

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. 6 –
GUJARAT POLLUTION CONTROL BOARD

I, **Smt. A. J. Patel** , **Age 53 Years**, having my office at **Sector -10A**, Gandhinagar, Gujarat do hereby solemnly affirm and state on oath as under:

1. I am presently serving as **Dy. Environmental Engineer and Unit Head** in the Gujarat State Pollution Control Board - respondent no. 6 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 Pollution Control Board and am otherwise competent to swear the present affidavit.



Ajaya

2. Applicant seems to have sent a letter petition to the Registry of the Hon'ble Tribunal complaining about encroachment and construction of illegal shrimp farms in Village Karadi, Taluka Jalalpore, District Navsari in State of Gujarat and causation of environmental pollution / degradation in ecology because of such activity.
3. This Hon'ble Tribunal on 2.08.2022 too cognizance of the said letter, and passed an order observing that:

"2. The applicants have submitted that there exists a brackish land measuring 400 acres having block No. 662 (Old Block No.) at Village Karadi, Taluka Jalalpore, District Navsari which was acquired under Nav Sadhya Scheme. The Ex-Sarpanch (Mukhya) Mr. Kaushik Suresh Patel and other villagers have illegally encroached upon the above-said land and illegally started shrimp farming on the same. In the year 2018, Government had allocated land on lease to 50 persons for shrimp farming without requisite advertisement. The villagers, who were poor, belonged to backward class and were needy were not granted the lease. The lease holders have illegally occupied the surrounding lands belonging to the Government for Shrimp farming. The lease holders are violating the conditions of lease issued by the office of collector dated 05.01.2019 as the lease holders have not employed local labourers; are using marine water for shrimp farming; have sub-let the land leased out to them; have occupied more land than what was allocated to them and have not obtained licenses from Coastal Aqua Culture for shrimp farming. The applicants have further submitted that the Ex Sarpanch (Mukhya) Mr. Kaushik Suresh Patel and other opponents have constructed the Shrimp farms by clearing mangrove vegetation in the ecologically fragile coastal areas and thereby caused coastal erosion and badly affected agro-climatic and aquatic zones; have encroached on the crematory land and the land reserved for cattle grazing ; are misusing the power supply obtained from G.E.B. for 4 hectares of land illegally for the Shrimp farming ponds. Villages situated along the sea coast, deltaic regions, and natural saline canals are under threat due to diversion of land to aquaculture farms. Natural saline canals which travel from sea to the mainland are being used for brackish aquaculture farming. The flow of the natural saline canals is being obstructed due to prawn farming activity which has resulted in the spread of brackish water over agricultural



Dejane

farms resulting in loss or agricultural lands, and potable water. Mangrove vegetation in Karadi Village is also facing threat due to the expansion of prawn farming activity.

3. The applicants have referred to Judgment dated 11.12.1969 passed by Hon'ble Supreme Court in case titled as S. Jagannath Vs. Union of India and others and order dated 14.08.2018 passed by Hon'ble High Court of Gujarat and have submitted that the authorities have completely ignored the directions.

4. The applicants have further submitted that complaints were made to the concerned Authorities and have in particular mentioned that complaints were made to Revenue Department, Government of Gujarat, Gandhinagar on 19.12.2021 and to the Collector on 05.03.2022 regarding pollution and destruction of Mangrooves trees for the shrimp farming affecting the ecologically fragile coastal areas and the illegal encroachment and illegal shrimp farming on the brackish land at old block number 662, Village Karadi, Taluka Jalalpore, District Navsari, belonging to the government for taking strict action under the Gujarat Land Grabbing (Prohibition) Act, 2020 but no effective action was taken by the authorities even after carrying out the Inspection.

5. The applicants have inter alia prayed for intervention by this Tribunal for issuance of directions that :

(a) A socio-economic assessment of aquaculture in the ecologically fragile coastal areas should be conducted as the cost of ecological and social damage far exceeds the benefits that accrue out of coastal aquaculture activities.

(b) The adverse impacts of aqua-culture farming on the environment and the ecologically fragile coastal zones in the Village of Karadi due to illegal shrimp farming using intensive methods of farming should be stopped.

(c) The illegal encroachment on the government land situated at brackish land admeasuring 400 acres having block No. 662 (Old Block No.) at Village Karadi, Taluka Jalalpore, District Navsari be removed and conversion of surrounding agricultural land into coastal aquaculture units be stopped. (d) Assessment of all the lease holders, to whom lease is allocated for shrimp farming, be made as to whether the lease conditions are being meticulously complied with and whether the same has been sub-let and if it has been sub-let, lease be terminated and be allotted to the economically backward and poor people.



Ajane

11. I submit that the State Pollution Control Board shall abide by any and all reasonable directions or orders that may be issued in this behalf by the Hon'ble Tribunal.

Dejara

DEPONENT

VERIFICATION

Verified at **Gandhinagar** on this **17th** 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.

