

**IN THE HON'BLE NATIONAL GREEN TRIBUNAL
(SOUTHERN ZONE) SITTING AT CHENNAI
UNDER SECTION 19 OF NGT ACT**

**M.A No. 7 OF 2021
IN**

O.A. No. 7 of 2019

1. M/s. S.R.Infra Projects,
Represented by Singu Ramesh Babu
Survey No.111 (Part),
Chinapalalakuru (V), Guntur Rural (M),
Guntur District,
Andhra Pradesh and another

Applicants

Versus

The Joint Chief Environmental Engineer,
Andhra Pradesh Pollution Control Board,
D. No: 33-26-14, D/2, Near Sunrise Hospital,
Chalamalavari Street, Kasturibaipet,
Vijayawada – 520010.
Phone: 0866-2436217
Email: apace.gov@gmail.com

...Respondent

LIST OF DOCUMENTS

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CHENNAI

DRAWN AND FILED BY
K.S.VISWANATHAN &
T.HEMALATHA
ADVOCATES

T. Hemalatha

DATE: 12.01.2022

COUNSEL FOR APPLICANT

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Survey No.111 (Part),
Chinapalalakuru (V), Guntur Rural (M),
Guntur District, Andhra Pradesh.
Phone No: 9440262125
Email: saiyasasvi2008@gmail.com

2. M/s. Sai Yasasvi Stone Crusher,
Represented by Singu Ramesh Babu
Plot No.8(Part), Sy No.155/A1,
Chinapalalakuru (V), Guntur Rural (M),
Guntur District, Andhra Pradesh.
Phone No: 9440262125
Email: saiyasasvi2008@gmail.com

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...Respondent

AFFIDAVIT OF SINGU RAMESH BABU

I, Singu Ramesh babu son of Sitaramaiah, aged 54 years,
authorized signatory of (a) M/s. S.R.Infra Projects, Survey
No.111 (Part), and M/s. Sai Yasasvi Stone Crusher, Plot No.8
(Part), Sy No.155/A1, both situated at Chinapalakalu (V), Guntur



Rural (M), Guntur, Andhra Pradesh do hereby solemnly affirm and sincerely state as follows:

1. The above Miscellaneous Application has been filed seeking for clarification of the order dated 17.09.2021 passed in O.A.No. 7 of 2019 by taking into account the fact that there is a mis-calculation of number of days for which Environmental Compensation is leviable on the Applicant.

2. When the matter came up for hearing on 23.12.2021 this Hon'ble Tribunal expressed doubts regarding entertaining an application for clarification after the OA has been disposed of already. Therefore, at the request of the Applicant the matter was adjourned to further date.

3. In this context the Applicant is advised to submit as follows:-

- The Hon'ble Supreme Court in the case of Municipal Corporation of Greater Chennai VS Ankita Sinha (2021) SCC On Line SC 897) has held that the NGT is vested with suomoto power in discharge of its functions under the NGT Act (Para 108). Therefore, in addition to the powers vested with the NGT, suomoto power is available to issue directions in the interest of justice.
- In the instant case even assuming that no relief can be granted in the Miscellaneous Application as there is no power of clarification available with the Tribunal, yet in exercise of suomoto powers the same can be done as such



exercise of power would fall within "discharge of its functions under the NGT Act" as held by the Hon'ble Supreme Court.

- Therefore, any hyper technical interpretation as to the extent of the power vested with the Hon'ble NGT may not be required in the instant case in so far as it is apparent that there is a mis-calculation both substantive and arithmetical, in arriving at the Environmental Compensation. Therefore, there is ample power vested with the NGT to rectify the same.
- In such a case this Hon'ble Tribunal may even treat the present application as one of review instead of an application for clarification with appropriate directions to the party to remit any additional court payable. This is more so because the power under Section 19(4)(f) to the NGT Act to review its decision is stated to be as vested with the Civil Court under Section 114 of the CPC.
- It can be seen that there are errors apparent on the face of the record in calculation of number of days for which compensation is leviable. More over, under Section 114 of the Civil Procedure Code apart from rectifying errors apparent on the face of the record, the review power is also exercisable under Section 114 r/w Order 47 Rule 1 of the CPC for any other sufficient reason also.



