

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, AT CHENNAI
ORIGINAL APPLICATION No. 269 OF 2024**

Meenava Thanthai K.R. Selvaraj
Kumar Meenavar Nala Sangam,
Chennai.

...Applicant

Versus

Union of India,
MoEF&CC,
Rep. by its Secretary,
New Delhi and Ors.

...Respondents

COUNTER AFFIDAVIT FILED BY THE 5th RESPONDENT

Date: 07.02.2025



**M/s. Gautam S. Raman
Standing Counsel/CMWSSB
99400 71160**

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Dated at Chennai on this the 07th Day of February, 2025.



COUNSEL FOR 5th RESPONDENT

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

SOUTHERN ZONE, AT CHENNAI

ORIGINAL APPLICATION NO. 269 OF 2024

IN THE MATTER OF

Meenava Thanthai K.R. Selvaraj Kumar

Meenavar Nala Sangam

Represented by its President,

M.R. Thiyagarajan

S/o. Late C. Rajalingam,

Office at No.48, East Madha Church Street,

Royapuram, Chennai- 600 013.

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krtkarjun@gmail.com

...Applicant

Vs.

1. Union of India

Through the Secretary,

Ministry of Environment and Forest,

Indira Parayavaran Bhavan,

Jor Bagh,

New Delhi- 110 003

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2. Tamil Nadu State Environment Impact Assessment Authority

Through the Chairman

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Tamil Nadu

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EXECUTIVE ENGINEER
CHENNAI METROPOLITAN WATER SUPPLY
AND SEWERAGE BOARD,
CHENNAI - 2.


Superintending Engineer (Desal)
Chennai Metropolitan Water Supply &
Sewerage Board
Chennai - 600 002.

3. At the outset, the 5th respondent denies each and every averment set forth in the present application save those that are expressly admitted herein.
4. The 5th respondent submits, as elaborated below the present application is neither maintainable on facts and on law. It is further submitted that the present application is also time barred and hence ought to be dismissed in limine.

Present application is barred by law as it has been filed beyond the statutory period of limitation prescribed under the National Green Tribunal Act, 2010:

5. Though it is alleged in the present application that the same has been filed within the prescribed time limit under sections 14 and 15 of the National Green Tribunal Act, the application is actually, which ought to come under section 16 of the National Green Tribunal Act, 2010, since the applicant wants to revoke the environmental clearance granted to the 5th respondent on 25.10.2018. Therefore, an application ought to have been necessarily filed on or before 25.11.2018. Hence, the present application is time barred and ought to be dismissed.
6. Without prejudice to the very maintainability of the present application, the respondent craves leave to deal with the averments stated in the application. The gist of the applicant's contention is summarised as follows:
 - (i) That the 400MLD desalination plant is situated at S.No.208 Perur, ECR which is actually classified as CRZ IA.
 - (ii) The laying of the sea water intake pipeline, outfall pipeline, construction of sea water intake head and outfall diffuser along with intake sump and pump house is situated in CRZ III and IV.
 - (iii) Though the environmental clearance states that the property is situated at the CRZ III and IV, the activity is actually been undertaken at CRZ IA. The said construction activity is for setting up of a desalination plant and the form -I for CRZ clearance stated that the said property falls under CRZ III and it is based on this representation that the EAC had deliberated and thereafter given clearance.


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- (iv) That the baseline studies for the proposed plant was conducted between 2013 and 2014 yet the work was commissioned only in March, 2024 which is contrary to the CRZ Notification wherein any work has to commence within 5 years from the receipt of the CRZ clearance.
- (v) It is further alleged that in the environmental clearance submitted by the project proponent, it describes the plant as a common effluent treatment plant. Therefore, necessary prior environmental clearance as per EIA Notification, 2006 ought to have been obtained.

7. Based on the aforementioned allegations the applicant has sought the below reliefs from this Hon'ble Tribunal:

- a) Direct the Respondent No.5 to remove all the illegal structures from CRZ-IA erected for the setting up of Desalination plant at Survey No.208, Perur, East Coast Road, Chennai.
- b) Direct the Respondent No.2 to initiate stringent action against the Respondent No.5 for the commencement of desalination plant without obtaining prior environmental clearance under the EIA Notification.
- c) Direct penal action and impose environmental compensation including restitution of environment on Respondent Nos.5 for violating the rules laid down under the Environment Protection Act 1986, CRZ notification and EIA Notification, and *inter-alia* for loss of ecological services foregone and costs to restore the damage done to the environment and ecology.
- d) Direct the Respondent No.3 to revoke the clearance dated 25.10.2018 for the deliberate violation of the CRZ Clearance as well as the provisions of the CRZ Notification.
- e) Pass any order or orders as this Hon'ble Tribunal may deem fit and appropriate in the facts and the circumstances of the present Application.

