ petition is maintainable.

46. In State of HIMACHAL PRADESH v. GUJARAT AMBUJA CEMENT LIMITED, the Hon'ble Supreme Court carved out two exceptions in Court entertaining a writ petition without exhausting statutory remedy.

"22.....There are two well-recognised exceptions to the doctrine of exhaustion of statutory remedies. First is when the proceedings are taken before the forum under a provision of law which is ultra vires, it is open to a party aggrieved thereby to move the High Court for quashing the proceedings on the ground that they are incompetent without a party being obliged to wait until those proceedings run their full course. Secondly, the doctrine has no application when the impugned order has been made in violation of the

principles of natural justice. We may add that where the proceedings itself are an abuse of process of law the High Court in an appropriate case can entertain a writ petition.

23.....

24. At this juncture, it would be appropriate to take note of the few expressions in R v. Hillingdon, London Borough Council [[1974] Q.B. 720 : (1974) 2 All ER 643 : [1974] 2 WLR 805] which seems to bring out well the position. Lord Widgery, C.J. stated in this case : (All ER pp. 648f & 648h-649c)

It has always been a principle that certiorari will go only where there is no other equally effective and convenient remedy. ...

... the statutory system of appeals is more effective and more convenient than an application for certiorari and the principal reason why it may prove itself to be more convenient and more effective is that an appeal to [say] the Secretary of State can be disposed of at one hearing. Whether the issue between them is a matter of law or fact or policy or opinion or a combination of some or all of these ... whereas of course an application for certiorari is limited to cases where the issue is a matter of law and then only it is a matter of law appearing on the face of the order.

***

An application for certiorari has however this advantage that it is speedier and cheaper than the other methods and in a proper case therefore it may well be right to allow it to be used.... I would, however, define a proper case as being one where the decision in question is liable to be upset as a matter of law because on its face it is clearly made without jurisdiction or in consequence of an error of law.

After all the above discussion, the following observations of Roskill, L.J. in Hanson v. Church Commrs. [[1978] Q.B. 823 : (1977) 3 All ER 404 : [1977] 2 WLR 848 (CA)] may not be welcomed but it should not be forgotten also : (All ER p. 414f)

"There are a number of shoals and very little safe water in the unchartered seas which divide the line between prerogative orders and statutory appeals, and I do not propose to plunge into those seas...."

Therefore, the plea that the High Court should not have entertained the writ petition is without any merit and deserves rejection.

47. It is further held that when on the undisputed facts the authority/inferior Tribunal assumed jurisdiction which it does not have a writ of certiorari, can be invoked without compelling the petitioner to long drawn recourse of statutory remedy.

48. In L.K. VERMA v. HMT LTD. (supra) Hon'ble Supreme Court reiterated the scope of extraordinary jurisdiction of High Court vis-à-vis alternative remedy. It held:

> *"**20.** The High Court in exercise of its jurisdiction under Article 226 of the Constitution, in a given case although may not entertain a writ petition inter alia on the ground of availability of an alternative remedy, but the said rule cannot be said to be of universal application. Despite existence of an alternative remedy, a writ court may exercise its discretionary jurisdiction of judicial review inter alia in cases where the court or the tribunal lacks inherent jurisdiction or for enforcement of a fundamental right or if there has been a violation of a principle of natural justice or where vires of the Act is in question. In the aforementioned circumstances, the alternative remedy has been held not to operate as a bar. (See Whirlpool Corpn. v. Registrar of Trade Marks [(1998) 8 SCC 1], Sanjana M. Wig v. Hindustan Petroleum Corpn. Ltd. [(2005) 8 SCC 242] and State of H.P. v. Gujarat Ambuja Cement Ltd.[(2005) 6 SCC 499])"*

49. Thus, mere existence of alternative forum does not create a legal bar on High Court to exercise jurisdiction under Article 226 of the Constitution of India. As the owner of the property is not made a party and the order of the Tribunal is in violation of principles of natural justice, it is a nullity. The statutory Tribunal does not have jurisdiction to adjudicate a dispute without arraying the owner of the property. As held by the Hon'ble Supreme Court in EMBASSY PROPERTY DEVELOPMENTS PRIVATE LIMITED (supra), when inferior Tribunal passed an order which is a nullity, writ petition is maintainable and the superior Court need not drive the party to the Appellate Forum."

13. From the above judgments, it is very clear that the remedy by way of a writ petition under Article 226/227 of the Constitution is not ousted. It is settled law that the writ petition would be maintainable when the order under challenge is passed against the principles of natural justice or without jurisdiction. In the present case, the petitioners who are the beneficiaries under the Government Orders, who have put up residential buildings in the subject land, are not parties to the application and any order passed against them without hearing them would cause serious prejudice to them. Therefore, it is

manifest that the order under challenge has been passed in violation of the principles of natural justice.

14. Insofar as the jurisdiction is concerned, it is necessary to go deeper into the facts and circumstances leading to the challenge. The Government had taken a policy decision to allot certain house sites to the petitioners herein, who are journalists. For this purpose, three Government orders were issued out of which the lands covered in the two Government Orders namely G.O. Ms. Nos. 76 and 77 dated 28.02.2019 do not pertain to "*Kanmoi*" or water body, but those lands were classified as "Assessed Wet Waste" and subsequently it was ordered to be re-classified as "Natham" (residential site). Only one Government Order viz., G.O.(Ms)No. 329 dated 02.07.2020 pertains to the land, which was originally classified as water body. However, the third respondent challenged all three Government Orders before the Tribunal. In any event, when the Government had exercised its power to re-classify the land in question as Natham (residential site) before assigning it to the petitioners, it can no longer be regarded as a water body and such land is fit for human dwelling. In other words, what was assigned to the petitioners is only a Natham land and not a water body. Thus, it is not as if the land in question are still treated as water body in the revenue record or it physically exists as a water body. On the other hand, the Tribunal has

proceeded as if all the lands covered by the Government Orders are water bodies. At this juncture, it is relevant to refer to Section 14 of the NGT Act, which reads as follows:

> ***"Section 14***
>
> *Tribunal to settle disputes. -*
>
> *(1) The Tribunal shall have the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved and such question arises out of the implementation of the enactments specified in Schedule I.*
>
> *(2) The Tribunal shall hear the disputes arising from the questions referred to in sub-section (1) and settle such disputes and pass order thereon.*
>
> *(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: Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days."*

15. It is clear from the above provision that the Tribunal is vested with the power to decide all civil cases involving substantial questions relating to environment, enforcement of rights and implementation of enactments specified in Schedule I, subject to limitation of six months from the date on which cause of action first arose and with an extended limitation of 60 days. It is brought to the notice of this Court that the land in Survey No.134/2 measuring an extent of 47.32 acres was earlier classified as *Pudukkulam Kanmoi*. However, deliberations were made prior to the year 1997, the Government had taken a policy decision in 1997 and issued G.O (Ms) 573 Revenue [LD1(2)] Department, dated 18.06.1997 and assigned a portion of

land measuring 3.70 acres by re-classifying it as "Natham Poromboke" in favour of Madurai Press Club Association to be divided among 61 beneficiaries of an extent of 4 cents of land each at Rs.25/- per square feet. Based on such assignment, further allotment of the land measuring 0.76.5 hectares was made in favour of the petitioners herein by G.O. Ms. No.369, Revenue [LD1(2)] Department dated 24.06.2008, who are members of Madurai Press Club Association, after re-classifying the lands into Natham lands. Since specific assignment was not made, a writ petition was filed and subsequently, the impugned government order was issued. Thereafter, the petitioners have constructed their houses in the land assigned to them. Furthermore, the surrounding lands are well developed where several residential as well as commercial buildings have sprung up. It is stated that several Central as well as State Government offices are accommodated in the land and they are in existence for several decades. Further, a portion of the land was also utilised for constructing quarters to the staff of the Madurai Bench of this Court, Law College Hostel, office of the Regional Transport Officer, Telecom Department, Audit Department, State Transport Corporation, TWAD Board and buildings to accommodate the forest department offices. Yet another portion of the land was also utilised for constructing crematorium/burial grounds keeping in view the increase in the population in the locality. It is stated that these buildings were permitted to be put up by

taking note of the fact that the water body has dried up without water flow in the land in question for several decades and there is no possibility for the land to hold water to be regarded as a water body. That apart, due to urbanisation, there is a dearth of land for accommodating various buildings which are necessary to cater to the variety of needs of the public such as schools, colleges and commercial buildings. Thus, a major portion of the lands have been transferred to various departments of the Government even before a couple of decades and they are functioning as on date. Therefore, the cause of action for approaching the National Green Tribunal arose long back, certainly not within six months prior to the filing of the application. Whereas, the Original Application was filed only on 30.05.2021, challenging the Government Orders dated 28.02.2019 and 02.07.2020. In that event, the original application was barred by limitation and the Tribunal has no jurisdiction to take up the application on file. As such, we hold that the writ petition is maintainable.

16. Further, as against the orders of assignment passed in favour of the petitioners, WP (MD) No. 18208 of 2019 etc., were filed before the Division Bench of this Court and by a common order dated 18.03.2021, they were dismissed, with the following observations:

> *"18. Therefore, while upholding the impugned orders, we give liberty to the petitioners to bring it to the notice of the official respondents about the persons, who were given the assignments, but not qualified*

otherwise. This will apply to those cases, were allotments are made in the names of dead persons. We are of the considered view that the aforesaid exercise cannot be undertaken by us in this proceedings, in the absence of any concrete material available. Therefore, it is for the petitioners to bring it to the notice of the official respondents about the irregular allotments having been made.

19. Similarly, the petitioners can also approach the respondents seeking allotment in the available place. If unsold plots are available, as stated by the learned counsel for the petitioners and if some of the allotments are cancelled, then the official respondents are expected to consider not only the case of the petitioners, but also all other eligible persons. But, before making any fresh allotments, in the cases on hand and also in future, a complete assessment will have to be made by asking the applicants to give the particulars of the properties and getting them verified from the competent authorities. This would avoid any unnecessary litigation in future.

20. In future, while making such allotments, the official respondents can consider imposition of the conditions viz., fixation of income criteria and that the Journalist/Reporter is residing within the territorial jurisdiction of that locality."

Though, the Tribunal has referred to the said order in the proceedings impugned before this Court, it had failed to note that the first of the writ petitions is of the year 2019, that the assignments were made prior to six months before the initiation of the Application and erroneously concluded as if the entire stretch of land is a water body. That apart, a public interest litigation was filed to restrain the official respondents from establishing an Electric Hi-tech Gasifier crematorium on the apprehension that such facility, if established, would cause health hazard to the residents residing in the locality. Rejecting the said contention of the petitioner therein, a co-ordinate Bench of this Court, by order dated 23.06.2022 in WP (MD) Nos. 13259 and 15335 of 2022, observed that installing gasified crematorium would cause no prejudice

to anyone, especially when several residential colonies have mushroomed in the locality. Therefore, it was held by this Court in the said Writ Petition that crematorium and burial grounds cannot be established at a very faraway place from the residential locality, as it would cause inconvenience to the public in cremating the dead. The relevant passage of the said order is quoted below for ready reference:

> *"11. We carefully considered the aforesaid rival contentions. We find that the National Green Tribunal was not apprised of the fact that Hindu, Christians and Muslims were burying and cremating their dead in that survey number for over a long period of time.*
>
> *12. It is common knowledge that some Hindu communities would cremate the dead bodies near to waterbodies, because they perform certain rituals like having bath etc., before and after cremating the dead. They also immerse the ashes in the water bodies. In the city, this requirement is met by constructing bathrooms attached to electric and gassified crematoriums.*
>
> *13. It is the case of the respondents that for several decades the water body had dried and hence, over which, so many Government buildings have already come including the staff quarters for the Madras High Court employees. The Government Law College Hostel also appears to have been build thereon.*
>
> *14. In such view of the matter, the modernisation of the existing burial ground by installing gasified crematorium would cause no prejudice to anyone, especially in view of the fact that residential colonies have mushroomed subsequently. Thus, when people purchased the land in the area, they were aware of the fact that there was a crematorium and burial grounds located near. We cannot lose sight of the fact that crematorium and burial grounds cannot be located very far away, as that would lead to a lot of inconvenience to the public.*
>
> ....
>
> *16. In the peculiar facts and circumstances of this case and bearing in mind the fact that public are themselves demands a gassified crematorium in that place, we are of the opinion that installation of the gassified crematorium should not be further stalled.*
>
> *In the result, these writ petitions are dismissed as being devoid of merits. No costs. Consequently, connected miscellaneous petitions are*

dismissed."

17. Similarly, we have also passed an order dated 14.11.2022 in WP (MD) No. 2078 of 2016, which was filed as a Public Interest Litigation to remove all the constructions put up in the water body - Thallakulam Kanmoi located in Survey No.805/1A (previously Survey No.805) over an extent of 21.19.098 hectares = 52.34 acres. The writ petition was contested by stating that for decades, the land has not been utilised as a water body nor was there any flow of water. It was further submitted that several buildings have come up over a period of five decades in the said land and therefore, it is not possible to restore the said land or treat it as a water body. After hearing the counsel on either side, we have dismissed the writ petition by holding that even though encroachments in water bodies are required to be removed, taking note of the fact that several buildings have come into existence in the said land atleast five decades earlier to meet the burgeoning demands of the general public, including Corporation of Madurai and other Departments of the Government, we have refused to grant any relief, as prayed for by the petitioner therein, but a direction was issued to ensure that the remaining land, which is unutilised, is not encroached by any of the authorities for any other purposes. For better appreciation, the relevant portion of the said order is extracted below:

"12. It is an admitted fact that originally, the land in S.No.805 of

Madurai North Village, presently Madurai North Taluk, was classified as a water body - TallakulamKanmoi, as per 'A' Register. However, due to urbanisation, several constructions and developments have been made in the said land by the Government, Madurai Corporation and private parties and are in existence for the past 5 decades. Now, the petitioner has come forward with this writ petition seeking a direction to the respondent authorities to restore the Tallakulam Kanmoi to its original status by removing all the constructions made therein. On the other hand, the respondent authorities specifically stated that there was no water supply or channel in the land in question and the buildings are existing therein for more than 50 years and hence, restoring the tank would cause serious prejudice to various departments. Similarly, the fourth respondent stated that the construction of World Tamil Sangam is well within the rules in force; there is no obstruction in flow of water due to its existence; and as directed by this court, by order dated 29.01.2016, the land lying to the north of the portions shown in the sketch at Page No.117 of the paper book is kept vacant and without any construction.