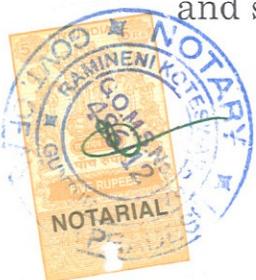
- Therefore, there are ample powers available with this Hon'ble Tribunal to convert the Miscellaneous Application to one of review and reconsider the matter only for the limited purpose of ascertaining the number of days for which compensation is payable.

4. It is submitted that the entire annual turnover of the Applicant and many other similar units who have also filed identical Miscellaneous Applications are only in the range of 25-35 lakhs for which financial statements are available for necessary verification. More over, the project cost of the units is quite low and not exceeding 25 lakhs. This submission is made in the context of the Environmental Compensation imposed by the Hon'ble NGT (SZ) in O.A.No.49 of 2019, where, after making reference to the judgment in Ganga Goel Vs Union of India (2018) 18 SCC 257, the Environmental Compensation was calculated at 0.5% of the project cost. Therefore, looking at from all angles, the calculation of Environmental Compensation in the instant case is palpably wrong and this Hon'ble Tribunal has ample powers to correct the same, in order to render complete justice to the parties. It is only in those circumstances, the Applicant has filed the Miscellaneous Application.

It is therefore, prayed that this Hon'ble Tribunal may be pleased to take this Affidavit on record and pass suitable orders in M.A.No.7 of 2021 and O.A.No. 7 of 2019 and thus render justice.

Solemnly affirmed at Guntur on
this the 12th day of January 2022
and signed her name in my presence

For SR INFRA PROJECTS
Before Me *S. Rameswaly*
Proprietor



12.01.2022
R. Koteswara Rao
RAMINENI KOTESWARA RAO
M.Com; M.A; LL.B.
ADVOCATE & NOTARY
Arundelpet, 17/3, GUNTUR-2.
My Commission Expires on 29-07-2022
Cell: 9346446056



ANDHRA PRADESH POLLUTION CONTROL BOARD
D.No.33-26-14, D/2, Near Sunrise Hospital, Pushpa Hotel Centre,
Chalamalavari street, Kasturibaipet, Vijayawada – 520 010

Recd on
31/10/18

Phone: 0866-2436217.
e-mail: "appcb.gov@gmail.com
Website :www.appcb.ap.nic.in

Regd. Post with Ack Due

Order No.448/APP/UB/UH-II/TF/GNT/2018- 1197

Date:26.10.2018

DIRECTIONS

Sub: APPCB – UH-II – TF – Sri. V. Sarath, D.No. 3-29-13/25/C, Krishna Nagar, 5th lane, Guntur Town, Guntur District - Non-compliance of Board Directions and Consent conditions - Legal hearing held on 09.10.2018 – Reg.

Ref:

1. Order No.77/APP/UB/UH-II/TF/GNT/2016, dt.29.07.2016.
2. Public Complaints received on air pollution problems from stone quarries operating at Sy.No.111&155/A1, Chinapalalaluru Village, Guntur Rural Mandal, Guntur District & Sy.No.379/1, Perecherla (V), Medikonduru (M), Guntur District.
3. Lr.No.APPCB/RO-GNT/C-4/2018-628, dt.02.07.2018 of RO, Guntur.
4. Minutes of External Advisory Committee (Task Force) meeting held on 09.10.2018 at Head Office, Vijayawada.

WHEREAS you are operating the Stone quarry mining units in the name & style of Sri. V. Sarath, D.No. 3-29-13/25/C, Krishna Nagar, 5th lane, Guntur Town, Guntur District for carrying out mining activities.

