

**BEFORE THE NATIONAL GREEN TRIBUNAL AT MADRAS**

**APPLICATION. No.136 of 2016 (SZ)**

**Between**

**Capt. B.S.Prakash**

...Applicant

-Vs-

**Union of India**

Rep by its Secretary

Ministry of Environment & Forest and 6 others

...Respondents

**OBJECTIONS TO THE JOINT COMMITTEE REPORT**  
**FILED BY THE 7<sup>th</sup> RESPONDENT**

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**No.412, New Additional Law Chamber,**

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**Mobile No. 9444056021, 7299825051**

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It is respectfully submitted as hereunder.

This Respondent had gone through the Joint Committee inspection report submitted before this Hon'ble Tribunal and submits their objections as here under.

1. This respondent admits the contents of Paragraphs 1 to 4 of the report and have no objections for the same.

**2. Para 5. Environmental Clearance and Kerala Coastal Zone Management**

**Authority Clearance:**

It is submitted that this respondent obtained Environmental Clearance for the above said project vide No.16-4/2008-IA-III dated 02-01-2009 however since the project was not completed due to various obstacles and financial difficulties. This respondent will get the necessary clearance from the MOEFCC before project work is recommenced and the resort is put into operation.

It is submitted that CRZ clearance for the said project was issued by the Kerala Coastal Zone Management Authority, vide No.152/ENV/06/CZMA dated 18-11-2006 subject to compliance of the terms and conditions stipulated in the said clearance. Since the project was not completed due to various obstacles and

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financial difficulties, this respondent will get the necessary clearance from the Kerala Coastal Zone Management Authority before project work is recommenced and the resort is put into operation.

**3. Para 6. Consent for Establishment from Kerala State Pollution Control Board.**

It is submitted that this respondent obtained integrated consent for the establishment of the project from the Kerala State Pollution Control Board vide PCB/HO/KSGD/ICE-R/01/2012 dated 09-11-2012 and subsequently renewed vide PCB/HO/KSGD/ICE-R/01/2016 dated 19-01-2016 valid till 30-06-2018. It is submitted that due various obstacles caused to this defendant and financial difficulties this defendant could not complete the project despite of the fact that this defendant had invested more than Rs.185 crores organized from various sources including project loan from Nationalized Banks. This respondent is organizing further funds to commence the project soon and will get the consent renewed from the KSPCB before commencing the work again.

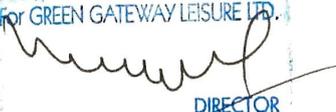
**4. Para 7. Status of the Project.**

It is submitted that due to financial difficulties and various obstacles including Covid-19 pandemic this respondent could not complete the project and the resort development work could not be carried out for the past 2 years. However, this respondent has not abandoned the project as this respondent had already invested more than 185 crores and arranging further funds to complete the project.

**5. Para 8. Approach adopted by the Joint Committee:**

This Respondent has no comments on this.

**6. Para 9. Key issues Raised in the Complaint and remarks of the Joint Committee.**

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(A). There is no bore well dug in the project site as alleged by the applicant against this respondent. The joint committee during their inspection also confirmed in their report that there is not existence of any bore well. However, it is submitted that this respondent has not abandoned the project half way but the project development could not be completed due to financial difficulties and this respondent is taking all the necessary steps to revive the project as soon as possible. Since this respondent has also entered an agreement with Kerala Water Authority for the supply of required water for the project there is no need for drawl of ground water. The joint committee report also confirms the same.

(B). As far as the STP is concerned the project has not been completed and put into operation. This respondent will install a STP plant as per the terms of the consent to operate certificate given by various authorities before the operation of the project. All necessary licenses could be renewed by this respondent as and when the project is commenced again and before operation of the project/

(C). This respondent denies the report submitted by the joint committee that half yearly complaints reports are not submitted to the MOEFCC and the last monitoring report for the period April 2020 to September 2020 was submitted on 01-10-2020 and the copy of the same is enclosed as Annexure 1.

(D). As far as the allegation of the joint committee that the environmental clearance and CRZ clearance expired after 5 years this respondent would commence the project work and put the resort in to operation only after getting necessary clearance from the concerned authorities. The project is not completed and put to operation yet.

(E). It is submitted that all developments are made through a sanctioned layout and corresponding CRZ clearance for this project.

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The resort site falls under CRZ III Zone being the area coming under the jurisdiction of Pallikkara Grama Panchayath as per the Coastal Zone management Plan prepared by Centre for Earth Science and studies (CESS). Since project site shares its boundary with sea on western side and back waters on the South east sides, 200 metre no development zone from the High Tide Line of the sea and 100 metre no development zone from the back waters are applicable as per CRZ III norms . These are clearly earmarked in the sanctioned layout. Leaving aside these No development zones, the resort development is permitted only in the area between 200 metre to 500 metre of High tide line as per the CRZ norms and the sanction layout strictly follows these norms. The approved Lay out in which the canals are clearly marked.