13. There cannot be any second opinion that the encroachments in respect of water bodies have to be necessarily removed as per the procedure contemplated under the Land Encroachment Act. However, it could be seen from the pleadings and submissions made by the parties, several buildings referred to by the petitioner have come into existence atleast five decades before and the same have been permitted to be constructed in order to meet the growing demands of the general public. Such buildings include Corporation of Madurai and other Departments of the Government. It is the categorical stand of the respondents that there is no channel to supply water to the tank/ ayacut areas and the classification of the land in question was changed decades back and the land was converted into buildings in the year 1970 itself. Therefore, the relief sought by the petitioner viz., restoring the land in question to its original status viz., water body, is not feasible for consideration at this stage.

14. Today, Mr. S.P. Maharajan, learned Special Government Pleader appearing for the respondents 1 to 7 and Mr. R. Murali, learned counsel for the eighth respondent/Madurai Corporation in unison, on instructions, submitted that the remaining extent of land morefully described in page No.117 of the typed set of papers marked in "green color" will be kept as such and there will not be any further encroachment by any of the authorities for any other purposes. Such statements made by the learned counsel for the respondents is agreeable to the petitioner as affirmed by the learned counsel for the petitioner.

15. In view of the above, this Court is of the opinion that no further order needs to be passed herein, except recording the aforesaid submissions made by the learned Special Government Pleader for the respondents 1 to 7 as well as the learned counsel for the eighth respondent. Accordingly, this writ petition stands disposed of. No costs. Consequently,

connected miscellaneous petitions are closed."

18. Thus, it is evident from the aforesaid decisions of this Court, in respect of the very same land that the land in question can no longer be treated as a water body, conversion of the subject land into natham land taken place long back and several residential as well as commercial buildings have come up in the locality prior to several decades. All these factors could have been brought to the knowledge of the Tribunal, had all interested parties been made as parties to the proceedings. Hence, we find force in such submission of the learned senior counsel for the petitioners that in all fairness, the Tribunal ought to have made them as parties and heard them before passing the impugned order, especially when the petitioners are sought to be dispossessed. Even the application filed by the petitioners before the Tribunal to implead themselves as parties, was rejected for no reasons. After rejecting the application for impleading, the Tribunal passed an order adverse to the petitioners, who have constructed residential houses in the land in question. Therefore, this court is of the view that the impugned order is vitiated for violation of the principles of natural justice and the same cannot be allowed to be sustained.

19. At this juncture, it is necessary to state that development that had taken place in and around the subject land is sustainable and it is very much

necessary to cater to the various needs of the burgeoning population in the locality. It is trite that development that meets the needs of the present, without compromising the ability of the future generations to meet their own needs, is sustainable. The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present as well as future generation as well. The environmental and sustainable development principles ensure that the present generation does not abuse the non-renewable resources thereby depriving the future generations of their rightful claims. Destruction of certain resources is inevitable for development and economic progress. However, regard must be had to ensure that development by destruction of existing resources does not sound a death-knell to the ecology meant to be preserved for the future. Applying this concept of development, the Hon'ble Supreme Court, in the recent ***order dated 03.06.2022 passed in Writ Petition (Civil) No. 202 of 1995 [T.N. Godavarman Thirumalpad v. Union of India]***, held that the Public Trust Doctrine primarily rests on the principle that certain resources like air, sea, waters and the forests have such a great importance to the people as a whole that it would be wholly unjustified to make them a subject of private ownership. The said resources being a gift of nature, they should be made freely available to everyone irrespective of the status in life. The doctrine enjoins upon the Government to protect the resources for the enjoyment of the general public rather than to permit their use for private

ownership or commercial purposes. The observation of the Hon'ble Supreme Court in that decision is as follows:

> *"Adherence to the principle of sustainable development is a constitutional requirement. While applying the principle of sustainable development one must bear in mind that development which meets the needs of the present without compromising the ability of the future generations to meet their own needs. Therefore, Courts are required to balance development needs with the protection of the environment and ecology.* ***It is the duty of the State under our Constitution to devise and implement a coherent and coordinated programme to meet its obligation of sustainable development based on inter-generational equity. While economic development should not be allowed to take place at the cost of ecology or by causing widespread environment destruction and violation; at the same time, the necessity to preserve ecology and environment should not hamper economic and other developments.*** *Both development and environment must go hand in hand, in other words, there should not be development at the cost of environment and vice versa, but there should be development while taking due care and ensuring the protection of environment."*

20. Applying the aforesaid decision of the Hon'ble Supreme Court to this case coupled with the fact that the subject land in question is no longer treated as a perennial source of water and several buildings have come up over it atleast five decades ago, which stands testimony to the massive development of the City, we are of the view that the order passed by the Tribunal to restore water body known as *Pudukulam Kanmoi* to its original position by removing all the construction thereof, is practically not only feasible for compliance by the State, but also would run contrary to the re-classification of the land by the State in 1997, which has not been put to challenge before any court of law. Needless to point out that the NGT would not have any authority to question the policy decision of the State. As held by us above, the land in question,

which has been the subject matter of several writ petitions, by way of challenge to the usage for residential or other purpose by individuals and government authorities and rejected by this Court, cannot, in suppression of the said orders, be termed in its entirety as water body. The government, in its wisdom has also ensured that appropriate drainage systems have been put in place.

21. It may not be out of place to point out here that the South Zone Bench was constituted with effect from 01.11.2012 and Vide Notification F. No. 17(4)2010-PL/NGT(Vol.IV) dated 10th August 2017, the Central Government Specified that ordinary places of sitting of the National Green Tribunal of the South Zone shall be at Chennai with jurisdiction over Kerala, Tamil Nadu, Andhra Pradesh, Karnataka, Union Territories of Puducherry and Lakshadweep. However, the original application was filed before the National Green Tribunal, Principal Bench, New Delhi. In this context, it is pertinent to refer to the latest order dated 21.10.2022 passed by the Hon'ble Supreme Court in ***State of Uttar Pradesh and others etc., vs. Uday Education and Welfare Trust and another [2022 Live Law SC 868]*** wherein, it was held that the Tribunal, before passing any order, which will have sweeping effect, has to examine the credentials also.

22. Insofar as the other objections raised herein, the petitioners were not parties before the Tribunal and appellants before the Apex Court. Hence, they are entitled to challenge the order that affects them and that has been passed against them, without jurisdiction and in violation of the principles of natural justice.

23. Thus, for all the reasons stated above, the Order dated 23.08.2021 passed by the Tribunal in O.A. No. 125 of 2021 cannot be allowed to be sustained and is hence, set aside. Accordingly, the writ petition is allowed as prayed for. No costs. Consequently, connected miscellaneous petition is closed.

(R.M.D., J.) **(J.S.N.P., J.)**

25.01.2023

rsh
Index : Yes / No
Internet : Yes / No

To

1. The Chief Secretary, State of Tamil Nadu
   Secretariat, Chennai

2. The District Collector
   Madurai District
   Collectorate, Madurai - 625 020

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R.MAHADEVAN, J.

and

J. SATHYA NARAYANA PRASAD, J.

rsh

Pre-delivery Order in
WP (MD) No. 26139 of 2022

25.01.2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment reserved on:	Judgment delivered on:
08.02.2023	10.03.2023

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P.No.22733 of 2022
and
W.M.P.No.21762 of 2022

The Managing Director,
D.S.Propertiei,
AP 2261, H-Block,
10th Street, Kathiravan Colony,
Annanagar West, Chennai – 600 040. .. Petitioner

Vs.

1.A.Anthony Raj Williams

2.The Ministry of Environment, Forests and Climate Change,
Rep. by its Secretary,
Indira Paryavaran Bhavan,
Jorbagh Road, New Delhi – 110 003.

3.The District Collector,
Collector Office Rd, Moovendar Nagar,
Villuppuram, Tamil Nadu – 605 602.

4.The Member Secretary,
Tamil Nadu Coastal Zone Management Authority,
Panagal Building G.H.Road,
Villupuram, Tamil Nadu – 605 602.

5.The Assistant Director of Town and Country Planning,
Villupuram Region,
TADCO Building G.H.Road,
Villupuram – 605 602.

6.The Managing Director,
Indira Projects and Developments (T) Pvt. Ltd.,
No.116/1, Anna Salai (Behind IDBI Bank),
Saidapet, Chennai – 600 015. .. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records in respect of order dated 11.07.2022 passed in Appeal No.55 of 2021 (SZ) by the Hon'ble National Green Tribunal, Southern Zone, Chennai and quash the same.

For Petitioner	:	Mr.Abdul Saleem Senior Advocate for Mr.S.Saravanan
For R1	:	Mr.S.Kamalesh Kannan
For R2	:	Mr.K.Srinivasa Murthy Senior Panel Counsel
For RR 3 to 5	:	Mr.J.Ravindran, Additional Advocate General Assisted by Dr.T.Seenivasan, Special Government Pleader (Forest)
For R6	:	No appearance

ORDER

(Order of the Court was delivered by V.M.VELUMANI, J.)

The petitioner has come out with the present Writ Petition to quash the order dated 11.07.2022 passed in Appeal No.55 of 2021 (SZ) by the Hon'ble National Green Tribunal, Southern Zone, Chennai.

2.The 1st respondent herein filed the said appeal before the National Green Tribunal, challenging the order of the 4th respondent dated 31.07.2019 in Proc.No.P1/1721/2019(Annexure-1), granting CRZ clearance to the petitioner. The said appeal was allowed by the order dated 11.07.2022. Challenging the said order dated 11.07.2022, the petitioner has come out with the present Writ Petition.

Case of the Petitioner:

3.The petitioner is absolute owner of the vacant land situated at Marakkanam North Village (Thalangadu Village), Marakkanam Taluk, Villupuram District. The petitioner proposed to develop the said land into a residential plots in the name of "Doctor's Beach Project". A part of the said land is within Coastal Regulation Zone (CRZ) - II and petitioner

applied to 5th respondent for clearance. On receipt of said application, the 5th respondent referred the matter to the Revenue Department calling for a report on the application. In pursuant to the above, the Tahsildar, Marakkanam Taluk, had requested to conduct joint inspection of the site by Deputy Inspector, Taluk Deputy Inspector, Zonal Deputy Tahsildar and Village Administrative Officer and to file an independent report. The Village Administrative Officer and others inspected the site, verified the records and sent a report stating that patta has been issued for Survey Nos.108/8, 108/9, 108/10, 109/1A5C4, 109/1B2, 109/2B1C4, 109/4A1A4, 115/1B, 115/2B, 115/3B, 115/4B in the name of Executive Officer (Town Panchayat) and confirmed the existence of 15 feet wide mud road in the seaward side of the property of the petitioner from Vasavankuppam to graveyard. All the authorities sent a report after conducting physical inspection and necessary report confirming the existence of 15 feet wide mud road. Based on the said report in the meeting held on 21.02.2019, the District Coastal Zone Management Authority, Villupuram recommended to 4th respondent for issuance of clearance with certain conditions.

3(a).There are three graveyards and Harichandra Temple is situate in Survey Nos.107/2, 110/6 and 108/1C2. In the report of the Revenue officials, it has been stated that compound of the petitioner is situated at a distance of 60 meters from the tideline and the said layout is found between 200 meters and 871 meters from the tideline. There is a 15 feet wide mud road situated at a distance of 60 meters between the compound wall constructed by the petitioners and tideline, which road has been in use for many years as a passage to the graveyard.

3(b).Further patta for the above land was mutated in the name of the petitioner and there is no Government Poramboke land in the above land. All the villagers use the mud road to reach the graveyard and are carrying the dead bodies in the motorized carts through the mud road to reach the graveyard. The villagers are also using the mud road to go to the Temple. During the enquiry, the villagers confirmed the same. The revenue records and Field Measurement Book (FMB), Sketch and Adangal for the Fasli year 1431 also substantiate the existence of seaward mud road. Adangal for Fasli year 1431 reads "Mud road of Vasavankuppam Village". The Executive Officer, Town Panchayat Office, Marakkanam, sent a letter dated 23.02.2019 vide

Na.Ka.No.A1/33/2019, to the District Collector, Villupuram stating that the petitioner gifted lands in

(i)Survey Nos.108/2B1A1, 108/2C1J, 108/2C2F – 400 X 15 feet = 6000 sq.ft.

(ii)Survey Nos.109/1A5C, 109/1B, 109/2B1C, 109/4A1A – 265 X 15 feet = 3975 sq.ft.

(iii)Survey Nos.115/1, 2 , 3, 4 – 457 X 15 sq.ft. = 6855 sq.ft.