8. It is submitted that each and every allegation stated in the present application is misconceived and based on an incorrect understanding of the CRZ notification, 2011. Addressing the allegations that the 5th respondent had falsely submitted their application for CRZ clearance representing as if the proposed site lies only at CRZ III and IV location is false. It is submitted that when the application for CRZ clearance was submitted to the MoEF&CC in the year 2016, S.No 208 at Perur Village was classified only as CRZ III and IV and therefore when the baseline studies and the inspection were conducted by the MOEF&CC and TNCZMA, the said property was only classified as CRZ III and IV only. Therefore, allegations as if any misrepresentation or suppression by this respondent is denied.
9. It is further submitted that the environmental clearance was granted 1 month prior to the grant of CRZ Clearance only for S.No. 208 re-classified as CRZ IA. It is submitted that even as per the CRZ notification 2011, desalination plants are permitted in CRZ IA. Therefore, there is no illegality in the ongoing construction of the desalination plant. The relevant portion of the CRZ notification is extracted below:

"CRZ- I

- (i) *no new construction shall be permitted in CRZ- I except:-*
- (a) *projects relating to Department of Atomic Energy;*
 - (b) *pipelines, conveying systems including transmission lines;*
 - (c) *facilities that are essential for activities permissible under CRZ- I;*
 - (d) *installation of weather radar for monitoring of cyclones movement and production by Indian Meteorological Department;*
 - (e) *construction of trans harbour sea link and without affecting the tidal flow of water, between LTL and HTL;*
 - (f) *development of green field airport approved at only Navi Mumbai;*
- (ii) *Areas between LTL and HTL which are not ecologically sensitive, necessary safety measures will be incorporated while permitting the following, namely;*
- (a) *exploration and extraction of natural gas;*

- (b) construction of dispensaries, schools, public rainshelter, community toilets, bridges, roads, jetties, (erosion control measures) water supply, drainage, sewerage which are required for traditional inhabitants living within the biosphere reserves after obtaining approval from concerned CZMA.
- (c) necessary safety measures shall be incorporated while permitting such developmental activities in the area falling in the hazard zone;
- (d) salt harvesting by solar evaporation of seawater;
- (e) desalination plants;
- (f) storage of non-hazardous cargo such as edible oil, fertilizers and food grain within notified ports;
- (g) construction of trans harbour sea links, roads on stilts or pillars without affecting the tidal flow of water.”

10. Addressing the allegation that as per the CRZ notification the 5th respondent failed to commence the development activities within 5 years from the date of the grant of CRZ clearance, the same is denied. It is submitted that the CRZ clearance was accorded on 25.10.2018 and the validity is for 5 years from the date of issue of the clearance for commencement of construction operation. In the present case, construction activities commenced as early as March, 2023. It is further submitted that the applicant if he would have maintained the present case under section 14 (assuming section 14 would apply) the same ought to have been filed by June, 2023. Therefore, not only these allegations incorrect but it can be seen that the same is also time barred.

11. Regarding the allegation that the present project comes under item 7 (h) category B of the EIA Notification, 2006 for common effluent treatment plants is denied. It is submitted that the work relates only to a desalination plant and it is categorically submitted that there would be no effluent treatment in the present plant. It is submitted that it appears to be an error committed by one of the previous officers of the 5th Respondent board who has submitted for prior environmental clearance or a mistake that the present work would also involve effluent treatment.

12. Accordingly, all the allegations in paragraphs 1 to 24 are denied and the applicant is not entitled to any reliefs and the application ought to be dismissed.

In the above circumstances, it is therefore prayed that this Hon'ble Tribunal may be pleased to dismiss the application and pass such further or other orders as this Hon'ble Tribunal may deem fit and proper and thus render justice.

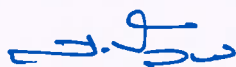
Solemnly affirmed at Chennai

Before Me

on this the 6th day of February, 2025

and signed his name in my presence.

Advocate: Chennai



EXECUTIVE ENGINEER
CHENNAI METROPOLITAN WATER SUPPLY
AND SEWERAGE BOARD,
CHENNAI - 2.



Superintending Engineer (Desal)
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