

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

Application No.104, 111, 112, 116 and 127 of 2013 (SZ) (THC)

Application No.104 of 2013 (SZ) (THC)

(W.P. (MD) No. 2079 of 2010)

IN THE MATTER OF:

1. Conservation of Nature Trust
Represented by its Chairman,
Dr. R.S. Lal Mohan
Former Principal Scientist of
Indian Council of Agricultural Research
Nagercoil, Kanyakumari District.
2. Kanyakumari District Boomi Pathukappu
Sanga Koottamaipu
Represented by its President,
Padmadhas,
Vellamadi, Vellichanthai Post,
Kanyakumari District.

... Applicant(s)

AND

1. The District Collector
Kanyakumari District. Nagercoil.
2. The Project Director,
National Highways Authority of India
Valliyoor, Tirunelveli – 627 117.
3. The Director General,
National Highways Authority of India
Dwaraka, New Delhi.
4. The Environmental Engineer,
Pollution Control Board,
Kanyakumari District.
5. The Executive Engineer / WRO,
Public Works Department,
Kanyakumari District.
6. The Secretary, Ministry of
Environment and Forest, New Delhi.
7. M/s. Kumari Maha Sabha.
Rep. by its General Secretary,
Mr. Jayakumar Thomas,
Nagercoil – 629 001.

... Respondent(s)

Application No.111 of 2013 (SZ) (THC)

(W.P. (MD) No. 198 of 2011)

IN THE MATTER OF:

1. Conservation of Nature Trust
 Represented by its Chairman,
 Dr. R.S. Lal Mohan
 Former Principal Scientist of
 Indian Council of Agricultural Research
 Nagercoil, Kanyakumari District.

2. Kanyakumari District Boomi Pathukappu
 Sanga Koottamaipu
 Represented by its President,
 Mr. Padmadhas,
 Vellamadi, Vellichanthai Post,
 Kanyakumari District.

... Applicant(s)

AND

1. The Secretary, Government of India,
 Ministry of Environment and Forest,
 New Delhi.
2. The Secretary, Government of India,
 Surface and Road Transport Ministry,
 New Delhi.
3. The Director General,
 National Highways Authority of India
 Dwaraka, New Delhi.
4. The Project Director,
 National Highways Authority of India
 Valliyoor, Tirunelveli – 627 117.
5. The District Collector, Kanyakumari District.
 Nagercoil.
6. The Executive Engineer / WRO,
 Public Works Department,
 Kanyakumari District.
7. The Environmental Engineer,
 Pollution Control Board,
 Kanyakumari District.
8. The Competent Authority,
 Special District Revenue officer
 Land Acquisition National Highways,
 Tirunelveli.
9. M/s. Kumari Maha Sabha.
 Rep. by its General Secretary,

Mr. Jayakumar Thomas
Nagercoil – 629 001.

... Respondent(s)

Application No.112 of 2013 (SZ) (THC)

(W.P. (MD) No. 199 of 2011)

IN THE MATTER OF:

1. Conservation of Nature Trust
Represented by its Chairman,
Dr. R.S. Lal Mohan
Former Principal Scientist of
Indian Council of Agricultural Research
Nagercoil, Kanyakumari District.

2. Kanyakumari District Boomi Pathukappu
Sanga Koottamaipu
Represented by its President,
Mr. Padmadhas,
Vellamadi, Vellichanthai Post,
Kanyakumari District.

... Applicant(s)

AND

1. The Secretary, Government of India,
Ministry of Environment and Forest,
New Delhi.
2. The Secretary, Government of India,
Surface and Road Transport Ministry,
New Delhi.
3. The Director General,
National Highways Authority of India
Dwaraka, New Delhi.
4. The Project Director,
National Highways Authority of India
Valliyoor, Tirunelveli – 627 117.
5. The District Collector
Kanyakumari District. Nagercoil.
6. The Executive Engineer / WRO,
Public Works Department,
Kanyakumari District.
7. The Environmental Engineer,
Pollution Control Board,
Kanyakumari District.
8. The Competent Authority,
Special District Revenue officer

Land Acquisition National Highways,
Tirunelveli.

9. M/s. Kumari Maha Sabha.

Rep. by its General Secretary,

Mr. Jayakumar Thomas

... Respondent(s)

Application No.116 of 2013 (SZ) (THC)

(W.P. (MD) No. 8281 of 2011)

IN THE MATTER OF:

1. Conservation of Nature Trust (Registered)

Represented by its Chairman,

Dr. R.S. Lal Mohan, Nagercoil - 1

Kanyakumari District.

... Applicant(s)

AND

1. National Highways Authority of India,
Ministry of Shipping, Road Transport & Highways,
New Delhi - 110075.

2. Union of India,
Rep. by the Secretary,
Ministry of Environment & Forest,
New Delhi – 3.

3. Project Director,
National Highways Authority of India
Valliyoor, Tirunelveli – 627 117.

4. State of Tamil Nadu
Rep by its Principal Secretary,
Department of Environment & Forest,
Secretariat, Chennai.

5. Tamil Nadu Pollution Control Board,
Rep. by its Chairman, Guindy, Chennai.

6. The District Collector
Kanyakumari District. Kanyakumari.

7. M/s. Kumari Maha Sabha.
Rep. by its General Secretary,
Mr. Jayakumar Thomas
Nagercoil – 629 001.

... Respondent(s)

Application No.127 of 2013 (SZ) (THC)

(W.P. (MD) No. 3634 of 2012)

IN THE MATTER OF:

1. D. Sulif, No. 19/177, Devi Nilayam,

Peruntheru, Kuzhithurai – 629 163,
Kanyakumari District.

... Applicant(s)

AND

1. The Government of India,
Rep. by its Director (IA-III),
Ministry of Environment and Forests,
New Delhi – 110 003.
2. The Chairman,
National Highways Authority of India,
Ministry of Shipping, Road Transport & Highways,
Dwaraka, New Delhi – 110 075.
3. The Principal Secretary,
Department of Environment and Forests,
Saidapet, Chennai – 600 015.
4. The Chairman,
CPCB, Parivesh Bhawan,
East Arjun Nagar, Delhi – 110 032.
5. The Director,
Department of Environment,
Government of Tamil Nadu,
Saidapet, Chennai .
6. The Chairman,
Tamil Nadu Pollution Control Board,
No. 76, Mount Road, Guindy, Chennai.
7. The Chief Conservator of Forests,
Ministry of Environment and Forests,
Regional Office, Southern Region,
Kendriya Paryavaran Bhavan,
Bangalore – 462 016.
8. The Divisional Engineer cum Project Director,
National Highways Authority of India,
Ministry of Shipping, Road Transport & Highways,
Tirunelveli – 627 011.
9. The District Collector
Kanyakumari District
10. The Special Tahsildar,

(Land Acquisition),
NH-47, Unit III, Thiruthuvapuram,
Kuzhithurai Po Kanyakumari District.

11. M/s. Kumari Maha Sabha.

Rep. by its General Secretary,
Mr. Jayakumar Thomas
Nagercoil – 629 001.

... Respondent(s)

Counsel appearing for the Applicant:

Application No.104, 111, 112 & 116 of 2013

M/s. T. Arul and Shankar Prakash

Application No.127 of 2013

M/s. J. Anandhavalli

Counsel appearing for the Respondents:

Application No.104 of 2013

For respondent No.1 .. Mr.M.K. Subramaniam
For respondent Nos 2 & 3 .. Mr.P. Wilson, Senior Counsel for
M/s. Wilson Associates &
K.T. Sankar Subramanian
For respondent No.4 .. Smt. Rita Chandrasekar
For respondent No.5 .. M/s. Abdul Saleem, S. Saravanan
Vidyalakshmi
For respondent No.6 .. Mr. M.R. Gokul Krishnan
For respondent No.7 .. M/s. D. Prabhu Mukunth, Arun Kumar
S.M. Karthikeyan

Application No.111 of 2013:

For respondent No.1 .. Mr. M.R. Gokul Krishnan
For respondent Nos.2,3 & 4 .. Mr.P. Wilson, Senior Counsel for
M/s.P Wilson Associates
For respondent Nos.5 & 6 .. Shri. Abdul Saleem &
Vidyalakshmi
For respondent No.7 .. Smt. Rita Chandrasekar
For respondent No.9 .. M/s.D. Prabhu Mukunth, Arunkumar
S.M. Karthikeyan

Application No.112 of 2013:

For respondent No.1 .. Mr. M.R. Gokul Krishnan
For respondent Nos.2,3 & 4 .. Mr.P. Wilson, Senior Counsel for
M/s.P Wilson Associates
For respondent Nos.5 & 6 .. Shri. Abdul Saleem, Saravanan &
Vidyalakshmi
For respondent No.9 .. M/s.D. Prabhu Mukunth, Arunkumar
S.M. Karthikeyan

Application No.116 of 2013:

- For respondent Nos.1 & 3 .. Mr.P. Wilson, Senior Counsel for
M/s.P. Wilson Associates
- For respondent No.2 .. Mr. M .R. Gokul Krishnan
- For respondents 4 & 6 .. M/s. Abdul Saleem, Saravanan &
Vidyalakshmi
- For respondent No.5 .. Smt. Rita Chandrasekar
- For respondent No.7 .. M/s. D. Prabhu Mukunth, Arunkumar &
S.M. Karthikeyan

Application No.127 of 2013

- For respondent Nos. 1 & 7 .. Mr. M.R. Gokul Krishnan
- For respondents 2 & 8 .. Mr.P. Wilson, Senior Counsel for
M/s. P. Wilson Associates
- For respondent Nos.3, 5 & 9 .. Mr. .K. Subramanian
- For respondent No.4 . Mr. D.S. Ekambaram
- For respondent No.6 .. Smt. Rita Chandrasekar
- For respondent No.10 .. M/s. Abdul Saleem, S. Saravanan
Vidyalakshmi
- For respondent No.11 .. M/s. D. Prabhu Mukunth, Arunkumar
S.M. Karthikeyan

ORDER

PRESENT:

HON'BLE SHRI JUSTICE DR. P. JYOTHIMANI, JUDICIAL MEMBER

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

Delivered by : Hon'ble Justice Dr.P.Jyothimani

Dated 14th September, 2016

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 above said applications, which were originally filed as Writ Petition (MD) No.2079 of 2010, W.P.(MD) No.198 of 2011, W.P.(MD) No.199 of 2011, W.P.(MD) No.8281 of 2011, and W.P.(MD) No.3634 of 2012 on the file of High Court of Madras in its Madurai Bench, subsequently transferred to this Tribunal and re-numbered as Application No.104

of 2013, 111 of 2013, 112 of 2013, 116 of 2013 and 127 of 2013 respectively, have been taken together jointly and all the respective counsel were heard.

2. In all these cases, the applicants have, in effect, chosen to challenge the Environmental Clearance (EC) granted by the MoEF & CC in respect of the proposal of National Highways for the purpose of widening NH – 47 and NH – 47 B, particularly the distance between Kaliakavilai and Nagercoil for the project of 4/6 lining of package – II km 43/000 to km 96/714 from Kerala/Tamil Nadu border.

3. The application No.104 of 2013 which was originally filed as W.P.2079 of 2010 has prayed for a direction to forbear the respondents from laying any road, destroying the seven system tanks, comprising in Survey Nos.382/4 of Thiruvithancode Village and Survey Nos.23/15, 307/22, 288/11, 342/6, 377/2 and 399 of Eraniel Village by way of deviated curved alignment in contravention of the originally approved Trivandrum – Kanyakumari alignment in between km 62/000 and km 66/000 as published in the official website of the respondent in September, 2008 as detrimental to the ecology and environment.

4. The applicants therein who are Conservation of Nature Trust and Kanyakumari District Boomi Padhukappu Sanga Koottamaipu, filed the Public Interest Litigation in the High Court, challenging the road deviating from Pungarai Hamlet to Kollakudivilai Hamlet (near Valliyar River) which is said to be affecting seven system tanks, several natural springs, three temple tanks and highly fragile Valliyar River Valley affecting sensitive and fragile ecology of Kalkulam Taluk of Kanyakumari District. The deviated National Highway from the original alignment from Trivandrum to Kanyakumari in the existing NH – 47 by way of NH – 47 B starts at Kazhakkottam about 10 km north of Trivandrum City on the existing NH – 47 which is reckoned as “Zero Point” for the project. The road continues on the existing Trivandrum by-pass upto 22 km and traverses through cross country crossing Kerala – Tamil Nadu border at Karode Village at designed chainage of km 43/000 and the project covers a total distance of 113.36 km in Kanyakumari District. The road formation is for a distance of 70.36 km (km 43/000 to km 96/714 of NH – 47 from Kerala – Tamil Nadu border to Kanyakumari) and km 0/000 to km 16/376 of NH – 47B from Nagercoil to Kavalkinaru.

5. It is stated that as per the original alignment between km 58/000 to km 65/000 stretch, after crossing Trivandrum – Kanyakumari railway line at Palliyadi it runs through the Villages of Vattavilai, Pookkadai, Kozhiporvilai and Paruthikattuvilai. The alignment cuts Kozhiporvilai – Pookkadai Road and Eraniel Branch Canal and Pandaravilai Village. This original alignment has not caused much hazard to the environment and ecology of the District.

6. However, the proposed deviated route between km 62/000 to km 66/000 stretch from Pungarai Hamlet to Kollakudivilai Hamlet (near Valliyar River), which according to the applicant is due to extraneous consideration favouring certain politicians and their relatives who are having land holdings in the approved original alignment in between km 62/000 to km 66/000. The deviated route, according to the applicant, creates a new course in South-East direction for a distance of 6 km and an additional formation of 2 km road and it starts from Pungarai at km 62/000 and joins Kollakudivilai Hamlet (near Valliyar River) at km 66/000 of the original alignment.

7. According to the applicant, the deviation affects seven system tanks, several natural springs, three temple tanks and escalation of cost for additional 2 km road formation leading to unnecessary additional expenditure to the public exchequer amounting to crores of rupees, destroying 140 houses, displacing about 200 families, annihilation of about 500 tombs in three graveyards compromised in Survey No.394/16, 417/13 and 560/5 of Thiruvithancode Revenue Village and Valliyar River Basin. It is also stated that the vibrant water system tanks are of various dimensions in Kalkulam Taluk viz., (1). Mambiliakulam (Survey No.382/4 of Thiruvithancode Village) (2). Nelliarakonam Chettikulam (Survey No.23/15 of Eraniel Village) (3) Bagavathi Kulam (Survey No.307/22 of Eraniel Village) (4). Irattakulam (Survey No.288/11 of Eraniel Village) (5). Arasilamkottaikulam (Survey No.342/6 of Eraniel Village) (6). Thamaraikulam (Survey No.377/2 of Eraniel Village) and (7). Kollakudivilakulam (Survey No.399 of Eraniel Village). These seven tanks are stated to be forming part of Kothaiyar Irrigation System which is one of the best irrigation networks in the world. The reservoir is located at a height of 309 meters from the main sea level. From the said dam, water flows to the tanks and canals and as and when water is required sluice gates are opened and the canals feed the tanks one by one. The waterbodies having large water spread area cater

to the needs of Thickenamcode and Authivilai Village Panchayats and Eraniel Town Panchayat consisting of nearly 25 hamlets and water is extracted for drinking purpose from these tanks.

