

**BEFORE THE NATIONAL GREEN TRIBUNAL
SITTING AT PUNE**

MEMORANDUM OF APPLICATION

(Under Sections 15 of read with section 18 National Green
Tribunal Act, 2010)

APPLICATION NO. 4 OF 2024

BETWEEN:

Yogesh Pratap Singh

... **APPLICANT**

AND

Member-Secretary, National Coastal Zone Management Authority

& Another

... **RESPONDENTS**

**REJOINDER TO AFFIDAVIT-IN-REPLY OF
RESPONDENT NO. 1 AND 2 I.E. NATIONAL
COASTAL ZONE MANAGEMENT AUTHORITY AND
THE MINISTRY OF ENVIRONMENT, FORESTS
AND CLIMATE CHANGE**

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ZONE MANAGEMENT AUTHORITY AND THE
MINISTRY OF ENVIRONMENT, FORESTS AND
CLIMATE CHANGE**

I, Yogesh Pratap Singh, the Applicant above-named, residing at Mumbai, do hereby solemnly affirm and state as under:

- 1.** The Applicant has gone through the Affidavit-in-Reply of the abovementioned Respondents, and accordingly, tenders this Rejoinder.
- 2.** The Applicant further submits that in this Rejoinder he shall traverse through the core points which are pertinent to the issues at stake. Accordingly, whatever has not been denied specifically be construed as being any admission which shall be adverse to the cause of this Original Application.
- 3.** At the outset the Applicant submits that this Affidavit-in-Reply is legally incorrect for the essential reason that there cannot be a combined Affidavit-in-Reply of 2 entities, i.e. the National

Coastal Zone Management Authority, which is a 25 member independent body and the Ministry of Environment and Forests, New Delhi, which only has got a very limited role in the matter. Both are placed in different pedestals.

4. As per the National Coastal Zone Management Authority Notification of 11th May, 2022, a copy of which is annexed hereto and marked as ANNEXURE-‘A-1’, the following has been stipulated:

“(v) the Authority shall examine and approve the Coastal Zone Management Plans (CZMPs), Island Coastal Regulation Zone Plan (ICRZP), Integrated Island Management Plans (IIMPs) and modifications thereof submitted by the State Coastal Zone Management Authorities and Union Territory Coastal Zone Management Authorities;”

5. That being so, the 25-Member body of the National Coastal Zone Management Authority has to independently and collectively apply its mind and ensure that the errors in the Coastal Zone Management Plan of Mumbai be corrected as per the specific details brought about in the Original Application.

6. That being so, the Affidavit-in-Reply of These Respondents suffers from the legal deficiency mentioned above.

7. Be that as it may, the Applicant further submits that ‘These Respondents’ have given the following core points in their Affidavit-in-Reply which is reproduced hereunder for the sake of convenience:

13. It is humbly submitted that as regards the contention of the applicant w.r.t. Salsete Island, the same has been examined in consultation with NCSCM, Chennai and it has inter-alia been **opined by NCSCM that Salsete Island does not fulfill the criteria as mentioned in Para 10.2 (i) for the reason that Salsete Island is not an inland Island in any coastal backwaters, nor it is an island along the mainland coast. In fact, Salsete Island is right on the mainland coast itself.** In view of the same, Salsete Island

does not also qualify the criteria for preparation of IIMP as per 10.2 (iii) of the CRZ Notification, 2019. Therefore, the CZMP approved by this Respondent is as per the provisions of CRZ Notification 2019. Further, the approved CZMP is prepared as per CRZ in 2019. Further, the approved CZMP is prepared as per CRZ Notification, 2019 with CRZ of 500 m from HTL along the seafront and 50 m from HTL along Creeks/ Bays etc. which exemplifies the 'Precautionary Principle'.

8. The Applicant submits from the aforesaid core elements of this Affidavit-in-Reply quoted above, ***the following pertinent points emerge:***

(A) Copy of the Report of NCSCM not annexed:

The Affidavit-in-Reply seeks to state that consultation had been done with the National Centre for Sustainable Coastal Management (NCSCM). However, no report of the NCSCM has been annexed to the Affidavit-in-Reply. Without a report, which ought to cite reasons and tenability of the people preparing the report, this Affidavit-in-Reply itself would become legally unacceptable.