WHEREAS the Board vide reference 1st cited, issued directions on 29.07.2016 to 44 no. of Stone quarry mining units for carrying out mining activities without obtaining consents of the Board.

WHEREAS vide reference 2nd cited, Public complaints received from i. Sri Pamulapati Krishna Rao, Chinapalalaluru (V), Guntur Rural, Guntur District (petitioner in NGT Case No.179/2016), ii. Sri Degala China Sambaiah, Chinapalalaluru (V), Guntur Rural, Guntur District (petitioner in PLC No.291 of 2017 before the Hon'ble District Legal Services Authority, Guntur, iii. Sri Pulibandla Gopal Rao, R/o Nallapadu, Guntur Rural, Guntur District, iv. Sri Tota Rambabu, Chinapalalaluru (V), Guntur Rural, Guntur District & v. Sri J. Nageswara Rao, Ex-Vice President, Gram Panchayat of Perecherla, Medikondur Mandal, Guntur District alleged that vibrations causing damage to the residential houses, crop damage caused due to fugitive dust emissions emanating from blasting activities, pollution problems due to establishment and operation of road metal quarries at Chinapalalaluru, Perecherla, Vemuluripadu, Phirangipuram

WHEREAS vide reference 3rd cited, the EE, RO, Gunur inspected the quarries and furnished status report on compliance of Board directions & consent conditions to Head Office and requested the 63 no. of stone quarries operating at Chinapalalaluru & Perecherla villages may be called for hearing to review on specific plan of action to comply with consent conditions; wet drilling to contain fugitive dust emissions and non-compliance of the other conditions.

WHEREAS legal hearing was conducted before the External Advisory Committee (Task Force) of A.P. Pollution Control Board in its meeting held on 09.10.2018. The representative of the industry attended the legal hearing. The Committee noted that the Board received Public complaints from i. Sri Pamulapati Krishna Rao, Chinapalalaluru (V), Guntur Rural, Guntur District (petitioner in NGT Case No.179/2016), ii. Sri Degala China Sambaiah, Chinapalalaluru (V), Guntur Rural, Guntur District (petitioner in PLC No.291 of 2017 before the Hon'ble District Legal Services Authority, Guntur, iii. Sri Pulibandla Gopal Rao, R/o Nallapadu, Guntur Rural, Guntur District, iv. Sri Tota Rambabu, Chinapalalaluru (V), Guntur Rural, Guntur District & v. Sri J. Nageswara Rao, Ex-Vice President, Gram Panchayat of Perecherla, Medikondur Mandal, Guntur District alleged that vibrations causing damage to the residential houses, crop damage caused due to fugitive dust emissions emanating from blasting activities, pollution problems due to establishment and operation of road metal quarries at Chinapalalaluru, Perecherla, Vemuluripadu, Phirangipuram. Further, the Complainants also stated that road metal quarries operating illegally which are not accorded EC and CFO of the Board. The Committee also noted the Zonal Office, Vijayawada has issued directions on 29.07.2016 to 44 no. of Stone quarry mining units for operating mining activities without obtaining consents of the Board and Non-

compliance and noted that 44 No. of road metal quarries obtained Environmental Clearance from DEIAA, Guntur and also the Board has issued CFO to the road metal quarries with 23 no. of stipulated conditions to all the road metal quarries after obtaining EC. b

After detailed review the committee recommended to issue directions. The Board is hereby issue the following directions under Sec.33 (A) of Water (Prevention and Control of Pollution) Amendment Act, 1988 and under Sec.31 (A) of Air (Prevention & Control of Pollution) Amendment Act, 1987:

1. **The road metal quarries shall submit an action plan for implementation of the stipulated conditions of Consent for Operation issued by the Board to achieve compliance.**
2. **The road metal quarries shall immediately take up massive plantation all around quarries and crushers area, more densely towards village and along the haul roads.**
3. **The quarry units shall implement water sprinkling at mine area and haul roads for dust suppression at regularly intervals.**
4. **The road metal quarries shall implement requisite dust containment / suppression measures immediately to prevent fine dust getting air borne and causing pollution problems in the surroundings.**
5. **The road metal quarries shall ensure the blasting timings of 3.00 PM to 5.00 PM be strictly maintained.**

