

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
SOUTHERN ZONE AT CHENNAI (SZ)

APPEAL No.28 of 2020 (SZ)

IN THE MATTER OF:

MEENAVA THANTHAI K.R.SELVARAJ KUMAR

MEENAVAR NALA SANGAM

(Registered under section 10 of the Tamil Nadu

Societies Act in Sl.No.205 of 2015 dated 26.06.2015)

Represented by its President,

M.R.Thiyagarajan,

S/o.Late C.Rajalingam

Office at No.48, East Madha Chrch Street,

Royapuram, Chennai – 600013.

Ph.9841590984.

Email id.krtkarjun@gmail.com

...Appellant

Versus

1. TAMIL NADU STATE ENVIRONMENTAL

IMPACT ASSESSMENT AUTHORITY

Through the Member Secretary,

Ground Floor, Panagal Maligai,

No.1 Jeenis Road, Saidapet, Chennai – 600 015.

Tamilnadu

Email ID: mstnsejaa@yahoo.com

Assistant Director of Fisheries
Thiruvallur @ Ponneri

11-9
ASSISTANT ENGINEER
Fishing Harbour Project Sub Division
Fisheries Department, Chennai

Assistant Director of Fisheries
Thiruvallur @ Ponneri

2. DEPARTMENT OF FISHERIES, TAMIL NADU

Through the Assistant Director,
Fishing Harbour Project Division,
No.11, Thiruvottriyur NH Road,
Near New Bus Stand, Ponneri,
Tiruvallur, Tamil Nadu-601204.

Email ID: tnfisheries@nic.in Ph.04429510390

3. STATE OF TAMIL NADU

Through the Chief Secretary,
Government of Tamil Nadu, Secretariat
Chennai-600 009

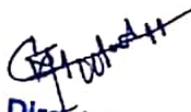
Email ID: cs@tn.gov.in Ph:044 25671555

4. Tamilnadu Pollution Control Board,

Through the Chairman
76, Mount Salai,
Guindy, Chennai – 600 032.
Tel: 044 – 22353134 -139
Email.ID: tnpch-chn@gov.in

... Respondents


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COUNTER AFFIDAVIT FILED BY THE 2ND RESPONDENT

I, G.Ajay Anand S/o V.Gnana Diraviam, aged 35 years employing in the post of Assistant Director, Fishing Harbour Project Division, Department of Fisheries, Tiruvallur do hereby solemnly affirm and sincerely state as follows:-

1 It is respectfully submitted that I am 2nd respondent herein and well acquainted with the facts and circumstance of the case based on material facts available on the records.

2 I have gone through the Affidavit filed by the Applicant and I deny each and every averment contained therein except those that are admitted here under. It is respectfully submitted that the present appeal has been filed to quash the impugned Environmental Clearance dated 05.08.2020 issued by the Tamil Nadu SEIAA to the Tamilnadu Fisheries Department for proposed Tuna Fishing Harbour, Thiruvottriyur Kuppam Village, Ennore Taluk, Tiruvallur District and to direct the State Government to initiate prosecution against the Project proponent without obtaining prior Environmental Clearance and to direct the project proponent to place all additional studies purportedly undertaken with respect to the TOR issued by the SEIAA vide letter dated 22.01.2018 before the public for fresh public consultation and to direct the project

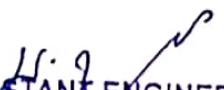

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proponent to conduct a proper cumulative and carrying capacity study of the Ennore Region, in the light of the fact that several heavy industries are already existing in the said area and that now new project should be based on the outcome of such study and pass any other orders as this Honble Tribunal may deem fit and proper in the facts and circumstances of the present case.

3 It is respectfully submitted that Original Application No. 28 of 2020 has been filed praying for issuance of direction to Respondents 2 to 5 to initiate action against 6th Respondent for illegal that the Fisheries Department is executing the Construction of Tuna Fishing Harbour at Thiruvottriyurkuppam without obtaining CRZ and Environmental clearances from the competent authorities , and doing building constructions, dredging, reclamation, construction of roads, illegal structures, dumping heavy materials and constructions debris which affects the ecosystem and clear violation of EIA and CZ notifications. Hence it is requested the Honble Court to issue directions to take action against Respondent 6 therein as well as restrain from further construction and other relative activities.