8. The water table and the aquifers within a vicinity of 6 km radius exist due to the presence of the tank and it is situated in an important geographical location in safeguarding the ecology and environment of this part of the District. These tanks of various size which form part of the water harvesting system to capture rain water for irrigation, were established thousands of years ago, considering the fact that the maximum distance from the Western Ghats to the sea is about 35 km and due to the steep west east gradient, the rain water flows fast and joins the sea and in order to check the flow of rain water. According to the applicant, apart from seven major tanks there are nearly 20 fresh water natural springs which will be destroyed by the proposed deviated alignment, including Nahakuzhivilai natural spring comprised in Survey No.293/20 in Eraniel Village which has never dried up for time immemorial. The natural water spring is peculiar in Kanyakumari District and it feeds Valliyar River and the proposed deviated alignment would destroy the entire Valliyar River Valley which is one of the most fragile regions which cannot be converted into a road. If there is no discharge of water from Valliyar River, the river will become dry. That apart, the deviated road along Valliyar valley will destroy three minor tanks viz., (1) Sivankoil Theppakulam (2) Alwarkoil Krishnanoi Theppakulam and (3) Mathandeswarar Theppakulam. These tanks also serve as embankment of circulation of saline sea water towards the landward side. If the land mass is formed with a width of 300 feet and huge depth in the name of four lane road, it will interfere with the free flow of water from West to East, making the area as desert.

9. The deviated route may result in massive land filling for formation of the road, causing enormous amount of expenditure to the exchequer. Such deviation will also affect the socio-economic conditions viz, many houses will be affected and families will be displaced, apart from affecting the graveyards situated in Gramam (Saviourpuram), Mylode and Nelliarakonam. Further, some of the small scale industries on which families are entirely depending will be affected and the deviated route forms a curve and when compared with the original approved alignment it is not congenial for the free flow of

traffic. More over, agriculture being the backbone of Kanyakumari District, the preservation of ponds and the rivers are essential ingredients for recharging aquifers. Originally Kanyakumari District was having 3,500 tanks and already nearly 1,000 tanks were lost. In the year 1998 the number of tanks existed was 2,447 and the paddy production has come down from 3.2 lakhs MT in 1950 to 1.2 lakhs MT in 2008 and the area of paddy cultivation which was 53,034 ha in 1975 has come down to 22,000 ha in 2008, apart from the ground water level which has gone down from 50 feet to 200 feet. Therefore, according to the applicant, the proposed deviation is against environment and ecology. With the above said pleadings, the applicants have filed the said application.

10. In Application No.111 and 112 of 2013 (W.P.(MD) No.198 and 199 of 2011) the same applicants who are the applicants in Application No.104 of 2013, have prayed for quashing the notification issued under Section 3-A of the National Highways Act, 1956 dated 25.5.2010 published in "Daily Dhanthi" dated 14.8.2010 in so far as the acquisition of six of the seven system tanks comprised in Survey Nos.23/15, 307/22, 288/11, 342/6, 377/2 and 398/2 of Eraniel Village and the connecting linkage canals of the said system tanks comprised in Survey Nos.288/6, 292/1, 292/4, 341/1, 343/7, 344/10, 364/5, 365/5, 378/12, 392/6, 396/1 and 397/1 of Eraniel Village and the consequential order of the eighth respondent dated 2.11.2010 and quash the same and to forbear the respondents from laying any road, destroying six of the seven system tanks comprised in Survey Nos.23/15, 307/22, 288/11, 342/6, 377/2 and 398/2 of Eraniel Village and the connecting linkage canals situated in the above mentioned survey numbers between km 62/000 and km 66/000 of the proposed Trivandrum – Kanyakumari Road as detrimental to the ecology and environment.

11. In these applications the applicants challenge mainly the Notification issued under Section 3-A of the National Highways Act, 1956 relating to the acquisition of land covering in the above said tanks on the ground that it affects the sensitive and fragile ecology of Kalkulam Taluk. The applicants have also stated that the following ponds, canals and tanks are situated in the proposed formation of road between km 62/000 to km 66/000

S.No	Survey No.	Extent (in ares)	Village	Particulats
1	287/16	0.30.5	Tiruvithancode	Pond
2	382/4	0.81.5	Tiruvithancode	Pond
3	267/9	0.25.0	Tiruvithancode	Canal (Vaikkal)
4	382/10	0.00.5	Tiruvithancode	Canal (Vaikkal)
5	403/1	0.10.0	Tiruvithancode	Canal (Vaikkal)
6	410/1	0.14.0	Tiruvithancode	Canal (Vaikkal)
7	411/6	0.18.5	Tiruvithancode	Canal (Vaikkal)
8	422/6	0.04.5	Tiruvithancode	Canal (Vaikkal)
9	423/1	0.03.0	Tiruvithancode	Canal (Vaikkal)
10	423/5	0.14.0	Tiruvithancode	Canal (Vaikkal)
11	424/1	0.06.5	Tiruvithancode	Canal (Vaikkal)
12	439/6	0.07.0	Tiruvithancode	Canal (Vaikkal)
13	23/15	0.38.5	Eraniel	Pond
14	288/11	0.45.5	Eraniel	Pond
15	307/22	0.33.5	Eraniel	Pond
16	342/6	0.66.0	Eraniel	Pond
17	377/2	0.54.5	Eraniel	Pond
18	398/2	0.48.5	Eraniel	Kollakudivilai Pond but mentioned as Vaikkal
19	288/6	0.010	Eraniel	Canal (Vaikkal)
20	292/1	0.09.9	Eraniel	Canal (Vaikkal)
21	293/4	0.020	Eraniel	Canal (Vaikkal)
22	341/1	0.31.0	Eraniel	Canal (Vaikkal)
23	343/7	0.04.5	Eraniel	Canal (Vaikkal)
24	344/10	0.02.5	Eraniel	Canal (Vaikkal)
25	364/5	0.09.5	Eraniel	Canal (Vaikkal)
26	365/5	0.11.0	Eraniel	Canal (Vaikkal)
27	378/12	0.07.0	Eraniel	Canal (Vaikkal)

28	392/6	0.01.0	Eraniel	Canal (Vaikkal)
29	396/1	0.02.5	Eraniel	Canal (Vaikkal)
30	397/1	0.23.0	Eraniel	Canal (Vaikkal)

That apart the applicants reiterate the averments made in the previous application. The applicants have also stated that paddy fields to an extent of 1,500 acres will be affected by such acquisition.

12. Application No.116 of 2013 (W.P.(MD) 8281 of 2011) challenges the Environmental Clearance (EC) granted by the MoEF & CC dated 9.9.2010 for 4/6 laning from Kerala – Tamil Nadu Border to Kanyakumari of NH 47 and Nageroil Kavalkinaru Section of NH 47 B proposed by the National Highways Authority of India on the same grounds. However, the above said application has been filed by the Conservation of Nature Trust alone. In this application, the applicant has chosen to raise an additional point that the EC is in violation of EIA Notification, 2006 and the application placed before the Expert Appraisal Committee of the MoEF & CC (EAC) was not within the time stipulated and the finalisation by the EAC also was not as per the time schedule given under the EIA Notification, 2006. The applicant also refers to the fact that India being a signatory to the RAMSAR Convention 1971 by which no wetland should be destroyed and by the present project more than 100 tanks and canals are to be destroyed.

13. Application No.127 of 2013 (W.P.(MD) No.3634 of 2012) was also filed as a Public Interest litigation by the applicant who is a resident of Kuzhithurai, praying for quashing the EC granted by MoEF & CC dated 9.9.2010 for the deviated National Highways Road Project and for a direction against the MoEF & CC to consider the objections of the applicant regarding widening of NH 47 and NH 47 B road in so far as it relates to the distance from Kaliakavilai to Nagercoil.

14. According to the applicant, the first respondent has failed to call for feasibility of the compliance of specific conditions attached to EC i.e., specific conditions relate to diversion of 0.88 m of forest and, cutting of trees, commitment made during the public hearing, measures required to be taken to mitigate the adverse impact in the waterbody. According to the applicant, the specific condition itself shows that the MoEF & CC has

granted the impugned EC with total non-application of mind. Based on a clause in the project report referring about the alignment after crossing the Kerala Border at Km 43/000 to Km 49/000 at Manjamkuzhi, km 49/000 to km 58/450, km 58/450 to km 65/000 and km 65/000 to km 71/000 etc., all are areas which are remote and located about 6 – 8 km from the present NH 47 and therefore it is not a project for widening NH 47 from Kerala border to Kanyakumari but it is to form a parallel highway for 53 km in the remote areas. The applicant infers that such project is not intended for the upgradation but it will downgrade the existing NH 47. It is also the case of the applicant that while the Kerala Government has decided to widen the existing two lane road from Karamana to Kaliyakavila to four lane, the logical conclusion should be that NH 47 should continue the said link. The new road suggested is not the outcome of the feasibility status if one refers to the feasibility report, as the concern of that authority was only to connect Tiruvananthapuram to Kanyakumari and the original Gazettee Notification by the government itself was only to widen the existing NH 47. But the new highway of 73 km length ignores the commercial centres of Neyyattinkara, Kaliyikkavila, Marthandum and Thuckalay. The laying of 73 km road by way of diversion has not been chosen to meet any of these commercial centres. According to the applicant, the environmental status and reports are fabricated.

15. Kanyakumari being the smallest District in Tamil Nadu, cannot afford to have another highway. The objections made by the applicant have not been considered in their proper perspective. It is also the case of the applicant that to his understanding 99 ponds will be affected by the deviated project causing total destruction of 29 ponds and partial destruction of 70 ponds. Even though the applicant has not categorised the 29 ponds, he has chosen to mention about the same showing that it will affect the ecology and environment, apart from diminishing the storage of water and obstructing free flow of water to other waterbodies. The applicant also states that by the realignment, 25 agricultural villages will be affected and waterbodies will be destroyed which is an environmental hazard and against public interest. The government has a duty and responsibility to see that Urani, Odai, Lake and other waterbodies in the villages are maintained for the purpose of preserving ecological balance as held by the Apex Court and other courts of the country. It is also stated that even in the existing alignment of NH – 47, on both sides of the road, lands to an extent of 60 to 80 feet width are available

throughout its length and that alternate aspect has not been considered before approving the deviated path. It is also the case of the applicant that the reason given for the purpose of deviation that on both sides of the existing road, there are constructions is false. On the other hand, it is totally ignored that on the deviated path it would not only result in demolition of the residential buildings but it will displace families in large number by taking away their home based occupational and independent family life by destruction of 1558 structures along with households and damaging 685 acres of agricultural land. The families which are likely to be affected are estimated to be 5,930 and persons affected are 29,580. Even the calculated amount of compensation is very meagre with the result the entire families will collapse. The Detailed Project Report (DPR) has been illegally changed only to accommodate vested interest. According to the applicant, two very big ponds at Kuthirapanjankulam with a water spread area of nearly 25 acres along with Pannivakkal which serves around 100 acres of paddy field and Putheriperiyakulam of 100 acres serving of 500 acres, are going to be destroyed. It is also stated that when mass representations were made pleading for dropping the idea of the formation of parallel road, the Revenue Divisional Officer has agreed to look into the representation. However, no serious thought has been made to the representations made by large number of people. Therefore, according to the applicant, the violation of special conditions given by the first respondent show the non-application of mind, the people in large number will be affected apart from affecting water bodies and with that pleading the applicant has sought for quashing of the EC dated 9.9.2010 and to direct the applicant to be heard.

16. The District Collector in these cases has stated that the Project Director of the National Highways Authority of India in his letter dated 19.9.2009 has sent a Land Plan for acquiring lands in Thiruvithancode and Eraniel Villages of Kanyakumari District for NH – 47. The Special District Revenue Officer is the Competent Authority for land acquisition and the Special Tahsildar (Land Acquisition – National Highways – Unit II), Nagercoil has been authorised to attend the work relating to Eraniel Village while the Special Tahsildar (Land Acquisition National Highways Unit – III), Vilavancode has been authorised to attend the work relating to Vilavancode Village. The Notification under Section 3A(1) of the National Highways Act, 1956 pertaining to land acquisition in

Thiruvithancode Village was issued on 16.2.2010 and such notification in respect of Eraniel Village was published on 25.5.2010 in the Government of India Gazette. The notification was published in local dailies viz., "Daily Thanthi" and "Indian Express" on 20.3.2010 and 14.8.2010 respectively. The petitions received pursuant to the notification were sent to the Project Director, National Highways Authority of India, Kanyakumari for "remarks". The Special District Revenue Officer (Land Acquisition- National Highways), Tirunelveli has conducted an enquiry on 23.7.2010 as per Section 3C(2) of the National Highways Act, 1956 in the office of the Special Tahsildar (Land Acquisition) National Highways, Vilavancode in respect of Thiruvithancode Village and on 24.11.2010 in respect of Eraniel Village. The objections were rejected by the District Collector on 8.7.2010, 6.8.2010 and 21.1.2011 and a Draft 3D(1) Notification and comparative statements in duplicate was published in the Gazette on 11.1.2011 and the notification received from the Special Tahsildar, Nagercoil was published on 16.5.2011. Thereafter, an enquiry under Section 3G(3) of the National Highways Act, 1956 was conducted on 11.10.2011, 12.10.2011 and 13.10.2011.

17. While denying the allegations raised by the applicant, it is stated by the District Collector that in respect of EC granted by MoEF & CC in favour of National Highways Authority, it is that authority which is the appropriate authority to respond. However it is stated that the project of laying road is in public interest and in that process certain trees have to be cut and NHAI has agreed to plant sufficient number of trees to maintain ecosystem and environment. The acquisition proceedings are all completed and nearing the "Award" stage.

18. It is the case of the Project Director, National Highways Authority of India, the Project Proponent that the National Highways Authority has been constituted under a Parliament Act with the task of development, maintenance, management of national highways. The project of widening and four laning and forming of bye-pass from Kerala/Tamil Nadu border to Kanniyakumari of NH 47 including Nagercoil- Kavalkinaru of NH 47 B which was entrusted to the Project Director, Valliyur, was enunciated by a Detailed Project Report (DPR) and submitted to NHAI in April, 2008 and the alignment for the road was prepared in 2005-2006 which is in the DPR and the approved alignment has not been changed. The MoEF & CC has issued EC on 9.9.2010 with various conditions

for the said project of 4 laning Kerala/Tamilnadu border – Kanyakumari on NH 47 including Nagercoil – Kavalkinaru NH 47 B. Before granting EC, a public hearing was conducted on 21.8.2009 at the Kanyakumari District Collectorate, Nagercoil under the Chairmanship of the District Collector, Kanniyakumari and conducted by the Tamil Nadu Pollution Control Board. The EAC in its 89th meeting held between 21st and 23rd July, 2010, has recommended the proposal for EC.