Dejara

DEPONENT

Solemnly Affirmed
Before Me

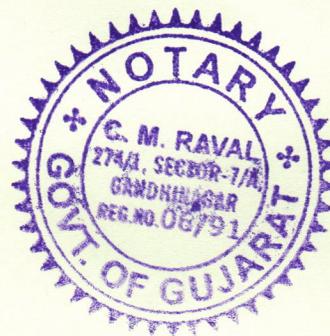
[Signature]

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

17 MAR 2023

Entered in Notary Register at
Serial No. 187... Vol. No. I
[Signature]
C. M. RAVAL, Advocate & Notary
GANDHINAGAR.

17 MAR 2023



**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

(By Video Conferencing)

**Original Application No.57/2020(WZ)
I.A. No. 04/2021(WZ)**

IN THE MATTER OF:

Roshni B. Patel

R/o.- 105, Maheshwar Hats,
Near Tadvadi Sabji Market,
Tadvadi Rander Road Adajan
Surat -395 009, Gujarat.

.....Applicant

Versus

- 1. Union of India**
Through Secretary,
Ministry of Environment, Forest & Climate Change.
Indira Paryawaran Bhavan,
Jor Bagh Road.
New Delhi - 110 003.
- 2. State of Gujarat**
Through the Additional Chief Secretary
Department of Environment and Forest
Block 14/8 New Sachivalaya,
Gandhinagar, Gujarat - 382 010.
- 3. Gujarat Coastal Zone Management Authority**
Through its Chairman
Department of Environment and Forest
Block 14/8 New Sachivalaya,
Gandhinagar, Gujarat - 382 010.
- 4. Central Pollution Control Board**
Through its Member Secretary
Parivesh Bhavan, East Arjun Nagar
Delhi -110 032.
- 5. Gujarat Pollution Control Board**
Through its Member Secretary,
Paryavaran Bhavan, Sector 10-A,
Gandhinagar - 382 010 (Gujarat)
- 6. Collector and District Magistrate,
Chairman, District CRZ Committee,**
Collector Office Jilla Seva Sadan-2, B wing,
5th floor, Athwalines Surat - 395 001 (Gujarat)
- 7. Coastal Aquaculture Authority**
Through its Member Secretary,

608

5th Floor, Integrated Office Complex
For Animal Husbandry and Fisheries Department,
Nandanam, Chennai - 600 035 (Tamil Nadu)

- 8. Secretary, Fisheries and Chairman**
State Level Coastal Aquaculture Committee.
5th Block, 2nd Floor, Sachivalaya,
Gandhinagar - 382 010 (Gujarat)
- 9. Commissioner**
Surat Municipal Corporation
Administrative Building, Muglisara,
Surat - 395 003 (Gujarat)
- 10. Secretary (Water Resources)**
Narmada, Water Resources,
Water Supply and Kalpsar Department,
Block No.9, 5th Floor, Sachivalaya,
Gandhinagar - 382 010 (Gujarat)

.....Respondent(s)

Counsel for Applicant:

Ms. Shilpa Chohan, Advocate

Counsel for Respondent(s):

Ms. Manasi Joshi, Advocate for R-1
Mr. Maulik Nanavati, Advocate for R-2, 3, 5, 6, 8 & 10
Mr. Rahul Garg, Advocate for R-4
Mr. Saurabh Kulkarni, Advocate for Intervener

PRESENT:

Hon'ble Mr. Justice Dinesh Kumar Singh (Judicial Member)

Hon'ble Dr. Vijay Kulkarni (Expert Member)

Reserved on : 28.09.2022

Pronounced on : 07.11.2022

JUDGMENT

I.A. No. 04/2021(WZ)

1. This application has been moved by the five applicants praying that they should be impleaded in the present matter as the opposite parties as they would be aggrieved by any order which the Tribunal would be passing.

2. We have gone through the prayer as well as grounds set up in the application. No details have been given by the Applicant as to which Survey Number or area belongs to them in which they are carrying out the shrimp farming.

3. The Learned Counsel for the Applicants was given an opportunity of hearing but nothing could be shown by him as to how they would be adversely affected. Therefore, we do not find any force in the application and accordingly, this application is rejected.

Original Application No. 57/2020(WZ)

4. The present Application has been filed under Section 14, 15 read with Section 18(1) & (2) of the National Green Tribunal Act, 2010 in respect of illegal shrimp farming encroaching upon the deltaic area of River Tapi and floodplains of River Mindhola in District Surat in Villages Junagam, Sunvali, Damka, Abhva, Khajod, Budiya, Talangpor, UMBER, Dumas, Bhimpore, Kadiyabet, Bhatpore, Gabheni of Choryasi Taluka, Surat District, Gujarat in violation of the provisions of the Coastal Regulation Zone Notification, 2011 notified under Section 3 of the Environment (Protection) Act, 1986, Water (Prevention and Control of Pollution) Act, 1974 and Coastal Aquaculture Authority Act, 2005 (to be referred here-in-after in short as 'CAA') with the prayers that Respondent No.6/ Collector, Surat be directed to initiate immediate action to close down and dismantle all the commercial illegal coastal shrimp farms in the aforesaid Villages, confiscate the DG Sets, Aeration systems, water intake & disposal pipeline network, machinery, equipment and other infrastructure installed without authorization and requisite permits; to recover the

cost of dismantling unauthorized/illegal shrimp farming in and along the Tapi and Mindhola River/ Estuary and in coastal Villages of Choryasi Taluka, Surat District, Gujarat from the occupier/owner/operator of the unauthorized/illegal shrimp farms; constitute an expert committee to make assessment of the coastal environmental degradation as well as damages caused by the said activities and make a plan for environmental restoration along Tapi and Mindhola River/Estuary; recovery of the damages from the operators/occupiers of the illegal shrimp/aquaculture farms in the form of environment compensation for restitution and improvement of destroyed mangroves, restoration of blocked creeks, development of grasslands, mudflats, coastal vegetation, fishing places etc.; Respondent No. 5/GPCB be directed to initiate prosecution against all the operators/occupiers of the shrimp farms as well as against the officials of the Department of Fisheries and District Collector, Surat for failure to protect the coastal ecology of the said villages.

