

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI**

Application No. 263 of 2014 (SZ) (THC)

IN THE MATTER OF:

Vysakh, Son of Somarajan
Ullas Bhavan,
Kollam-Kottarakkara Taluk,
Ezhukone Village, Pezhurkonam Muri
Ezhukone P.O – 691 505

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Applicant

AND

1. State of Kerala,
Rep. by its Secretary, Kerala State Council
for Science, Technology and
Environment, Sasthra Bhavan,
Pattom, Thiruvananthapuram - 695 004
2. Kerala Coastal Zone Management Authority,
Science and Technology (A) Department,
Sasthra Bhavan, Pattom,
Thiruvananthapuram - 695 004
Rep by Secretary
3. National Centre for Earth Science Studies, Aakkulam
Thiruvananthapuram - 695 011 Rep. by its Director
4. Mantrothuruthu Grama Panchayat
Office of the Mantrothuruthu Panchayat
Mantrothuruthu, Kollam District - 691 502
5. Union of India, Rep. by its Director,
Ministry of Environment and Forests
Paryavaran Bhawan, CGO Complex
Lodhi Road, New Delhi -110 003

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Respondent(s)

Counsel appearing for the Applicant:
Mr. P.B. Sahasranaman
Kamalesh Kannan, Subramaniam and
Mr. Sai Sathya Jith

Counsel appearing for the Respondents:
Mr. George Chakaria for R-1
Mr. T.N.C. Kaushik for R-3
Mr. Manoj Ramasamy for R-4
Mr. M.R. Gokul Krishnan for R-5

ORDER

PRESENT:

HON'BLE SHRI JUSTICE M. CHOCKALINGAM, JUDICIAL MEMBER

HON'BLE SHRI P.S. RAO, EXPERT MEMBER

Dated 16th December, 2015

Whether the Judgement is allowed to be published on the Internet – Yes/No
Whether the Judgement is to be published in the All India NGT Reporter – Yes/No

The application is filed seeking a direction to the respondents 1 to 3 to prepare a new Coastal Zone Management Plan of Kerala in respect of the areas coming under the *Mandrothuruthu* Grama Panchayat including the land in Sy. No. 09 to 98 in Block No.29 of Adichanellore Village, Kollam Taluk categorizing the submerged lands as land and areas under CRZ-II and send the same to the 5th respondent for approval and direct the 2nd respondent to cause necessary orders permitting reclamation of land submerged, comprised in Re-Survey Nos.485 and 491 in Block No.6 (Old Survey Nos.491/11, 491/2 and 482/7/2) of Manothututhu Village, Kollam Taluk, Kollam District.

Heard the counsel for the applicant. It is noticed that in respect of the same subject matter, the 2nd Bench of South Zone, National Green Tribunal, Chennai had an occasion to consider and made the order of the Judgment in Application No.262 of 2014 dated 1st April, 2015. From the order, it could be seen that a direction is sought for in the application for preparation of new Coastal Zone Management Plan of Kerala in respect of the area in question regarding its view that in view of the categorical stand taken by the MoEF that the MoEF has not yet received the Coastal Zone Management Plan in respect of the land in question approved by the Kerala Coastal Zone Management Authority and as soon as such draft notification is received, the MoEF will follow the procedures laid down under CRZ Notification which includes the conducting of Public Hearing prior to the issuance of final notification and that no further order was required in the application. It would be appropriate to reproduce the order of the Judgment in Application no.262 of 2014 in Paragraphs 2 to 7.

“2. We are of the opinion that in view of the categorical stand taken by the MoEF, no further order is required in this application.

3. However, the counsel appearing for the applicant would submit that the 2nd respondent, who is to structure the draft notification is expected to take note of and consider the objections and issues raised in the public hearing which, in fact was conducted by the 2nd respondent where many persons including the applicants have raised various objections. The apprehension of the applicant is that the 2nd respondent has not consider any of the objections raised by the applicant as well as others and there is every possibility of not considering them when the 2nd respondent passes appropriate draft notification.

4. Mr. Kaushik, the learned counsel for the 2nd respondent would submit that in fact, the 2nd respondent has followed the procedure and submitted as it was submitted by the counsel for the MoEF that the apprehension of the applicant is unfounded and the application itself is premature. We do not agree with the contention raised by the learned counsel for the respondents 2 and 3.

5. *Even if the 2nd respondent does not consider the objections raised in the public hearing including the applicant, admittedly what is to be structured by the 2nd respondent is only draft notification and statutory effect to the same will be given only after the 5th respondent issues notifications in accordance with the CRZ Notifications. Since, such act has not occurred so far the application in our view is totally premature.*

6. *However, it is necessary that the 5th respondent before passing appropriate final Notification should protect the interests of the public which is obligatory and consider the objections raised by the public in their appropriate perspectives.*

7. *We are of the view that as the learned counsel for MoEF has correctly point out the MoEF should give proper opportunity to public to raise objections before the statutory notification is issued”.*

In view of the above, the application can be disposed of recording the undertaking given by the respondents for preparation of a new Coastal Zone Management Plan duly following the procedural formalities as found in the notification and also CRZ Notification and guidelines issued thereon. It is also made clear that till the approval of the new Coastal Zone Management Plan of Kerala in respect of the area in question, the existing Coastal Zone Management Plan shall continue. Accordingly, the application is disposed of.

No cost.

Justice M. Chockalingam
Judicial Member

P.S. Rao
Expert Member