You are hereby directed to note that, should you violate any of the directions mentioned above, action will be initiated under Sec.33 (A) of Water (Prevention & Control of Pollution) Amendment Act, 1988 and Sec.31(A) of Air (Prevention & Control of Pollution) Amendment Act, 1987 without any further notice, in the interest of Public Health and Environment.

This Order comes into effect from today i.e., 26.10.2018.

**Sd/-
MEMBER SECRETARY**

**To
Sri. V. Sarath,
D.No. 3-29-13/25/C,
Krishna Nagar, 5th lane,
Guntur Town,
Guntur District.**

Copy to:

1. The Joint Chief Environmental Engineer, Zonal Office, Vijayawada for information and necessary action.
2. The Environmental Engineer, Regional Office, Guntur for information and necessary follow up action.

// T.C.F.B.O. //

**JOINT CHIEF ENVIRONMENTAL ENGINEER
UH-II**

(Handwritten initials)

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SUPPLEMENTARY REPORT OF COMMITTEE CONSTITUTED TO ASSESS THE ENVIRONMENTAL COMPENSATION FOR THE ALLEGED VIOLATIONS BY THE SEVENTH RESPONDENT IN THE ORIGINAL APPLICATION NO. 136 OF 2016 (SZ) FILED BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL, SOUTHERN ZONE, CHENNAI

1 Background

Original Application No. 136/2016 (SZ) was filed by M/s. Capt. B.S. Prakash Applicant, before the Hon'ble NGT on 17/06/2016, alleging violation of environmental conditions and Coastal Zone Clearance granted for the project by the seventh respondent. The Hon'ble National Green Tribunal (NGT) in its order dated 18.03.2020 directed constitution of a Committee comprising of representatives of Regional Office, Ministry of Environment, Forest and Climate Change (MoEF&CC), Bangalore, Kerala State Coastal Zone Management Authority (KCZMA) and Kerala State Pollution Control Board (KSPCB) with orders to inspect the project, submit a status report and also propose action if any violation is found regarding the conditions imposed including the Coastal Zone Regulation. The Hon'ble NGT also directed the Committee to impose environmental compensation against the seventh respondent for violation of any of the conditions imposed in the environmental clearance as well as the Coastal Zone Clearance granted in respect of the project, as has been directed by the Hon'ble NGT in several cases of this nature, on the basis of the guidelines given by the Central Pollution Control Board (CPCB) in this regard.

The Committee submitted its report and the matter came up for hearing before the Hon'ble NGT on 20/01/2021. The Hon'ble NGT in its order dated 20/01/2021 observed that the committee has not assessed the environmental compensation in respect of CRZ violations though certain violations were noted and directed the committee to co-opt any expert of their choice for the purpose of assessing environmental compensation for the alleged violation and submit a further report. Thus, the Regional Office, Ministry of Environment, Forest and Climate Change (MoEF&CC), Bangalore approached the National Centre for Sustainable Coastal Management (NCSCM), Ministry of Environment, Forest and Climate Change, Chennai, to nominate an expert member for the purpose and

accordingly Shri. M Dharma Raj, Senior Scientific Consultant, NCSCM was nominated by Director, NCSCM.

2. Project details

As already noted by the Committee in its original report, M/s Green Gateway Leisure Limited (GGLL) is the special purpose vehicle formed by M/s Air Travel Enterprises (ATE) for executing the project Bekal Beach Resort and Spa. The proposal relates to construction and development of a resort and spa in Survey No.117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 131, 133 and 134 of Kikan Village 1(P) of Chittari at Bekal in Kasargod District, Kerala in 58 acres of leased land. Total built area of the project was envisaged to be 19041 m² with 137 cottages. As per the clearance granted under CRZ 1991, the project site falls in Coastal Regulation Zone (CRZ)-III area. Total water requirement for the project was envisaged to be 60,000 l/day. The Capital cost of the project is Rs 22 Crores. The validity of the CRZ clearance obtained from the Ministry of Environment, Forest and Climate Change (MoEFCC) vide No. 16-4/2008 IA-III dated 02.01.2009, expired on 01.01.2014.