(B) NCSCM is a technically body and not a body of legal experts who can embark upon the Rules of Interpretation of Statutes read with the vast ramifications of 'Precautionary Principle' and 'Inter-Generational Equity':

National Centre for Sustainable Coastal Management (NCSCM) is a body to technical experts. It is not a body of legally-trained people, who have to interpret the words in statutes based on the Rules of Interpretation of Statutes in general, the Plain Reading Rule i.e. the Literal Rule of Interpretation of Statutes and also the Mischief Rule of Interpretation of Statutes and further the Strict Rules of Interpretation of Statutes.

Accordingly, the interpretation of legal provisions by a body of scientific experts, would neither command credence nor can that constitute the basis of altering the legal status of Salsette Island as not effectively being an island along the mainland coast.

(C) NCSCM themselves admit that Salsette Island is an island:

As per the Affidavit-in-Reply, NCSCM have themselves admitted the position, that Salsette Island is an Island. Going by the Plain Reading Rule of Interpretation of Statutes, Salsette Island is covered by water on all sides and ***runs along the mainland coast to a distance of about 88 KMs.*** Hereto annexed and marked as ANNEXURE-‘A-2’ is the Google Earth Satellite Map, where the rough distance of the Salsette Island along the mainland coast has been measured.

For the reason of such apparent and clear specifics, Salsette Island has to be reckoned as that Island along the mainland coast, which runs to a distance of approximately 88 KMs along the mainland coast.

(D) Infringement of Plain Reading Rule – Island along was mainland coast and island on the mainland coast are one and the same:

As per the Affidavit-in-Reply the following has been stated:

“opined by NCSCM that Salsete Island does not fulfill the criteria as mentioned in Para 10.2 (i) for the reason that Salsete Island is not an inland Island in any coastal backwaters, nor it is an island along the mainland coast. In fact, Salsete Island is right on the mainland coast itself.”

The Applicant submits that in such cases Plain Reading Rule has to be applied. To any common comprehension, an Island on the coast and Island along the mainland coast are one and the same thing.

Naturally, if any island has a dimension of length and breath, then it has to run along the nearby coast. In fact, it would not run along the mainland coast, only if the island does not have any mass, which is simply an impossibility.

In other words, if an island has got a mass, then it has to run along the mainland coast and there cannot be an island which has a zero mass.

In fact, no island can be on the coast, as island has to be separated from the coast from a water body. If the island is on the coast, then it would cease to be an island. It would be a mainland coast itself.

Thus the very fact that there is an island, then it has to be separated by a water body, and in case there is a separation by the water body, then the island has to run on the other side of the water body, which is the mainland coast in the case of Salsette Island.

(E) If Salsette Island is not along the mainland coast, then all the islands of India shall be outside the purview of the stringency of Notification of 2019 and thereby frustrate the legal provision – Mischief Rule for the Interpretation of Statutes has to be applied:

The Applicant submits that if the rather strange opinion of the NCSCM has to be reckoned, then it would mean that hundreds of islands which are on the mainland coast, shall go outside the purview of the Notification.

For, if Salsette Island is not an island along the mainland coast but is an island on the mainland coast itself, then so would apply to hundreds of ecologically vulnerable islands which run along the natural coast of India.

It is to cater to such frustrating of a legal provision that mischief rule of Interpretation of Statutes has to be applied, so that intent, reason and spirit behind this legal provision to cover all islands under the Notification, do not get undermined by any mischief in seeking to twist the meaning of plain words.

To reiterate, if Salsette Island is not an island along the mainland coast, then all the islands of India would also not be along the mainland coast. In other words, if one has to go by the untenable opinion of NCSCM, then none of the islands of India, except Andaman and Nicobar Islands, and Lakshadweep Islands would get covered by the Notification.

Naturally, the oblique and twisted legal opinion of NCSCM if taken at its face value, would at one go, take all the islands of India, except Andaman and Nicobar Islands, and Lakshadweep Islands, outside the purview of the Notification and thereby make all these ecologically sensitive islands vulnerable to environmental damage, amidst the lurking phenomenon of rise in sea-levels, global warming and climate change.