19. It is stated that the proposed road is in the original approved alignment and there is no deviation from Punkarai Hamlet to Kollakkudivilai. It is stated that the proposed alignment crosses five tanks and passes through the edge of another tank and the project does not affect seven system tanks, as alleged by the applicants. The Detailed Project Report (DPR) prepared by the Consultant M/s. Secon Pvt. Ltd, dated 4.3.2010 also states the same. It is reiterated that the proposed alignment and approved original alignment between KM 58/000 to KM 65/000 are one and the same and does not cause any hazard to environment and ecology. It is further stated that there is no deviation from the original approved alignment in KM 62/000 to KM 66/000 from Punkarai to Kollakkudivilai to favour any person. There is no proposed unapproved deviated route affecting seven system tanks. There is no addition of road length by two kilometres and the allegations that 140 houses are to be destroyed, 200 families are to be displaced, 500 tombs are to be annihilated in three graveyards in Survey No.394/16, 317/13 and 560/5 of Thiruvithancode Revenue Village are all denied.

20. It is the further case of the NHAI that the new four laning road does not hamper the existence of drinking water structures viz. lake, well and both, road as well as water supply arrangement co-exist. It is further stated that the project does not lower down the ground water table in the locality. Even the cultivation of paddy has been abandoned by the farmers of the locality. The canal system of Kanyakumari District is independent and do not depend upon the formation of new four laning road and is not also affected by the four laning road and therefore the allegation of the applicants relating to aquifer and the water table existing within the vicinity of six kilometres radius is not a relevant factor. The natural springs and ecology are not affected by the formation of four laning of new alignment. It is also stated that the project does not interfere with the discharge of water from Valliyar river and therefore there is no basis for apprehension that the Valliyar will

become dry. It is further stated that the project does not affect the existing temple tanks. The ground water in the area is already becoming saline and formation of new four laning road have nothing to do with the same and they are not inter connected. It is also submitted that the maximum depth of fill/cut in the section is not more than 25 meters and the same is explained in the DPR. It is further stated that the formation of new four laning road does not affect the coir/local industries. On the other hand, these industries are benefited by the road. The proposed four laning road is designed for a speed of 100 km per hour and there is no necessity to have straight alignment for achieving the design. The geometry of the road can be in straight line or it may be a curve that can accommodate the designed speed of 100 km per hour. All mitigation measures required regarding irrigation tanks will be taken by the Public Works Department (PWD) with the financial assistance of NHAI and the project does not affect the irrigation tank as it exists. The reduction of paddy cultivation in the District has nothing to do with the formation of road and it is not attributable only to the preferences of the farmers. The Consultant, who has prepared the DPR has undertaken Environmental Impact Assessment (EIA) study and the EAC on Building Construction, Coastal Regulation, Infrastructure Development and Miscellaneous Projects has appraised the proposal scientifically and recommended for the grant of EC as stated above and ultimately the MoEF & CC has issued EC on 9.9.2010, while reiterating that four laning of NH 47 and also KM 62/0 to KM 66/0 is carried out only in the approved alignment. There is no ecological imbalance that is likely to be created by the project and the design of alignment was taken scientifically with adequate mitigation measures by following the norms. Further, the project does not alter the existing land use pattern or affect the agriculture.

21. The Tamil Nadu Pollution Control Board in its reply has stated that the National Highways Authority of India, Kanyakumari – Trivandrum – NH – 47 – NHDP – Phase – III Programme has filed an application for “Consent” under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 for the proposal of forming of 4/6 laning of NH 47 and NH 47 B by the National Highways Authority of India and it was returned by the Board for want of EC from MoEF & CC under the EIA Notification, 2006 on 24.2.2009.

22. It is stated that as per the EIA Notification, 2006 the public hearing in respect of the project was conducted based on the proposal given by the project proponent and in that regard a wide publicity by way of advertisement was given in local dailies on 18.7.2009, informing the public, giving minimum 30 days time, fixing the date of public hearing as 21.8.2009. The applicants have attended the public hearing, presided over by the District Collector, Kanyakumari and availed the opportunity to raise their objection. The expressions raised in the public hearing were recorded and as approved by the District Collector were submitted to the MoEF & CC on 6.10.2009 for taking further action in respect of issuance of EC under EIA Notification, 2006. In the mean time, representations received from the applicant have been forwarded to the Project Director of NHAI, Valliyoor to consider the same on merits.

23. The Executive Engineer of the Public Works Department, Kanyakumari, in the reply, while denying that the seven system tanks are being acquired stated that the said tanks mentioned in the application are belonging to PWD and there is no question of acquisition of the said water bodies. While it is true that if the PWD tanks and water bodies are affected, then environment and ecology may be affected. The seven tanks mentioned by the applicant belong to Kalkulam and are under the control of PWD. It is also stated that Mambilakulam tank, Nelliarakonam Chettikulam Tank are having an ayacut of 2.23.0 Ha and 2.37.0 Ha respectively. It is stated that if the above mentioned six tanks form a group and if one tank in the group is affected, the lower tank will also be affected. Apart from seven major tanks, there are 20 fresh water natural springs and many connecting canals which may also be affected, if there is an unapproved deviation of alignment. While it is admitted that the watercourse should not be affected on any account from the alignment of NHAI, the storage capacity of the tanks should not be reduced. The PWD has limited role regarding NHAI proposal. However, it is stated that the destruction of tanks and connecting canals should be avoided for the fulfilment of irrigation. It is also stated that elevated passage for the road may be provided so that no reduction in storage of the said seven tanks happens.

24. The MoEF & CC in the reply has stated that the NHAI has submitted a proposal for EC on 14.5.2007 for 4/6 laning of package II KM 43,000 to KM 96,714 from Kerala/Tamil Nadu Border to Kanyakumari of NH 47 and Nagercoil – Kavalkinaru section of NH 47-B.

The proposal was considered in the EAC meeting on 24.5.2007 and 25.7.2007 and the TOR was finalised for carrying out the Environment Impact Assessment (EIA) study including conducting of public hearing as per EIA Notification, 2006.

25. The public hearing was conducted on 21.8.2009 by the Pollution Control Board under the Chairmanship of the District Collector and the papers were received by the MoEF & CC on 7.5.2010. The project proponent has submitted final Environmental Impact Assessment (EIA) report on 1.4.2010. The final EIA report submitted by the project proponent along with the proceedings of the public hearing were considered by the EAC in the meeting held between 21.7.2010 and 23.7.2010 and after due consideration of the relevant documents submitted by the project proponent and additional clarification, recommended the proposal for EC subject to certain conditions. Accordingly, the MoEF & CC has issued EC on 9.9.2010 to the project proponent stipulating necessary conditions for environmental safeguards.

26. The District Revenue Officer, Tirunelveli in his reply has stated that the Project Director of NHAI has sent a proposal for land acquisition and thereafter the Special Tahsildar, Land Acquisition, National Highways – Unit II, Nagercoil has sent Draft 3A(1) Notification for publishing in the Gazette of India relating to Eraniel Village and the same was published in the Government of India Gazette on 25.5.2010. The Gazette Notification was published in the local newspaper "Daily Thanthi" and "Indian Express" on 14.8.2010 and there were 105 petitions from the land owners, out of which 101 petitions were received within the stipulated time and four petitions thereafter. The copies of the objections were sent to the Project Director, NHAI and the Special District Revenue Officer, Land Acquisition, National Highways, Tirunelveli has conducted an enquiry on 24.11.2010 under Section 3C(2) of the National Highways Act, 1956 in the office of the Special Tahsildar, Nagercoil. During the enquiry, representations were received from the applicant and others and after considering the statement of the land owners and remarks of the Project Director, the objections were rejected on 21.1.2011 and the Draft Notification under Section 3D(1) was received in duplicate on 17.3.2011 and published in the Government of India Gazette on 16.6.2011. The Competent Authority has conducted an enquiry under Section 3G(3) of the Act on 11.10.2011, 12.10.2011 and 13.10.2011 in respect of passing of Award.

27. It is also stated that even though some of the trees will have to be cut, no damage will be caused to the tanks, springs or waterbodies or irrigation sources. It is stated that the existing National Highway from Kerala/Tamil Nadu border to Kanyakumari passing through the entire Kanyakumari District is very narrow with continuous development of structures on either side of the road and at present the traffic on the road crossed its carrying capacity and the congestion of the road has brought down from the expected designed speed of 80 KM per hour to 30 KM per hour.

28. It is stated that the Pollution Control Board has conducted public hearing presided over by the District Collector, Kanyakumari on 21.8.2009 regarding the EC for the project and ultimately EC was granted on 9.9.2010. The EC contains various conditions to protect the environment. The averment of the applicant that the seven tanks will be destroyed completely and 100 tanks will be landfilled, is totally denied. According to the said respondent, if the proposed road pass through 26 tanks they will be destroyed. However, the existing irrigation facility will be maintained, since required irrigation measures will be carried out by the PWD, Tamil Nadu with the funds provided by NHAI. Only surface water will be used for implementation of the project and not ground water. It is stated by the project proponent that as against the EC granted by MoEF & CC the remedy available to the applicant is only to challenge the same in the manner known to law and the applications cannot be maintained. It is stated that even during the time when the writ petitions were filed, the National Environment Appellate Authority Act, 1997 was in force which provided appeals to the National Environment Appellate Authority under Section 11 of the said Act and without resorting to any of the said remedies, the applicant has chosen to approach the High Court and ultimately this Tribunal. Hence the applications are liable to be dismissed.

29. Application No.127 of 2013 which was originally filed as W.P.(MD).No.3634 of 2012 in the High Court of Madras, Madurai Bench praying to set aside the EC dated 9.9.2010 and to direct the MoEF & CC to consider the objection of the applicant regarding the widening of the existing NH 47 and NH 47 B road in so far as the distance from Kaliakavilai to Nagercoil. The first respondent MoEF & CC has stated that the second respondent-project proponent has submitted a proposal on 14.5.2007 for EC for the proposed expansion of Highway and the EAC in the meeting held on 24.5.2007 and

25.7.2007 has issued ToR to the project proponent to carry out Environment Impact Assessment Study and to conduct public hearing as per the EIA Notification, 2006. The public hearing was held on 21.8.2009 and the project proponent has also submitted final EIA on 1.4.2010 and the copies of the public hearing were received on 7.5.2010 from the Pollution Control Board. The entire issues were considered in the EAC meeting held between 21.7.2010 and 23.7.2010 and recommended for the issuance of EC and ultimately the first respondent has granted EC on 9.9.2010 with conditions of environmental safeguard.

30. It is stated that the appraisal has been done in accordance with EIA Notification, 2006 and as per the proposal submitted by the project proponent, the major rivers which cross the project road are Tamirabarani and Palayar. That apart, the alignment cross few ponds viz., Tamaraikulam pond at KM 49,500, Pudukulam pond at KM 54,625, Valliyar River at KM 66,850, Big tank at KM 77,650 other ponds at NH 47 are at KM 55,520, 63,440, 64,250, 64,550, 68,000, 68,510, 70,700, 71,300, 71,600, 72,000, 72,300, 73,500, 73,900, 88,950, 89,150, 90,120, 91,500, 92,450, 93,550, 94,800, 95,250 and 96,250. The ponds on NH 47 B are at KM 1,050, 1,500, 2,200 and 5,250. The first respondent has sought for additional information regarding other ponds that are likely to be affected and preventive measures. The details were submitted by the project proponent.

31. The second respondent – project proponent in the reply filed in the High Court on 23.4.2012, has stated that the Government of India, in order to give boost to the economic development of the country, has embarked upon a National Highways Development Project (NHDP) in the country which is the largest project being implemented by the National Highways Authority of India in seven places viz.,

NHDP Phase I & II: Total Projects 363 (Phase I – 199 & Phase II 164)

The Phase I & Phase II of NHDP comprises Golden Quadrilateral (GQ) i.e. National Highways connecting four metropolitan cities, North-South corridor from Srinagar to Kanyakumari etc. Total length 14,145 Km. of cost Rs.80,626 Crore.

NHDP Phase III: (Total 156 Projects)

NH having high density corridor connecting state capitals, important tourist places with an estimated cost of Rs.80,626 crore.

NHDP Phase IV: (Total 18 Projects)

NHDP comprising 2 laning with paved shoulders of 20,000 kms. Of National Highways. The Government has approved the upgradation /strengthening of 5,000 km of single/intermediate/two lane National Highways to two lane with paved shoulders under NHDP Phase IVA on BOT (Toll) and BOT (Annuity) basis at an estimated cost of Rs.6950 crores.

NHDP Phase V: (Total 51 projects)

NHDP comprising 6 laning of 6500 Kms of existing 4 lane highways on Design Build Finance & Operate (DBFO) basis at cost of Rs.41,210 crore. This includes 5700 Km of GQ and 1800 Kms at other selected stretches.

NHDP Phase VI:

Phase VI envisages development of 1000 km fully access controlled expressways under Public Private Partnership (PPP) model following Design – Build – Finance – Operate (DBFO) approach at an estimated cost of Rs.16,680 crore.

NHDP VII: (Total 2 Projects)

Phase VII envisages construction of stand alone Ring roads, Bypasses, flyovers tunnels etc. on BOT (Toll) mode at an estimated cost of Rs.16,680 crore.

