

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

WESTERN ZONE BENCH AT PUNE

ORIGINAL APPLICATION NO. 12 OF 2023 (WZ)

IN THE MATTER OF

ANIL A MASURKAR

....APPLICANT

VS.

UNION OF INDIA AND ORS.

.....RESPONDENT

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Anil A. Masurkar.


Asst. Supdt. (Admn.)
Court of C. J. J. B &
J. S. F. C., Malvan

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
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Anil A.

REJOINDER TO THE REPLY AFFIDAVIT FILED BY RESPONDENT NO 3

1. That Respondent No. 3 (Maharashtra Maritime Board), who filed the reply affidavit, is the subject of the current rejoinder. The applicant disputes each and every charge, as well as the different statements, objections, and averments made. Nothing is acknowledged unless it is expressly acknowledged or is included in the record. The applicant states that all of the information and arguments presented in the application are

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accurate and true, and that they can all be found in the immediate rejoinder without duplication.

2. That the Respondent no. 3 stated in paragraph 3 of his reply affidavit that he was not a party to the aforementioned OA No.23 of 2022. That the Maharashtra Maritime Board was well aware of the OA No. 23 of 2022, filed in the NGT, is not incorrect, I would want to remark. This is due to the fact that, in accordance with the joint committee report (NGT established the committee on 15.03.2022), the committee met in the Tondavali gram panchayat prior to conducting the site inspection. Members of the Gram Panchayat, District Collector, District Mining Officer, Maharashtra Maritime Board (MMB), Fisheries Department, and Groundwater Survey and Development Agency (GSDA) were present at the meeting. The same was reiterated in the final judgment of May 30,2022.

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"3. ... Prior to the site visit, the Joint Committee met with concerned government representatives in Grampanchayat Tondavali, including the District Collector of Sindhudurg, the District Mining Officer, the Maharashtra Maritime Board (MMB), the Fisheries Department, and the Groundwater Survey and Development Agency (GSDA). The Sarpanch's office hosted the aforementioned meeting, and Tondavali locals also attended. In the aforementioned discussion, the problems outlined in the Order of the Hon. High Court were discussed.

3. The applicant for OA No. 23 of 2022 has not made respondents to the Groundwater Survey and Development Agency (GSDA) and Fisheries Department in the original application, despite the fact that this Hon'ble Tribunal has issued directions to the aforementioned department in the name of "Precautionary Principal" based on the joint committee's recommendation. that the judgment from OA No. 23 of 2022, which was rendered on 30.5.2022, is attached as Annexure A/6 to the current OA.
4. That the Applicant say and admit that the para no.9,10 and 11 of the reply affidavit of Respondent No3.

Anil A.

5. In addition, the applicant claims that respondent No. 3 misleads and provides inaccurate information in para. 13 and that Respondent No. 3 never mentioned three brass sizes of 23 boats in the letter of authorization for manual dredging for the year 2021 that was addressed to the District Collector Sindhudurg. The applicant says that according to the Maharashtra Maritime Board's official website, Respondent No. 3 is responsible for registering vessels in accordance with the Inland Vessels Act of 1917. Consequently, all 23 boats and vessels with a capacity of three brasses should be registered before Respondent No. 3. As a result, the respondent number 3 is aware of the details regarding the 23 vessels that I indicated in Paragraph 11 and the letter dated June 16, 2022 that is attached as Annexure A/7 to the current OA. The vessel is depicted in the images, making it simple to determine the size

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and number of vessels. The Applicant say that, he sent representation to the Respondent No.3 for taking action on unauthorize and illegal vessel from the creek of "C" slot. That the Applicant say that when Respondent no.3 has come for joint inspection at the site of "C" slot, before the officers are arrive at site all illegal vessels are run the other side. The Respondent No.3 have never any advance machinery/system nor own vessel for taking action on illegal sand mining vessel from the creek. Respondent No. 3 can take action on illegal vessel on the basis of CCTV footage, but till the date respondent no.3 never taken any action on the basis of CCTV footage. Because as per the GR dated 28 January,2022, CCTV camera is compulsory at dredging site. Respondent No.3 has made an effort to exclude the precise information of the vessel in the Masure Village's C slot.

6. According to the argument, the respondent number 3 claims in para. 12 that "the average depths in the sub-gut C-2 are 1.12 meters with respect to Chart datum (lowest tidal level)". However, according to the applicant, Respondent No. 3 gives inaccurate and partial information about the "C" slot. The respondent no.3 never brought up the precise depth and measurement of the Masure Village's "C" slot. For example, C-1, C-2, and C-3. However, as a result of the most recent rains, the edges of the four islands have crumbled into a creek, and it is unnecessary to mention separately how many trees are also suffering as a result.