5. In brief, the facts of the case are as follows:-

- (i) The applicant is an Environmental Scientist who has observed that the coastal areas which have been cited above, fall in CRZ area, where without registration, encroaching upon the Government land as well as village common land, the illegal commercial aquaculture activities are taking place which has resulted in loss of inter-tidal fishing places and small creeks. An area of 31.48 sq.km in and around Mindhola river has been encroached upon by illegal shrimp/aquaculture farms which is evident from a comparative analysis of Google time series Map of 2013 and

2019 which shows that the land use has changed on account of proliferation of shrimp/aquaculture farming in Choryasi Taluka, Surat District, affecting the coastal environment. A perusal of the Gujarat Coastal Zone Management Plan for the District Surat and the Google Image of 2020 would show that the illegal shrimp/aquaculture farming is going on along the Mindola River/Estuary within CRZ area in violation of CRZ Notification, 2011 and Coastal Aquaculture Act, 2005. Similarly, in the Village Aabhva, Choryasi Taluka, Surat District, Gujarat, an area of 8.79 sq.km. of coastal grassland has been encroached for the said farming. An area of 7.5 sq. Km. of Kediyaet Delta of River Tapi in Surat District has also been encroached for the said farming, destroying the mangroves in ecologically sensitive CRZ-1A area. A perusal of the Gujarat Coastal Zone Management Plan for the District Surat along-with the Google Image of 2020 would show that there are illegal shrimp/aquaculture farms within the CVCA (Critically Vulnerable Coastal Areas) and CRZ-1A of Village Rajgiri. These shrimp/aquaculture farms have constructed earthen bunds and approach roads 3-5m. wide without any permission, which has led to blocking of creeks and wetlands leading to loss of feeding grounds of migratory and resident species of birds and that these farms have no system for effluent treatment which is mandatory for all the farms above 5 ha.

(ii) Further, it is submitted that these illegal shrimp/aquaculture farms practiced semi-intensive shrimp farming, resulting in increased use of chemicals and fertilizers, which are released without treatment into coastal waters.

GROUNDNS FOR RELIEF WITH LEGAL PROVISIONS

(iii) The Hon'ble Supreme Court in *S. Jagannath vs. Union of India* (judgment dated 11.12.1996 in W.P (C) No. 561 of 1994) in the matter of public interest for stoppage of intensive and semi-intensive type of commercial shrimp farming in the ecologically fragile coastal areas and prohibition from using wetlands/wastelands for Shrimp farming, dealt with the issue of commercial aquaculture and its resultant effects on the coastal ecology in the country and passed far reaching directions and took judicial notice of the fact that shrimp industry was having deleterious effect on the coastal ecology as it was being undertaken in total disregard to its effect upon the environment, coastal communities, land etc. Therefore, it was held that before any shrimp industry or shrimp pond is permitted to be installed in the ecologically fragile coastal areas, it must pass through a strict environmental test. An institutional structure should be put in place to assess these aspects and a high powered "Authority" be set up under the Act to scrutinize each and every case from the environmental point of view and that there must be an environmental impact assessment before

permission is granted to install commercial shrimp farms. The conceptual framework of the assessment must be broad-based primarily concerning environmental degradation linked to shrimp farming and that it should also include the social impact on different population strata in the area. The quality of the assessment must be based on analytical study of superior technology and that the compensation should be given to those who are affected.

(iv) The Hon'ble Supreme Court had relied upon the 'Alagarswami report' outlining various aspects of the matter related to coastal aquaculture and recorded that in some regions, there was indiscriminate use of chemicals and pesticides, particularly, in shrimp farms and that various environmental and social problems were created by the said kind of farming. The construction of peripheral dykes was found to cause obstruction to the natural drain leading to flooding of hinterland villages, obstruction in the right side of passage for traditional fishermen who had to reach the sea from their Villages, salinization of coastal stretches affecting groundwater and destruction of mangrove areas. It was also noticed that highly intensive aquaculture farms led to increase in organic load and accumulation of metabolites in the water which are drained into the sea without any treatment there-by affecting the coastal stretches.