The details of existing NHDP in the country are furnished below

	Total Length (Km.)	Already 4/6 Laned (Km.)	Under Implementation (Km.)	Contracts Under Implementation (No.)	Balance Length for Award (Km.)
By NHAI	49,328.5	21,181	12,331.50	222	15,816

The details of Projects so far completed by the NHAI in Tamil Nadu

S.No.	NH No.	Name of the Project	Length in Km.
1.	7	4 laning of Hathipali to Krishnagiri	70.99
2.	46	4 laning of Krishnagiri to Walajahpet	148.20
3.	4	4 laning of Walajahpet to Poonamalee	92.60
4.	5	4 laning of Chennai to Tada	42.80
5.	7	4 laning of Krishnagiri to Samayanallur	328.68
6.	7	4 laning of Madurai to Kanyakumari	243.170

7.	47	4 laning of Salem to Chengapalli	102.04
8.	67	4 laning of Thanjavur- Trichy Section	56.49
9.	45	4 laning of Trichy – Dindigul Section	88.27
10.	45B	4 laning of Madurai- Thoothukudi Section	128.50
11.	66	4 laning of Pondicherry – Tindivanam Section	38.62
12.	68	4 laning of Salem- Ulundurpet	136.360
13.	45 & 4	Construction of Chennai by pass – Phase I (2 Lane)	19.20
14.	45, 4 & 5	Construction of Chennai By pass – Phase II connecting NH-4 and NH-5 and widening of Chennai By pass Phase I connecting NH 45 and	32.22
15.	45	4 laning of Tambaram to Trichy Section	298.22
16.	45B	4 laning of Trichy Bypass to Madurai	124.84
17.	67	2 lane with paved shoulder of Karur – Coimbatore Section	114.40
18.	67	Construction of ROB at Lalpet	2.29
19.	4, 45 & 205	Improvement of Access to Golden Quadrilateral (GQ) Corridor by Free Flow facilities along NH-4, NH-45 and NH-205 within Chennai City	3.80
		Total	2071.69

32. The work of preparation of DPR to form six lining from Kerala/Tamilnadu border to Kanyakumari section of NH 47, including Nagercoil – Kavalkinaru section of NH 47 B was entrusted to M/s. Secon Pvt. Ltd., Bangalore which is the Consultant of NHA in the year 2004. The above section is included in NHDP – Phase –III. The project proponent has applied for EC to the MoEF & CC on 14.5.2007 and after observing all formalities, EC came to be granted to the project proponent on 9.9.2010. Paragraph 11 of the EC enables any person to appeal against EC to the National Environment Appellate Authority within 30 days. The National Green Tribunal Act, 2010 came into force from 18.10.2010 and it has Appellate Jurisdiction under Section 16 of the NGT Act, 2010. The National Green Tribunal Act, 2010 superseded the National Environment Tribunal Act, 1995 and

the National Environment Appellate Authority Act, 1997. The applicant ought to have approached the National Green Tribunal to challenge the EC. It is stated that NH 47 from Kerala/Tamilnadu border Kaliakavilai to Kanyakumari passing through the entire Kanyakumari District is very narrow with continuous ribbon development of structures built on either side. The existing NH 47 B from Nagercoil to Kavalkinaru is also very narrow with the structures on either side. The width of the above NH 47 and NH 47 B is ranging from 12 M to 20 M. As it is not feasible to widen the existing NH 47 and NH 47 B, the DPR prepared by the project proponent M/s. Seccon Pvt. Ltd., has proposed alternate alignment by-passing the existing NH 47 which runs parallel to the existing NH 47 at a distance of around 2 – 3 KM. The alignment proposed in the DPR has been approved by NHAI during 2005 – 2006,

33. It is the case of the project proponent that the applicant, along with some others, formed a committee known as NH 47 Development Action Committee at Kuzhithurai in Vilavancode Taluk of Kanyakumari District to which the applicant is the Secretary. The committee has spread false propaganda that Kuzhithurai will loose its image if new four laning road is formed. On the other hand, the general public of Kanyakumari District favour the proposed move of the Government of India to form the new four laning road for NH 47 and NH 47 B. Various representations were made on behalf of the public by various organisations. It is denied that EC has been granted without application of mind. The very fact that the Expert Appraisal Committee, after considering the proposal of the project proponent dated 14.5.2007, finalised the ToR, based on which the project proponent has made Environment Impact Assessment Study and the public hearing was conducted by the Tamil Nadu Pollution Control Board on 21.8.2009 and the Expert Appraisal Committee (EAC) has recommended for EC for the project on 21.7.2010 and 23.7.2010 and only after EIA, EMP, public hearing proceedings and further information and clarifications furnished by the project proponent, the MoEF & CC has granted EC, shows that all the legal procedures were followed. Deliberations were made by the MoEF & CC independently in accordance with the EIA Notification, 2006 before granting EC. As per the EC, the project proponent has to comply with the conditions both specific and special. It is further stated that a meagre extent of 0.88 Ha, out of the total extent of project area of 426.15 ha, alone is the forest land, which represents 0.002% of the total

area acquired. Road will be formed on the forest land only after obtaining required permission from the Competent Authority and the trees in the forest will be removed after getting permission from the authorities concerned. There are no perennial trees or rubber plantations in the forest land proposed for diversion and there are small trees and bushes. Required mitigation measures against the adverse impact on the water bodies will be made as per the conditions stipulated in the EC. The allegation that the proposed road will pass through the remote area for about 6 – 8 KM length from NH 47 is denied. On the other hand, the new road will run within a distance of 2 – 3 KM in Tamilnadu portion. The applicant's assertion of downgrading the image of the existing NH 47 in the event of forming the NH 47 four laning road is not correct. In this regard it is the case of the project proponent that the Government Order dated 27.5.2010 was not ignored before the proposal was submitted. The National Highways in India are under the control of Ministry of Road Transport and Highways Government of India and the stretch of National Highway from Trivandrum to Kaliyakavilai in NH 47 also comes under the category. The alignment for forming new four lane road for NH 47 from Kazhakuttam to Kanyakumari is explained in the DPR in 2005 and the NHAI has approved the same. When once the four laning road of NH 47 is formed in the approved alignment, the existing NH 47 two laning road will be handed over to the State Government viz., Kerala/Tamil Nadu. The Kerala Government does not prevent the National Highways Authority from forming new four laning of NH 47 road in the approved alignment and that is also reflected in the Hon'ble Governor's address in the Legislative Assembly of Kerala. The NHAI has entrusted the work of preparation of DPR to M/s. Secon Pvt.Ltd, Bangalore in 2004. The consultant has stated that it is not feasible to widen the existing road, as there are continuous houses, commercial buildings, temples etc on either side of the road warranting a by-pass running parallel to the existing NH 47 at a distance of 2 to 3 KM at Tamil Nadu stretch. Further, there are a number of sub standard curves on the road which do not allow smooth flow of traffic and hence NHAI has proposed to form a new four lane road. It is further stated that the proposed new four laning road in Tamil Nadu State runs parallel to the existing NH 47 at a distance of 2 to 4 KM having numerous cross roads at every 2 or 3 KM interval to connect the existing NH 47 and the proposed NH 47 four laning. Further, the allegation that NHAI has violated the basic objective of the National Project is denied. It is stated

that the National Highways in other Districts of Tamil Nadu are having a road width/right of way of more than 30 – 40 M and pass through uninhabited areas. On the other hand, the width of NH 47 and NH 47 B is only 12 M – 20 M and there are large number of habitations/structures on both sides of NH 47 and NH 47 B. In other Districts, by passes are formed in order to avoid demolition of structures/habitations and such procedure is not feasible in Kanyakumari District and therefore it was proposed to form a new road by passing NH 47 in order to avoid demolition of large number of dwelling units and shops. It is further stated that the proposed road passes through periphery of Therkkumalai forest warranting minor diversion to an extent of 0.88 ha of forest land.

34. The road will be formed in the forest land only after obtaining permission from the competent authorities. The total extent of land acquired for the project is 426.15 Ha and the road will be formed on the forest land only after obtaining necessary permission from the authority competent as contemplated in the EC. In the said forest land there are no perennial trees or rubber plantations and there are only bushes and small trees. It is specifically stated that the trees will be removed only after obtaining necessary permission from the competent authority. It is also stated that the details pertaining to 29 tanks were provided to MoEF & CC and based on that EC was granted. It is also stated that 20 water tanks are not to be destroyed by the formation of four laning road. On the other hand, the tanks and road will exist for the benefit of people at large. The mitigation measures, as proposed by PWD, will be implemented. It is denied that 29 ponds will be destroyed by the project but the road only passes through 29 tanks without destroying them and all mitigation measures will be carried out by the PWD with the funds of the National Highways Authority of India. In respect of storage capacity of water in the tanks, it is stated that the status quo will be maintained and in addition to that whatever mitigation measures suggested to be taken by the PWD, will be carried out. It is also stated that the existing channels and vaikkal crossing the proposed four laning road will be maintained by constructing cross drainage works such as pipe culverts, slab culverts and minor bridges, depending upon the width of the channels. The status quo in respect of water holding capacity will be maintained by implementing all necessary mitigation measures proposed by PWD with the funds provided by NHAI.

35. Regarding the allegation that the existing highway can be widened with acquisition, it is stated that thousands of small and big houses/shops are situated on either side of the existing NH 47 continuously and demolition of houses and shops to widen the road will be detrimental to the interest of the people. Moreover, the width of the road is very narrow and cannot be widened without demolishing large number of dwelling houses and shops. There are large number of sub standard curves with poor geometry which do not allow smooth flow of traffic. In this regard, the existing NH 47 may have marginal encroachment of the nature of temporary projections for the existing structures. The Government of India has taken a policy decision to acquire 60 mts width of land in case of widening/forming of four laning National Highways, as it is seen in the Circular of Government of India dated 22.12.2003. This 60 mts width is for accommodating future expansion to four laning road. In the State of Kerala, National Highways have been widened as 4/6 laning road by acquiring 45 and 60 mts right of way. However, in certain National Highway Projects, the Kerala Government requested for acquiring land lesser than 45 mts width and the same has been accepted by NHAI, as a special case. In case of State of Tamil Nadu, no such situation prevails and the acquisition of 370 Ha land out of 426 Ha has been completed as per the Government of India norms. The allegation of the petitioner that about 2,000 acres of fertile land will be affected by the project is denied as false. The NH 47 proposal of four laning is taken up as per Policy Decision of the Government of India. The representations of the applicant have been properly replied by NHAI. In respect of the proposed four laning road alignment in Sivapuram area near Chunkankadai it has been realigned in the DPR due to the representation of the public and that change has been incorporated in the Final Detailed Project Report (FDPR) submitted in 2008. While it is true that the road alignment in Chunkankadai area passes through two waterbodies, the allegation that the waterbodies are going to be destroyed is denied, as mitigation measures to maintain status quo in terms of water holding capacity will be carried out by PWD with the funds of NHAI. Further, the alignment of new four laning NH 47 was based on the scientific requirements as per the Indian Road Congress and Ministry of Road, Transport and Highways specifications with an emphasis on social concern of the project affected people. The request of the applicant to widen the existing NH 47 in respect of forming it as a new four laning road in an alternate approved

alignment running parallel to the existing one at a distance of 2 to 3 KM, cannot be considered at any point of time, as the alignment has been approved in the year 2006 itself.

36. It is also stated that the petitioner's interest is a personal interest and no public interest is involved. It is reiterated that the existing NH 47 two laning is experiencing heavy congestion due to heavy traffic beyond its capacity, especially during the peak hours and there are number of sub standard curves which have poor geometry which do not allow smooth flow of traffic. The distance between Nagercoil and Trivandrum is hardly 67 KM and the same will take three hours to reach from one place to other with a speed which cannot be more than 20 to 25 KM per hour, as against the designed speed of 60 to 80 KM per hour for any National Highway. Therefore, laying of a new four laning road is the need of the hour. The project is at an estimated cost of Rs.80,626 Crore taking into consideration that the corridor is connecting the two State capitals, important tourist places and economically important area etc. In fact, the DPR prepared by the Consultant M/s. Secon Pvt. Ltd, Bangalore was based on many reports submitted by the Consutant viz., The Quality Assurance Plan on 20.6.2004, Revised Quality Assurance Plan on 24.8.2004, Draft Feasibility Study Report for NH 47 on 20.12.2004 and for NH 47 B on 18.1.2005, Final Feasibility Study Report on 11.4.2005, Draft Preliminary Project Report on 20.7.2005 and Final Draft Preliminary Project Report on 16.8.2005, Draft Detailed Project Report on 30.11.2005 and Final Detailed Project Report on 25.4.2008. Most of the people in Kanyakumari District have not objected the project. However, some people have requested for change in alignment in order to avoid their lands from being affected. In fact, people of Kuzhithurai have sent several representations to the Hon'ble Chief Minister of Tamil Nadu requesting to form new road as early as possible explaining the difficulties in widening the road. Further, the Chairman, State Minorities Human Right Council, Nagercoil has sent representation to the Government and others, requesting to form a new road as early as possible. It is stated that the land acquisition has been completed and the enquiry under Section 3G of the National Highways Act, 1956 has also been completed for all the lands under Section 3D of the Act and the passing of Award is under progress. It is further stated that even though preliminary works for having new four laning road for NH 47 have started in the year 2004 and after the lapse of seven years

the civil work construction could not be commenced due to the various reasons and therefore, the interim order of stay is to be vacated in the interest of public.

37. In the additional reply filed by the project proponent on 9.12.2013 the project proponent has given the details of various projects undertaken by the NHAI and the details of ongoing projects and the projects awarded in Tamil Nadu are as follows:

S. No.	NH No.	Name of Project	Ongoing Project Length In Km.	To be awarded length in Km.
1.	220	2 laning of Dindigul-Perigulam Theni- Kumlli	134	
2, 3	67	4 laning of Coimbatore - Mettupalayam	53.93	
4.	205	Tirupathi-Tiruthani- Chennai	124.70	
5.	67	Trichy—Karur	79.70	
6	66	2 laning of Krishnagiri-Tindivanam	176.51	
7.	210 & 67	2 laning of Trichy – Karaikudi and Trichy	110.372	
8.	67	Thanjavur - Trichy	56	
9.	68	Salem - Ulundurpet		136.357
10.	47 & 47B	4 laning of Kerala/Tamil Nadu border – Kanyakumari Section		70.36
11.	49	Madurai – Ramanathapuram – Rameswaram Section		115.77
12.	67	Kangayapalayam to Mettupalayam Section		53.93
13.	67	Nagapattinam-Thanjavur Sec.		76.70
14.	210	Karaikudi – Ramanathapuram Section		79.55
15.	45A	Villupuram – Pondicherry Nagapattinam Section		194.00

16.	45C	Vikravandi- Kumbakonam- Thanjavur Section		165.00
17.	67 Ext.	Mettupalayam to Karnataka Border section		103.00
18.	209	Dindigul to Tamil Nadu/ Karnataka Border Section		244.60
19.	226	Thanjavur-Manamadurai Section		135.50
20.	227	Trichy- Chidambaram Section		135.40
21.	45	Six laning of Tambaram- Tindivanam section		93.00
22.	-	Chennai – Bangalore Expressway		259.00
23.		Construction of Stand Alone Ring Road/By pass for Madurai City		73.00
			735.212	1798.81

That apart, the project proponent reiterates the averments already made in the reply filed in other cases. Likewise, the State Pollution Control Board has also reiterated the reply made by it in respect of the other applications.

38. The Central Pollution Control Board in the reply has stated that it does not issue Consent/Licence/NOC/EC for the project. The project in question requires EC as per the EIA Notification, 2006 while "Consent to Establish" which operates either under the Water (Prevention and Control of Pollution) Act, 1979 or Air (Prevention and Control of Pollution) Act, 1984 is to be issued by the State Pollution Control Board.

