

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

ORIGINAL APPLICATION No. 476 OF 2022

IN THE MATTER OF:

ARVINDBHAI HIRABHAI PATEL & ORS.

... APPLICANTS

VERSUS

STATE OF GUJARAT

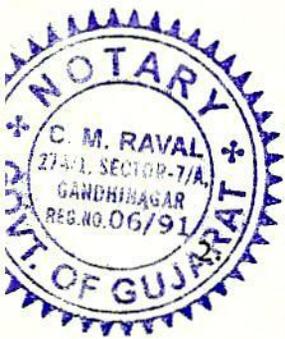
... RESPONDENT

AFFIDAVIT OF BEHALF OF RESPONDENT No. 5 -
GUJARAT COASTAL ZONE MANAGEMENT AUTHORITY

I, B L. Chaudhary, Deputy Secretary & Director (Environment), Forest & Environment Department adult, having my office at Block No. 14/8, New Sachivalaya, Gandhinagar, Gujarat do hereby solemnly affirm and state on oath as under:

1. I am presently serving as Member Secretary in the Gujarat Coastal Zone Management Authority - respondent no. 5 in the present application. I have read the orders passed by this Hon'ble Tribunal on the application. I am conversant with the facts of the case having perused the record pertaining to the case available in my office. I am authorised to make the present affidavit on behalf of the State Coastal Zone Management Authority and am otherwise competent to swear the present affidavit.

The present proceeding is based on a letter petition sent by the applicant complaining about encroachment and construction of illegal shrimp farms in Village Karadi, Taluka Jalalpore, District Navsari in State of



J. B. Patel

Gujarat and causation of environmental pollution / degradation in ecology because of such activity.

3. A perusal of the averments made in the application clearly reveal that the subject matter of the present application relates exclusively to the State of Gujarat. Complaint pertains to illegal shrimp farming activity being carried out in a certain village in the State of Gujarat. Territorially the cause of action, in its entirety, falls within the jurisdiction of the Western Bench of this Hon'ble Tribunal.
4. In view of the notification dated 17.08.2021 issued by the Ministry of Environment and Forests, Government of India, the applicant was required to file the application before the Western Zone Bench of this Hon'ble Tribunal, and the Western Zone Bench of this Hon'ble Tribunal will have jurisdiction to hear the present application. Also, view of the decision of the Full Bench of the Hon'ble Bombay High Court in Writ Petition No. 4 of 2022 and another decision of the Hon'ble Bombay High Court in the case of Goa Foundation vs. Ministry of Environment, reported in 2017 SCC Online Bom 8815, the present application is required to be heard by the Western Zone Bench of this Hon'ble Tribunal.
5. Additionally, the Western Zone Bench of this Hon'ble Tribunal has recently dealt with the same issue of illegal shrimp farming in the coastal areas of the State of Gujarat in the case of Roshni Patel vs. Union of India (Original Application NO. 57 of 2022). The Hon'ble Tribunal has issued the following directions in the said case:

“(i). A Monitoring Committee shall be constituted comprising one member each of

- a) Additional Chief Secretary of Department of Forest and Environment, State of Gujarat;
- b) District Collector, Surat;
- c) Regional Officer, Gujarat Pollution Control Board (GPCB); and
- d) Member Secretary, Gujarat Coastal Zone Management Authority (GCZMA).



Josh

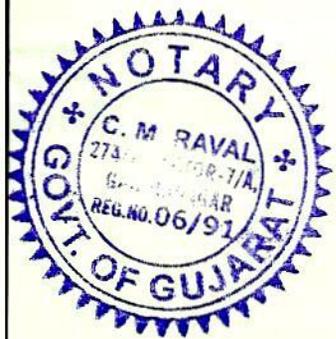
(ii). The Gujarat Pollution Control Board (GPCB) shall be the nodal agency for coordination and logistical support.

(iii). The said committee shall hold a meeting on monthly basis to ensure that all the illegal shrimp farms located in the region, which has been stated in the application of the applicant are identified, their occupants/owners are also identified and in case they are not found to have valid license to conduct the shrimp farming from appropriate authority, such activity shall be ensured to be stopped immediately. Minutes of Meeting shall be posted on GCZMA website which shall be accessible to all stake holders.

(iv). The Committee shall also assess as to whether any environmental damage has occurred and take necessary steps for its quantification and realization.

(v). The Committee through GCZMA is directed to take into consideration the views of all the stake holders as well as of the Applicant and whatever suggestions are received from them, may also be taken into consideration while taking action in this matter.

(vi). The Committee shall conclude this task within a period six months and report shall be submitted in the Registry of this Tribunal within 15 days there-after.”

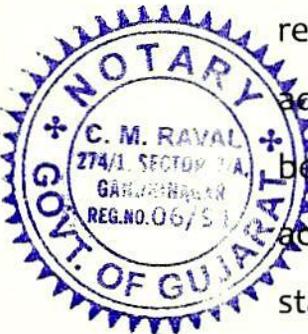


For this reason too it would be just and proper and in the fitness of things if the present application involving identical issue is placed before the same Bench which has previously dealt with the same issue.