3 Issues before the Reconstituted Committee

The reconstituted Committee considered the following issues for deliberations and for submitting the report to the Hon'ble NGT, based on the issues raised in the order dated 20/01/2021 of the Hon'ble NGT.

- a) Violation of any of the conditions imposed in the environmental clearance as well as the CRZ Clearance, observed by the previous Committee.
- b) Calculate the environmental compensation against the seventh respondent for such violation, as has been directed by the Hon'ble NGT in several cases of this nature, on the basis of the guidelines given by the Central Pollution Control Board (CPCB) in this regard.
- c) Damage to Ecologically Sensitive Areas (ESAs), if any.

The reconstituted Committee accordingly met online through Video conferencing on 11/03/2021 and deliberated on the issues in detail.

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3.1 Violation of environmental clearance conditions / CRZ Clearance, observed by the previous Committee.

The previous Committee had observed the following in its report submitted to the Hon'ble NGT.

- a) *The Joint Committee on the day of the visit, noted that construction of the project was abandoned halfway, and the project was not in operation since past 2-3 years and heavy bushes and grass of more than 5-6 feet has grown all over the project site area except some natural walkways. The Committee has searched for the existence of bore wells in the project site but could not locate any.*
- b) *Accordingly, the Joint Committee concludes that there is no substantial evidence to prove that there exist bore-wells in the project site for drawl of ground water.*
- c) *The Joint Committee on the day of the visit noted that the project has not been completed yet and not in operation. Hence, there is no generation of sewage and accordingly, the project authorities have not installed a Sewage Treatment Plant (STP) till date.*
- d) *The Committee also noted that the project has not been completed yet and about 40-50% of the project work is still pending and prior to operationalization of this project, project authorities have to invariably establish an STP, without which they will not be able to obtain Consent to Operate (CTO) from KSPCB.*
- e) *The Joint Committee based on the records evidenced during the inspection held on 19.11.2020 noted that few water canals have been constructed artificially in the project site and water has been diverted into the resort from the adjacent Chittari River and the same has been noted as per Google Images.*
- f) *The Committee noted that a Senior Scientist, KSCSTE inspected the project on 28.10.2016 and noted the following:*

“large scale digging/ excavation of earth to create new water canals with width of 10m and above within 500 m from HTL was noted. The CRZ Notification 1991 clearly states that “Extraction of sand,

CO

levelling or digging of sandy stretches except of foundation of building, swimming pool shall not be permitted within 500 m of HTL of sea and hence the digging within 500 m from HTL amounts to violation of provisions of CRZ Notification".

g) The project authority has created few water canals artificially without clearance from Ministry/ KCZMA.

Thus, as per the inspection report of Senior Scientist, KSCSTE and as per the report of the Committee submitted to the Hon'ble NGT, the seventh respondent has violated the CRZ clearance/CRZ Notification by digging canals within 500 m from HTL, without clearance from MoEF&CC/ KCZMA, which amounts to causing damage to the environment.

3.2 Guidelines issued by the Central Pollution Control Board (CPCB) for calculating environmental compensation.

The Hon'ble NGT in its order dated 20/01/2021 has directed the Committee to impose environmental compensation against the seventh respondent for violation of any of the conditions imposed in the environmental clearance as well as the Coastal Zone Clearance granted in respect of the project, as has been directed by the Hon'ble NGT in several cases of this nature, on the basis of the guidelines given by the Central Pollution Control Board (CPCB) in this regard.