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7. That in addition, Respondent No. 3 failed to state in his response the depth of the Masure village's C-1 slot. However, Respondent No. 3 claims in Paragraph 14(b) that he was given various responsibilities relating to dredging activity to be carried out in creeks for clear nautical channel since he is a technical specialist in hydrology study. It implies that the hydrology information must be correct and that the creek's depth must be less than 3 meters.

8. The applicant say that the government resolution issued by the Maharashtra government on January 28, 2022, chapter no. 7 (A)(1)(ii), states that "Permitholder can do excavation of gravel/sand up to a depth of maximum 3 meters in the Gravel/Sand Gat or the level of water whichever is lesser or the depth permitted in the Environmental Clearance whichever is less"

9. According to the applicant, fishing boats are moving easily from the "C" slot, and by 2021, there will already be a above 3-meter depth at the Masure village's "C" slot. The fishermen frequently utilize bamboo poles longer than 20 feet, and they have long-standing knowledge and experience of the creek and the fishing grounds. That in the Present OA, the Applicant attached images of a traditional method for measuring the depth of the C slot in the creek. The photos indicate the traditional method employed by villagers. Additionally, the

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applicant claims that no letters have ever been provided to respondents no. 3 and 4 noting the problem of navigation during high tide or low tide from the Masure Village's "C" slot. Respondent No. 3 proposed manual dredging in "C" slots through letter dated 10.03.2022, in place of the above 3-meter depth that currently exists in "C" slots. The hydrology data, water level, and depth at low tide and high tide of the "C" Slot of the measurement village must thus be reviewed, double-checked, and cross-checked. The applicant asserts that a survey and report on the Masure Village's "C" slot must be accurate and factual. The applicant claims that the Hon'ble NGT is willing to apply the "Polluter Pay Principle" against the Respondent No. 3 if the bathymetric data of Respondent No. 3 is inaccurate or deceptive. As a result, it is proposed that the applicant be present when a committee is formed to check the depth of the "C" slot at high tide and low tide using both traditional methods and machinery. The applicant claims that Respondent No. 3's reply, which was submitted by Maharashtra Maritime Board, makes a clear effort to divert the tribunal's attention from the failure to provide accurate hydrology data in accordance with GR dated January 28, 2022 to the claim that dredging is an authorized activity in coastal CRZ areas under the CRZ, Notification, 2011 and 2019.

10. That in the light of the contentions raised by the Applicant herein, the Original Application may be allowed.

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11. Pass any other order as this Hon'ble Tribunal may deem fit in the facts and circumstances of the present case.

Anil A. Masurkar -
APPLICANT

THROUGH

Akeni
OMKAR AJIT KENI

ADVOCATE

COUNSEL FOR THE APPLICANT

AT/POST, TONDAVALI-TALASHIL,

TALUKA-MALVAN, DIST.SINDHUDURG

STATE. MAHARASHTRA.416626

Anil A.

VERIFICATION

I, Anil Achyut Masurkar, aged about 64 years, Handicap, A/P, Masure Village, Taluka-Malvan, District Sindhudurg, Maharashtra- 416608, verify that the contents of para 1 to 11 of the present Application true to the best of my knowledge and nothing material has been concealed therefrom.

Date : 4/08/2023

Place: Malvan

Anil A. Masurkar -
APPLICANT

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Anil A.
Court of
J. M. P.

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VERUS

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..... RESPONDENTS

Masurkar.

AFFIDAVIT

I, Anil Achyut Masurkar, A/P, Masure Village, Taluka- Malvan, District - Sindhudurg, Maharashtra-416608 do hereby solemnly affirm and declare as under:

1. That I am the Applicant the above titled Application and am conversant with facts and circumstances of the case and competent to swear this affidavit.
2. That the contents of the accompanying Application are true and correct and nothing material has been concealed therefrom.

Anil A. Masurkar.
DEPONENT

VERIFICATION

Verified on this 04th day of August 2023 that the contents of the present Affidavit are true and correct to my knowledge and belief and nothing material is concealed

Solemnly affirmed before me
by Shri. Anil Achyut Masurkar
R/o. Masure Taluka Malvan
who is identified before me
by Adv. Shri./Smt. O. A. Keri
whom I personally know
This 04 day of August 2023

Anil A. Masurkar.
DEPONENT

My P
Commissioner of Oath
Court of the Civil Judge
(J.D) & J.M.F.C., Malvan



Adv. (Adm.)
C. J. J. D &
C., Malvan