39. It is the contention of Mr.T. Arul, learned counsel appearing for the applicants, except in Application No.127 of 2013 that by virtue of the project, the seven system tanks will have the impact from KM 62/000 to KM 66/000 and the EIA report does not speak anything about the seven system tanks except one tank. He has also stated that the said tanks will form chain and after filling one tank, water flows to all other tanks one by one and any attempt to landfill or destroy one tank will perish all the other tanks. Consequently, not only the ecologically sensitive area will be affected but also the

irrigation in the area will also be worsened. As far as the question of maintainability is concerned, particularly relating to the limitation, it is his contention that when all these applications were transferred from the High Court, as per the directions of the Hon'ble Supreme Court on BHOPAL GAS PEEDITH MAHILA UDYOG SANGATHAN V. UNION OF INDIA (2012) 8 SCC 326, there is no necessity to decide about the point of limitation in these cases. It is also his contention that when the High Court has transferred these cases only after finding out that the issue involved is of environmental importance, it is not open to raise preliminary issues at this stage and dismiss the applications on the ground of limitation, even if the writ petitions were not filed within 90 days from the date of granting EC. Even though in some of the writ petitions the challenge was relating to Notification issued under Section 3A of the National Highways Act, there is also a prayer to safeguard and protect the tanks from being land filled and therefore it cannot be said that even in those cases the Tribunal will not have jurisdiction. When the High Court has transferred these matters, the question of limitation cannot be gone into, especially when the High Court has not found that the writ petitions are liable to be dismissed on the point of latches. Judicial Review being the basic structure of the Constitution of India, on transfer from the High Court, the Tribunal should exercise a similar function, especially when acting as a judicial authority relating to environmental matters. He has also quoted many judgments to substantiate his contention that when once the matter has been transferred from the High Court and the High Court itself has not considered the question of latches or limitation, the Tribunal cannot go into that. He relied upon the various portions of the judgment of the Apex Court in the case of BHOPAL GAS PEEDITH MAHILA UDYOG SANGATHAN V. UNION OF INDIA (2012) 8 SCC 326. He would also rely upon BETTY C. ALVARERS VS. STATE OF GOA (Application No.63 of 2012 (WZ) dated 14.2.2014) wherein it was held that when the writ petition was entertained by the High Court and kept pending and transferred after the judgment of the Hon'ble Supreme Court in the case of BHOPAL GAS PEEDITH MAHILA UDYOG SANGATHAN V. UNION OF INDIA (2012) 8 SCC 326, one cannot say that after coming into force of the National Green Tribunal Act, 2010 a trick has been played by moving the High Court by filing the writ petition to avoid limitation period contemplated under Section 14 of the NGT Act, 2010. This is not a case where the applicants have withdrawn the writ petitions from the

High Court with liberty to approach the National Green Tribunal. But these are the cases which were pending in the High Court for many years and subsequently transferred to the National Green Tribunal.

40. It is his further submission that after the National Green Tribunal Act, 2010 came into force, it is only an order made after the commencement of the National Green Tribunal Act, which can be challenged before the National Green Tribunal and therefore, on the facts of the case, the applicants cannot be expected to approach the National Green Tribunal, nor there was any occasion to approach the National Environment Appellate Authority, so as to press into service Section 38(5) of the National Green Tribunal Act, 2010, as the EC was not placed in the public domain. Even if such EC was put in public domain on 9.9.2010, the applicant had a grace period of 90 days as per Section 11 of the National Environment Appellate Authority Act, 1997 and it having been repealed within a period of 37 days from the date of clearance the only remedy available to the applicants at that time was to approach the High Court under Article 226 of the Constitution of India. The applicants saw the advertisement in the newspaper "Daily Thanthi" only on 25.2.2011 and therefore there was no occasion for the applicant to approach the National Green Tribunal.

41. While controverting the contention that the applicants should have approached the National Environment Appellate Authority, New Delhi before the National Environment Appellate Authority Act, 1997 was repealed on 18.10.2010, the learned counsel would rely upon Condition No.9 of the impugned EC dated 9.9.2010 which imposes an obligation on the part of the project proponent to advertise at least in two daily newspapers, widely circulated in the region; one in vernacular language and another in English and the copies of EC must be made available with the State Pollution Control Board and also kept in the website of the MoEF & CC. In the present case, the paper publication was issued by the project proponent nearly five months after the EC dated 9.9.2010 was given, as it is seen in the publication of the newspaper dated 25.2.2011. Therefore, the applicants had no opportunity to approach the National Environment Appellate Authority prior to 18.10.2010 and the only remedy available to the applicants was to approach the High Court under Article 226 of the Constitution of India. The learned counsel would rely upon a decision of the Principal Bench of the NGT in the case

of SAVEMON REGION FEDERTION V. UNION OF INDIA (M.A.No.104 of 2012 in Appeal No.39 of 2012 dated 14.3.2013) wherein it was held that effective communication means that only when the EC was brought in to the public domain and published in the newspaper. People shall have knowledge about the entire contents of the EC and therefore the limitation would start only from the said effective date of communication. He has also referred to various paragraphs of the said judgment to show about the various stakeholders who have responsibilities under the EIA Notification, 2006 to contend that there was absolutely no occasion for the applicants to approach the National Green Tribunal. He has also relied upon the judgment of the Hon'ble Supreme Court in VIMAL BHAI's case to contend that even though the National Green Tribunal Act, 2010 came into force from 18.10.2010, the Southern Zone Bench was constituted only in 2012 and by applying the ratio laid down by the Supreme Court in VIMAL BHAI's case, there is no question of limitation which can be raised in respect of the applicants who have approached the High Court prior to 30.7.2011. It is his further submission that the applicants have a bonafide cause in prosecuting their valid claim prior to EC dated 9.9.2010, raising environmental issue relating to the destruction of seven system tanks. The applicants can neither approach the National Green Tribunal nor the National Environment Appellate Authority which itself was not properly constituted due to non-appointment of Judicial Member. He has again insisted on various paragraphs of the judgment of the Hon'ble Supreme Court in VIMALB GHAI's case in this regard. In any event, according to the learned counsel, the benefit given by the Supreme Court in the case of BHOPAL GAS PEEDITH MAHILA UDYOG SANGATHAN V. UNION OF INDIA (2012) 8 SCC 326 is applicable to the applicants on the facts and circumstances of the case. He also stated that when the applicants have raised an issue of fraud played by the project proponent in obtaining EC by suppression of material fact, by making environment impact study only in respect of 26 ponds, whereas the records show that number of tanks to be land filled is 70 in 21 out of 25 revenue villages and the number of canals to be land filled is 277 and in such circumstances the applicants cannot be denied any relief on the technical issue of limitation, peculiar on the facts and circumstances of the present case. He also submitted that the presence of 70 ponds and 277 canals which are affected in various Taluks viz., Vilavancode Taluk, Kalkulam Taluk, Agasteeswaram

Taluk, Thovalai Taluk have been clearly mentioned in the 3A Notification as well as the particulars provided under the Right to Information Act. In the absence of mentioning of about 70 tanks, 277 canals in 21 revenue villages in the pre-feasibility report or ToR and also EIA report, by applying the ratio laid down by the Hon'ble Supreme Court in M.V. NAIDU's case, the burden is on the respondents to prove that the project is environment friendly.

42. The learned counsel would also refer to the provisions of paragraph 8(vi) of the EIA Notification, 2006 which makes it clear that any deliberate concealment or submission of false or misleading information will result in rejection of the application and cancellation of prior EC. In a geographically small District like Kanyakumari with a total extent of 1804 sq.km area any new alignment to NH 47 would mean that for a distance of 96 KM to travel from Kanniyakumari to Trivandrum, there are four Highways viz., SH 179, SH 45 and NH 47 and the proposed by pass alignment NH 47 and the five roads are coming within this 20 KM lengthwise. That will result in ecological disaster. For that he would rely upon the judgment of the Hon'ble Supreme Court reported in TIWARI VS. KAMALA DEVI (2001 (6) SCC 496.

43. Ms. Ananthavalli, learned counsel appearing for the applicant in Application No.127 of 2013, while adopting the arguments of Mr. T. Arul, has submitted that the proposed realignment is totally unreasonable and the same has been done without making any alternate study for widening the existing highway. She has also referred to the Draft Feasibility Report to show that an appropriate study ought to have been made between Kanniyakumari and Kaliakavilai and in fact there was no proper study made to the existing NH 47 from 4 laning to 6 laning. On the other hand, if the respondents have made a proper study about the possibility of widening the existing NH 47 and found that the same was not feasible, the applicants would not have approached the High Court at all. However, it is the NHA which has suggested a parallel new alignment which is uncalled for. She has also stated that by virtue of the new alignment, the owners of small extent of land are being displaced, while the rich and powerful people who are living on both sides of the existing NH 47 are shown favour by choosing the new alignment and therefore it is patently mala fide.

44. That apart, it is the contention of the learned counsel that a major portion of the new alignment not only consists households but also agricultural lands and by taking over those lands, the livelihood of the villagers has been totally taken away. She has also submitted that by virtue of the new alignment, the highway seeks to cut across the tanks and water bodies, without taking any steps for rehabilitation and facilitating inflow and outflow of water. She also submitted that while granting EC, the existence of the tanks has not been considered at all and the study which was made much earlier, sometime in 2004, has been made the subject matter for the purpose of arriving at such conclusion. She also submitted based on record that there are in fact 100 tanks which are likely to be affected by virtue of the proposed realignment. Even the proposed afforestation becomes infructuous for the simple reason that there are no places for planting the trees at all, if the new alignment is given effect to. She has also submitted relying on the photographs, to state that not only the water bodies are going to be affected but the rubber cultivation also will be affected to a large extent. The EIA study has not been made before the new alignment was proposed. She also raised the economic factors stating that by the proposed realignment the commercial establishments are likely to be affected. On the other hand in the existing NH 47 itself there is much scope for widening, since large extent of government lands available there.

45. It is her submission that the main E.C granted on 9.9.2010 was published on 25.2.2011 and W.P.No.3634 of 2012 which has been subsequently transferred to this Tribunal and re-numbered as Application No.127 of 2013, was filed in March, 2010 and therefore according to her, the filing of the writ petition in the High Court cannot be said to be beyond the period of limitation as per the NGT Act. She also submits that when the High Court has entertained the writ petition wherein it was pending for few years and thereafter transferred to this Tribunal, the application in Application No.127 of 2013 cannot be thrown out of the Tribunal on the basis of limitation without going into the merit. She submitted that the website of the project proponent has not been opened even as on date. She has also raised a point that even for filing appeal against the impugned E.C, it was not possible as the National Green Tribunal (Practices and Procedure) Rules, 2011 came into effect from 4.4.2011, while the writ petition was filed on 25.7.2011 in the High Court, which was in fact in accordance with the decision of the Hon'ble Supreme Court in

Vimal Bhai's case and therefore it is her submission that the application is well within time and the matter must be decided on merits.

46. Per contra, it is the contention of Mr. P. Wilson, learned Senior Counsel appearing for the project proponent viz., NHAI that all the applications are to be dismissed on the point of limitation. These applications are entertained under Section 14 of the NGT Act and the said provision gives six months' time from the date when the cause of action first arose for filing an application and the Tribunal can condone a delay of 60 days. According to the learned Senior Counsel, the term "first arose" means the issue of Notification or putting up of Notification in public domain. The idea of imposing such limitation for entertaining a case by the Tribunal which is governed by the NGT Act is to prevent delayed litigation in order to enable the Tribunal to determine and issue before investment is made by the project proponent. It is his submission that the applicants should have clearly explained about the cause of action by pleading necessary facts. A vague allegation about the cause of action and computation of limitation is against the provisions of the NGT Act since Sections 14(3) and 16 of the NGT Act are to be strictly interpreted. According to the learned Senior Counsel, when EC was granted on 9.9.2010 in respect of the proposed project, the same was challenged before the High Court belatedly. Even the applicants have stated that "cause of action first arose" to the knowledge was in September, 2008 when ToR was granted on 24.5.2007 and public hearing held on 21.8.2009 and the impugned notification was published in the newspaper on 20.3.2010 while Application Nos. 111 and 112 of 2013 came to be filed in November, 2010 and Application No. 116 of 2013 filed on 25.7.2011 and Application No. 104 of 2013 was filed on 9.2.2010 and Application No. 127 of 2013 was filed in March 2012, all as writ petitions in the High Court.

47. He would rely upon the decision of the Principal Bench of the NGT in **SUNIL KUMAR SAMANTA V. WEST BENGAL POLLUTION CONTROL BOARD (MA.No.573 of 2013 in Appeal No.67 of 2013 dated 24.7.2014)** to substantiate the contention that the period cannot be extended by the Tribunal beyond the limit prescribed in the Statute. He would also rely upon another decision rendered in **VIDHAN MISHRA V. UNION OF INDIA (Appeal No.4 of 2013 dated 28.8.2014)** by the "Central Zone of NGT to contend that litigation cannot be permitted to consciously circumvent the provisions of the NGT Act by

filing the writ petition before the High Court beyond the period of limitation prescribed in the NGT Act and then having the matters transferred to the Tribunal. He also submits that the High Court while transferring these writ petitions has not stated anything about the question of limitation. He also has submitted that Section 14 of the Limitation Act has no application to the NGT. Relying upon the judgment of the Principal Bench in SUNIL KUMAR SAMANTA VS. WEST BENGAL POLLUTION CONTROL BOARD (M.A.No.573 of 2013 in Appeal INo.67 of 2013 dated 24.7.2014) he also submitted that the applicants are not saved by Section 38(5) of the NGT Act, since EC was not challenged before the National Environment Appellate Authority.