Accordingly, if the mischief Rule of Interpretation of Statutes is applied on this aspect, then this unfortunate contingency of rise in sea-levels and climate change, gnawing at these vulnerable islands, would get obviated.

(E) ‘Precautionary Principle’ has to be applied – Strict interpretation of the words in the Notification have to be accorded:

The Applicant submits that the very essence of the of ‘Precautionary Principle’ is that it works on the principle of a mere probability of an adverse environment consequence. As per this rule, not a proof is required. All that is required is a mere possibility of an environmental vulnerability.

It is needless to add that it is a known fact islands are extremely vulnerable ecologically, and have got a very fragile coastal ecosystem. Their vulnerability has got substantially enhanced for the reason of the phenomenon of climate change, rise in sea-levels and global warming.

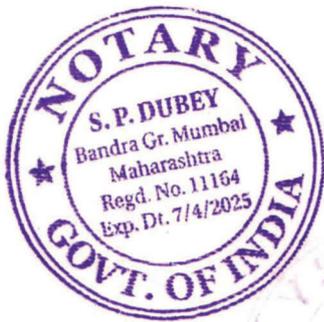
In fact, it would be a relevant observation, that it is for the purpose of underscoring the seriousness of grave contingencies, that the name of Ministry of Environment and Forests was changed to Ministry of Environment, Forests and Climate Change.

For such reasons, a strict interpretation to the words in the statute i.e. in the Notification of 2019, has to be applied and consequently, it has to be inferred that an Island along the Mainland Coast and an Island on the Mainland Coast are one and the same and that the clear-cut provisions of Coastal Regulation Zone Notification, 2019, have to be applied in letter and spirit as has been elaborately traversed through in the Original Application.

9. CONSIDERING THE ABOVE, THE FOLLOWING PRAYERS ARE BIGN MADE:

(A) THAT this part of Affidavit-in-Reply relating to National Coastal Zone Management Authority be rejected, and that they be instructed to file a separate Affidavit-in-Reply after taking the opinion of the 25-member expert body.

- (B) THAT the Affidavit-in-Reply of the Ministry of Environment and Forests, New Delhi be rejected for the reasons cited in the foregoing and the prayers made in the Original Application be made absolute.
- (C) THAT in view of the extreme seriousness of the matter and in view of the fact that Mumbai has now become the most vulnerable Island of India as it is having a population of nearly 2 crore people, therefore, interim orders need be issued immediately in the interest of "Right to Life" of these people, whereby the entire Salsette Island, be brought within the scope and rigours of the Coastal Regulation Zone Notification, 2019 read with the related provisions of Coastal Regulation Zone Notification, 2011, till the time the applicable Integrated Management Plan for the Salsette Island is prepared and duly implemented.

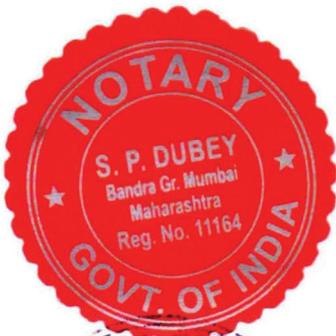


Yogesh Kratapadih
APPLICANT

Solemnly affirmed in Mumbai

Dated this 26th day of April 2024

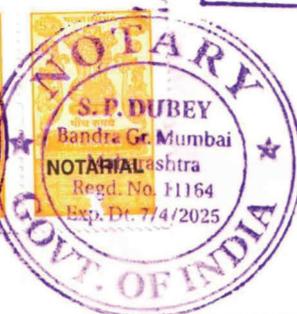
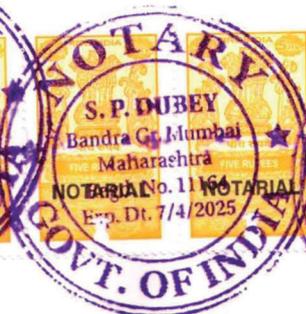
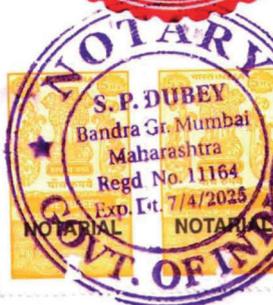
BEFORE ME