In this regard, the guidelines issued by the Central Pollution Control Board and the methodology for calculating environmental compensation (copy enclosed as Annexure R-1) are available in the CPCB portal at: <https://cpcb.nic.in/uploads/report-15.07.2019.pdf>. The same methodology for calculating environmental compensation for violating the Provisions of EP Act based on the guidelines issued by CPCB has also been reported in detail in the order dated 16/12/2020 passed by the Hon'ble NGT (SZ) in OA No. 49 of 2019 (SZ) (copy enclosed as Annexure R-2). The methodology is reproduced below.

The formula for calculating environmental compensation based on the guidelines issued by CPCB is given below.

Environmental Compensation Formula $EC = PI \times N \times R \times S \times LF$

Where EC – Environmental Compensation

PI – Pollution Index of Industry Sector

N – Number days of Violation took place

R – A factor in Rs for EC

S – Factor for scale of operation

LF – Location factor

i. The industrial sectors have been categorized into Red, Orange and Green based on their pollution index in the range of 60-100, 41-59 and 21-40 respectively. It was suggested that the average pollution index of 80, 50 and 30 may be taken for calculating the Environmental Compensation for Red, Orange and Green Categories of industries respectively.

ii. N, number of days for which violation took place is the period between the day of violation observed/due date of directions compliance and the day of compliance verified by PCB/SPCB/CPCB.

iii. R, is a factor in rupees, which may be minimum of 100 and maximum of 500.

iv. S is based on small/medium/large industries categorization which may be 0.5 for micro or small, 1 for medium and 1.5 for large units.

v. LF (Location Factor), is based on the population of the city/town and location of the industrial unit. For the industrial unit located within municipal boundary or upto 10km distance from the municipal boundary of the city/town, following factors (LF) may be used.

Sl. No.	Population (million)	Location Factor (LF)
1.	1 to < 5	1.25
2.	5 to < 10	1.5
3.	10 and above	2

Note: #LF will be 1.0 in case unit is located >10km from municipal boundary and LF is presumed as 1 for city/town having population less than one million. For notified Ecologically Sensitive areas, for beginning, LF may be assumed as 2.0.

4 Environmental Compensation:

The Committee has been mandated to assess the quantum of Environmental Compensation as per the specific directions given in para 34 of the order dated 18/03/2020 passed by the Hon'ble NGT in the present case, which states as follows.

"34. If there is any damage caused to environment on account of the violation, then the committee is also directed to impose environmental compensation against the seventh respondent for the violations on any of the conditions imposed in the environmental clearance as well as the Coastal Zone Clearance granted in respect of the project as has been directed by this Tribunal in several cases of this nature on the basis of the guidelines given by the Central Pollution Control Board in this regard".

4.1 Calculation of Environmental Compensation

As per the formula for calculating environmental compensation based on the guidelines issued by CPCB is given in para 3.2 above,

Environmental Compensation Formula $EC = PI \times N \times R \times S \times LF$

The input values are assessed as given below

- i. In the present Bekal project case, the pollution index PI is taken as 50 (Orange category), as this project has a built-up area which is almost equal to 20,000 m² and the sewage generation will be from the proposed 137 Keys/Cottages. As per para 2 of the Environmental Clearance issued for the project vide MoEF letter dated 2/01/2009, the 'Total Water Requirement' for the project is 60 KLD. By considering 85% of the total water requirement/total water demand will be converted into sewage, the quantity of sewage/waste water will be $0.85 \times 60 = 51$ KLD.

Thus, as per the CPCB norms, the pollution index for this project with a built-up area of about 20,000 m² and sewage quantity of 51 KLD, will be **50** (Orange category).