48. He also submits that under the NGT Act the applicants are expected not only to raise a substantial question relating to environment but such question must arise under any one of the seven enactments enumerated in Schedule I of the NGT Act. The National Highways Act, 1956 under which the land acquisition has been made for the project, is not one among the enactments under Schedule I of the NGT Act. The National Highways Act, 1956 and any decision taken under the same cannot be questioned before this Tribunal in the guise of environment as decided by the Central Zonal Bench (Bhopal) of NGT in the case of RAZA AHMAD V. STATE OF CHHATTISGARH (Appeal No.1 of 2013 dated 2.8.2013). Therefore, the question of land acquisition cannot be decided even if an incidental question of environment arises. The EC which was ultimately obtained by NHAI is appealable only under Section 16 of the NGT Act. Instead, the applicants have chosen to file the writ petitions. The NGT Act is a self-contained Code and Section 16 of the said Act prescribes the period of limitation for challenging the EC and except the condonable limit, the Tribunal itself has no jurisdiction to entertain any appeal filed beyond the period of limitation, even if it was transferred from the High Court. It is his further submission that the applicants have no locus standi, since they are not the owners of the land acquired and the owners of the patta lands have already accepted the acquisition. The applicants, being third parties, in the guise of raising environmental issue, are really attempting to challenge the acquisition proceedings. Even on merits of the case, learned Senior Counsel would submit that the DPR in respect of the project is for two packages viz., package I which relates to NH 47 KM and package II which relates to NH 47 and is 70.63 KM and therefore EC was granted for two different packages. He

would submit that the W.P.8281 of 2011 which was subsequently transferred and numbered as Application No.116 of 2013 before this Tribunal was filed on 25.7.2011 challenging the EC granted by MoEF & CC on 9.9.2010, Likewise, W.P.3634/2012 which was subsequently transferred and numbered as Application No.127 of 2013 was filed in the High Court on 16.3.2012 challenging the EC granted on 9.9.2010. He has also referred to various paragraphs in the case of BHOPAL GAS PEEDITH MAHILA UDYOG SANGATHAN V. UNION OF INDIA (2012) 8 SCC 326, apart from relying upon various judgments of the Supreme Court to contend that the limitation is a substantial issue and unless a person passes through the test of limitation, the matter cannot be decided on merits. However, he submitted that even on merits of the case, records as well as DPR show that existence of all waterbodies have been taken care of and no one of the water bodies are being destroyed and sufficient safeguards are being made. He stoutly denied the contention that the intention of the NHAI is to make landfill of the waterbodies, which according to the learned Senior Counsel is a deliberate misleading attempt made by the parties. Therefore, he has prayed for dismissal of the applications on limitation as well as on maintainability.

49. We have heard the learned counsel appearing for the applicants as well as the learned counsel appearing for the respondents, including the learned Senior Counsel appearing for the project proponent – NHAI, perused the pleadings and the records and documents filed and given our anxious thought to the issues involved in these cases.

50. The main issue to be decided is about the maintainability of the applications on the point of limitation and jurisdiction. We have also decided to refer to the environmental issue; especially when the applicants have raised a serious issue about the proposed attempt by NHAI to obstruct and even completely obliterate many of the waterbodies existing in the area and therefore we have traversed through the entire DPR and other relevant documents to ascertain about the correctness of the same.

51. As per our earlier order, the learned counsel appearing for the MoEF & CC has produced the documents on 11.3.2016. In these applications, while pending as writ petitions in the High Court, there were no interim orders. However, this Tribunal by order dated 7.3.2016 has directed the project proponent not to proceed further with the project.

Thereafter, after hearing the counsel in the order dated 16.3.2016 the said order was modified as follows:

“We make it clear that the second and third respondents are not prohibited from carrying on with the project activities. However, the project shall not affect any of the ponds which are situated in the course of the execution of the project and no trees on the way shall be cut by the second and third respondents;;

and the said modified interim order still continues.

52. As the learned Senior Counsel Mr. Wilson appearing for the project proponent has raised the maintainability of these applications, both on the period of limitation and jurisdiction, we have heard the counsel on both sides on the point of maintainability as well as the merits of the case elaborately, particularly relating to the alleged obstruction of water flow. As the preliminary issue of maintainability has been raised, we take up the said preliminary issue at the first instance and decide the same.

53. DISCUSSION AND FINDINGS:

Before going into the said issue, certain factual aspects which are, either admitted or not seriously disputed, are to be brought out. The project proponent viz., NHAI has made its proposal in the appropriate Form – I seeking for Environmental Clearance (EC) from MoEF & CC on 14.5.2007. The proposal is relating to 4/6 laning of Trivandrum and Kanyakumari section of NH 47, including Nagercoil and Kavalkinaru section of NH 47 B in the States of Tamil Nadu and Kerala. NHDP (III) programme, Package II (KM 43/000 to KM 99/000 of NH 47 and KM 0/000 to KM 16/400 of NH 47 B) . The contents of the application filed by the project proponent taken from the file by the learned counsel appearing for the MoEF & CC show that the project proponent has stated the “objectives” of the project as “road widening to increase the road capacity, to improve pavements, reduce the travel time, lower the cost of vehicular maintenance and create the opportunities for the growth of market, industries” etc. The location of the project lies between “chainage KM 43/000 (Nagercoil) to KM 99/000 along NH 47 and KM 0/000 (Nagercoil) to KM 16,400 (Kavalkinaru) along NH – 47 B to Tamil Nadu State” and the land required is stated as 126.50 Ha, out of which agricultural land is 87 Ha. In the application it is also stated that 22 villages and 2417 families are to be displaced and the

corresponding population is stated to be partially affected due to the proposed project. Along with the application, the project proponent has also enclosed the Environment Impact Assessment (EIA), Environment Management Plan (EMP), Detailed Feasibility Report and duly filled in Questionnaire. The application states the length of the project as 72.400 KM. The records show that the proposal was considered by the Expert Committee on 24.5.2007 and 25.5.2007. There are two projects viz., Package as Environmental Clearance (EC) for 4/6 laning of Trivandrum to Kanniyakumari section of NH – 47, including Nagercoil to Kavalkinaru section of NH – 47 B in the States of Tamil Nadu and Kerala under 10,000 KM (NHDP – III Phase) Programme, Package – I (KM 0/000 to KM 43,000) and Package II Environment Clearance (EC) for 4/6 laning of Trivandrum to Kanniyakumari section of NH – 47, including Nagercoil to Kavalkinaru section of NH – 47B in the States of Tamil Nadu and Kerala under 10,000 KM (NHDP – III Phase) Programme Package – II (KM 43,000 to KM 99,000 of NH 47 and KM 0/000 to KM 16,400 of NH – 47B of NHA).

54. As per the minutes of the above said meeting, it is seen that Package – I starts from Kazhakuttam on NH 47 and ends at KM 43/000 near Karode in the total extent of 43 KM and the entire stretch of road falls in the State of Kerala. About 3741 households and 18,485 persons are going to be affected by this project and the entitled persons will be compensated and the total capital cost of the project is Rs.4746.60 million.

55. The Package – II starts near Karode (Kerala) and ends near Kanniyakumari, covering a total length of 66 KM. This is the first section; while the second section viz., NH – 47 B starts near Nagercoil and ends near Kavalkinaru, covering a total length of 16.40 KM and the total length of Package – II is 72.40 KM. The road falls in Kanniyakumari District in the State of Tamil Nadu. It is stated that the land use pattern of the project area is mostly agricultural (69%) built up area (12%) and barren land (19%). The Minutes further states that there is one major bridge and 24 minor bridges, 44 box culverts and 86 pipe culverts in the project area, 20 vehicular/pedestrian/cattle underpasses and service roads have been provided at 25 locations of built up area. The project road passes through 22 Villages which come only under Kanyakumari District and it is found that the entire existing NH 47 from Kerala/Tamil Nadu to Kanniyakumari and NH – 47 B Nagercoil to Kavalkinaru is heavily built up. Hence bypass/realignment has

been proposed except at locations where the existing road can be widened. The alignment runs in the Deccan Plateau and the project road does not pass through any forest/wildlife sanctuary/national park.

56. In respect of both the packages, the EAC has called for various clarifications, after considering the Feasibility Study and the DPR, produced by the project proponent. In the communication dated 31.5.2007 the MoEF & CC has directed the project proponent to furnish the particulars. In the said letter, the MoEF & CC has also directed the public hearing to be conducted.

57. Accordingly, public hearing was held on 21.8.2009 at 10.00 AM at Nanjil Hall, District Collectorate, Nagercoil. A reference to the proceedings of the public hearing shows that large number of public have objected the project on the basis that nearly 40 ponds are likely to be affected and crops to be damaged and large number of people to be replaced/relocated. In the 89th meeting of the Expert Appraisal Committee for Building Construction, Coastal Regulation Zone, Infrastructure Development and Miscellaneous Projects held between 21.7.2010 and 23.7.2010, the EAC has recommended the proposal for EC with certain conditions. Accepting the recommendation of the EAC, the MoEF & CC, Government of India, has issued EC on 9.9.2010 with specific and general conditions stipulating that any appeal arising against the EC shall lie with the National Environment Appellate Authority within a period of 30 days, as prescribed under Section 11 of the National Environment Appellate Act, 1997, provided the authority has jurisdiction to condone delay of 60 days, on showing sufficient cause.

58. This clause of appeal remedy under the National Environment Appellate Act, 1997 is significant because the said Act came to be repealed by the enactment of National Green Tribunal Act, 2010 which came into effect from 2.6.2010. Section 38 of the National Green Tribunal Act, 2010 which repeals the National Environment Appellate Act, 1997 and National Environment Tribunal Act, 1995 makes it clear under sub-section 5 that all cases pending before the National Environment Appellate Authority on or before the establishment of National Green Tribunal shall be transferred to the National Green Tribunal in the following words:

“38. Repeal land savings.—

....

All cases pending before the National Environment Appellate Authority established under sub-section I(1) of Section 3 of the National Environment Appellate Authority Act, 1997 (22 of 1997) on or before the establishment of the National Green Tribunal under the National Green Tribunal Act, 2010, shall, on such establishment, stand transferred to the said National Green Tribunal and the National Green Tribunal shall dispose of such cases as if they were cases filed under the Act.”

Therefore, till 2.6.2010, any person affected by the EC granted either under the EIA Notification, 1994 or under the EIA Notification, 2006 were having a statutory appellate remedy before the National Environment Appellate Authority, as per the National Environment Appellate Authority Act, 1997. The National Green Tribunal was established by the Central Government by the Notification as per Section 3 of the National Green Tribunal Act, 2010 on 18.10.2010. The National Green Tribunal has started functioning at New Delhi. By virtue of the powers vested under Section 4(3) of the National Green Tribunal Act, 2010, the Central Government has notified on 5.5.2011, specifying Delhi, as the ordinary place of sitting of the National Green Tribunal which shall have jurisdiction in the whole of India. Therefore, from the date of establishment of the National Green Tribunal under Section 3 of the NGT Act, 2010 which was on 18.10.2010 to the date of Notification issued by the Central Government under Section 4(3) of the National Green Tribunal Act, 2010, specifying Delhi as the ordinary place of sitting of the National Green Tribunal, exercising jurisdiction in the whole of India viz., 5.5.2011 there is a gap. Therefore, in between 18.10.2010 and 5.5.2011 a person aggrieved by EC granted for any project, either under the EIA Notification, 1994 or 2006 could have moved the respective High Court as the National Green Tribunal sitting was not specified during that period.

59. It is true that subsequently by Notification dated 17.8.2011, the Central Government, by virtue of the powers conferred under Section 4(3) of the National Green Tribunal Act, 2010 has created various Zonal Benches for exercising powers having territorial jurisdiction which is as follows:

Sl.No	Zone	Place of sitting	Territorial Jurisdiction
1	Northern	Delhi (Principal	Uttar Pradesh, Uttarakhand, Punjab, Haryana, Himachal Pradesh, Jammu and Kashmir, National

		place)	Capital Territory of Delhi and Union Territory of Chandigarh.
2	Western	Pune	Maharashtra, Gujarat, Goa With Union Territories of Daman and Diu and Dadra and Nagar Haveli.
3	Central	Bhopal	Madhya Pradesh, Rajasthan and Chhattisgarh.
4	Southern	Chennai	Kerala, Tamil Nadu, Andhra Pradesh, Karnataka, Union Territories of Pondicherry and Lakshadweep
5	Eastern	Kolkata	West Bengal, Orissa, Bihar, Jharkhand, seven sister States of North-Eastern region, Sikkim, Andaman and Nicobar Islands

However, the Notification states specifically that provided that till the Zonal Benches of the National Green Tribunal become functional at Bhopal, Pune, Calcutta and Chennai, aggrieved person may file application before the National Green Tribunal at Delhi and till that time, the Notification dated 5.5.2011 is directed to be made operative. The sitting of the Southern Zonal Bench at Chennai was with effect from 30.10.2012.

60. However, out of the above said applications, Application No.104 of 2013 which was filed as a writ petition in W.P.No.2079 of 2010 before the High Court, was on 9.2.2010 and on the said date, the National Environment Appellate Authority was functional at Delhi. But the fact remains that at the time of filing of the above said writ petition, there was no EC granted for the project proponent which was much later viz., 9.9.2010.

61. Likewise, Application Nos.111 and 112 of 2013 which were filed as Writ petition Nos.198 ad 199 of 2011 were filed in November, 2010, challenging the land acquisition Notification issued under the National Highways Act, 1956 in so far as it relates to the acquisition of six of the seven system tanks etc. However, it is clear that the said applicants have not chosen to challenge the project which has come into existence on 9.9.2010 by virtue of the EC and therefore, it cannot be said that the writ petitions have nothing to do with the EC. The filing of the said writ petitions was during the interregnum period of establishment of National Green Tribunal and Notification, specifying the place of sitting of the National Green Tribunal viz., 18.10.2010 and 5.5.2011 respectively and therefore the said writ petitioners could not have approached either the Appellate

Authority which was superseded on 2.6.2010 when the NGT Act has come into existence, nor the NGT, Delhi whose sitting was notified under Section 4(3) of the NGT Act, 2010 only on 5.5.2011 and without having any effective alternate remedy, they have approached the High Court under Article 226 of the Constitution of India by filing the writ petitions.

62. The other two applications viz., Application Nos.116 and 127 of 2013 came to be filed in the High Court as W.P.(MD) Nos. 8281 of 2011 and 3634 of 2012 on 25.7.2011 and March, 2012 respectively. The prayer made in these applications are squarely challenging the EC. By the time when the said writ petitions were filed, the National Green Tribunal has already been established and started functioning and therefore there was no impediment on the part of these two applicants from making necessary application before the National Green Tribunal, New Delhi. The Southern Zone Bench of the National Green Tribunal was constituted and started functioning at Chennai on 30.10.2012 which has no relevance because the NGT for the entire India was already functioning in New Delhi. On the other hand, they have chosen to file the writ petitions in the Madurai Bench of the Madras High Court. These are the factual matrix.

63. It is the case of the learned counsel appearing for the project proponent that in all these cases when there was remedy available before the National Environment Appellate Authority or before the National Green Tribunal itself, much against the statutory mandate, they have chosen to approach the wrong forum by filing the writ petitions and it will not confer any jurisdiction on the High Court to exercise the statutory powers of either on the National Environment Appellate Authority or National Green Tribunal and therefore according to the learned Senior Counsel Mr. P. Wilson pending of these writ petitions in the High Court will not amount to conferring jurisdiction on the wrong forum and therefore when those writ petitions were transferred to the National Green Tribunal, the period of pendency of those writ petitions before the High court cannot be taken into consideration and they should be taken as fresh applications, in which event they are hopelessly barred by limitation as per the National Green Tribunal Act. He has also submitted that under the National Green Tribunal Act, when the EC granted by MoEF & CC or SEIAA is to be challenged, the same must be way of appeal under Section 16(h) of the National Green Tribunal Act, 2010 which reads as follows:

“16. Tribunal to have appellate jurisdiction.—Any person aggrieved by,

(h) an order made, on or after the commencement of the National Green Tribunal Act, 2010, granting environmental clearance in the area in which any industries, operations or processes or class of industries, operations and processes shall not be carried out or shall be carried out subject to certain safeguards under the Environment (Protection) Act, 1986 (29 of 1986”

and such appeal shall be preferred within a period of 30 days from the date of order and the Tribunal will have another 60 days to condone the delay and therefore, according to the learned Senior Counsel all applications are barred by limitation. It is only to get over the difficulty of limitation, the writ petitions were filed before High Court and got transferred. In any event, according to him, they are to be treated as appeals under NGT Act, 2010.