(v) The Hon'ble Supreme Court underlined that the shrimp culture industry cannot be permitted to be set up anywhere

in the coastal regulation zone under the CRZ Notification, 2011. The Hon'ble Court passed the following directions, which are extracted here-in below:-

"1. The Central Government shall constitute an authority under Section 3(3) of the Environment (Protection) Act, 1986 and shall confer on the said authority all the powers necessary to protect the ecologically fragile coastal areas, sea shore, water front and other coastal areas and specially to deal with the situation created by the shrimp culture industry in the coastal States/Union Territories. The authority shall be headed by a retired Judge of a High Court. Other members preferably with expertise in the field of aquaculture, pollution control and environment protection shall be appointed by the Central Government. The Central Government shall confer on the said authority the powers to issue directions under section 5 of the Act and for taking measures with respect to the matters referred to in clauses (v), (vi), (vii), (viii), (ix), (x) and (xii) of sub-section (2) of Section 3. The Central Government shall constitute the authority before 15-1-1997.

2. The authority so constituted by the Central Government shall implement "the Precautionary Principle" and "the Polluter Pays" principles

3. The shrimp culture industry/the shrimp ponds are covered by the prohibition contained in para 2(1) of the CRZ Notification. No shrimp culture pond can be constructed or set up within the coastal regulation zone as defined in the CRZ notification. This shall be applicable to all seas, bays, estuaries, creeks, rivers and backwaters. This direction shall not apply to traditional and improved traditional types of technologies far defined in Alagarswami report which are practiced in the coast low lying areas.

4. All aquaculture industries/shrimp culture industries/shrimp culture ponds operating/set up in the coastal regulation zone as defined under the CRZ Notification shall be demolished and removed from the said area before March 31, 1997. We direct the Superintendent of Police/Deputy Commissioner of Police and the District Magistrate/Collector of the area to enforce this direction and close/demolish all aquaculture industries/shrimp culture industries, shrimp culture ponds on or before 31-3-1997. A compliance report in this respect shall be filed in this Court by these authorities before 15-4-1997.

5. The farmers who are operating traditional and improved traditional systems of aquaculture may adopt improved technology for increased production productivity and return with prior approval of the "authority" constituted by this order.

6. The agricultural lands, salt pan lands, mangroves, wet lands, forest lands, land for village common purpose and the land meant for public purposes shall not be used/converted for construction of shrimp culture ponds.

7. No aquaculture industry/shrimp culture industry/shrimp culture Ponds shall be constructed/setup within 1000 meter of Chilka lake and Pulicat lake (including Bird Sanctuaries namely Yadurapattu and Nelapattu)

8. Aquaculture industry/shrimp culture industry/shrimp culture ponds already operating and functioning in the said area of 1000 meter shall be closed and demolished before March 31, 1997. We direct the Superintendent of Police/Deputy Commissioner of Police and the District Magistrate/Collector of the area to enforce this direction and close/demolish and aquaculture industries/shrimp culture industries, shrimp culture ponds on or before March 31, 1997. A compliance report in this respect shall be filed in this Court by these authorities before April 15, 1997.

9. Aquaculture industry/shrimp culture industry/shrimp culture ponds other than traditional and improved traditional may be set up/constructed outside the coastal regulation zone as defined by the CRZ notification and outside 1000 meter of Chilka and Pulicat lakes with the prior approval of the "authority" as constituted by this Court. Such industries which are already operating in the said areas shall obtain authorization from the "Authority" before 30-4-1997 failing which the industry concerned shall stop functioning with effect from the said date. We further direct that any aquaculture activity including intensive and semi-intensive which has the effect of causing salinity of soil, of the drinking water or wells and/or by the use of chemical feeds increases shrimp or Shrimp production with consequent increase in sedimentation which, on putrefaction is a potential health hazard, apart from causing silication turbidity of water courses and estuaries with detrimental implication on local fauna and flora shall not be allowed by the aforesaid Authority.

10. Aquaculture industry/shrimp culture industry/shrimp culture ponds which have been functioning/operating within the coastal regulation zone as defined by the CRZ Notification and within 1000 meter from Chilka and Puliket Lakes shall be liable to compensate the affected persons on the basis of the 'polluter pays" principle.

11. The authority shall, with the help of expert opinion and after giving opportunity to the concerned polluters assess the loss to the ecology/environment in the affected areas and shall compensate individuals/families who have suffered because of the pollution and shall assess the compensation to be paid to the said individuals/families. The authority shall further determine the compensation to be recovered from the polluters as cost of reversing the damaged environment. The authority shall lay down just and fair procedure for completing the exercise.

12. The authority shall compute the compensation under two heads namely, for reversing the ecology and for payment to individuals. A statement showing amount to be recovered, the names of the polluters from whom the amount is to be recovered, the amount to be recovered from each polluter, the persons to whom the compensation is to be paid and the amount payable to each of them shall be forwarded to the Collector/District Magistrate of the area concerned. The Collector/District

Magistrate shall recover the amount from the polluters, if necessary, as arrears of land revenue. He shall disburse the compensation awarded by the authority to the affected persons/families.

13. We further direct that any violation or non-compliance of the directions of this Court shall attract the provisions of the Contempt of Courts Act in addition.

14. The compensation amount recovered from the polluters shall be deposited under a separate head called "Environment Protection Fund" and shall be utilized for compensating the affected persons as identified by the authority and also for restoring the damaged environment.