(Totalling : 16,830 sq.ft.)

in Ward No.1, Vasavankuppam Village, Marakkanam Taluk, which is used by the villagers as road to reach the graveyard. The proposal of the petitioner was placed before the 4th respondent in the meeting held on 27.02.2019 and 21.05.2019. The 4th respondent called upon the petitioner to furnish the details of the plots, which fall in CRZ-II area and outside CRZ-II area and resolved to issue No Objection Certificate for the plots falling outside CRZ-II area. The petitioner complied with the details called for by the 4th respondent and considering the same, the 4th respondent issued No Objection Certificate for the project as per the HTL demarcation map issued by the Institute of Remote Sensing, Anna University, dated 14.12.2018.

3(c).The petitioner applied for grant for CRZ clearance for the plots falling within the CRZ area. The 4th respondent after considering the materials, granted CRZ clearance by the proceedings dated 31.07.2019. On the application by the petitioner, the 5th respondent granted approval for the layout with certain conditions. The Executive Officer, Markkanam Town Panchayat in his proceedings in Na.Ka.No.226/2019/B1 dated 25.10.2019 issued In-Principle approval for the subject project with certain conditions. The petitioner registered the project with the Tamil Nadu Real Estate Regulatory Authority as mandated under the Real Estate (Regulations and Development) Act, 2016. After complying with all the mandatory provisions and conditions, the petitioner sold 75 vacant plots and the purchasers are in possession of their respective plots.

3(d).The 1st respondent already challenged the impugned order by filing application before the Hon'ble National Green Tribunal. The 1st respondent was aware that only an appeal lies against the impugned order and to avoid limitation, filed application. When the Tribunal pointed out that the application is not maintainable, the 1st respondent withdrew the same and filed the present appeal. The 1st respondent has no *locus standi*

to file the appeal and the appeal is barred by limitation. As per the provisions of the National Green Tribunal Act, 2010, the 1st respondent ought to have filed appeal within 30 days of order granting clearance. The 1st respondent has approached the NGT with a delay of two years. The 1st respondent has filed the appeal with ulterior motive.

3(e).The petitioner has obtained all the necessary clearance from the statutory authorities for the present project as provided under law. There is no environmental violation or statutory violation on the part of the petitioner. The Joint Committee has not properly verified the revenue records and the finding of the Joint Committee is contrary to the enquiry made from the local villagers. The local villagers have categorically stated that the mud road is being used by them for long time to carry dead bodies to graveyard from the village, which was also recorded by the Joint Committee in its report. The Joint Committee failed to consider that due to climatic changes, the road was covered with sand deposits and it cannot be said that there is no mud road and it is admitted fact that dead bodies are being taken in a motorized cart which cannot be carried, unless there is a mud road.

3(f).The said statement is in consonance with all the independent and joint inspection reports given by the authorities and non-existence of mud road in the year 2021 will not in any way vitiate the fact that there was a mud road existed two years back in the year 2019, at the time of inspection and layout approval. The 1st respondent filed appeal only with ulterior motive for extraneous consideration.

3(g).The learned Senior Counsel appearing for the petitioner submitted that to protect and conserve the environment and ecosystem on the coastal line of the country under the Environment (Protection) Act, 1986, the Ministry of Environment and Forests (MOEF), the 2nd respondent herein issued a Coastal Regulation Zone (CRZ) Notification, in February 1991, for regulation of activities in the coastal areas. Subsequently, the said Notification was superseded by CRZ Notification 2011. In the Notification 2011, the zones were categorized as CRZ-I, CRZ-II, CRZ-III & CRZ-IV. As per the above Notification, the State Governments have to prepare a Coastal Zone Management Plan (CZMP) for their respective States based on a study conducted by the experts from the National Centre for Sustainable Coastal Management (NCSCM). The plan so prepared has to be approved by the 2nd respondent, the Ministry

of Environment and Forests (MOEF), based on a recommendation of National Coastal Zone Management Authority (NCZMA).

3(h).The Coastal Zone Management Plan (CZMP) for the State of Tamil Nadu was prepared by National Centre for Sustainable Coastal Management (NCSCM), based on the site inspection and the same was placed before the National Coastal Zone Management Authority (NCZMA), who recommended the same for approval to the 2nd respondent, the Ministry of Environment and Forests (MOEF). The 2nd respondent by the proceedings dated 24.10.2018, approved the Coastal Zone Management Plan (CZMP). The National Centre for Sustainable Coastal Management (NCSCM) has submitted the approved Coastal Zone Management Plan (CZMP) in 117 maps to the Department of Environment on 26.11.2018 and to all the 13 District Coastal Zone Management Authorities and other departments like Chennai Metropolitan Development Authority, Greater Chennai Corporation, Directorate of Town and Country Planning Department, Directorate of Municipal Administration to implement / regulate the activities in CRZ area as per Coastal Zone Management Plan (CZMP) by the letter dated 30.11.2018. The learned Senior Counsel appearing for the petitioner

submitted that the Notification of 2019 has not been approved and notified and not applicable at present. Only 2011 Notification is applicable.

3(i).The petitioner is the absolute owner of the vacant land measuring 86.614 acres, situated at Marakkanam North Village (Thalangadu Village), Marakkanam Taluk, Villupuram District. The petitioner proposed to develop the above land. On verification, it was found that some portion of the land falls within Coastal Regulation Zone (CRZ). Bordering south of petitioner's property, the road is used for a long period of time connecting the village to the graveyard. At the request of the public, the petitioner gifted a portion of the land measuring 16,830 sq.ft to the local body by the gift deed dated 10.01.2019. The revenue record was mutated in the name of the local body to show that local body is the owner. The petitioner is owning 3,64,443.702 sq.mts of land. Out of the said land, the petitioner proposed to develop a layout called "Doctor's Beach Project", to an extent of 1,64,759 sq.mts. On verification, it was found that an extent of 1,01,625 sq.mts of land falling under CRZ-II as per the CRZ Notification 2011. The petitioner applied to

4th respondent under the para 8(i) II, CRZ II (i), (ii) & (iii) of Coastal Regulation Zone (CRZ) Notification 2011.

3(j).Coastal Zone Management Plan (CZMP) of Tamil Nadu confirmed that there were no sand dunes in the proposed layout. The convenor of District Coastal Zone Management Authority, Villupuram, had requested the Revenue Department to furnish a report on the application of the petitioner.

3(k).The petitioner reiterated the averments made in the reply affidavit filed in the appeal before the National Green Tribunal with regard to inspection made by the authorities and filing of report and submitted that all the authorities confirmed the existence of 15 feet wide mud road connecting the Village and graveyard. In the affidavit filed in the present Writ Petition, the petitioner reiterated the averments with regard to limitation made in the reply affidavit and referred to Sections relating to limitation.

3(l).The Tribunal in its order dated 13.08.2021 constituted a Joint Committee comprising of (1) The District Collector, Villupuram; (2) a

Senior Officer from Tamil Nadu Coastal Zone Management Authority; (3) District Environmental Engineer of Tamil Nadu Pollution Control Board and (4) a Senior Officer from Ministry of Environment, Forest and Climate Change, Integrated Regional Office, Chennai, to inspect the project area and to find out if there is any violation, whether a road exists in the locality and whether any suppression of material facts.

3(m).The Joint Committee inspected the site on 19.10.2021 and filed report stating that

> *"The committee did not notice any apparent violation of Coastal Regulation Zone Notification in so far as the recommendation for clearance".*

The Committee also recorded that on enquiries, the villagers informed the Committee that they carry the dead bodies along the eastern boundary of layout. The Joint Committee failed to properly verify the revenue records and report is contrary to the enquiries made from local villagers, who have stated that mud road is being used by them for long time and they carry dead bodies through the said mud road.

3(n).Even though, the petitioner properly defended various grounds of challenge by the 1st respondent, the Tribunal without properly considering the same, allowed the appeal filed by the 1st respondent. When the 1st respondent himself has admitted that land in question situate in CRZ-II, the Tribunal erroneously framed such an issue on the back of the parties and without giving any opportunity to the petitioner, allowed the appeal. The Tribunal exceeded its jurisdiction in considering and deciding the issue, which was neither raised in the appeal nor during arguments. The Principles of Natural Justice is violated and therefore, the petitioner is entitled to challenge the said order by filing the Writ Petition in this Court.

3(o).The Tribunal failed to consider only CRZ Notification 2011 will be applicable and not CRZ Notification 2019 dated 18.01.2019, which is yet to be approved and published. Coastal Zone Management Plan (CZMP) was approved and published on 24.10.2018 based on CRZ Notification 2011. The petitioner extracted the portion of CRZ Notification 2011 relating to the lands which fall under CRZ-II category, the learned Senior Counsel appearing for the petitioner submitted that adjacent to the land in which layout is formed is developed area and

about 300 families are residing in Ward No.1 of Marakkanam Town Panchayat (Vasavankuppam Village) with all the facilities. This apart, one hatchery namely, "Pavani Hatchery" is also located nearby. In view of such development, the site falls only in CRZ-II area.

3(p).Coastal Zone Management Plan (CZMP) of Tamil Nadu was prepared by National Centre for Sustainable Coastal Management (NCSCM), based on the site inspection and the same was placed before the National Coastal Zone Management Authority (NCZMA). The Tribunal failed to consider in Coastal Zone Management Plan (CZMP) of Tamil Nadu, there were no sand dunes where the layout is formed.

3(q).The layout is located at a distance of 142 meters measured inward from the compound wall and compound wall is situate at a distance of 60 meters from the tideline and road. The layout is situated at a distance of 202 meters from the tideline.

3(r).The area was declared as CRZ-II category as per the criteria specified in CRZ Notification 2011 and Coastal Zone Management Plan (CZMP) of Tamil Nadu was prepared by the National Centre for

Sustainable Coastal Management (NCSCM) on site inspection. The National Coastal Zone Management Authority (NCZMA), who in turn recommended the same for approval to Ministry of Environment and Forests (MOEF). The Ministry of Environment and Forests (MOEF) granted approval of Coastal Zone Management Plan (CZMP) for the State of Tamil Nadu by proceedings dated 24.10.2018.

3(s).The petitioner had developed only a house site layout and no construction was put up by the petitioner. Clearance was given only based on the existing road and any building to be constructed, must be on the landward side of existing road. The report of the Joint Committee has to be considered in its entirety. The Tribunal erred in upholding the validity of one of its observations while invalidating other observations. This method would amount to miscarriage of justice. The observation of the Committee that there was no CRZ violation has to be upheld and considered together with the observation that there is no existing road on the land. The presence or absence of a road would not amount to any compliance or violation of CRZ-II criteria as per CRZ Notification 2011.

3(t).The Tribunal failed to consider the fact that the categorization of CRZ II was based on the study conducted by the experts of National Centre for Sustainable Coastal Management, which was recommended by the National Coastal Zone Management Authority. The Ministry of Environment and Forests (MOEF) accorded its approval for Coastal Zone Management Plan (CZMP) for the State of Tamil Nadu vide proceedings dated 24.10.2018.

3(u).The Tribunal failed to consider that as per Office Memorandum dated 26.04.2022 issued by the 2nd respondent, Ministry of Environment and Forests (MOEF), the state Coastal Zone Management Authority (CZMA) is the approving authority for permissible activities as per CRZ Notification 2011. The project was approved and clearance was granted on 31.07.2019 with various stringent conditions. Further, based on the CRZ clearance, the State Planning Authority, i.e., Director of Town and Country Planning, has approved the layout and granted approval for the same vide proceedings dated 19.09.2019.

3(v).The Tribunal failed to consider the fact that Clause 4(i)(d) of the CRZ Notification of 2011, whereby construction involving more than

20,000 sq.mts., of built up area in CRZ-II has to be considered for approval in accordance with the EIA Notification, 2006, will not be applicable for the subject site.

3(w).The learned Senior Counsel appearing for the petitioner further submitted that the 1st respondent filed appeal before NGT challenging CRZ clearance dated 31.07.2019 issued to the petitioner on two grounds.

(I)there was no existing road;

(II)the Environmental clearance was not issued by proper application of mind.

3(x).The 1st respondent admitted that land in which the layout is formed by the petitioner is in CRZ-II zone and made specific averments in his appeal that layout is in CRZ-II. While so, the Tribunal framed the following two issues:

(I)Whether impugned location is CRZ-II.

(II)Whether impugned clearance issued by the 3rd respondent is based on proper application of mind and in accordance with law or not.

3(x)(i). As far as first issue is concerned, when the 1st respondent did not dispute that layout is located in CRZ-II and admitted that layout is in CRZ-II, the Tribunal erroneously framed the said issue after hearing the arguments of counsel for 1st respondent as well as petitioner and other respondents. The Tribunal did not put on notice that they are framing such an issue for consideration and did not give any opportunity to the petitioner and other respondents to putforth their submissions and to produce the documents to show that site is located in CRZ-II. Without giving an opportunity, the Tribunal decided the said issue which violates principles of natural justice. The learned Senior Counsel appearing for the petitioner further submitted that principles of natural justice not confined to opportunity of hearing only, but extend to effective hearing and relied on the judgment reported in ***(2012) 134 FLR 460 Delhi, (Delhi Transport Corporation Vs. Shyam Singh)***, wherein it has been held as follows:

> *"...*
>
> *12.The Supreme Court yet again in Syndicate Bank v. The General Secretary, Syndicate Bank Staff Association (2000) 5 SCC 65 held that the requirements of the principles of natural justice which are required to be observed*

are:-

(i) workman should know the nature of the complaint or accusation;

(ii) an opportunity to state his case;

(iii) the management should act in good faith which means that the action of the management should be fair, reasonable and just.

13. It would thus be seen that the principles of natural justice which are required to be observed are not confined to opportunity of hearing alone, giving of opportunity of hearing alone cannot bar the Industrial Adjudicator from interfering with the disciplinary action of the management/employer. If inspite of giving appropriate opportunity of hearing the action of the management is found to be arbitrary and unreasonable, it would qualify as perverse and on which ground it is interferable as also held in Apparel Export Promotion Council v. A.K. Chopra AIR 1999 SC 625.