64. It is the contention of Mr. T. Arul and Ms. Ananthavali, appearing for the applicant in Application No.127 of 2013 that when once the High Court has transferred the applications in accordance with the judgment of the Supreme Court in BHOPAL GAS PEEDITH MAHILA UDYOG SANGATHAN V. UNION OF INDIA (2012) 8 SCC 326 relying upon paragraphs 40 and 41 of the judgment it is contended that the transfer effected by the High Court of Madras of all the five cases is in accordance with the judgment of the Hon'ble Supreme Court in the above said case and therefore the applicants cannot be non suited on the ground of limitation. They have also submitted that in cases of environmental jurisprudence, liberal approach must be made, keeping in mind the environmental disaster which is likely to be caused by the project proponent and merely on technical ground the substantial issue should not be sidelined.

65. At this point of time, it is relevant to note that the High Court where these applications were pending as writ petitions, has ultimately directed the matter to be transferred to this Tribunal in the following order dated 9.4.2013.

“These matters may be placed before the Green Tribunal, Chennai. Hence the Registry is directed to transfer these cases to the Green Tribunal, Chennai”

It is by virtue of the above order, all these matters stood transferred to this Tribunal.

Much reliance is placed on the judgment of the Hon'ble Supreme Court in *BHOPAL GAS PEEDITH MAHILA UDYOG SANGATHAN V. UNION OF INDIA* (2012) 8 SCC 326 wherein the Hon'ble Supreme Court has made the following significant observation:

"40. Keeping in view the provisions and scheme of the National Green Tribunal Act, 2010 (for short "the NGT Act") particularly Sections 14, 29, 30 and 38 (5), it can safely be concluded that the environmental issues and matters covered under the NGT Act, Schedule I should be instituted and litigated before the National Green Tribunal (for short "NGT"). Such approach may be necessary to avoid likelihood of conflict of orders between the High Courts and NGT. Thus, in unambiguous terms, we direct that all the matters instituted after coming into force of the NGT Act and which are covered under the provisions of the NGT Act and/or in Schedule I to the NGT Act shall stand transferred and can be instituted only before NGT. This will help in rendering expeditious and specialised justice in the field of environment to all concerned.

41. We find it imperative to place on record a caution for consideration of the courts of competent jurisdiction that the cases filed and pending prior to coming into force of the NGT Act, involving questions of environmental laws and/or relating to any of the seven statutes specified in Schedule I of the NGT Act, should also be dealt with by the specialised tribunal, that is, NGT, created under the provisions of the NGT Act. The courts may be well advised to direct transfer of such cases to NGT in its discretion, as it will be in the fitness of administration of justice.

The Hon'ble Supreme Court has made it very clear and unambiguously that all matters instituted after coming into force of the NGT Act and which are covered under the provisions of the NGT Act in any one of the Statutes mentioned in Schedule I shall be transferred to the National Green Tribunal. As stated above, the NGT Act has come into force on 2.6.2010. But the Central Government has specifically notified constituting the National Green Tribunal at New Delhi only on 5.5.2011. But by the time, viz., even before that date viz., on 18.10.2010 the Central Government has established the National Green Tribunal. But at the time of Notification of the Act viz., 2.6.2010 the National Environment Appellate Authority was ceased to function and therefore by applying the liberal attitude, any person who has approached the High Court between 2.6.2010 and 5.5.2011 and who has raised a substantial question on the issue of environment, can get remedy under the NGT Act, if such writ petitions are transferred to the National Green Tribunal, after the National Green Tribunal has become functional. By applying the said liberal attitude, in the light of the categorical assertion of the Hon'ble Supreme Court in paragraph 40 and

41 of the judgment enumerated above, the Application Nos.116 and 127 of 2013 which were filed challenging the EC after coming into force of the National Green Tribunal and its effective functioning, cannot have the benefit of the liberal approach. The contention of the learned counsel appearing in Application No.116 of 2013 that at that time the Southern Zone Bench was not constituted, has no meaning in the light of the Notification issued by the Government of India dated 17.8.2011, wherein it has been made very clear that till the Zonal Benches are created, the earlier notification dated 5.5.2011 will stand, which means that the National Green Tribunal in New Delhi should have been approached from 5.5.2011 onwards. Therefore, there is no justification for the applicant in Application No.116 of 2013 to approach the High Court on 25.7.2011 after the National Green Tribunal has become fully functional. In so far as it relates to Application No.127 of 2013, the applicant filed the writ petition, challenging the EC much after the commencement of the NGT Act and therefore, the benefit of paragraphs 40 and 41 of the judgment of the Hon'ble Supreme Court, stated supra, cannot be made available to the applicants in Application No.116 and 127 of 2013.

66. Further, the said applicants are not entitled for the benefit granted under Section 38(5) of the National Green Tribunal Act, 2010, as elicited above. Needless to state that when the impugned EC was granted as early as on 9.9.2010, by applying Section 16 of the National Green Tribunal Act, 2010, it is barred by limitation. Even assuming that no one of the stakeholders, as held by the Principal Bench of the NGT in SAVEMON REGION FEDERATION V. UNION OF INDIA (M.A.No.104 of 202 arising out of Appeal No.39 of 2012 dated 14.3.2013) has chosen to put the EC in public domain in full form when admittedly these two applicants have approached the High Court on 25.7.2011 and March, 2012 challenging the EC dated 9.9.2010, they had effective knowledge of the EC. Even assuming the date of filing of such writ petitions, as the date of knowledge, the applications which are otherwise should be treated as appeals and are hopelessly barred by limitation. The period of limitation is certainly a legal impediment for any person claiming relief against any impugned order and unless such impediment is crossed, there is no possibility for such person to seek remedy on the merits of the case.

67. Accordingly, Application Nos.116 and 127 of 2013 are dismissed, as not maintainable and beyond the period of limitation.

68. In so far as it relates to other applications, it is true that they were filed before the NGT has come into existence. But in so far as Application Nos.111 and 112 of 2013 which were originally filed in the High Court in November, 2010 as W.P. Nos.198 and 199 of 2011, they were filed before the High Court after the National Green Tribunal Act was notified viz., 2.6.2010; but before the constitution of the Bench at New Delhi on 5.5.2011 and therefore there is certainly no possibility for them to approach the National Environment Appellate Authority constituted under the National Environment Appellate Authority Act, 1997 and therefore, they are entitled for the liberal construction of the relief concerned.

69. The contention raised by the learned Senior Counsel appearing for the project proponent that in these two writ petitions the petitioners have chosen to challenge the land acquisition under Section 3A of the National Highways Act, 1956 and the said Act is not any one of the statutes specified in the Schedule I to the National Green Tribunal Act, 2010, in our view has no meaning. In the said writ petitions if we refer to the prayer in detail, it makes very clear that the challenge of 3A Notification was in so far as it relates to not only the acquisition of forest lands but such acquisition affects six out of seven system tanks and the same is detrimental to the ecology and environment, as per the relief and the pleadings made by the applicants. In cases where the flow of water in natural springs is being obstructed and if it is true, it is certainly an environmental issue and covered under the Environment (Protection) Act, 1986 Therefore, one cannot say that technically the National Highways Act, 1956 is not under the schedule and therefore, the applicants should be non suited.

70. We are of the considered view that the said applicants cannot be denied the relief merely on the technical ground of maintainability. As we have stated earlier, for these two applicants there was certainly no opportunity for them to approach the National Environment Appellate Authority and therefore they have filed the writ petitions before the Madurai Bench of the Madras High Court which cannot be said to be either improper or unsustainable. On the other hand that was the effective alternate remedy for the applicants at that time. The filing of the writ petitions before the High Court and its pendency before it to be necessarily taken into consideration in favour of the applicants, for it is certainly not a fault on the part of the applicants in keeping the matter pending

before the High Court. As stated above, the applicants have approached the High Court since they had no other adequate alternate remedy and correctly so and when ultimately the High Court has directed the matters to be transferred to this Tribunal, we are of the considered view that one cannot reject any relief to them, if they are otherwise eligible, simply on the ground of maintainability or limitation. In fact, the period of limitation will not apply as far as these two applicants are concerned. Therefore, the issue of maintainability raised on behalf of the project proponent against the applicants in Application Nos.111 and 112 of 2013 stands rejected and these applications are held maintainable.

71. In so far as it relates to Application No.104 of 2013 is concerned, no doubt it was before the National Green Tribunal Act has come into effect as the writ petition was filed on 9.2.2010, by which time the National Environment Appellate Authority was already in existence but the applicant could not have filed any appeal before the National Environment Appellate Authority, as at that time there was no EC granted to the project proponent. But the fact remains that the applicant has raised a substantial environmental issue before the High Court. Even though Section 38(5) of the National Green Tribunal Act, 2010, as elicited above, may not apply to his case, by virtue of paragraph 40 of the judgment of the BHOPAL GAS PEEDITH MAHILA LUDYOG SANGATHAN V. UNION OF INDIA (2012) 8 SCC 326, the applicants will be entitled to be considered for the relief under the NGT Act, 2010.

72. **Application Nos.104, 111 and 112 of 2013:** Even though the learned Senior Counsel appearing for the project proponent has raised a preliminary objection relating to the maintainability of these applications on the ground of limitation and jurisdiction and as we have rejected the said contention for the reasons stated above, it remains a fact that on both sides, arguments were advanced based on documents extensively on the merits of the matter. Since we have decided in the above said applications in favour of the applicants regarding maintainability, it is our duty to go into the merits of the matter.

73. As stated above, the crux of the issue on merits as raised by the applicants is that there has been large number of water bodies either in the form of ponds or otherwise which are likely to be affected, by virtue of the proposed project and many ponds will be

landfilled, resulting in deprivation of storage and free flow of water, both for irrigation as well as for drinking purposes.

74. In fact, Mr. Arul, learned counsel appearing for the above said applicants has filed details of the water bodies which are likely to be affected by virtue of the project coming into being. It is true that there has been an argument advanced on the side of the applicants that the project proponent should have made proper study regarding the extension of the existing NH 47 instead of having a realignment and there is no necessity for having another parallel highway for certain stretch in the small District like that of Kanniyakumari, wherein there are already four highways in existence connecting Trivandrum. The records produced by the learned counsel appearing for the MoEF & CC show that the purpose of taking up the project is for easing out the traffic congestion in NH 47, which is a matter of policy of the Government and it is not for this Tribunal to interfere with the said policy.

75. We are anxious only about the protection of environment; especially the water bodies and trees. In fact, in our interim order, we have permitted the project proponent to proceed as per the EC, subject to the condition that no one of the water bodies, either it is pond or otherwise, should be disturbed and no trees should be cut and equity can be claimed. The EIA Notification, 2006 contemplates the process for any projects to comprise of a maximum four stages viz., "screening", "scoping", "public consultation" and "appraisal". It is true that this being "A" category project, there is no question of "screening" which may arise. In so far as it relates to the "scoping" stage, based on the contents of Form – I given by the project proponent, by way of proposal and EIA report prepared by the project proponent, the Expert Appraisal Committee (EAC) during the "scoping" stage, in order to arrive at the ToR, enabling to EAC to decide the crux of the project and pointed out the reference, which in turn will enable the project proponent, to prepare a final EIA report. Before deciding about the ToR, it is always open to the EAC to call for further clarification from the project proponent. On a perusal of the original records filed by the learned counsel appearing for the MoEF & CC and referring to the minutes of the meeting of EAC, it is clear that in fact the EAC has sought for various clarifications and ultimately directed with certain observations which is in the form of ToR. The project proponent has prepared an extensive study in the form of EIA, apart from

Environment Management Plan (EMP). A reference to the EIA and EMP prepared by the project proponent show that extensive study has been made in respect of the choosing of the place and also the impact of the project on various aspects. Therefore, in our considered view, there is nothing for this Tribunal to interfere as far as the "scoping" stage is concerned.

76. This leads to the next aspect of "public consultation" The EIA Notification, 2006 contemplates two stages of "public consultation"

(a) a public hearing on the site or in the close proximity – Districtwise, to be carried out as per the annexure prescribed in Appendix IV for ascertaining concerns of local affected persons

(b) obtain responses in writing from other concerned persons having a plausible stake in the environmental aspects of the project or activity

The public hearing shall be conducted by the State Pollution Control Board and proper notice must be given indicating about the public hearing within seven days of the date of draft EIA report from the project proponent by advertising the same in one major National Daily and one regional vernacular daily/official State language by giving minimum notice period of 30 days. The public hearing was conducted on 21.8.2009 at Nanjil Hall, District Collectorate, Nagercoil. About the factum of proposed public hearing, wide publicity has been made by publishing the notice in "Dhinamani" and "New Indian Express" on 18.7.2009. The EIA report of the project proponent was made available to the public. All these facts are not disputed by the applicants. In fact, the applicant viz., Dr. R. Lal Mohan has participated in the public hearing. The records relating to the public hearing show that after the explanation was given by the Project Director regarding the project, the District Collector has called for objections from those who are affected by the formation of new road and large number of people participated in the public hearing and the those statements made by the persons, including the applicant have been recorded. After the public hearing was completed, the entire proceedings of public hearing along with the final EIA report given by the project proponent have been sent to the Government of India for referring to the EAC for "appraisal". Therefore, the process of public consultation cannot be found fault with on the factual matrix of the case.

77. Then comes the final stage of "appraisal". The "appraisal" which is Stage IV is explained in the EIA Notification, 2006 as follows:

IV. Stage (4) – Appraisal – (i) Appraisal means the detail scrutiny by the Expert Appraisal Committee or State Level Expert Appraisal Committee of the application and other documents like the Final EIA report, outcome of the public consultations including public hearing proceedings, submitted by the applicant to the regulatory authority concerned for grant of environmental clearance. This appraisal shall be made by Expert Appraisal Committee or State Level Expert Appraisal Committee concerned in a transparent manner in a proceeding to which the applicant shall be invited for furnishing necessary clarifications in person or through an authorised representative. On conclusion of this proceeding, the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned shall make categorical recommendations to the regulatory authority concerned either for grant of prior environmental clearance on stipulated terms and conditions, or rejection of the application for prior environmental clearance, together with reasons for the same.