4 It is respectfully submitted that the Thiruvallur District has 28 km coast boundary and 77 Fishermen villages are located on the coastal stretch. There are about 116 Mechanised Fishing Vessels (


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MFVs) and about 4500 Country crafts / Out Board motorized boats (OBMs) are registered boats in Thiruvallur District. At the same time, there is no fishing harbor in Tiruvallur District. Therefore, all the above said numbers of MFVs and OBMs are being operated from Chennai Fishing Harbour.

5 It is respectfully submitted that the Chennai Fishing Harbour is the only fishing harbour for Chennai, Thiruvallur and Kancheepuram districts resulting in huge congestion in, as such both Mechanized Fishing Vessels and Out Board motorized boats are operating with many difficulties. Sometimes, it is also resulting in damages of boats, More over, the Chennai Fishing Harbour is also under the administrative control of Chennai Port Trust.

6 It is respectfully submitted that there are about 1300 Mechanized Fishing Vessels and 1700 Out Board motorized boats being operated from Chennai Fishing Harbour. It has been created in 1985 to facilitate about 585 Mechanized Fishing Vessels. Then, about 645 m long wharfs / Jetties were created to accommodate 215 Mechanized Fishing Vessels and 718 m long low level wharf have been created for OBMs / FRBs. The following table will reveal the needs and necessity for Tuna Fishing Harbour (TFH)when compared with Chennai Fishing Harbour (CFH)


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Chennai Fishing Harbour Project Sub Division
Fisheries Department, Chennai


Assistant Director of Fisheries
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Types of Boats in CFH	CFH Designated in CFH	Additional facilities created upto 2019	Total berthing facilities available	Total No.of Boats in CFH	Deficit	Designated capacity of TFH
MFV	585	215	800	1300	500	500
OBM	Beach landing	1400	1400	1700	300	300

7 It is submitted that the Fisheries Department has obtained CRZ clearance from the Tamilnadu State Coastal Zone Management Authority vide Proceedings No P1/2204/2016 dated 10-03-2017 for the Construction of Tuna Fishing Harbour at Thiruvottriyurkuppam under CRZ Notifications-2011 and No Construction / Dredging / Reclamation activities related to Fishing Harbour have been carried out within the Project site till date. Furthermore, the Fisheries department has not constructed any permanent structures pertaining to Fishing Harbour except the extension of breakwaters from the existing groins of 150m to 400m in South and 150m to 320m in north.

8 It is respectfully submitted that 100th meeting of the State Expert Appraisal Committee (SEAC) was held on 20.12.2017 & 21.12.2017


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wherein the SEAC recommended ToR for preparation of Environment Impact Assessment (EIA) report along with Public Hearing. During the 266th meeting of the SEIAA-TN held on 22.01.2018, the SEIAA recommended TOR for preparation of EIA report along with Public Hearing with some conditions in Lr.No.SEIAA-TN- F.No.6440 / SEAC-C / 7(e) / TOR-301 /2017 dated 22.01.2018.

9 It is respectfully submitted that, after fulfilling all the stipulated conditions in the ToR, a public hearing meeting for the project of Tuna Fishing Harbour was conducted on 25.07.2019 under the chairmanship of the District Collector, Chennai along with other concerned officials. In the minutes of the above meeting, it was mentioned that the public were invited to express their views, concerns and questions, if any, by clearly mentioning their names and the villages to which he / she belongs. However no objections were received from anyone during the Public hearing meeting.

10 It is respectfully submitted that Fishing Harbour Project Division, Department of Fisheries, Chennai had applied to SEIAA-TN through online in the PARIVESH portal for Environmental Clearance (EC) in letter No. SIA / TN / MIS / 43388 /2015 dated 27.09.2019 for the proposed construction of TUNA Fishing Harbour at Thiruvottiyur Kuppam Village, Ennore Taluk, Thiruvallur District, Tamil Nadu and submitted the hard copy of the EIA report along with Public hearing to SEIAA-TN on 13.12.2019. In the SEAC meeting held on 16.12.2019, the proposal was discussed and it

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was requested to furnish additional details to the project proponent. The additional details sought were submitted to SEIAA-TN on 17.02.2020.