15. The authority, in consultation with expert bodies like NEERI, Central Pollution Control Board, respective State Pollution Control Boards shall frame scheme/schemes for reversing the damage caused to the ecology and environment by pollution of the coastal States/Union Territories. The scheme/schemes so framed shall be executed by the respective State Governments/Union Territory Governments under the supervision of the Central Government. The expenditure shall be met from the "Environment Protection Fund" from other sources provided by the respective State Governments/Union Territory Governments and the Central Government."

(vi) It was in compliance with the above direction in the Judgment dated 11.12.1996 in W.P. (C) No. 561 of 1994 that the Central Government enacted the Coastal Aquaculture Authority Act, 2005 which provides for the establishment of the Coastal Aquaculture Authority for regulating the activities connected with coastal aquaculture in coastal areas and matters connected there-with or incidental there-to. The Section 11 of the said Act provides as follows:-

"11. (1) Subject to any guidelines issued by the Central Government under section 3, the Authority shall exercise the following powers and perform the following functions, namely:-

- (a) to make regulations for the construction and operation of aquaculture farms within the coastal areas;*
- (b) to inspect coastal aquaculture farms with a view to ascertaining their environmental impact caused by coastal aquaculture;*
- (c) to register coastal aquaculture farms;*

(d) to order removal or demolition of any coastal aquaculture farms which is causing pollution after hearing the occupier of the farm; and

(e) to perform such other functions as may be prescribed."

(vii) The above provisions make it clear that no coastal aquaculture can be carried out unless the farm is registered with the Coastal Aquaculture Authority.

(viii) The Section 2 (d) of the above Act defines 'coastal area' as the Coastal Regulation Zone, notified as such by the Government of India vide Notification dated 19.02.1991 and also included other areas as may be specified by Notification in the official Gazette. The Central Government Notification dated 23.01.2006 further extended the definition of coastal areas which is as follows:-

"Area of /and within a distance of two kilometers from the High Tide Line (HTL) of seas, rivers, creeks and backwaters."

Note :- 1. The delineating boundaries along rivers, creeks and backwaters shall be governed by the distance upto which the tidal effects are experienced and where salinity concentration is not less than 5 parts per thousand (ppt). For this purpose, the salinity measurements shall be made during the driest period of the year.

Note:- 2. In the case of ecologically fragile areas such as Chilka Lake and Pulicat Lake, the coastal area shall extend upto a distance of two kms. from the boundary of the lakes."

(ix) It is apparent from the above provision that Section 13 of the CAA Act, 2005 stipulates that no coastal aquaculture farm can be registered within 200 m of High Tide Line or in creeks, rivers, backwaters within the coastal regulation zone declared under "Environment Protection Act, 1986". Under the said Act of 2005 and Rules of the same, there are District Level Committees and State Level Committee constituted, empowering for the purpose of registration and

its renewal for the coastal aquaculture farm. As per the information available on the website of the Coastal Aquaculture Authority, the coastal aquaculture farms, which were earlier registered within Surat District, their registration had not been renewed. In the Surat District, the coastal aquaculture farms that exist, are not registered nor do they have any permission from the Revenue Department nor from the Gujarat Pollution Control Board (GPCB). Hence, all the activities are illegal. Beside the Surat Airport, a large number of coastal aquaculture farms are operating which are a threat to the Aircraft operation due to the bird hits.

6. After receipt of this application, the Tribunal had issued notices to the Respondents vide order dated 22.09.2020 and in response there-to, the **Respondent No. 6/Collector and Chairman, District CRZ Committee, Surat** submitted a report dated 05.11.2020. The relevant portion of which is as follows:-

“ 3. STUDY CARRIED OUT – PRESENT STATUS

It is decided to carry out measurement of all the shrimp farm located in the region, through DILR-Surat. The measurement work was started by DILR from 27/10/2020. This activity has been continuing till date.

The measurement activity is being carried out in the following villages of Majura and Choryasi Taluka of Surat District, where all the shrimp farms are located.

- Villages of Majura Taluka
 1. Dumas village
 2. Abhva village
 3. Khajod village
 4. Gabheni village
 5. Jiav village
 6. Bhimpor village
 7. Budiya village
- Villages of Choryasi Taluka

1. *Umber village*
2. *Damka village*
3. *Rajgari village*
4. *Junagam (Shivrampura) village*
5. *Talangpor village*

Among the above villages only village Dumas has forest land having area 45.57 Hactare, where no shrimp farms are existing.

The measurement work is carried out and progress thereof is depicted in tabular format as per table-1 below.

Sr. No	Name of village	Measurement work completed of nos. of shrimp farms as on 01.11.2020	Pending measurement work out of permitted shrimp farm	No. of shrimp farm	Total allotted area of shrimp farm (Area in Ha-sq-mt)	Remarks
1	2	4	5	6	7	8
1.	Abhva	265	0	0	0	235 Hect.
	Total	265	-	-	-	235 Hect.

It has been alleged in the complaint, that there are number of shrimp farms located in various villages, which are likely to be operating without requisite permissions. Once the DILR measurements are completed and requisite maps are prepared, the illegally operating shrimp farms, if any, would be identified and appropriate actions would be initiated by the concern authorities.