From the sanctioned layout it can be assessed that the canals are made only within 200 - 500 m which is in concurrence with the CRZ clearances provision. “As per the provision of the CRZ notification Resort development is permissible outside the No Development Zone in CRZ – (III) .....” And again as per the clause (b) (XIII) specific to CRZ “Extraction of Sand, levelling or digging of sandy stretches except for structural foundation of building, swimming pool shall not be permitted within 500 meters of the high tide line.

The land where the canals are developed was originally low level and marshy area and not a sandy zone. There were small drains and natural streams crossing the site originally, which forms part of the lower area of a major watershed that drains from the upper plains outside the project site, connecting to the back waters. This necessitates the need to drain the rain water from the adjoining residential area to the back waters through water canals even in the pre development phase. The natural flow of water cannot be blocked in view of the resort development since there is a chance of flooding in the project area as well as the adjoining settlements

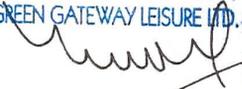
if the rain water is not properly drained out. There are two culverts constructed by the PWD, one crossing the abutting road of the site, near the sea , and the second one near the river , which facilitate the smooth flow of rain water by an already existed canal net work flowing through the site in to the back waters. These culverts and the canal were originally constructed by the local Govt and now being preserved and protected by the Project. This mechanism is directly benefitting more than 50 families around the site from flooding during monsoon.

Hence, only minimum land development has been carried out for the construction of the proposed resort in the low land marshy area and which has now brought about a balanced transformation of the water bodies as canals and the balance land for resort development. Hence there was no digging or excavation of sand in the CRZ zone except levelling of land and as the result of interventions only water canals or water pools are formed.

The site was reclaimed as part of the resort development beyond 200 meters of CRZ line (no development zone), within the permissible resort development area as per the approval, some areas got transformed into water ponds. All developments have been done after leaving the clearances from the sea and the backwater as per the CRZ regulation and the approved permit.

As per the CRZ Zone map issued by the Centre for Earth Science and Studies (CESS), the sand dune areas earmarked in the map are not affected by the resort development and it is kept untouched and preserved until now. The area developed as built up is only the low land and marshy zone as discussed earlier.

The observation made by the Committee is clearly against the legal permit for the resort development in the land between 200m to 500m zone. The sandy area between 0 to 200m is still untouched and no development is made. The legal permit allows the development between 200m to 500m. As depicted above, this

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zone is low land and marshy which has been converted as a resort area with the provision for storage of additional rain water in the canal and to allow excess water coming into the site through the canals.

Canals are connected to the river which has been planned as a regulated connection and this will only allow excess water to flow into the backwaters and no inflow back into the canals. Hence, the canals are not assumed as tidal influenced area. Therefore, the CRZ applicability on this part is nil.

7. It is submitted that the applicant has filed the above application out of personal vendetta and dispute due to employer and employee relationship there is absolutely no public interest and this application is only filed for personal benefits of the applicant. It is submitted that the applicant was working as a General Manager Project for a fixed period of one year in the year 2013. However due to some unethical practices noticed by the management he was terminated from service on 13<sup>th</sup> July 2013 itself. It is submitted that thereafter he started blackmailing his respondent through various means and finally sent a legal notice through his advocate on 03-10-2015 which is filed as Annexure R-17. The bare reading of the said notice would itself prove that the applicant has filed this application due to personal vendetta since he failed in his black mailing tactics to extract money from this respondent.

8. This respondent however submits that they will abide by all the terms and conditions stipulated in the consent to operate and EC issued by the authorities before resort is put into operation. This respondent also undertakes to renew the license and clearance lapsed if any before recommencement of the project development. It is submitted that this respondent has not committed any violation or environmental damage requiring an assessment of the said damage. It is submitted that this respondent has already invested more than 185 crores in the

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project and because of the vexatious petition filed by the applicant before various authorities has caused delay in completion of the project and financial difficulty to this respondent. Hence it is humbly prayed that the above application may be dismissed with cost.

Dated at Thiruvananthapuram this 02<sup>nd</sup> day of February 2021

A blue rectangular stamp with the text "GREEN GATEWAY LEISURE LTD." at the top and "DIRECTOR" at the bottom. A handwritten signature in blue ink is written across the stamp. A thin black line extends from the right side of the signature.

7<sup>th</sup> Respondent