11 It is respectfully submitted that, a presentation was made by the project proponent during 153rd SEAC meeting held on 04.06.2020 and proposal was again placed during this meeting. The SEAC decided to recommend the proposal for grant of Environmental Clearance to SEIAA subject to conditions stipulated therein.

12 It is respectfully submitted that, the Hon'ble National Green Tribunal, Southern Zone, Chennai passed an interim order on 21.07.2020 in the O.A.No.28 of 2020(SZ) as given below :

" 16. The SEIAA is directed to consider and pass appropriate orders in the pending application for Environmental Clearance said to have been filed by the State authorities in this case for the project in accordance with law".

13 It is respectfully submitted that, the project proposal was again considered during the 387th SEIAA meeting held on 05.08.2020 and Environmental Clearance was issued vide this office Letter. No.SEIAA-TN/F.No.6440/EC/7(e)/75/2020 dated: 05.08.2020 subject to the conditions subject to outcome of the Hon'ble NGT (SZ) order in the pending O.A. No. 28 of 2020.


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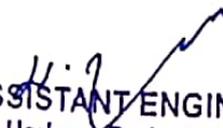

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14 It is respectfully submitted that the aim of Project of Tuna Fishing harbour is mainly with the objectives of benefitting to the local fishermen community in Thiruvotriyurkuppam, The Project includes the following public welfare activities, apart from other departmental activities, after considering the long pending request and welfare scheme of fishermen, congestion and frequent boat accident in Chennai Fishing Harbour and promoting deep sea fishing.

Sl.No	Details of works
1.	Jetty
2.	Fish handling and Auction hall
3.	Fishermen gear shed
4.	Net mending shed
5.	Fishermen rest shed
6.	Boat repair shop
7.	Restaurant
8.	Sloping yard for Tuna boats
9.	Radio communication tower
10.	Public toilets

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15 It is submitted that there will not be any impact on Tourism as the project area is not a notified tourism place, There would not be any impact on fish movements, due to the reason that there is no fish movements in wave breaking points, where this project is proposed.


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16 It is respectively submitted that, being a fishing harbour, there would not be any possibility of oil spills from the fishing boats since the fishing harbour is about 6 km away from the Chennai Port Trust. Hence there is no chance for movement of commercial ships due to which the question of oil spill in the project area does not arise.

17 It is respectfully submitted that, the committee constituted by this Honble Tribunal vide its order dated 14.09.2020 had submitted a report during December, 2020 wherein it was mentioned that the necessary clearance from various competent authorities have been obtained at different points of time by the Department of Fisheries. It is imperative to mention herein that the committee has also observed and noted that the establishment of Tuna Fishing Harbour is a public welfare scheme and delay in execution will affect the general public in getting their basic rights on time and also result in escalation of the project cost.

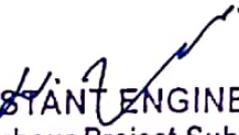

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18 In view of the above said circumstances and reasons, it is humbly prayed that this Hon'ble Tribunal may be pleased to consider the above said facts and pass such order or orders as deemed fit and proper and thus render justice.


Assistant Director of Fisheries
Thiruvallur @ Ponneri

Solemnly affirmed at Chennai
On this day of March, 2021
and signed his name in my presence.


ASSISTANT ENGINEER
Fishing Harbour Project Sub Division
Fisheries Department, Chennai

Before me



SpecialGP Forest 13:12

to litigation.life ^



From SpecialGP Forest · specialgpforest@gmail.com

Cc litigation.life@gmail.com

Date Mar 6, 2021, 13:12

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Dear Sir,

Please find the attachment.

Regards

Spl.Government Pleader (Forests)
High Court, Madras

----- Forwarded message -----

From: **SpecialGP Forest** <specialgpforest@gmail.com>

Date: Sat, Mar 6, 2021 at 1:10 PM

Subject: NGT Appeal 28 of 2020 SZ Fisheries Counter

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Inbox



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Date Mar 6, 2021, 13:10

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Dear Sir,
In the above referred matter, we're duly serving the counter affidavit filed by the Fisheries Department (ie, the 2nd Respondent).

Please find the attachment.

Regards

Spl. Government Pleader (Forests)
High Court, Madras

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