4. PENDING WORK

- *The measurement work carried out by the DILR would be completed for the remaining pending locations within three months (i.e. 31.01.2021).*
- *The measurement sheets for the entire work would be prepared and made available by DILR on 15.02.2021*
- *Identification of illegal shrimp farm, if any, would be completed and legal actions against the illegally operating shrimp farms would be initiated immediately thereafter.*

5. CONCLUSION

Due to the prolonged rainy season, adverse field condition for survey work & prevailing pandemic situation, the basic work of measurement of shrimp farm including measurements of survey numbers, spreading over a huge area of approximately 2500 hectare, could not be completed in time. In view of this, the DILR measurement work and subsequent activities like identifying the illegal shrimp farms, violation with reference to their locations & size, CRZ status and other permissions could not be completed in

time. With likely completion of measurement work within next three months and after submission of map by DILR, the remaining work would be initiated immediately.

A complete report on the entire activity including action against the identified illegal shrimp farms & salt pans etc. would be submitted in the final report.”

7. The stand of **Respondent No. 4/Central Pollution Control Board (CPCB)** is as follows:-

- (i). We do not find the reply of the CPCB of any help in resolution of the present problem as nothing has been stated in this regard.

8. The **Respondent No. 6/ Collector and Chairman, District CRZ Committee, Surat** has also submitted affidavit dated 16.11.2021 where-in it is submitted that ‘several persons had illegally encroached upon the government land and started shrimp cultivation by setting up farms without obtaining the requisite permissions. The district administration has carried out local site inspection to gather information after taking assistance from the District Inspector of Land Record to demarcate the area where the shrimp farming is conducted by them after obtaining prior permission from the concerned statutory authorities. In the survey conducted till the submission of the said affidavit, it was found that license of structures of Government land had been encroached by shrimp farmers and some of them have transgressed the boundary limits and unauthorisedly expanded the farm area. Majority of the shrimp farming has been developed after occupying Government land illegally against whom they proceeded under provisions of the Revenue Code, 1972. Eviction was sought from the government land. It was believed *bona fide* by the district administration that on

removal of the occupant from the government land, the illegal activity being carried out over the government land will also stop automatically. The eviction proceedings initiated by the district administration came to be challenged before Hon'ble High Court of Gujarat in Special Civil Application Nos. 2222 of 2021 and 2224 of 2021, where-in surprisingly, one of the grounds urged before the Hon'ble High Court for challenging the eviction notice was, pendency of the present application before this Tribunal and *ad-interim* order came to be passed on 03.03.2021, directing maintenance of status-quo qua the pond or water body till the next date of hearing.

9. It was further ordered that the petitioners in the Writ Petition "shall not carry out any shrimp farming activity including removing shrimps from the pond/water body". Despite the said order, the Petitioners in the said water body continued to carry out shrimp farming activity. Some of the Petitioners and several other persons who had not approached the Hon'ble High Court but were seeking reliance on the injunction granted by Hon'ble High Court in respect of eviction, started doing shrimp cultivation over the encroached land. A reply had been placed before the Hon'ble High Court pointing the violation to the interim order but the matter was still pending before the Hon'ble High Court with next listing date for further hearing on 17.11.2021. Later, no current status has been submitted by any of the parties before us.

10. Further, it is submitted that due to *status quo* order, the local administration had held back further action of dismantling against the persons who were found to be doing cultivation of shrimps over

encroached land. The pendency of the said Petition, particularly, the *status quo* order would not prevent the local administration from initiating action for stopping the illegal activity on the ground that such activity would cause pollution, the same being violative of the provisions of environmental laws as the action challenged before the Hon'ble High Court was under the revenue laws for eviction against the persons who had illegally encroached over government land. The Hon'ble High Court did not stop the statutory authorities from taking lawful action to protect the environment or for preventing continued violation of environment and damage to ecology, therefore, stopping the illegal shrimp farming activity will not be contrary to the order of the Hon'ble High Court.

11. The District Administration had started the work of stopping the illegal shrimp farming in the ecologically sensitive areas, particularly, in the basins of rivers Tapi and Mindola and the coastal shoreline. A village-wise details of the illegal or unauthorized shrimp farms were noticed by the district administration where-in shrimp cultivation activity has been stopped by the administration. Post filing of the last affidavit, the district administration has continued surveys and has taken the following actions:

“Village Shivrampur, Taluka Choryasi

About 100 illegal or unauthorized shrimp farms had come up over an area of 1,95,656 square meters of land bearing Survey No. 102/1/1/b, which admeasures 8,09,290 square meters. Local Authority has stopped cultivation in all these 100 shrimp farms.

Village Hajira, Taluka Choryasi

About 10 illegal or unauthorised shrimp farms had come up over an area of 14,810 square meters of land bearing Survey No. 441. About 30-35 farms were found cultivating shrimps over area admeasuring

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50,842 square meters of Survey No. 442. About 50 shrimp cultivation farms had been developed over area admeasuring 5,17,261 square meters of Survey No. 445.

Shrimp cultivation has been totally stopped in each of these farms.

Village Aabhva, Taluka Majura

The survey revealed about 96 illegal or unauthorised shrimp farms spread over an area of 6,65,781 square meters of land bearing Survey No. 505, which admeasures 11,08,850 square meters.

Action has been taken by the district administration, and presently shrimp farming activity has been stopped in 41 farms. An area of 2,81,875 square meters has been cleared of illegal shrimp farming activity.