BEFORE ME
[Signature]
S. P. DUBEY
 B.A., LL.B
NOTARY GR. MUMBAI
 MAHARASHTRA
 (GOVT. OF INDIA)

26 APR 2024

S. P. DUBEY (Notary Govt. of India)
 Notarial Register
 Sr. No. 2530 P 6 APR 2024



में नीति, नियोजन, अनुसंधान और विकास, उत्कर्ष केंद्रों की स्थापना तथा वित्तपोषण पर केन्द्रीय सरकार को सलाह दे सकेगा।

(v) प्राधिकरण, राज्य तटीय जोन प्रबंध प्राधिकारियों और संघ राज्यक्षेत्र तटीय जोन प्रबंध प्राधिकरणों द्वारा प्रस्तुत किए गए तटीय जोन प्रबंध योजनाओं (सीजेडएमपीएस), तटीय द्वीप विनियमन जोन योजना (आईसीआरजेडपी), एकीकृत द्वीप प्रबंध योजनाओं (आईआईएमपीएस) और उनमें उपांतरणों की परीक्षा करेगा और उसका अनुमोदन करेगा।

(vi) प्राधिकरण, अपनी बैठकों की कार्यसूची और कार्यवृत्त से संबंधित सूचना को मंत्रालयों की वेबसाइट के माध्यम के साथ ही लोकाधिकारी क्षेत्र में प्रदर्शित करेगा।

(vii) प्राधिकरण की पूर्वगामी शक्तियाँ और कृत्य, केन्द्रीय सरकार के पर्यवेक्षण और नियंत्रण के अधीन होंगे।

(viii) प्राधिकरण, जहाँ कहीं अपेक्षित हो, अपनी बैठक के दौरान किसी अन्य विशेषज्ञ को सदस्य के रूप में आमंत्रित करेगा।

(ix) पदेन सदस्य से भिन्न किसी सदस्य को केन्द्रीय सरकार द्वारा किए गए विनिश्चय के मानदंडों के अनुसार भत्ते संदत्त किए जाएंगे।

[फा. सं. जे-17011/18/1996-आईए.।।।]

डा. सुजीत कुमार बाजपेयी, संयुक्त सचिव

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

ORDER

New Delhi, the 11th May, 2022

S.O. 2194(E).—In exercise of the powers conferred by sub-section (3) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986) (hereinafter referred to as the said Act) in the Gazette of India, Part II, Section 3, Sub-Section (ii), the Central Government, for the purpose of protecting and improving the quality of the coastal environment and preventing, abating and controlling environmental pollution in the coastal areas, constitutes the National Coastal Zone Management Authority (hereinafter referred to as the Authority) consisting of the following persons for a period of three years with effect from the date of publication of this notification in the official Gazette, namely:-

S.No.	Member of the Authority	
1.	Secretary, Ministry of Environment, Forest and Climate Change	Chairman, <i>ex officio</i>
2.	Special Secretary or Additional Secretary (CRZ), Ministry of Environment, Forest and Climate Change	Member, <i>ex officio</i>
3.	Dr. P.K. Dinesh Kumar, Chief Scientist, National Institute of Oceanography (NIO), Kochi, CSIR, Ministry of Science and Technology	Expert Member
4.	Director, National Centre for Sustainable Coastal Management (NCSCM), Chennai, Ministry of Environment, Forest and Climate Change	Member, <i>ex officio</i>
5.	Director, National Centre for Coastal Research (NCCR), Chennai, Ministry of Earth Sciences	Member, <i>ex officio</i>
6.	Member Secretary, Central Ground Water Authority, Ministry of Jal Shakti, or his representative	Member, <i>ex officio</i>
7.	Deputy Director General (Fisheries), ICAR, Ministry of Agriculture and Farmers Welfare or his representative	Member, <i>ex officio</i>
8.	Joint Secretary (Marine Fisheries), Department of Fisheries, Ministry of Fisheries, Animal Husbandry and Dairying	Member, <i>ex officio</i>