14. In the present case each of the three reasons given by the Industrial Adjudicator for holding the inquiry to be bad was sufficient for setting aside the same. The Industrial

Adjudicator has held that the non-appointment of the Presenting Officer led to the truth having not been unraveled. The principles of natural justice are not confined to opportunity of hearing only but extend to effective hearing. The purport of the order dated 17 th December, 2009 of the Industrial Adjudicator is that no effective hearing was possible or held in the absence of the Presenting Officer. We are also of the view that the inquiry can also be held to be bad when the outcome thereof is not in consonance with its content and that is precisely the finding of the Industrial Adjudicator in the present case. The Supreme Court in M.V. Bijlani v. Union of India (2006) 5 SCC 88 held the findings of the departmental inquiry to be interferable if there is no evidence to prove the charge or where the relevant facts have not been considered. A Division Bench of this Court also in Union of India v. S.R. Tewari MANU/DE/0345/2012 held a finding of the departmental inquiry based on no evidence to be perverse. It was further observed that if on the basis of the material available no reasonable person could have recorded the finding, it would qualify as perverse."

3(x)(ii). The learned Senior Counsel appearing for the petitioner

further submitted that the Tribunal erroneously considered the definition of CRZ-II as mentioned in CRZ Notification 2019, instead of CRZ Notification 2011. CRZ Notification 2019 is not yet been approved and published and only CRZ Notification 2011 is in force. In view of CRZ Notification 2019 dated 18.01.2019 has not come into force and Coastal Zone Management Plan (CZMP) approved and published by the 2nd respondent on 24.02.2018 based on CRZ Notification 2011, CRZ Notification 2011 is only applicable to the present case. This has been clarified by the 2nd respondent herein, the Ministry of Environment and Forests (MOEF) circular dated 07.06.2019.

3(y).In the approved Coastal Zone Management Plan (CZMP) of Tamil Nadu, there were no sand dunes in the land where the petitioner formed layout. The contention of the 1st respondent that sand dunes were destroyed prior to Coastal Zone Management Plan (CZMP) is not supported by any documents and it is not proved. If Coastal Zone Management Plan (CZMP) is not correct, the 1st respondent ought to have challenged the said plan. On the other hand, the 1st respondent in the appeal as well as in the arguments admitted that layout is in the CRZ-II Zone. In view of the above materials, the issues framed by the

Tribunal and finding of the Tribunal that land is not in CRZ-II is erroneous.

3(z).The existence of road is pre requisite for granting clearance. In the present case, the villagers and authorities, who inspected the site have categorically confirmed the existence of mud road between the compound wall of the petitioner and seashore. The Joint Committee, inspite of villagers asserting that there exist a mud road, which they use to carry the dead body to the graveyard, erroneously recorded that there is no road.

3(aa).The learned Senior Counsel appearing for the petitioner further submitted that the Tribunal failed to consider that EIA Notification 2006 is not applicable to the present site as the layout is formed about 1,64,755 sq.mts, which is less than 5 lakhs sq.mts as per clause 8b of the Schedule of the EIA Notification 2006. Secondly, the petitioner is not seeking the clearance for any construction and as and when any construction is proposed to be made, necessary clearance as per CRZ and EIA Notification will be obtained.

3(ab). Learned Senior Counsel appearing for the petitioner

submitted that Section 22 of the National Green Tribunal Act, 2010 provides an appeal to Hon'ble Apex Court against the order passed by the Tribunal. The said appeal remedy is only directory and it is not mandatory. By Section 22, the power of the High Court under Articles 226 and 227 of the Constitution of India is not taken away. This issue was considered by the Hon'ble Apex Court in the judgment reported in ***(i)2022 SCC Online SC 639, [Madhya Pradesh High Court Advocates Bar Association and another Vs. Union of India and another]***, wherein it has been held as follows:

> *"...*
>
> *11.Insofar as the creation and setting up of the NGT and the location of their Benches, the learned AG submits that this was done under the active supervision of the Supreme Court and only after the proposed places of sitting recommended by the Central Government received the concurrence of this Court, the concerned Benches and their place of sitting was notified by the Central Government. It is therefore argued that the related notification had the imprimatur of the Supreme Court. The respondents point out that the Supreme Court monitored and oversaw the implementation of*

the NGT Act and setting up of its Benches in Union of India Vs. Vimal Bhai (SLP(C) No. 12065 of 2009) and the various orders passed on 19.9.2011, 6.12.2012 and 15.3.2013 by this Court would reflect that individual Bench of the NGT was set up to cater to multiple States and the location so chosen for the NGT at Bhopal, also had the approval of the Supreme Court.

12.The learned Attorney General next contends that the remedy before the High Court for a litigant under Article 226 and 227 continues to be available notwithstanding the enactment of the NGT Act and the provision for appeal to the Supreme Court under Section 22 of the NGT Act. It is specifically submitted by the learned AG that the High Court's power of judicial review remains unaffected by the NGT Act as it is a part of the basic structure of our constitution, as was declared in L Chandra Kumar v. UOI7.

.. ..

.. ..

21. It can further be noted that in terms of the above ratio in L. Chandra Kumar [supra], the High Courts have been entertaining petitions under Article 226 and 227 of the Constitution

against orders of the NGT. While exercising such jurisdiction, the Courts necessarily exercise due discretion on whether to entertain or to reject the petition, as per the test broadly laid down in Whirlpool Corpn. Vs. Registrar of Trade Marks, Mumbai and Others12;

"14. The power to issue prerogative writs under Article 226 of the Constitution is plenary in nature and is not limited by any other provision of the Constitution. This power can be exercised by the High Court not only for issuing writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari for the enforcement of any of the Fundamental Rights contained in Part III of the Constitution but also for "any other purpose".

15. Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged. There is a plethora of case-law on this point but to cut down this circle of forensic whirlpool, we would rely on some old decisions of the evolutionary era of the constitutional law as they still hold the field."

22. It is also noteworthy that nothing

contained in the NGT Act either impliedly or explicitly, ousts the jurisdiction of the High Courts under Article 226 and 227 and the power of judicial review remains intact and unaffected by the NGT Act. The prerogative of writ jurisdiction of High Courts is neither taken away nor it can be ousted, as without any doubt, it is definitely a part of the basic structure of the Constitution. The High Court's exercise their discretion in tandem with the law depending on the facts of each particular case. Since the High Court's jurisdiction remain unaffected, the first question is answered in the negative, against the petitioners.

B. Whether a seat of the NGT should be in every State? If yes, should they invariably be established at the principal seat of High Court, which in this case would be Jabalpur instead of Bhopal?"

(ii) ***(2000) 7 SCC 522, (Shama Prashant Raje Vs. Ganpatrao and others]***, wherein it has been held as follows:

"...

5. In view of the rival submissions we have carefully scrutinised the orders of the Controller,

that of the Appellate Authority under the Control Order and the order of the learned Single Judge which has been affirmed by the Division Bench. Undoubtedly, in a proceeding under Articles 226 and 227 of the Constitution the High Court cannot sit in appeal over the findings recorded by a competent Tribunal. The jurisdiction of the High Court, therefore, is supervisory and not appellate. Consequently Article 226 is not intended to enable the High Court to convert itself into a Court of Appeal and examine for itself the correctness of the decision impugned and decide what is the proper view to be taken or order to be made. But notwithstanding the same on a mere perusal of the order of an inferior Tribunal if the High Court comes to a conclusion that such Tribunal has committed manifest error by mis-construing certain documents, or the High Court comes to the conclusion that on the materials it is not possible for a reasonable man to come to a conclusion arrived at by the inferior Tribunal or the inferior Tribunal has ignored to take into consideration certain relevant materials or has taken into consideration certain materials which are not admissible, then the high court will be fully justified in interfering with the findings of

the inferior tribunal."

and prayed for allowing the Writ Petition.

Case of the 1st respondent:

4.The petitioner and 6th respondent are jointly promoting the lands in Survey Nos.106/2, 106/3, 106/4, 106/5, 106/6, 108/1, 1-8/2A(p), 108/2B, 108/2C1(p), 108/2C2, 109/1, 109/2, 109/3(p), 109/4, 110/1(p), 110/2(p), 110/3, 110/4, 110/5, 111/1, 111/3, 111/4 situate in Marakkanam North Village (Thalangadu Village), Marakkanam Taluk, Villupuram District as layout and resorts. The said lands are located within the Coastal Zone.

4(a).The Coastal Regulation Zone Notification, 2011, (CRZ Notification), regulate development in coastal areas. The impugned site is classified as CRZ-II as per the Coastal Zone Management Plan (CZMP) of the year 2018.

4(b).As per clause 8 of CRZ Notification 2011, the following activities are permitted in CRZ-II area:

"...II. CRZ-II,

(i) buildings shall be permitted only on the landward side of the existing road, or on the landward side of existing authorized structures;

(ii) buildings permitted on the landward side of the existing and proposed roads or existing authorized structures shall be subject to the existing local town and country planning regulations including the 'existing' norms of Floor Space Index or Floor Area Ratio:

Provided that no permission for construction of buildings shall be given on landward side of any new roads which are constructed on the seaward side of an existing road...."

4(c).For promoting the layout in question, the CRZ clearance is mandatory under Coastal Zone Regulation Notification 2011, as the lands are located within 500 meters from the sea. Without such clearance, the 5th respondent cannot process the application for DTCP approval.

4(d).As per CRZ Notification 2011, promotion of layout are permitted only on the landward side on existing road or existing authorized structures. The petitioner furnished false data as though the road exists between the land and sea. But for false information given by the petitioner, no permission by TNCZMA or DTCP or RERA could have

been issued to the impugned lands. The authorities without physically verifying, have granted CRZ clearance to the petitioner and there is no road in the approved Coastal Zone Management Plan (CZMP) 2018 is available. A Full Bench of this Court in the judgment reported in ***2006 (4) CTC 460, [The Union of India (UOI) and Ors. Vs. Member Secretary, Chennai Metropolitan Development Authority and Ors.]***, clarified that CRZ Notification is applicable for all development activities. Hence, No Objection Certificate from the 4th respondent is mandatory for DTCP approval.

4(e). As per the CRZ Notification 2011, the 4th respondent is only a recommending authority for the project and has no power to issue clearance. The 4th respondent in the present case without jurisdiction, acting beyond the powers, had issued clearance. The respondents 4 & 5 without considering the actual and geographical fact of the impugned Survey Numbers, had granted clearance in a mechanical manner. **The authorities considered "mere pathway" which is not developed as road and issued clearance under CRZ Notification** and the same will be destroying the coast throughout the country.

4(f).Even though the area is classified as CRZ-II, there were sand

dunes in the site in question which is evident when compared to the adjacent sites. The said sand dunes were destroyed recently prior to preparation of Coastal Zone Management Plan (CZMP). The 4th respondent acted beyond the delegated powers under Notification, issued the impugned clearance when Notification permits the 4th respondent only to recommend the applications submitted. The petitioner and the 6th respondent owns more than 50 hectares of land and they had not obtained mandatory environmental clearance under EIA Notification 2006.

4(g).The learned counsel appearing for the 1st respondent submitted that he is admitting the following three facts:

(I)There exist mud road between the property of the petitioner and seashore.

(II)The petitioner is the owner of the property. The documents of title filed by the petitioner in the typed set of papers are irrelevant.

(III)For the present case, CRZ Notification 2011 only is applicable and not CRZ Notification 2019.

4(h).The learned counsel appearing for the 1st respondent further

submitted that even though the land falls in CRZ-II area, the 4th respondent has no jurisdiction and has no power to give clearance. Further, even though the 1st respondent has stated that land in question falls in CRZ-II area, in the land in question, there are sand dunes, which were destroyed prior to preparation of Coastal Zone Management Plan (CZMP), 2018. Even in Coastal Zone Management Plan (CZMP) of 1996, sand dunes was not mentioned. Taking advantage of the same, the petitioner obtained clearance. When there are sand dunes in the locality, no CRZ clearance can be granted.

4(i).CRZ Notification of 1991 was issued to protect the coastal area. As per this Notification, no activity is permitted within 500 meters from High Tide Line. Prior to 1991 notification, there is no restriction in the coastal area. In CRZ-I area, the only activities permitted are construction of light house, harbour, resort, etc., Any area in coastal line of Chennai and Pondicherry like Marakkanam are classified as CRZ-II area. Irrespect of such classification, if there are sand dunes, no CRZ clearance can be given. In the present site, the petitioner has constructed a compound wall, road and buildings and clearance given by the 4th respondent is not correct.

4(j).When construction are made in the area, clearance as per EIA

Notification 2006 and recommendation of 4th respondent is necessary.

4(k).As per the Notification, any activity on the landward side of the road is permissible. A mud road cannot be construed as a road, it must be developed. The contention of the learned Senior Counsel appearing for the petitioner that he is not constructing any building, but only forming a layout and clearance from EIA Notification 2006 is not necessary is not acceptable. Any innocent purchaser, who want to construct a building has to obtain building permission from the concerned authorities and he has to spend more than Rs.10 lakhs for the same. Even in the Marina Beach, there are service road and no activities are permitted in the service road. For the benefit of differently abled persons, the Government has put up only temporary structure and not constructed any permanent structure. In the Writ Proceedings initiated by Elephant Rajendran, with regard to Elephant corridor, clearance is made necessary even for agricultural activities.