There were 2 shrimp farms spread over an area of 7,082 square meters of land bearing Survey No. 506, which admeasures 7,082 square meters.

Presently, no shrimp farming activity is being carried out in any of these two farms. Both the farms are dry and empty.

Village Khajod, Taluka Majura

There existed about 622 illegal or unauthorised shrimp farms spread over an area of 46,75,999 square meters of land bearing Survey No. 177, which admeasures 1,06,54,500 square meters.

The district administration has been able to stop farming activity in 223 farms of out these 622 farms.

Dumas, Taluka Madura

There are about 521 shrimp farms spread over an area of 23,71,011 square meters of land bearing Survey No. 1006, which admeasures 30,60,110 square meters.

About 64 shrimp farms were noticed spread over an area of 3,96,071 square meters of land bearing Survey No. 937/1/A, which admeasures 517595 square meters.

Local authorities have been able to completely stop farming activity in each of these 64 farms.

Village Bhimpre, Taluka Majura

There existed about 20 shrimp farms on land bearing Survey No. 55 paiki / and 54.

Presently, shrimp farming activity is being carried out only in 03 farms. No activity is being carried out in the other 17 farms, and they are currently dry. Action is being taken to stop the farming activity in the remaining 03 farms.”

12. It is further submitted that the District Administration is committed to stop the unauthorised shrimp farming and that whatever delay has happened, is not intentional or deliberate, the

same occurred due to the outbreak of pandemic and the local administration shall also take penal action against the persons responsible for flouting the law and causing damage to the environment by their unlawful activity.

13. The stand of the **Respondent No. 3/Gujarat Coastal Zone Management Authority** is as follows:-

- (i). No specific relief has been prayed by the applicant as no person has been named in the application who indulged in illegal aquaculture activity nor has any specific area been given nor has the nature and extent of the damage been given, therefore, the pleading are vague in this regard and on this count, the Applicant is not maintainable.
- (ii). Nevertheless, the core issue being of vital environmental importance, the application is not being contested on the ground of its maintainability in law.
- (iii). It is further submitted that the illegal shrimp farming activity has been noticed and observed in several areas, by the authorities and all possible steps have been taken to curb and stop the illegal aquaculture activity, which is evident from the affidavit of Respondent No. 6/District Magistrate, Surat. The District Collectorate has conducted regular survey over government land, especially in the areas of river basin/ coastline for taking action against such illegal farms. The answering Respondent shall examine the land survey maps prepared

by the District Inspector of Land Records and understand the location whether the illegal shrimp farms had mushroomed, which have now been removed by the district administration. The *situs* of these illegal farms shall be superimposed on the coastal zone maps available with the Authority to determine whether any such farming activities were being illegally carried out within 200 meters from High Tide Line (HTL) and/or in or over other prohibited area and the site panchnama shall be prepared by the district administration which shall help understand as to whether any prohibited act/action/activity has been performed like construction of bund etc. The answering Respondent assures that necessary action shall be taken at their end and would be ready to receive any meaningful and reasonable suggestions.

14. The Applicant has filed rejoinder affidavit dated 27.09.2022, where-in it is stated that despite acknowledgement on the part of Respondent No. 6 that there were illegal occupants indulging in shrimp farming illegally, the particulars of the occupier, extent of the shrimp farm, period of operation of the shrimp farming is not given. Merely admission of encroachment of government land for conducting illegal shrimp farming activity would not suffice for taking action. The details which are stated to have been given from the side of Respondent No. 6, should be presented in Tabular form before this Tribunal for better assessment of the situation.

15. It can be seen from their affidavit that no information as regards Villages Damks, Rajgari and Talangpor is provided, though the survey numbers with respect to those places have been mentioned. The affidavit contains that Respondent no. 6 had initiated action under Gujarat Land Revenue Code but no action appears to have been initiated under CRZ Notification despite the District Magistrate heading the District CRZ Committee. The Gujarat Pollution Control Board (GPCB) also has not initiated any action for violation of Water (Prevention and Control of Pollution) Act, 1974 despite highly polluted effluents being found discharged by the shrimp-farms into the sea. The operation of shrimp farms is being done without consent being obtained under the said Act. No steps are taken for recovery of environmental compensation on the basis of “Polluter Pays” principle.

16. As per the guidelines issued under Coastal Aquaculture Authority (CAA), it is mandatory for shrimp farm above 5 ha. to install effluent treatment plant and that standards for treatment of waste-water discharged from the aquaculture farms, hatcheries, feed mills and processing units are required to be adhered for shrimp farms. All this is not being done. The list of registered shrimp farms is provided on the website of CAA. As on 17.11.2021, there were 64 registered Aquaculture farms in Surat District, the details of which are as follows:-

- i. Koba Village: 2 shrimp farms
- ii. Delasa village: 4
- iii. Kudiyana village: 3
- iv. Lavachha: 17

- v. Mandroi: 19
- vi. Mor: 9
- vii. Saras:7
- viii. Dandi:3

17. It can be seen that none of the Villages that come within Chorasi and Majura Taluk, are having registered shrimp farms and as such they are illegal. Action needs to be initiated under environmental laws against the shrimp farms, therefore, details of the violators and other particulars are required to be compiled.