- ii. In the absence of any other date of observation/reporting of the violation, the date of filing of the OA in the Hon'ble NGT i.e. 17/06/2016 is taken as the date of reporting of the violation. Similarly, in the absence of any rectification/compliance order issued by PCB/SPCB/CPCB/KSCSTE etc and the date of such compliance by the 7th respondent, the date of inspection i.e. 28/10/2016 by Senior Scientist, KSCSTE is taken as the date of confirmation. Thus, the number of days of violation N is taken from 17/06/2016 to 28/10/2016 and it works out to **134** days.
- iii. R is taken as **100**, as the project has been abandoned midway after initial construction.
- iv. The project is considered as medium hence S value is taken as **1**.
- v. LF is taken as **1.5**

$$\begin{aligned} \text{Environmental Compensation (EC)} &= \text{PI} \times \text{N} \times \text{R} \times \text{S} \times \text{LF} \\ &= 50 \times 134 \times 100 \times 1 \times 1.5 \end{aligned}$$

= Rs 10,05,000 (Rupees 10.05 lakhs).

4.2 Assessment of damage, if any, to Ecologically Sensitive Areas (ESAs) in the project site:

The approved Coastal Zone Management Plan (CZMP) of the Bekal area has been published by the Kerala Coastal Zone Management Authority (KCZMA) and the same is available at, http://keralaczma.gov.in/hearing/records/Trivandrum/KL_78.pdf. The approved CZMP indicating the various CRZ categories/areas such as CRZ-IA, CRZ-IB, CRZ-II, CRZ-III, CRZ-IVA, CRZ-IVB etc includes the Chittari river and the adjacent project site and is enclosed as Annexure R-3.

It is seen from the approved CZMP that there are no ESAs in the Survey numbers 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 131, 133 and 134 of the project site except some patches of Mangroves in the Island in the river. Thus, no additional compensation in lieu of destruction of ESAs is involved in the present case.

4.3 Environmental Compensation imposed by the Hon'ble NGT (SZ) in OA 49/2019:

In paras 22 and 23 of the order dated 16/12/2020 passed by the Hon'ble NGT (SZ) in OA No. 49 of 2019 (SZ) (Annexure R-2), the Hon'ble NGT has observed the following.

22. The dictum laid down in the decision reported in Ganga Goyal Vs. Union of India 2018 (18) SCC 257 as such is not applicable to this fact of the case as in that case the entire project was completed without getting Environmental Clearance (EC) and other clearances and so the Hon'ble Apex Court had fixed the environmental damages of Rs.100 Crores or 10 percent of the project cost whichever is higher. But in this case, it is only in the preliminary stage and the project cost is only Rs.40 Crores.

23. So, considering the circumstances, we feel that taking 0.5% of the project cost and imposing that amount as environmental compensation will be sufficient, instead of adopting the compensation fixed by the committee on the basis of the number of days violation alone and that will meet the ends of justice.

The reconstituted Committee has noted that as per the above formula, considering 0.5% of the project cost as the environmental compensation, in the present Bekal project case, the environmental compensation works out to be as given below:

Environmental compensation = 0.5% of project cost

= 0.5 (Rs 2200/100) lakhs = **Rs 11 lakhs**

5 Recommendations of the Reconstituted Committee:

The reconstituted Committee recommends that the maximum of Rs 11 lakhs and Rs 10.05 lakhs calculated in paras 4.1 and 4.3 above which is Rs 11 lakhs be charged to the seventh respondent as Environmental Compensation for violation of conditions imposed in the environmental clearance as well as the CRZ Clearance.

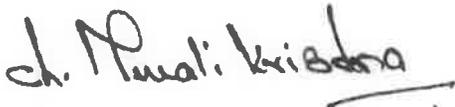
Reconstituted Committee



(Dr. Richard Scaria)
Member, KCZMA



(Smt. Sheeba M.S.)
Chief Environmental Engineer
KSPCB
Kozhikode, Kerala



(Dr. Murali Krishna, Ch)
Scientist 'D', IRO, MoEF&CC,
Bangalore.



(Dr. S Prabhu)
Scientist 'C', RO, MoEF&CC,
Bangalore



(M Dharma Raj)
Sr. Scientific Consultant, NCSCM, Chennai