4(l).CRZ Notification 2011 clearly set up elaborate procedure for granting CRZ clearance. As per the procedure, when an application is made to the 4th respondent, the 4th respondent has to examine the

documents in accordance with the approved Coastal Zone Management Plan (CZMP) and in compliance with CRZ Notification, make recommendations within a period of sixty days from the date of receipt of application. The 4th respondent has no power to issue clearance. The 2nd respondent is the authority to issue clearance. The learned counsel appearing for the 1st respondent relied on the judgment reported in ***2010 (14) SCC 1, [DLF Universal Limited and another Vs. Director, Town and Country Planning Department, Haryana and others]***, wherein it has been held as follows:

> *"...*
>
> *54.It is thus clear that there is no provision in the Act, the Rules or in the licence that empowers the Director to fix the sale price of the plots or the cost of flats. The impugned directions issued by the Director are beyond the limits provided by the empowering Act. The directions so issued by the Director suffer from lack of power. It needs no restatement that any order which is ultra vires or outside jurisdiction is void in law, i.e., deprived of its legal effect. An order which is not within the powers given by the empowering Act, it has no legal leg to stand on. The order which is ultra vires is a nullity, utterly*

without existence or effect in law."

4(m).The learned counsel appearing for the 1st respondent submitted that this Court can entertain a Writ Petition only on the following four grounds:

(I) Breach of fundamental right;

(II) Violation of Principles of Natural Justice;

(III) If National Green Tribunal exceeds it jurisdiction and

(IV) If any challenge to vires of statute.

4(n).None of these conditions exist in the present case. The Tribunal has jurisdiction to entertain the appeal and after considering all the materials, passed the order setting aside the order granting clearance. The Writ Petition is not maintainable and the petitioner's remedy is only to approach the Hon'ble Apex Court and relied on paragraph 21 of the judgment reported in ***2022 SCC Online SC 639,*** cited supra.

Case of the 2nd respondent:

5.The 2nd respondent filed affidavit before the NGT and stated that as per the powers conferred under the provisions of The Environment

(Protection) Act, 1986, the 2nd respondent issued Notification 1991 dated 19.02.1991 for classification of Coastal Regulation Zone (CRZ) and norms for regulating developmental activities. Subsequently, on 06.01.2011, superseding earlier Notification, the 2nd respondent issued another Notification with the objective to conserve and protect the coastal stretches by regulation of developmental activities along the coastal stretches and to ensure livelihood security to the fisherman communities and other local communities, living in the coastal areas. The said CRZ Notification, 2011 was amended from time to time based on representations received and need of the people of said locality. All construction activities / building projects falling within CRZ-II areas shall require prior CRZ clearance from the Competent Aurhority as per the existing norms of the CRZ Notification, 2011.

5(a).The construction activities in CRZ-II area involving built-up area more than 20,000 sq.m shall attract the provisions of the EIA Notification, 2006 and requires prior composite EC+CRZ clearance from the concerned State Environment Impact Assessment Authority (hereinafter referred to as SEIAA), along with recommendations of the concerned State Coastal Zone Management Authority (hereinafter

referred to as SCZMA). The construction activities in CRZ-II area involving built-up area less than 20,000 sq.m shall require prior CRZ clearance by concerned Town Planning Authority based on the recommendations of the concerned SCZMA.

5(b).The land in question falls in CRZ-II area and the Tamil Nadu State Coastal Zone Management Authority has issued CRZ clearance vide its letter No.Proc No.P1/1721/2019, dated 31.07.2019, subject to specific and general conditions. The powers to implement the Notification either original or delegated are available under the Environment (Protection) Act, 1986, with the State Government and the State Coastal Zone Management Authority (SCZMAs). The CRZ Regulations are to be implemented and monitored (including violations thereof) by the concerned State Coastal Zone Management Authority in accordance with the approved Coastal Zone Management Plans (CZMPs) of the respective State.

5(c).The learned Senior Panel Counsel appearing for the 2nd respondent submitted that both the petitioner and 1st respondent admitted that only 2011 Notification is applicable for the present land. For the

purpose of implementation and enforcement of the provisions of the CRZ Notification, 2011 and compliance with the conditions stipulated there under, the powers either original or delegated are available under the Environment (Protection) Act, 1986, with the State Government and the State Coastal Zone Management Authority (SCZMAs). The composition, tenure and mandate of State/UT CZMAs, have been notified from time to time by the Ministry. Further, the Ministry vide three Notifications dated 30.09.2022, empowered SCZMAs under Section 5, Section 10 and Section 19 of the Environment (Protection) Act, 1986, to enforce and monitor the provisions of the CRZ Notification. The 4th respondent as per the provisions of CRZ Notification 2011, can exercise the power either original or delegated as per The Environment (Protection) Act, 1986 and the 4th respondent has power to issue clearance as per delegated power. The authorities after following the procedure contemplated in CRZ 2011 and conditions stipulated thereunder, has granted clearance. It is not correct to state that only the 2nd respondent has power to grant clearance, whereas, the 4th respondent is the competent authority as per delegated power to grant clearance. The clearance granted by the 2nd respondent is proper and valid.

5(d).The Senior Panel Counsel appearing for the 2nd respondent

reiterated the averments made in the counter affidavit and submitted that when a built up area is more than 20 thousand sq.mts, clearance as per EIA Notification is required. When a party seeks approval to put up superstructure of area more than 20 thousand sq.mts., they have to get clearance as per EIA Notification 2006 and approval from the authorities under Town and Country Planning Act. As far as 2nd respondent is concerned, there is a mud road which is used by the villagers and layout is in the landward side of the mud road and prayed for passing suitable orders.

Case of the 4th respondent:

6.The 4th respondent filed reply affidavit before the Tribunal. The 4th respondent submitted that the petitioner sent proposal for the proposed Doctor's Beach Project of Residential Plots in S.F.Nos. at S.Nos.106/2, 106/3, 106/4, 106/5, 106/6, 108/1, 108/2A(p), 108/2B, 108/2C1(p), 108/2C2, 109/1, 109/2, 109/3(p), 109/4, 110/1(p), 110/2(p), 110/3, 110/4, 110/5, 111/1, 111/2, 111/3 and 111/4 at Marakkanam North Village (Thalangadu Village), Marakkanam Taluk, Villupuram District. The DCZMA of Villupuram have indicated that the petitioner has proposed to develop 545 Nos. of housing plots for residential purposes.

The entire layout is on the landward side of the existing earthern burial ground road available for public use, connecting the Vasavankuppam Village and burial ground of Vasavankuppam Village. The project area at S.Nos.108/1, 108/2A(p), 108/2B, 108/2C1(p), 108/2C2, 109/1, 109/2, 109/3(p), 109/4, 110/1(p), 110/2(p), 110/3, 110/4 and 110/5 is falling in CRZ-II comprising in 1,01,625 sq.mts and the area at S.Nos.106/2, 106/3(p), 106/4, 106/5, 106/6, 108/2A(pt), 108/2C1(pt), 109/3(pt), 110/1(pt), 111/1(p), 111/2, 111/3 & 111/4 is falling outside CRZ. The plot area varies between 85 sq.mts and 434 sq.mts. The DCZMA for Villupuram District has recommended for issuance of clearance with certain conditions.

6(a).The authorities sought particulars from the petitioner about plots falling within CRZ-II and plots falling outside CRZ-II.

6(b).As per the HTL demarcation map issued by the Institute of Remote Sensing, Anna University, Chennai – 600 025, dated 14.12.2018. No Objection Certificate was issued to issue planning permission in respect of plots, which are falling outside CRZ areas. The applicant has requested to issue clearance for the layout which is falling in CRZ areas.

As per CRZ Notification 2011, vide para 8(i) II CRZ II (i) & (ii), construction of buildings for residential purposes is permissible only on the landward side of the existing road or on the landward side of the existing authorized structures and the buildings so permitted shall be subject to the local town and country planning regulations as applicable from time to time except the FSI, which shall be as per 1991 level. The proposal was placed in the meeting and authority decided to issue clearance, subject to conditions.

6(c).The 4th respondent filed separate counter affidavit in the present Writ Petition. The learned Additional Advocate General appearing for 4th respondent referred to the averments in the counter affidavit filed by the 4th respondent and submitted that application for the petitioner for CRZ Notification was processed as per the procedure. The Tahsildar, Marakkanam Taluk, Executive Officer, Town Panchayat have reported that there exist a 15 feet wide mud road connecting the Vasavankuppam Village and burial ground on the seaward side of the land in question. Considering all the materials placed in the meeting of the Tamil Nadu State Coastal Zone Management Authority (TNSCZMA) and getting further particulars, the 4th respondent granted clearance for

the project. The 4th respondent is competent authority to issue clearance as per delegated powers with specific conditions.

6(d).The learned Additional Advocate General further submitted that as per CRZ Notification 2011, provisions of Coastal Zone Management Plan (CZMP) entrusted to National Centre for Sustainable Coastal Management (NCSCM), Chennai, which is authorized Institute by the Government of India. The said Institute prepared draft Coastal Zone Management Plan (CZMP) and after conducting public consultation and public hearing, the Government of India approved Coastal Zone Management Plan (CZMP) in October 2018. Based on the approved map, the present area falls in CRZ-II area. There is a compound wall situated at a distance of 60 meters from the tideline and one mud road is also situated on the seaward side of the compound wall, which is confirmed by the Tahsildar, Marakkanam Taluk and Village Administrative Officer and referred to Annexure I & II and prayed for passing suitable orders by this Court.

7.Though notice has been served on the 6th respondent and its

name is printed in the cause list, there is no representation for the 6th respondent either in person or through counsel.

8.Heard the learned Senior Counsel appearing for petitioner, learned counsel appearing for 1st respondent, learned Senior Panel Counsel appearing for 2nd respondent, learned Additional Advocate General appearing for respondents 3 to 5 and perused the entire materials on record.

9.The following are the points to be decided in the present Writ Petition:

(I) Whether the Writ Petition challenging the order of the National Green Tribunal dated 11.07.2022 passed in Appeal No.55 of 2021 is maintainable, in view of Sections 14 and 22 of the National Green Tribunal Act, 2010.

(II) Whether the CRZ clearance given by the 4th respondent is proper and valid.

Point I:

(I) Whether the Writ Petition challenging the order of the National Green Tribunal dated 11.07.2022 passed in Appeal No.55 of 2021 is maintainable, in view of Sections 14 and 22 of the National Green Tribunal Act, 2010:

9(a).The jurisdiction of High Courts to issue Writs under Article 226 and 227 of the Constitution of India is part of basic structure of Constitution. The High Court has power to issue of Writs, not only in the nature of Habeas Corpus, Mandamus, Prohibition, Quo Warranto and Certiorari for enforcement of fundamental rights contained in Part III of Constitution of India, but also for any other purposes.

9(b).The High Court has a supervisory power over all the Subordinate Courts and also the Tribunals. The High Court does not act as Appellate Court.

9(c).The High Court under Article 226 of the Constitution of India on the facts of the case has discretion either to entertain or not to entertain the Writ Petition. The High Court has imposed upon itself certain restrictions. When alternate effective remedy is available, the

High Court would not normally exercise Writ jurisdiction. But, it has been held that availability of alternate remedy would not operate as a bar in alteast four contingencies viz.,

(i)Writ Petition has been filed for enforcement of the fundamental rights.

(ii)Where there has been violation of principles of natural justice.

(iii)Where the order or proceedings are wholly without jurisdiction.

(iv)Vires of the Act is challenged.

9(c)(i).Above principles have been confirmed in number of judgments of the Hon'ble Apex Court.

9(c)(ii).The learned counsel appearing for the petitioner submitted that the Writ Petition is maintainable in view of violation of principles of natural justice. The 1st respondent himself admitted that the land in question, where the layout is formed is situate in CRZ-II. The petitioner and official respondents also stated that property is in CRZ-II. None of the parties disputed that the property in question is in CRZ-II. The learned counsel further contended that the Tribunal without any claim of the parties with regard to dispute of the area, framed the issue "Whether

the impugned location is CRZ-II". The Tribunal did not put on notice about framing of such an issue and no opportunity was given to the petitioner to putforth their case to prove that property is located in CRZ-II. The Tribunal violated the principles of natural justice and therefore, the Writ Petition is maintainable.

9(d).The learned counsel appearing for the 1st respondent submitted that even though the 1st respondent stated in the appeal before the Tribunal that the property is located in CRZ-II, he also raised grounds claiming that as there were sand dunes in the property and CRZ clearance cannot be given. At the time of hearing of Writ Petition also, the learned counsel appearing for 1st respondent submitted that the property is in CRZ-II, but sand dunes were destroyed.

9(d)(i). The learned counsel appearing for the 1st respondent did not dispute the contention of the learned Senior Counsel appearing for the petitioner that the issue of location was not raised before the Tribunal or it is not the case of the 1st respondent that he raised the said issue and only after giving opportunity to the petitioner and after hearing the counsel for petitioner,the Tribunal decided the issue of location of the

property in question. The Tribunal has violated the principles of natural justice having framed the issue of location of the property, when parties have not raised the said issue and without giving opportunity to parties, decided the said issue.

9(e).The issue whether the Writ Petition filed challenging the order of the National Green Tribunal is maintainable in view of Sections 14 & 22 of the National Green Tribunal Act, 2010, was considered by the Hon'ble Apex Court in the judgment reported in ***2022 SCC Online SC 639, [Madhya Pradesh High Court Advocates Bar Association and another Vs. Union of India and another]***. During the arguments before the Hon'ble Apex Court, the learned Attorney General, who represented the Government contended as follows:

> *"...*
>
> *12.The learned Attorney General next contends that the remedy before the High Court for a litigant under Article 226 and 227 continues to be available notwithstanding the enactment of the NGT Act and the provision for appeal to the Supreme Court under Section 22 of the NGT Act. It is specifically submitted by the learned AG that the High Court's power of judicial review*

remains unaffected by the NGT Act as it is a part of the basic structure of our constitution, as was declared in L Chandra Kumar v. UOI."