18. The illegal shrimp farming is still going on. There is no bar to initiate action under environmental laws despite Special Civil Application Nos. 2222 of 2021 and 2224 of 2021 being pending. The bunds constructed have to be demolished. In Village Dumas, Taluka Majura, there are 521 shrimp farms present over Survey No. 1006 and in the present additional affidavit of Respondent No. 6 dated 16.11.2021, it is mentioned that there are 944 shrimps farms on the said Survey Number but the same has not been clarified as to whether 521 shrimp farms are included in the figure of 944. There is no mention made as to shrimp farming activity over Survey No. 937/1/A, where-in 64 shrimp farms were identified. No particulars as to the number of ponds of the existing villages has been given. As per the additional affidavit dated 16.11.2021, it was stated that 96 illegal shrimp farms existed in Village Aabhva and shrimp farming was stopped in 41 farms, though in the next affidavit, it is not stated whether the rest of the shrimp farms have been stopped.

19. Further, it is submitted that in Village UMBER, Taluka Choryasi, an area of approximately 3 m is said to have been cleared; the rest has not been cleared; 14 motors and surface aerators were seized.

20. We have heard the arguments of the Learned Counsel for the parties and perused the record.

21. The main thrust of the argument of the Learned Counsel for the Applicant is that whatever has been stated from the side of District Collector/Respondent No. 6 and the Learned Counsel for the Respondent No. 3/GCZMA, makes it clear that it is acknowledged on their part that the illegal shrimp farming is going on in the area which has been stated in the application as, by and large, no person indulging in the said activity, has obtained permission from the Authority under Coastal Aquaculture Authority Act, 2005 read with the Rules framed under the said Act. Much emphasis has been laid that the reports which have emerged from the side of Respondent No. 6, do not give clear picture in respect of all the shrimp farms which are existing in the said area as to who are the owners/occupiers of the area which was very much needed to be disclosed on their part because it is well acknowledged on the part of the Respondents that this activity must stop as the same is admittedly illegal activity in the light of the laws cited above as well as the Judgment of Hon'ble Supreme Court and the Judgments which have been pointed out of this Tribunal as well. Then the only thing which remains to be done is that the noble aim which the Respondents appear to have in their mind that this illegal activity must be stopped forth-with needs to be

carried out for which there is no obstruction despite the matter being under consideration before the Hon'ble High Court because that is with respect to the eviction of the illegal occupiers/holders of the land. It is pressed from the Applicant's side that a definite timeline should be laid down for this task to be achieved i.e. it should be ensured that all the illegal farming is stopped in the said area cited above which is highly ecologically sensitive as it admittedly falls in CRZ area where such kind of activities are impermissible.

22. The Applicant's Counsel has also drawn our attention to the order dated 26th May, 2022 passed by the Principal Bench of this Tribunal in Original Application No. 82/2016 where-in in a similar matter, several directions have been issued which are contained at page 303 to 305 of the paper book and states that in the light of the said Judgment, another Judgment and order has been passed in a similar case by the Southern Zone Bench of this Tribunal at Chennai on 18.07.2022 in O.A. No. 91/2022 and in that also, directions have been issued which are contained in para 46 of the Judgment.

23. Having highlighted these Judgments, it is prayed that this Tribunal may also pass an order of the same kind in modified form. In case, a Committee is constituted then the Applicant should also be directed to be made member of that Committee which may be directed to supervise, to ensure that the illegal shrimp farming is brought to an end and the area in question is restored to its original condition and the compensation is awarded to all such persons who have been adversely affected.

24. From the side of Respondent No. 3/GCZMA, it has been merely argued that whatever actions have been taken till now by the Respondent No. 6/District Collector-Surat, placed before us through an affidavit in the form of report, points out that already much work has been done with respect to stopping the illegal shrimp farming. He made clear that the area which is suffering from this illegal farming is too large and therefore, it would take some time before the said illegal activity is finally brought to an end and that the authorities are open for suggestion from the Applicant and other like minded persons.

25. We find that there does not appear to be any dispute with respect to the fact that the illegal shrimp farming is going on in the area which has been highlighted by the Learned Counsel for the Applicant in the present application and that it is also acknowledged on the side of the Respondents that the said illegal shrimp farming activity has to be stopped at the earliest. We are also convinced after perusal of the affidavit of Respondent Nos. 3 & 6 that, to a considerable extent, action has already been taken at their end in that direction but lot of work is yet to be done in this regard.

26. As suggested by both the sides that directions may be issued by the Tribunal along the line which have been issued by the Principal Bench of this Tribunal in O.A. No. 82/2016, we deem it proper to dispose of this application with following directions:-

- (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;

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- b) District Collector, Surat;
 - c) Regional Officer, Gujarat Pollution Control Board (GPCB); and
 - d) Member Secretary, Gujarat Coastal Zone Management Authority (GCZMA).
- (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.

27. A copy of this order/Judgment be communicated forth-with to the members of the above constituted Committee for compliance.

28. Accordingly, we dispose of this application. If any grievance remains there-after, the aggrieved persons may approach us for redressal of their grievances.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

November 07, 2022
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I.A. No. 04/2021(WZ)
P.kr.