9.	Joint Secretary (Tourism), Ministry of Tourism or his representative	Member, <i>ex officio</i>
10.	Joint Secretary(UT), Ministry of Home Affairs, dealing with Coastal Union Territories or his representative	Member, <i>ex officio</i>
11.	Joint Secretary, Ministry of Urban Development, Government of India or his representative	Member, <i>ex officio</i>
12.	Deputy Director General (Operations and Coastal Security), Indian Coast Guard, Ministry of Defence, Government of India or his representative	Member, <i>ex officio</i>
13.	Principal Secretary(Environment), Government of Gujarat or his representative	Member, <i>ex officio</i>
14.	Principal Secretary(Environment), Government of Maharashtra or his representative	Member, <i>ex officio</i>
15.	Principal Secretary(Environment), Government of Goa or his representative	Member, <i>ex officio</i>
16.	Principal Secretary(Environment), Government of Karnataka or his representative	Member, <i>ex officio</i>
17.	Principal Secretary(Environment), Government of Kerala or his representative	Member, <i>ex officio</i>
18.	Principal Secretary(Environment), UT of Lakshadweep Islands or his representative	Member, <i>ex officio</i>
19.	Principal Secretary(Environment), Government of Tamil Nadu or his representative	Member, <i>ex officio</i>
20.	Principal Secretary(Environment), Government of Puducherry or his representative	Member, <i>ex officio</i>
21.	Principal Secretary(Environment), Government of Andhra Pradesh or his representative	Member, <i>ex officio</i>
22.	Principal Secretary(Environment), Government of Odisha or his representative	Member, <i>ex officio</i>
23.	Principal Secretary(Environment), Government of West Bengal or his representative	Member, <i>ex officio</i>
24.	Principal Secretary(Environment), UT of Andaman and Nicobar Islands or his representative	Member, <i>ex officio</i>
25.	Joint Secretary or Equivalent dealing with CRZ, Ministry of Environment, Forest and Climate Change	Member Secretary, <i>ex officio</i> .

2. The Authority shall have its headquarter at New Delhi.
3. The quorum of the meeting of the authority shall be ten members and in case the quorum is not available, the meeting shall be adjourned for thirty minutes and shall be reconvened.
4. The Authority shall exercise the following powers and function, namely:-
 - (i) the Authority shall co-ordinate the actions of the State Coastal Zone Management Authorities and the Union Territory Coastal Zone Management Authorities under the said Act and the rules made thereunder, or under any other law which is relatable to the objects of the said Act;
 - (ii) the Authority shall examine the proposals for changes or modification in the classification of Coastal Zone Areas and in the Coastal Zone Management Plans received from the State Coastal Zone Management Authorities and the Union Territory Coastal Zone Management Authorities, and make specific recommendations to the Central Government therefor;
 - (iii) the Authority shall hold review of cases involving violations of the provisions of the said Act and the rules made thereunder, or any other law which is related to the objects of the said Act, either

suo-motu, or on the basis of complaint made by an individual or body, or organisation, and wherever necessary, issue directions under section 5 of the said Act;

(iv) the Authority shall provide technical assistance and guidance to the concerned State Government, Union territory Governments or Administrations, in the matters relating to protection and improvement of the coastal environment and may advise the Central Government on policy, planning, research and development, setting up of centers of excellence and funding in matters relating to coastal areas management;

(v) the Authority shall examine and approve the Coastal Zone Management Plans (CZMPs), Island Coastal Regulation Zone Plan (ICRZP), Integrated Island Management Plans (IIMPs) and modifications thereof submitted by the State Coastal Zone Management Authorities and Union Territory Coastal Zone Management Authorities;

(vi) the Authority shall place information regarding the agenda and minutes of its meetings in the public domain, including through Ministry's website;

(vii) the foregoing powers and functions of the Authorities shall be subject to the supervision and control of the Central Government;

(viii) the Authority may, whenever required, invite other expert as a member during its meeting;

(ix) A member, other than an *ex officio* Member, shall be paid allowances as per the norms decided by the Central Government.

[F. No. J-17011/18/1996-IA.III]

Dr. SUJIT KUMAR BAJPAYEE, Jt. Secy.



Ruler ✕

Line Path Polygon Circle 3D path 3D polygon

Measure the distance between multiple points on the ground

Length: 88,103.20 Meters

Show Elevation Profile

Mouse Navigation Save Clear