The Hon'ble Apex Court after considering the rival contentions of the parties and the judgments on this issue, held in paragraph No.22 as follows:

"...

22.. It is also noteworthy that nothing contained in the NGT Act either impliedly or explicitly, ousts the jurisdiction of the High Courts under Article 226 and 227 and the power of judicial review remains intact and unaffected by the NGT Act. The prerogative of writ jurisdiction of High Courts is neither taken away nor it can be ousted, as without any doubt, it is definitely a part of the basic structure of the Constitution. The High Court's exercise their discretion in tandem with the law depending on the facts of each particular case. Since the High Court's jurisdiction remain unaffected, the first question is answered in the negative, against the petitioners."

9(f). The ratio in the judgment reported in ***(2012) 134 FLR 460***

Delhi, (Delhi Transport Corporation Vs. Shyam Singh), relied on by the learned Senior Counsel appearing for the petitioner is squarely applicable to the facts of the present case and substantiate the case of the petitioner that Tribunal violated the principles of natural justice.

9(g).In the facts of the case and the judgment of the Hon'ble Apex Court, we have no hesitation to hold that the present Writ Petition challenging the impugned order of the Tribunal is maintainable. The point is answered in favour of petitioner.

Point II:

(II) Whether the CRZ clearance given by the 4th respondent is proper and valid:

9(h).The petitioner sought for clearance for the layout formed by them in the Coastal Area. Earlier there was no Act or Rules controlling the development in the Coastal Area. In view of the lack of control for development in Coastal Area, indiscriminate developments have come up in the Coastal Area affecting the environment in the Coastal Area and fisherman community and other local communities living in the Coastal Area. In order to regulate the development in Coastal Area, the

Environment (Protection) Act, 1986 was passed and Environment (Protection) Rules were framed. As per the provisions of the Act and Rules, the Ministry of Environment and Forest (MOEF) had notified on 19.02.1991, the Coastal Regulation Zone Notification, which classified the Coastal Regulation Zones as I, II, III and IV. This Notification specified the norms for development in each zone. Subsequently, 1991 Notification was superseded on 06.11.2011 by Notification 2011. This Notification was issued in order to conserve and protect the coastal stretches and by regulating developments and to ensure the livelihood of fisherman communities and other local communities living in the Coastal Areas. This 2011 Notification was approved and published on 24.02.2018 in the Gazatee and has come into force.

9(i).Again a Notification was issued on 18.01.2019. This 2019 Notification has not come into force, as the same was not approved and published by the 2nd respondent. Therefore, only 2011 Notification is in force and coastal clearance for development can be given by applying the procedure and conditions contemplated in 2011 Notification.

9(j).The property for which the petitioner has sought for

development as house site layout is situate in Coastal Area. As per the classification of Coastal Zone, in Notification, the property is in Coastal Regulation Zone (CRZ) - II. The authorities considered the application of petitioner for clearance taking the property situate in CRZ-II. The 1st respondent also in the appeal before the Tribunal stated that the property is situate in CRZ-II. Now, the 1st respondent has taken a stand that there were sand dunes in the property, which were destroyed. In view of sand dunes, CRZ clearance cannot be granted. This stand is contrary to the documents on record and is not supported by any acceptable materials. From the materials on record, it is seen that as per Office Memorandum dated 08.09.2019, Institute of Remote Sensing, Anna University, Chennai – 600 025 and six other Institute / Agencies have been authorised to prepare Coastal Zone Management Plans (CZMPs) and other plans. The Coastal Zone Management Plan (CZMP) prepared by authorised Institute does not mention about any sand dunes in the property in question. The 1st respondent contended that Coastal Zone Management Plan (CZMP) is not correct as the Institute did not properly consider all the materials available and failed to mention the existing sand dunes and the petitioner taking advantage of the failure to mention the sand dunes, has obtained CRZ clearance. If really the existing Coastal Zone

Management Plan (CZMP) is not correct, the 1st respondent ought to have challenged the said plan. The 1st respondent or anybody else has not challenged the Coastal Zone Management Plan (CZMP). In view of the unchallenged Coastal Zone Management Plan (CZMP) in force, the application of the petitioner was rightly considered taking into account the said Coastal Zone Management Plan (CZMP).

9(k). The petitioner proposed to develop their land as residential layout in Marakkanam North Village (Thalangadu Village), Marakkanam Taluk, Villupuram District. The said property is situate in Coastal Regulation Zone (CRZ) - II area. The compound wall of the property is 60 meters from Tideline and layout is between 202 and 871 meters from the Tideline. According to the petitioner, there is a 15 feet wide mud road situate between the compound wall of petitioner's property and Tideline. The said road connects Vasavankuppam Village and graveyard. The said road is used by villagers for many years as a passage including for carrying the dead bodies by motorized carts to reach the graveyard.

9(l). In view of the situation of the property in CRZ-II area, no development can be permitted without CRZ clearance. Both the petitioner and 1st respondent admit that clause 8 of CRZ Notification

2011 is applicable to the present case. The said clause has been extracted supra in paragraph 4(b) of this order while recording submission of the learned counsel appearing for the 1st respondent. As per this clause, buildings shall be permitted only on landward side of the existing road or landward side of existing authorised structures. Only when a person satisfies either one of the above conditions, building activities can be permitted on the landward side. The 4th respondent on receiving application from the petitioner for CRZ clearance, referred the matter to the Tahsildhar, Marakkanam Taluk, requesting him to conduct joint inspection of the site by Taluk Deputy Inspector, Zonal Deputy Tahsildar and Village Administrative Officer and to file a report. As per such instructions, the authorities referred to above inspected the site and submitted separate reports. As per the reports, there exists 15 feet wide mud road connecting Vasanvakkuppam village and graveyard. The Executive Officer is shown as owner of said survey number in which the road is situate. During the inspection by the Revenue Officials, villagers were enquired by the Revenue Officials. The villagers informed them that there exist mud road and they are using the same for many years including for carrying dead bodies by motorised carts. On receipt of the said report, the 4th respondent placed the matter in the meeting of the

Tamil Nadu State Coastal Zone Management Authority (TNSCZMA). In the meeting, it was found that certain plots in the layout are situate in CRZ(II) area and other plots are outside of the said area. In view of the same, 4th respondent sought for certain clarifications and details from the petitioner. The petitioner furnished the details sought for and after considering all the materials placed before it, by the order dated 31.07.2019, granted clearance.

9(m). Challenging the said order, the 1st respondent filed Appeal No.55 of 2021 (SZ) before the Hon'ble National Green Tribunal, Southern Zone, Chennai.

10. The 1st respondent in the said appeal challenged the clearance granted to the petitioner on the following grounds:

(i) The petitioner by furnishing false statement that there exists a mud road between compound wall of the petitioner's property and HTL.

(ii) Authorities did not conduct physical inspection of the property in question and submitted reports in a mechanical manner.

(iii) The 4th respondent is only a recommending authority and has no power to issue clearance. Only the 2nd respondent is the authority to

grant clearance.

11. As far as grounds (i) & (ii) are concerned, it is the specific case of the petitioner that there exists 15 feet wide mud road between the compound wall of the petitioner and High Tide Line. It is the further case of the petitioner that said road connects Vasavankuppam Village and graveyard and the villagers are using the same for many years. This claim of the petitioner is substantiated by the reports of the Taluk Deputy Inspector, Zonal Deputy Tahsildar and Village Administrative Officer. They have given reports stating that they inspected the site in question and found existence of the mud road between compound wall of the petitioner and HTL. They also stated that the said property is shown as owned by Executive Officer. This report is in consonance of the statement of the petitioner that at request of the villagers, they gifted the land in question to the Panchayat. There is no reason to disbelieve the statement of the said authorities about their physical inspection and finding of existence of the mud road. Further, they have stated that on enquiries, villagers confirmed the existence of the said road. Again there is no reason to disbelieve the statement of the villagers about the existence of the said road. During the argument in the writ petition,

learned counsel appearing for the 1st respondent submitted that existence of the mud path cannot be termed as mud road. The said contention is not acceptable for the simple reason that there is no definition of road in the CRZ Notification 2011. It cannot be said that only a Tar road, cement road etc., will be considered as road as per clause 8 of the CRZ Notification 2011. The dictionary meaning of path includes a track, a way worn by foot steps and **also a road**. National Green Tribunal rejected the claim of the petitioner about existence of the mud road on the ground that a road in the private property cannot be termed as road as contemplated in the Notification. This reasoning is erroneous and is liable to be set aside.

12. Further, the National Green Tribunal also relied on the report of the Joint Committee appointed by the Tribunal. Joint Committee has submitted its report. It is useful to extract operative portion of the said report for better appreciation and the same reads as follows:

> *"The Joint Committee visited the residential layout site on 19.10.2021. It found it lying within the CRZ-II Zone. Though the plots have been marked on the layout, there has been no construction on any of them. They are all lying vacant. The Committee has also*

perused the papers pertaining to the recommendation made by the District Coastal Zone Management Authority, Villupuram District. The recommendation made by this Authority was based on the information that there was a mud road connecting Vasavankuppam Village to the burial ground located beyond the northern boundary of the layout site under reference as reported by the authority concerned. The Committee did not notice any apparent violation of Coastal Regulation Zone Notification, in so far as the recommendation for clearance in the case, as seen from the relevant records.

The Committee inspected the stretch abutting the fenced eastern boundary of the layout. As regards the road claimed to be running on the eastern side of the layout separating it from High Tide Line, the Committee found no such road existing, from the sea front up to the fenced eastern boundary of the layout, it is a seamless sandy stretch. However, the villagers of Vasavankuppam while being enquired, told the Committee that they carry the dead bodies to the burial ground along the eastern boundary of the layout.

In the absence of a road abutting the eastern boundary of the layout, it cannot be claimed that it has come up on the landward side of an existing road. The

most crucial condition that buildings shall be permitted only on the landward side of an existing road as per CRZ Notification, 2011 is not fulfilled in the case."

In the first paragraph, the Committee has stated that **"Committee did not notice any apparent violation of Coastal Regulation Zone Notification, insofar as recommendation for clearance in the case, as seen from the relevant records."**

12(i). Contrary to the said finding, the Committee in the last paragraph has stated that in the absence of the road abutting on the eastern boundary of layout, CRZ Notification, 2011 is not fulfilled in this case. If there is no road between the boundary of the property of the petitioner and HTL, clearance granted by 4th respondent is in violation of CRZ Notification 2011. The Committee having stated that there is no violation of CRZ Notification 2011, has erroneously stated in the last paragraph that condition in the said Notification is not fulfilled. The Committee in their report has mentioned that when they enquired villagers of the Vasavankuppam Village, they informed the Committee that they carry dead bodies to the burial ground on the eastern boundary of the layout. The Committee has not given any reason for not believing the statement of the villagers in this regard. National Green Tribunal has

not considered the first portion of the report of the Joint Committee, wherein the Committee has stated that there is no apparent violation of Coastal Regulation Zone Notification in granting clearance in this matter. The Tribunal only took note of the last portion of the report with regard to non existence of the road and proceeded to set aside the proceedings of the 4th respondent granting clearance to the petitioner. The said reasoning is erroneous.

13. Further, as per clause 8 of CRZ Notification 2011 if any one of the two conditions mentioned therein is in existence, CRZ clearance can be granted for development on the landward side. The first condition mentioned therein is existence of the road between the property of the petitioner and HTL. We have elaborately dealt with existence of the mud road. As far as second condition mentioned in clause 8 is that if property sought to be developed is in developed area, then CRZ clearance can be granted. The petitioner has stated that there are 300 families living in the area in Ward No.1 of Marakkanam Town Panchayat, Vasavankuppam Village with all the facilities and one hatchery namely "Pavani Hatchery" is also located in that area. The 1st respondent did not dispute such a stand taken by the petitioner and has not denied that 300 families are residing with all the facilities and also Pavani hatchery is being run in

that area.

14. The learned counsel appearing for the 1st respondent contended that the petitioner did not get clearance as per EIA Notification 2006 which burdens the innocent purchaser more than ten lakhs, when they put up construction. This contention is not relevant to the issue in the present writ petition and is not acceptable. The clearance under EIA Notification 2006 is necessary only when a person put up construction of 20000 sq.ft. or more. When the construction is less than 20000 sq.ft., it is sufficient to get CRZ clearance and DTCP approval. In the present case, the petitioner is seeking clearance for the house site layout and not for any construction to be put up in the said land.

15. The learned counsel appearing for the petitioner further submitted that layout consists of 545 plots measuring 1,01,625 sq.mts and the plot area varies from 85 sq.mts (915 sq.ft.) and 434 sq.mts. (4672 sq.ft.) only. The petitioner has already obtained DTCP approval and registered with the Tamil Nadu Real Estate Regulatory Authority as mandated under the Real Estate (Regulations and Development) Act, 2016 (RERA). The copies of the said approval and registration are filed

in the typed set of papers. Learned counsel appearing for the petitioner submitted that in view of the above, the purchasers will not be put to any additional expenses.

16. In view of undisputed contention of the petitioner that area is developed one and layout formed by petitioner is in the developed area, we have no hesitation to hold that both criterias mentioned in clause 8 of CRZ Notification 2011 is in existence and there is no violation of said Notification by 4th respondent in granting CRZ clearance and petitioner has not made any false statement to the 4th respondent for obtaining clearance. We further hold that there is no reason to disbelieve the statement of the Revenue Authorities that only after physical inspection of the site, they have filed report.