6. Without prejudice to the aforesaid submission, it is submitted that in compliance of the direction issued by this Hon'ble Tribunal on 2.08.2022, the State Pollution Control Board coordinated with the other statutory authorities, including the Gujarat State Coastal Zone Management Authority, and constituted a joint committee. Members of such committee, which included the representative of the Gujarat State Coastal Zone Management Authority, undertook a visit to the site and inspected the place. The members interacted with the local persons. Basis their observations and inputs from local persons, a report came to be prepared by the committee. Such report has been duly filed by the State Pollution Control Board with the registry of the Hon'ble Tribunal.

[Handwritten Signature]

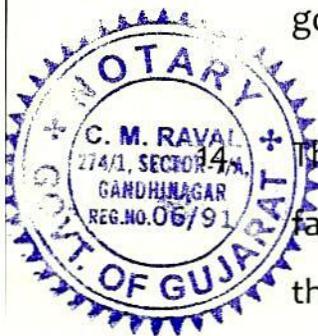
7. The report mentions that government land has been given on lease by the District Collector, Navsari to various persons for carrying out the activity of shrimp farming. The report also records that the lease holders have been cultivating shrimps in the farms over the leased area of land without obtaining registration under provisions of the Coastal Aquaculture Authority Act, 2005.
8. Section 13 of the Coastal Aquaculture Authority Act, 2005 mandates that “no person shall carry on, or cause to be carried on, coastal aquaculture in coastal area or traditional coastal aquaculture in the traditional coastal aquaculture farm which lies within the Coastal Regulation Zone”.
9. Prior to the filing of the present application, it came to the notice of the Gujarat State Coastal Zone Management Authority that aquaculture activity is being carried on in coastal area without obtaining registration as mandated by law. The Authority therefore had sent communications to the District Coastal Zone Management Authority, headed by the District Collector, informing the said authority at the district level to take appropriate action in accordance with law.
10. Subsequent to the report of the committee, which confirms that the persons who have been granted lease of land for cultivation of shrimp in the area have in fact started farming activity without getting themselves registered with the Coastal Aquaculture Authority for carrying on coastal aquaculture in coastal area, a letter dated 12.10.2022 and 16.03.2023 has been issued to the local authority to take necessary action that no activity is carried out over the leased area without obtaining requisite statutory permissions.
11. The applicants have made other allegation in their application about illegality in granting lease of government land to various persons. I submit that the grant of government land, by way of lease or otherwise, falls within the exclusive purview and domain of the district administration. The State Coastal Zone Management Authority is not



[Handwritten Signature]

concerned, directly or indirectly, with the process for allotment of government land to a private person.

12. The other allegation made in the application by the applicants pertains to breach of conditions of lease. This aspect concerns solely and exclusively the lessor, which would be the local district administration. The State Coastal Zone Management Authority has no jurisdiction to cancel the lease on ground of violations of any condition of lease. It would be within the domain of the lessor to take appropriate action for any violation of conditions of lease.
13. The applicants have contended that there is encroachment by the lease holders, in as much as they have occupied more area than what has been leased to them. Again, this aspect concerns the local district administration. It is the revenue authority which is the custodian of government land and under the local laws it is the responsibility of the local administration to remove such encroachment from over government land.



The applicants have vaguely contended that the activity of shrimp farming being carried out over the leased land is causing any damage to the environment or degrading the ecology. It has not been stated with specificity as to how and in what manner pollution is being caused by shrimp farming. It is not the case of applicants that any polluted effluent is being discharged by the shrimp farms into the sea or otherwise released in the coastal area. Such is also not the finding of the committee post its inspection of the site. It has also not been averred anywhere in the application that the leaseholders by carrying out the activity of shrimp farming are violating any provisions of the Coastal Regulation Zone Notification dated 6.01.2011.

15. Nevertheless, the State Coastal Zone Management Authority remains committed to ensuring that no illegal activity or activity which is regulated is not permitted without necessary approvals, and shall take all

[Handwritten Signature]

necessary action as envisaged in law. Furthermore, the State Coastal Zone Management Authority shall abide by any and all reasonable directions or orders that may be issued in this behalf by the Hon'ble Tribunal.

[Handwritten Signature]

DEPONENT

VERIFICATION

Verified at *[Handwritten Location]* on this 13th day of March, 2023 that the contents of the above affidavit are true and correct, nothing stated therein is false and nothing material has been concealed therefrom.

[Handwritten Signature]

DEPONENT

Solemnly Affirmed
Before Me

[Handwritten Signature]

(C. M. RAVAL)
NOTARY
Govt. of Gujarat

17 MAR 2023

Entered in Notary Register at
Serial No. *[Handwritten]* Vol. No. *[Handwritten]*
[Handwritten Signature]
C. M. RAVAL, Advocate & Notary
GANDHINAGAR.

17 MAR 2023

