

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

Application No. 272 of 2024

K. Saravanan

....Applicant

Vs.

1. The Tamilnadu Coastal Zone Management Authority

2. The National Highways Authority of India (NHAI)

...Respondents

**MEMO FILED ON BEHALF OF THE APPLICANT**

The Applicant respectfully submits as follows:

1. The Status Report dated 17.10.2024 filed by the 2<sup>nd</sup> Respondent NHAI contains submissions pertaining to the Odiyur lagoon, the project in general and the subject violation at the Yedayanthittu estuary, in no particular order. Therefore, for ease, the following paragraphs pertaining to the subject violation may be taken note of by this Hon'ble Tribunal.
  - A. Para 5 at pg. 3 – states that the concessionaire originally obtained permission for construction for 50% of the waterway only. Rest to be taken up after clearing of the material already dumped.
  - B. Para 13 at pg. 7 – states existing two bridges are of length 396 m and 18 m, and two new bridges identical in length are proposed to be constructed parallel to the existing bridge, which are sufficient, according to them, for tidal exchange.
  - C. Para 19 at pg. 9 – states that subsequent to the judgment of this Hon'ble Tribunal dated 22.08.2024 in OA 106 of 2024, during inspection, it was observed that cofferdam structures were constructed across the Yedayanthittu estuary.
  - D. Para 20 at pg. 10 – refers to several communications, but it is not clear whether these pertain to Yedayanthittu estuary or the Odiyur lagoon.
  - E. Para 22 at pg. 10 @ 11 – states that the 2<sup>nd</sup> Respondent and an independent engineer have repeatedly instructed concessionaire to remove materials.

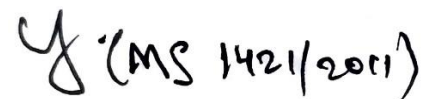
F. Para 23 at pg. 11 – refers to EE, WRD letter dated 30.09.2024, that all four ways of the cofferdam will be opened before the onset of the monsoon.

G. Para 24 at pg. 12 – refers to concessionaire's letter dated 03.10.2024, that excess length of cofferdam has been removed, and mentions inspection.

2. Firstly, the quarry rubble (mainly rocks and stones along with quarry sand) dumped has not been fully removed for 50% of the length of the estuary as contended. Even in the small portion of the cofferdam where NHAI claims material was removed, rocks and stones remain, and even a small artisanal fishing boat is not able to cross across. The materials dumped have not been fully removed.
3. It is necessary to submit that on account of the rains and tidal inflow, the water level in the estuary has risen and as a result, water was seen flowing over the cofferdam, hiding the materials from the naked eye. It does not mean that the materials dumped have been fully removed.
4. The applicant submits that a boat can be taken across half width claimed to have been removed, to test the veracity of this contention.
5. NHAI cannot claim any immunity for these repeated violations by contending that the concessionaire committed the violation and they have been instructing the concessionaire to comply with the law. It is NHAI's duty to ensure that such egregious violations do not occur in the first place.
6. It is to be noted that even the letter of the concessionaire dated 03.10.2024 claiming that the materials dumped have been removed is after NHAI was put on notice, after this Hon'ble Tribunal issued notice on 01.10.2024. It cannot become a practice to routinely violate and then expect citizens to approach courts for the authorities to perform their duty.

7. At the risk of repetition, it is submitted that the claim that they have now removed the excess cofferdam constructed for 50% of the width is incorrect and the materials dumped still remain, interfering with the movement of boats and tidal exchange.
8. Paragraphs 26 and 27 of the report at page 12 pertain to the NHAI stating that they require to construct a slip-road inside the Odiyur lake area. It is submitted that construction of a road inside the waterbody is a prohibited activity, and that too, the Odiyur lagoon is covered under the CRZ Notification, 2019 and any filling in for such purposes is prohibited by law. The 2<sup>nd</sup> Respondent cannot seek the permission of this court to violate a law, and in any case, such permission to violate the law and the judgment of the Hon'ble Tribunal in OA 106 of 2024 cannot be made by way of the present report filed by the 2<sup>nd</sup> Respondent.
9. It is prayed that this Hon'ble Tribunal may be pleased to take these facts on record, and pass such orders as it deems fit in the interest of justice.

Dated on this the 18<sup>th</sup> day of October, 2024

 (MS 1421/2011)

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Counsel for Applicant