17. The next ground of challenge of the 1st respondent is that 4th respondent has no power to grant clearance and he has power only to recommend the clearance and only the 2nd respondent, Ministry of Environment and Forest (MOEF) is the authority to grant clearance. The 2nd respondent appeared before the National Green Tribunal as well as before this Court through the learned Senior Panel Counsel and filed

counter affidavit. In the counter affidavit, the 2nd respondent, Ministry of Environment and Forest (MOEF) has stated that 2nd respondent has delegated the power to the 4th respondent to grant clearance. The learned Senior Panel Counsel appearing for the 2nd respondent during argument has reiterated the said contention. The 2nd respondent in paragraph 12 of the counter affidavit has stated as follows:

> *"12.It is humbly submitted that for the purpose of implementation and enforcement of the provisions the CRZ Notification, 2011 and compliance with the conditions stipulated there under, the powers either original or delegated are available under the Environment (Protection) Act, 1986 with the State Government and the State Coastal Zone Management Authority (SCZMAs). The composition, tenure and mandate of State/UT CZMAs, have been notified from time to time by the Ministry. Further, the Ministry vide three Notifications dated 30 September, 2022 empowered SCZMAs under Section 5, Section 10 and Section 19 of the Environment (Protection) Act, 1986 to enforce and monitor the provisions of the CRZ Notification."*

18. In view of the same, CRZ clearance granted by 4th respondent is in order and the contention of the 1st respondent that 4th respondent has

no power to grant clearance is contrary to the above materials.

19. For the above reasons, order of the National Green Tribunal, Southern Zone, Chennai, dated 11.07.2022 passed in Appeal No.55 of 2021 (SZ) is liable to be set aside and is hereby set aside. Order of the 4th respondent dated 31.07.2019 in Proc.No.P1/1721/2019 (Annexure-1), granting CRZ clearance to the petitioner is restored and the same is confirmed.

20. In the result, the Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

(V.M.V., J) (R.H., J)
10.03.2023

Index : Yes/No
Neutral Citation : Yes/No

krk/kj

To

1.The Ministry of Environment, Forests and Climate Change,
Rep. by its Secretary,

Indira Paryavaran Bhavan,
Jorbagh Road, New Delhi – 110 003.

2.The District Collector,
Collector Office Rd, Moovendar Nagar,
Villuppuram, Tamil Nadu – 605 602.

3.The Member Secretary,
Tamil Nadu Coastal Zone Management Authority,
Panagal Building G.H.Road,
Villupuram, Tamil Nadu – 605 602.

4.The Assistant Director of Town and Country Planning,
Villupuram Region,
TADCO Building G.H.Road,
Villupuram – 605 602.

5.The Managing Director,
Indira Projects and Developments (T) Pvt. Ltd.,
No.116/1, Anna Salai (Behind IDBI Bank),
Saidapet, Chennai – 600 015.

V.M.VELUMANI, J.
and
R.HEMALATHA, J.

krk/kj

Pre-delivery Judgment
in W.P.No.22733 of 2022

10.03.2023

Tamil News / Tamilnadu / Kooduthalai Villagers Stage Protest Demanding Government To Build Bait Curve

‘வீடுகளுக்குள் கடல் நீர் புகும் அபாயம்’.. தவிக்கும் மீனவ மக்கள்: செவி சாய்க்குமா அரசு?

நெல்லை அருகே உள்ள மீனவ ராம மக்கள் தூண்டில் வளைவு அமைக்க பல வருடங்களாக கோரிக்கை விடுத்து வருகின்றனர்.

Written by **WebDesk**

Updated: March 13, 2023 11:00 IST

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திருநெல்வேலி உவரி அருகே கூடுதாழை மீனவ கிராமம் உள்ளது. இங்கு 300-க்கும் மேற்பட்ட வீடுகள் உள்ளன. இங்கு கடந்த சில நாட்களாக கடல் அரிப்பு அதிகமாக உள்ளது. கடல் சீற்றம் ஏற்படுகிறது. நேற்று மாலை கடல் நீர் சுமார் 30 மீட்டர் அளவிற்கு வெளியேறியது. கரையில் நிறுத்தி வைக்கப்பட்டுள்ள படகுகள் சேதமடைவதாக மீனவர்கள் வேதனை தெரிவித்தனர்.

கடல் அலையின் வேகத்தால் கரைகள் முழுவதும் அரிக்கப்பட்டு வாழ்வாதாரம் இழந்து தவிக்கும் கூடுதாழை கிராம மக்கள் கிட்டத்தட்ட அரை நூற்றாண்டு காலமாக தூண்டில் வளைவு அமைக்க கோரிக்கை விடுத்து வருகின்றனர். கடந்த 13 ஆண்டுகளில் தங்களை சுற்றி உள்ள மற்ற கிராமங்களில் மட்டும் தூண்டில் வளைவு அமைத்து விட்டு, தங்கள் கிராமம் சிறியதாக இருப்பதால் அதிகாரிகள் யாருமே கண்டுகொள்ளவில்லை என அப்பகுதி மக்கள் குற்றஞ்சாட்டுகின்றனர்.

வேகமாக வீசும் அலையால் கரைகள் அரிக்கப்பட்டு படகுகளை கூட நிறுத்தி வைக்க வழியின்றி தவிப்பதாக அவர்கள் கூறினர். இந்நிலையில் நேற்று கோரிக்கைகளை முன்வைத்து கிராம மக்கள் சாலை மறியல் போராட்டத்தில் ஈடுபட முயன்றனர். தகவல் அறிந்து வந்த காவல்துறையினர், அதிகாரிகள், அரசியல் கட்சி பிரமுகர்கள் கிராம மக்களிடம் பேச்சுவார்த்தை நடத்த முயன்றனர். பேச்சுவார்த்தையில் முடிவு எட்டப்படவில்லை என்று கூறப்படுகிறது.

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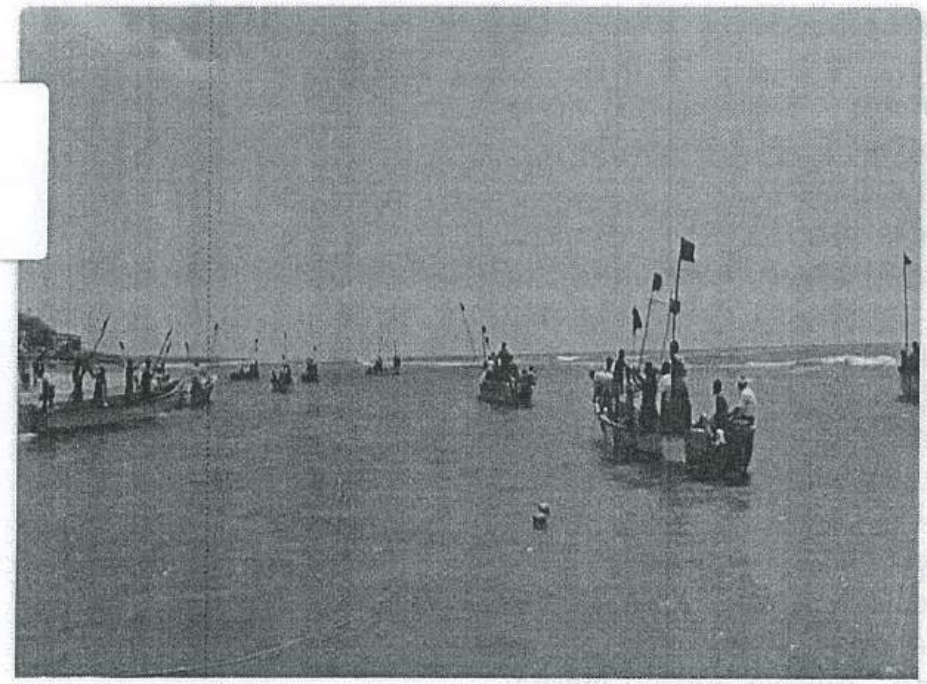
தூண்டில் வளைவு கேட்டு கருப்புக் கொடி கட்டி கடலுக்குள் இறங்கி போராடும் நெல்லை மீனவர்கள்

தூண்டில் வளைவு அமைக்க அடிக்கல் நாட்டு வரை தங்கள் போராட்டம் தொடரும் எனவும் போராட்டத்தில் ஈடுபட்டவர்கள் தெரிவிக்கின்றனர்.

By: ரேவதி | Updated at : 13 Mar 2023 06:48 PM (IST)



கடலில் இறங்கி போராட்டம்

நெல்லை மாவட்டம் உவரி அருகே கூடுதாழை கிராமத்தில் கடந்த 10 ஆம் தேதி மாலை கடல் அரிப்பால் 30 மீட்டர் தூரம் வரையில் கடல் நீர் ஊருக்குள் புகுந்தது. குறிப்பாக அங்கிருந்த மின்கம்பமும் சாய்ந்து விழுந்தது. கடல் அரிப்பால் கடற்கரையில் நாட்டுப்படகுகளை நிறுத்த முடியாத சூழல் ஏற்பட்டுள்ளது. எனவே தூண்டில் வளைவு அமைக்கக்கோரி 11 ஆம் தேதி முதல் மீனவர்கள் கடலுக்கு செல்லாமல் தீடீர் வேலை நிறுத்தப் போராட்டத்தில் ஈடுபட்டனர். நேற்று கடலில் இறங்கியும், மணல் அரிப்பு ஏற்பட்ட இடங்களில் நின்றும் கைகளை கோர்த்தவாறு கவன ஈர்ப்பு மனித சங்கிலி போராட்டம் நடத்தினர். நேற்றைய தினம் கடல் அரிப்பு ஏற்பட்ட இடத்தை பார்வையிட்ட சபாநாயகர் அப்பாவு அவர்களிடம் பேச்சுவார்த்தை

தொடர்புடைய செய்திகள்

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நடத்தினார். குறிப்பாக வரும் 20 ஆம் தேதி சட்டமன்ற கூட்டத்தொடர் நடைபெறுகிறது. மீனவ பிரதிநிதிகளுடன் சென்று நீர்வளத்துறை அமைச்சர் துரைமுருகன் மற்றும் அரசு அதிகாரிகளை சந்தித்து தூண்டில் வளைவு அமைப்பதற்கான தேவையை எடுத்துக்கூறி உரிய நடவடிக்கை மேற்கொள்ளப்படும். தேவைப்பட்டால் முதல்வரை சந்தித்து கோரிக்கையை நிறைவேற்ற வலியுறுத்துவேன் என்றார்.

இந்த நிலையில் இன்று மூன்றாவது நாளாக மீனவர்கள் படகில் கருப்பு கொடி கட்டி கடலுக்குள் இறங்கி போராட்டம் நடத்தி வருகின்றனர். இது குறித்து அவர்கள் கூறுகையில், கூடுதாழை கடற்கரை கிராமத்தில் தொடர்ந்து கடல் அலையின் வேகத்தால் கரைகள் அரிக்கப்பட்டு மீனவர்களின் வாழ்வாதாரம் பாதிக்கப்படுகிறது. தங்களுக்கு தூண்டில் வளைவு வேண்டும் என்றும் கடந்த 22 ருடங்களுக்கு மேலாக போராடி வருகிறோம். இது தாடர்பாக பல ஆண்களாக அதிகாரிகளுக்கு கோரிக்கை வத்தும் எந்த வித நடவடிக்கையும் இதுவரை டுக்கப்படவில்லை. மிகப்பெரிய ஆபத்தான சூழலில் ாங்கள் இருக்கின்றோம், பொருள் சேதம், உயிர் சேதமும் தொடர்ந்து நடந்து வருகிறது. இதனை மீன்வளத்துறை அமைச்சர் வந்து பார்வையிடாதது மிகப்பெரிய வேதனையை அளிக்கிறது. மத்திய மாநில அரசு என எந்த அரசும் தங்கள் போராட்டத்திற்கு இதுவரை செவிசாய்க்கவில்லை. இதனால் மூன்றாவது நாளான இன்று படகுகளில் கருப்பு கொடிகளை கட்டி படகில் கடலுக்குள் சென்று போராட்டம் நடத்தி வருகிறோம் என்றனர். எனவே தூண்டில் வளைவு அமைக்க அடிக்கல் நாட்டு வரை தங்கள் போராட்டம் தொடரும் எனவும் போராட்டத்தில் ஈடுபட்டவர்கள் தெரிவிக்கின்றனர். மேலும் மத்திய மாநில அரசுகளுக்கு எதிராக கோஷங்களையும் எழுப்பி வருகின்றனர். மேலும் நாளை கஞ்சி காய்ச்சும் போராட்டத்தில் ஈடுபட போவதாகவும் போராட்டக்காரர்கள் தெரிவிக்கின்றனர்.

Published at : 13 Mar 2023 06:48 PM (IST)

உள்ளூர் செய்திகள்

திருநெல்வேலி

கூடுதாழையில் மீனவர்கள் மத்தியில் மாவட்ட பஞ்சாயத்து தலைவர் வி.எஸ்.ஆர்.ஜெகதீஷ் பேசியபோது எடுத்த படம்.

கூடுதாழையில் தூண்டில் வளைவு: வி.எஸ்.ஆர்.ஜெகதீஷ் தலைமையில் நடந்த பேச்சுவார்த்தையில் உடன்பாடு-தொடர் போராட்டம் முடிவுக்கு வந்தது

By மாலை மலர் 30 மார்ச் 2023 2:20 PM

கடந்த 11-ந் தேதி முதல் மீனவர்கள் தொடர் போராட்டத்தில் ஈடுபட்டு வந்தனர்.

ரொசிங்டன் தலைமையில் கண்டன ஆர்ப்பாட்டம் நடைபெற்றது.

திசையன்விளை:

நெல்லை மாவட்டம் உவரி அருகே உள்ள கூடுதாழை மீனவர் கிராமத்தில் கடல் அரிப்பை தடுக்க தூண்டில் வளைவு அமைக்க வேண்டும் என்று அரசை வலியுறுத்தி கடந்த 11-ந் தேதி முதல் மீனவர்கள் கடலுக்கு மீன்பிடிக்கச் செல்லாமல் தொடர் வேலை நிறுத்தப்போராட்டத்தில் ஈடுபட்டுவந்தனர்.

மேலும் தினமும் பல்வேறு வகையான போராட்டங்களையும் நடத்தினர்.

இந்த நிலையில் நேற்று 19 -வது நாளாக கடற்கரையில் அமைக்கப்பட்டுள்ள பந்தலில் போராட்டக்குழு தலைவர் ரொசிங்டன் தலைமையில் கண்டன ஆர்ப்பாட்டம் நடைபெற்றது. மாலையில் போராட்ட பந்தலில் மாவட்ட பஞ்சாயத்து தலைவர் வி.எஸ்.ஆர்.ஜெகதீஷ் தலைமையில் சமாதான பேச்சுவார்த்தை நடந்தது. மாநில மீனவர் அணிசெயலாளர் ஜோசப் ஸ்டாலின் முன்னிலை வகித்தார். பங்குதந்தை வில்லியம் வரவேற்று பேசினார்.

இதையும் படியுங்கள்: மனோபாலா உடலுக்கு அமைச்சர் உதயநிதி ஸ்டாலின் நேரில் அஞ்சலி

இந்த கூட்டத்தில் மாவட்ட பஞ்சாயத்து தலைவர் வி.எஸ்.ஆர்.ஜெகதீஷ் கூறியதாவது:-

கூடுதாழையில் தூண்டில் வளைவு அமைக்க சபாநாயகர் அப்பாவு தீவிர முயற்சி செய்துவருகிறார். சென்னை யில் மீன்வளத்துறை, பொதுப்பணித்துறை, வனத்துறை அமைச்சர்கள் மற்றும் உயர் அதிகாரிகளை அழைத்து தூண்டில் வளைவு

நாளை (வெள்ளிக் கிழமை) அதற்கான ஆணை பெற்று விடுவதாக உறுதியளித்துள்ளார். 3 மாதத்திற்குள் தூண்டில் வளைவு அமைக்கும் பணி தொடங்கும்.

இவ்வாறு அவர் கூறினார். இதையடுத்து தொடர் போராட்டம் முடிவுக்கு வந்தது.

Tysaiyanvilai Bait Curve VSR Jegadheesh Protest

Leave a comment

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Special Original Jurisdiction)

W.P. No. 14661 of 2023

Fisherman care,
Rep by its Preseident
L.T.A. Peter Rayan ... Petitioner

Vs.

Union of India rep by its.,
Secretary of Govt.
Ministry of Environment, Forest & Climate Change,
and 11 ors

... Respondents

INDEX TO ADDITONAL TYPED SET II

M/s L.P. Maurya
MS/1255/2008

S. Indrajith
MS/2686/2021

Ragesh Bhagavath
MS/7586/2021

Harish Parvatham
MS/5681/2021

COUNSEL FOR PETITIONER

+9444670816

BEFORE THE HON'BLE HIGH COURT OF MADRAS

W.P No: 14661 of 2023

Fisherman Care,
Registered Association,
Bearing S.L. No: 386 of 2010,
Rep by its President
L.T.A Peter Rayan,
No.6, Nagalakshmi Salai,
Tiruchandur Nagar,
Old Pallaravam,
Chennai – 600 117.

... Applicants

Versus

1. The Union of India Rep by its
   Secretary to the Government,
   Ministry of Environment, Forest and Climate Change,
   Government of India, Indira Paryavaran Bhavan, JorBagh Road,
   Aliganj, New Delhi – 110 003.

2. The Chief Secretary of Tamil Nadu,
   Secretariat, Chennai.

3. The Principal Secretary of Tamil Nadu,
   Environment Department,
   Secretariat, Chennai.

4. The Chairperson,
   Environment Department,
   Panagal Malaigai, Saidapet,
   Chennai – 600 015

5. The Chairman,
   Coastal Zone Management Authority,
   Paryavaran Bhavan, CGO Complex,
   Lodhi Road, New Delhi – 110 003.

ASSISTANT CONSERVATOR OF FORESTS
GREEN SQUAD,
O/o. DIRECTOR OF ENVIRONMENT,
PANAGAL MALIGAI,
SAIDAPET, Chennai - 015.

Director,
Department of Environment and Climate Change,
Chennai - 15

6. The Director,
National Center for Sustainable Coastal Management (NCSCM),
Ministry of Environment, Forest and Climate Change,
Govt of India, Anna University Campus,
Chennai – 600 025.

7. The State of Tamil Nadu,
Represented by its Secretary to Government,
Fisheries Department,
Fort St. George,
Chennai – 600 009.

8. The State of Tamil Nadu,
Represented by its Secretary to Government,
Public Works Department,
Fort St. George,
Chennai – 600 009.

9. The Commissioner of Fisheries and Fisherman Welfare,
3rd Floor, Integrated Animal Husbandry and Fisheries Building,
Nandanam, Chennai – 600 035.

10. The District Collector,
Collectorate,
Kokkirakulam,
Tirunelveli – 627 009.

11. The Registrar,
National Green Tribunal (Southern zone),
377 J, Kalas Mahal, Kamaraj Salai,
PWD Estate, Chepauk,
Chennai – 600 005.

12. C.H.Balamohan,
7-8. Moovendar Street,
Mullainagar, Puducherry.

ASSISTANT CONSERVATOR OF FORESTS
GREEN SQUAD,
O/o. DIRECTOR OF ENVIRONMENT,
PANAGAL MALIGAI,
SAIDAPET, CHENNAI-600 015

Director,
Department of Environment and Climate Change,
Chennai - 15

REPLY COUNTER AFFIDAVIT FILED BY THE 3RD, 4TH RESPONDENT

I, Deepak.S.Bilgi, S/o Dr.S.R.Bilgi, aged about 44 years and having office at Ground Floor, Panagal Buildings, Saidapet, Chennai – 600 015 solemnly affirm and sincerely state as follows.

1. I humbly submit that I am the Director, Department of Environment and Climate Change and also the Member Secretary, Tamil Nadu State Coastal Zone Management Authority and I am well acquainted with the facts of the case from the records available and I am filing this reply in my official capacity of 4th respondent and on behalf of 3rd respondents.

2. I humbly submit that I have gone through the averments contained in the affidavit filed by the Applicant and I deny all the averments except those that are specifically admitted herein and the Applicant is put to strict proof of the same.
3. It is humbly submitted that, the grievance made by the Petitioner in the PIL is alleging that the state government has not taken any steps to protect the coasts of Tamil Nadu from erosion and neither has it initiated steps to do so as the Hon'ble NGT (SZ) has fixed the time limit for preparing Shoreline Management Plan within 6 months in O.A. No. 4 of 2013, dated 11.04.2022.

4. It is respectfully submitted that, the Department of Environment has taken necessary action for preparing "Comprehensive Shoreline Management Plan for entire coast of Tamil Nadu" from 2015, based on the order of the Hon'ble NGT (SZ), dated 04.09.2015.

ASSISTANT CONSERVATOR OF FORESTS
GREEN SQUAD,
O/o. DIRECTOR OF ENVIRONMENT
PANAGAL MALIGAI,
SAIDAPET, CHENNAI-600 015.

Director,
Department of Environment and Climate Change,
Chennai - 15

5. It is respectfully submitted that, an Application No. 4/2013 was filed by Thiru. O. Fernandes before the Hon'ble NGT (SZ) regarding the construction of shoreline protection structures by the PWD and other agencies. The Hon'ble NGT directed the Tamil Nadu State Coastal Zone Management Authority (TNSCZMA) to prepare a Comprehensive Shoreline Protection Management Plan / Scheme for the entire coast of Tamil Nadu engaging a reputed institution and the NGT has also issued direction preventing PWD or any other agency from proceeding with any work on shore protection until further orders till the approval of the said plan / Scheme by Ministry of Environment, Forest & Climate Change, Government of India (MoEF & CC, GoI), vide order dated 04.09.2015.

6. It is respectfully submitted that, furtherance to abide with the orders of the Hon'ble NGT, a draft Comprehensive Shoreline Protection Management Plan was prepared through Dr. V. Sundar, Professor, Department of Ocean Engineering, IIT Madras at a cost of Rs.50.60 lakhs and sent to the Ministry of Environment, Forests & Climate Change, Govt. of India, for approval, vide Government of Tamil Nadu letter dated 09.08.2016, which is the comprehensive plan for protecting the shoreline of Tamil Nadu from sea erosion.

7. Accordingly, the Ministry of Environment, Forests & Climate Change, Govt. of India has constituted an Expert Committee and the Committee recommended the draft Plan and instructed to circulate the Plan to the neighbouring States of Andhra Pradesh, Kerala and UT of Puducherry.

ASSISTANT CONSERVATOR OF FORESTS
GREEN SQUAD,
O/o. DIRECTOR OF ENVIRONMENT
PANAGAL MALIGAI,
SAIDAPET, CHENNAI-600 015.

Director,
Department of Environment and Climate Change,
Chennai - 15

8. It is respectfully submitted that, after several reminders by the Department and the Govt. of Tamil Nadu, the State of Andra Pradesh, Kerala and U.T of Puducherry have sent their replies to the MoEF & CC, Govt. of India. Accordingly, the proposal on "the Comprehensive Shoreline Protection Management Plan for the entire Coast of Tamil Nadu" has been placed before the 255th meeting of the Expert Appraisal Committee (CRZ) of MoEF & CC, GoI held on 12.02.2021. The EAC has stated the following.

Placed before 255th

"It is noted that comments of State Governments of Andhra Pradesh, Kerala and UT of Puducherry forwarded to Project Proponent are still not incorporated in the report. The Committee suggested that the same should be incorporated and resubmitted. The Committee also proposed for site visit by the EAC (CRZ) Committee. Accordingly, the proposal was deferred for reconsideration at a later stage once the revised report is submitted and the site visit is carried out by this Ministry"

9. It is respectfully submitted that, the Hon'ble NGT (SZ) also observed the replies and views of the above States and conducted a meeting with the Chief Secretaries of Andhra Pradesh, Kerala, Tamil Nadu, Karnataka and Puducherry UT along with the respective Secretaries for Environment & Forests and also along with the Joint Secretary, MoEF & CC, GoI through Video Conferencing on 11.01.2022.

10. It is respectfully submitted that, in the meantime, the MoEF & CC, GoI constituted the sub-committee with the official from MoEF & CC, GoI and made site inspection from 7-9th April 2022 along the coast of Tamil Nadu for approving the "Shoreline Protection Management Plan". The Committee inspected the sites from Ennore to Puducherry border coast from 07.04.2022 to 09.04.2022.

ASSISTANT CONSERVATOR OF FORESTS
GREEN SQUAD,
O/o. DIRECTOR OF ENVIRONMENT
PANAGAL MALIGAI,
SAIDAPET, CHENNAI-600 015.

Director,
Department of Environment and Climate Change,
Chennai - 15

11. It is respectfully submitted that, at this juncture, the Hon'ble NGT (SZ) has issued direction in the final orders in O.A No.04 of 2013 on 11.04.2022, stating that Shoreline Management Plan (SMP) shall be prepared as illustrated by NIOT for such erosion prone areas. Pending preparation/updation of such SMPs by the Coastal States/UTs, no further hard structures for erosion control be raised or constructed.

12. Accordingly, necessary action to prepare and update the Shoreline Management Plan (SMP) has been initiated and M/s National Center for Coastal Research (NCCR) has been allotted the work of preparation of SMP vide G.O (Ms) No. 69, Environment, Climate Change and Forest (E.C.3) Department dated: 29/03/2023.

13. It is respectfully submitted that the work of preparation of Shoreline Management Plan is being carried out by NCCR through scientific study and methodology involving shoreline change analysis, bathymetry survey, sediment characteristics, geomorphology mapping, field survey and stakeholder interactions to arrive at a SMP for the entire coast of Tamil Nadu.

14. It is respectfully submitted that, necessary action will be taken to expedite the preparation of SMP through the resource organization i.e. M/s NCCR and finalization and approval of the same.

15. Hence, with respect to the Tribunal Order, it is brought to the knowledge of the Hon'ble High Court of Madras that no new proposal related to construction of hard structures for coastal erosion are given CRZ recommendation in the intervening period i.e before finalizing SMP.

ASSISTANT CONSERVATOR OF FORESTS
GREEN SQUAD,
O/o. DIRECTOR OF ENVIRONMENT
PANAGAL MALIGAI,
SAIDAPET, CHENNAI-600 015.

Director,
Department of Environment and Climate Change,
Chennai - 15

16. In addition, it is also respectfully submitted that, no such application was received from line departments Public Work Department and Department of Fisheries for CRZ clearance under CRZ notification, 2011 for the construction of hard structures/ erosion control measures from the villages of Kooduthalai, Thomaiyarpuram, Kootapuli.

It is therefore humbly prayed that this Hon'ble High Court may be pleased to record the above mentioned facts and pass such further order or orders as this Hon'ble High Court may deem fit and proper in the interest of justice.

Director,
Department of Environment and Climate Change,
Chennai - 15

Solemnly affirmed at Chennai
This the 07th day of August 2023
and Signed his name in presence

BEFORE ME

ASSISTANT CONSERVATOR OF FORESTS
GREEN SQUAD,
O/o. DIRECTOR OF ENVIRONMENT
PANAGAL MALIGAI,
SAIDAPET, CHENNAI-600 015.

O/C.

IN THE HON'BLE HIGH COURT OF
JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Writ Petition No. 14661 of 2023

COUNTER AFFIDAVIT FILED BY THE **4th** RESPONDENT AND ON BEHALF OF **3rd** RESPONDENT

SPL. GOVERNMENT PLEADER