A reading of the said provision of the EIA Notification, 2006 makes it very clear that the Expert Appraisal Committee to which the matter is referred by the MoEF & CC, since this being “A” category project, must scrutinise in detail the final EIA report and outcome of the public consultation process. Even at the time of appraisal, which is expected to be in a transparent manner, it will be always open to the Expert Appraisal Committee (EAC) to invite necessary further clarification either in person or through an authorised representative. Therefore, appraisal is a very important facet of the function of the EAC by which the EAC is to make recommendations to the Regulatory Authority viz., MOEF & CC, whether to grant EC or not and also recommending to impose various conditions. Accordingly, the Expert Appraisal Committee for Building Construction, Coastal Regulation Zone, Infrastructure Development and Miscellaneous Projects, in its 89th Meeting held from 21.7.2010 to 23.7.2010, has scrutinised the EIA Report and the Public Consultation Process and the papers concerned. It is true that the EAC has taken note of the fact that the proposal is for forming a completely new alignment of 70.36 Km, except initial length of 600 m starting just before the junction of Nagercoil by pass and existing NH 47 B. A reference to the minutes of the meeting of the EAC shows that the EAC has simply taken note of certain factual matters like 26 bridges, 141 culverts, 20 vehicular/pedestrian/cattle underpasses, service roads etc. It has also taken note of the trees to be felled and also the proposal for replantation, apart from the compensation to be given to nearly 5,358 agricultural families which are going to be affected due to the project. Ultimately the EAC has evolved the following points:

(i) The road passes through forest land and requires diversion of forest area. Necessary permission shall be obtained before start of construction work

(ii) Necessary prior permission shall be obtained for cutting of trees from the competent authority. Compensatory afforestation shall be carried out as per stipulated conditions of MoEF and State Forest Division

(iii) P & R shall be as per the guidelines of Govt. of India

(iv) IRC guidelines shall be followed for widening & upgradation of road

(v) The responses/commitments made during public hearing shall be complied with in letter and spirit

(vi) All the recommendations of the EMP shall be complied with in letter and spirit

With the above points, the EAC has recommended for issuance of EC, based on which the MoEF & CC has issued the EC.

78. However, it is most unfortunate to note that inspite of the fact, as it is seen from the records, during the public hearing, many of the participants have raised their anxiety not only about the displacement of large number of people; but also possibility of large number of water bodies getting affected and in many cases the participants have objected that nearly 40 ponds are going to be affected by virtue of the new alignment but the EAC has not taken note of any of those statements made in the public hearing, except making a condition that all statements made in the public hearing must be complied with in spirit. We do not understand the meaning of the same. During the "appraisal" the EAC is expected to apply its mind independently about the impact of the project on various aspects and in this case when the public have made objections about the water bodies, as to what will be the impact of the project on the water bodies and what are the steps to be taken by the project proponent for saving the waterbodies and what are the efforts to be taken by the project proponent for minimising the number of trees to be cut, ought to have been considered and obtained clarification. If felt necessary, a spot inspection ought to have been made by the committee of EAC. We do not understand the effect of directing the project proponent to follow what happened in the public hearing, after recommending for EC. This, in our view, is not a proper

appraisal. During appraisal, there was some scope for giving proper direction in the form of mandatory conditions . That is lacking in the appraisal It would have been more prudent, if the EAC has applied its mind about the efforts to be taken to preserve the water bodies and minimise cutting of trees. There is absolutely nothing on record to show that such appraisal has been done on the facts of the case.

79. It may be true that in the impugned EC granted by the MoEF & CC, which is the Regulatory Authority, the said authority is definitely expected to make an independent study of the "appraisal" before granting EC. But ultimately it is the recommendation of EAC, which plays a vital role for the Regulatory Authority to either grant EC or not, since it is an Expert Body. The way in which the "appraisal" has been done in this case in the meeting held between 21.7.2010 and 23.7.2010 is certainly not in conformity with the procedure of appraisal and its spirit explained in the EIA Notification,2006.

80. The RTI information have been received from Tahsildar, Vilavancode filed by the applicant dated 30.9.2011 and 7.11.2015, apart from the information furnished by the Tahsildar, Kalkulam dated 19.8.2010 and 14.10.2010, Tahsildar, Agastheeswaram dated 29.9.2011, Tahsildar, Thovalai dated 24.11.2015 which are all filed in Annexure Z(8) to Z(14) in Application No.116 of 2013 which are extracted as follows:

அனுப்புனர்	பெறுநர்
திரு. ஆ. நாராயணதாஸ்	திரு.சி. இராமசாமி
வட்டாட்சியர் விளவங்கோடு	வழக்கறிஞர் தக்கலை
ந.க.அ2-22268-2011	நாள் .9.2011

ஐயா

பொருள் - தகவல் அறியும் உரிமைச் சட்டம் - 2005 – விளவங்கோடு

வட்டம் - மெதுகும்மல் மற்றும் குளப்புறம் கிராமம் - சில

புல எண்கள் குறித்து விபரங்கள் கேட்டது தொடர்பாக

பார்வை மனுதாரர் மனு நாள் 25.8.2011

பார்வையில் கண்ட தகவல் அறியும் உரிமைச் சட்டத்தின் கீழ் தாங்கள் அளித்த மனு பரிசீலனை செய்யப்பட்டது.

இவ்வலுவலக ஆவணங்களின் படி பின் வரும் புல எண்கள் அவற்றிற்கெதிரே குறிப்பிட்டுள்ளபடி பதிவாகி உள்ளது என்ற விபரம் தெரிவித்துக் கொள்கிறேன்.

கிராமம்	புல எண்	தன்மை	வகைபாடு	பரப்பளவு	பொறுப்பில் உள்ள துறை
1)மெதுகும்மல்	97-12	புறம்போக்கு	வாய்க்கால்	0.09.5	--
2.)குளப்புறம்	27	"	"	0.41.0	--
2) "	28-1	"	வண்டிப்பாதை	0.14.0	--
3) "	29-1	"	பாதை	0.05.0	--

4)	“	31	“	வாய்க்கால்	0.43.5	--
5)	“	32-13	“	“	0.09.5	--
6)	“	36-12	“	குளம்	0.02.5	--
7)	“	36-13	“	வாய்க்கால்	0.03.5	--
8)	“	37-1	“	“	0.02.5	--
9)	“	38	“	“	0.42.5	--
10)	“	42	“	“	0.24.0	--
11)	“	72	“	“	0.37.0	--
12)	“	73/20	“	“	0.08.0	-
13)''		74-3	“	“	0.06.5	-
14)''		75		சாலை	0.22.5	-
15)''		'76-6	“	வாய்க்கால்	0.02.0	-
16)''		'85-10	“	“	0.18.0	-
17)''		'85-21	“	புாதை	0.08.5	-
18)''		86-19	“	வாய்க்கால்	0.11.5	-
19)குளப்புரம்		86-21	புறம்போக்கு	வாய்க்கால்	0.01.5	-
20)''		96	“	சாலை	0.14.5	-
21)''		99-10	“	வாய்க்கால்	0.21.0	-
22)''		101-21	“	“	0.10.0	-
23)''		104-11	“	“	0.22.5	-
24)''		105-6	“	“	0.03.0	-
25)''		105-9	“	“	0.10.5	-
26)''		244-1	“	ஓடை	0.05.5	-
27)''		245-1	“	ஓடை	0.09.5	-
28)''		254-1	“	வாய்க்கால்	0.03.0	-
29)''		205-1	“	ஓடை	0.02.0	-
30)''		258	“	“	0.27.5	-
31)''		264-4	“	புாதை	0.01.0	-
32)''		264-19	“	வாய்க்கால்	0.05.5	-
33)''		265-17	“	“	0.05.5	-
34)''		265-18	“	“	0.07.5	-
35)		267-15	“	“	0.05.5	-
36)''		268-26	“	“	0.03.5	-
37)''		327	“	வண்டிப்பாதை	0.15.5	-
38)		328	“	“	0.16.0	-
39)''		331	“	சாலை	0.26.5	-
40)''		332	“	சாலை	0.16.0	-
41)''		444-10	“	நடைபாதை	0.09.0	-
42)''		466-2	“	ஓடை	0.03.5	-
43)''		467	“	சாலை	0.26.5	--
44)	“	475	“	சாலை	0.23.5	-
45)	“	479-3	“	சாலை	0.21.0	--
46)''		480-10	“	ஓடை	0.09.0	-
47)''		496-16	“	ஓடை	0.10..5	--
48)''		634-1	“	ஆறு	1.31.0	--

அனுப்புநர்

பொது தகவல் அலுவலர்

தலைமையிடத்து துணை வட்டாட்சியர்

விளவங்கோடு

பெறுநர்

திரு. சுனில் குமார்

இடைக்காவிளை வீடு

வயலின்கரை

குளப்பறம் அஞ்சல்

ந.க.அ2-32269-2015 நாள்: 07.11.2015

பொருள் : தகவல் அறியும் உரிமைச் சட்டம் 2005-ன் படி

திரு. சுனில்குமார் என்பவர் சில தகவல்கள் கோரியது

தொடர்பாக

பார்வை: திரு. சுனில்குமார் என்பவரின் மனு நாள் 20.10.2015

தகவல் அறியும் உரிமைச் சட்டத்தின் கீழ் மனுதாரருக்கு பதில் கீழ்க்கண்டவாறு தெரிவிக்கப்படுகிறது

வ ஏண்	புல ஏண்	தன்மை	வகைப்பாடு	புரப்பளவு	பொறுப்பில் உள்ள நிர்வாகம்
1.	275-1	அரசு புறம்போக்கு	வாய்க்கால்	0.16.5	பொதுப்பணித்துறை
2.	287-3	அரசு புறம்போக்கு குளம்	தூமரைக் குளம்	2.10.5	பொதுப்பணித்துறை
3.	287-4	அரசு புறம்போக்கு	வாய்க்கால்	0.15.0	பொதுப்பணித்துறை
4.	300-5	ஓடை	ஓடை	0.07.5	வருவாய்த்துறை
5.	300-17	அரசு புறம்போக்கு	வாய்க்கால்	0.05.5	பொதுப்பணித்துறை
6.	303-1	ஓடை	ஓடை	0-36.5	வருவாய்த்துறை
7.	305-6	அரசு புறம்போக்கு	வாய்க்கால்	0.01.0	பொதுப்பணித்துறை
8.	410-10	அரசு புறம்போக்கு	போட்டக்கரை குளம் என்ற குள்ளியோட்டு போட்டக் குளம்	0.40.0	பொதுப்பணித்துறை
9.	411-2	அரசு புறம்போக்கு	வாய்க்கால்	0.05.5	பொதுப்பணித்துறை
10.	420-3	அரசு புறம்போக்கு	வாய்க்கால்	0.16.0	பொதுப்பணித்துறை
11.	421-15	அரசு புறம்போக்கு	வாய்க்கால்	0.10.5	பொதுப்பணித்துறை

பொது தகவல் அலுவலர்

தலைமையிடத்து துணை வட்டாட்சியர்

விளவங்கோடு

ஒழுஆ223839-10

வட்டாட்சியர் அலுவலகம்

கல்குளம் - 19.8.2010

கடிதக் குறிப்பு

பொருள் : தகவல் அறியும் உரிமைச் சட்டம் 2005- கல்குளம்

வட்டம் திருவிதாங்கோடு கப்பியறை ஆளுர்

வாள்வச்சக்கோட்டம் கல்குளம் ஆகிய வருவாய்

கிராம புறம்போக்கு நிலங்களில் விபரம் கேட்டல்

தொடர்பாக

பார்வை திரு இராமசாமி திரு. இராஜேந்திரன் வழக்கறிஞர்

மனு நாள்30.6.2010

தகவல் அறியும் உரிமைச் சட்டத்தின் கீழ் பார்வையில் கண்ட

கடிதத்தில் கோரியள்ள விபரங்கள் இத்துடன் இணைக்கப்பட்டுள்ளது

பொது தகவல் அலுவலர் மற்றும்

தலைமையிடத்து துணை வட்டாட்சியர் கல்குளம்

பெறுநர்

திரு. இராமசாமி

வழக்கறிஞர்

தக்கலை

பபிவம்

.கிரா முத்தின் பேயர்	புல ஏண்	தன்மை	வகைபாடு	புரப்பளவு	பொறுப்பில் உள்ள நிர்வாகம்
திரு விதாங்கோடு	267-9	அரசு புறம்போக்கு	வாய்க்கால்	0.25.0	பஞ்சாயத்து
	287-16	அரசு புறம்போக்கு	போட்டக்குழி குளம்	0.30.5	பஞ்சாயத்து
	382-4	அரசு புறம்போக்கு	மாம்பள்ளி குளம்	0.81.5	பொதுப்பணித் துறை
	382-10	அரசு புறம்போக்கு	வாய்க்கால்	0.00.5	பஞ்சாயத்து
	393-1	அரசு புறம்போக்கு	பாதை	0.08.0	பஞ்சாயத்து
	393-10	அரசு புறம்போக்கு	பாதை	0.06.0	பஞ்சாயத்து
	403-1	அரசு புறம்போக்கு	வாய்க்கால்	0.10.0	பஞ்சாயத்து
	410-1	அரசு புறம்போக்கு	வாய்க்கால்	0.14.0	பஞ்சாயத்து
	411-6	அரசு புறம்போக்கு	வாய்க்கால்	0.18.5	பஞ்சாயத்து
	422-6	அரசு புறம்போக்கு	வாய்க்கால்	0.04.5	பஞ்சாயத்து
	423-1	அரசு புறம்போக்கு	வாய்க்கால்	0.03.0	பஞ்சாயத்து
	423-5	அரசு புறம்போக்கு	வாய்க்கால்	0.14.0	பஞ்சாயத்து
	424-1	அரசு புறம்போக்கு	வாய்க்கால்	0.06.5	பஞ்சாயத்து
	430		சாலை	0.28.5	பஞ்சாயத்து
	439-6	அரசு புறம்போக்கு	வாய்க்கால்	0.07.0	பஞ்சாயத்து

	443		சாலை	0.31.0	பஞ்சாயத்து
	561		சாலை	0.29.0	பஞ்சாயத்து
கப்பி யறை	91- 20	அரசு புறம்போக்கு	வாய்க்கால்	0.11.0	பஞ்சாயத்து
	98-8	அரசு புறம்போக்கு	வாய்க்கால்	0.09.0	பஞ்சாயத்து
	107- 11	அரசு புறம்போக்கு	வாய்க்கால்	0.03.0	பஞ்சாயத்து
	108- 13	அரசு புறம்போக்கு	வாய்க்கால்	0.07.5	பஞ்சாயத்து
	221- 18	அரசு புறம்போக்கு	காட்டுக் குளம்	0.52.0	பஞ்சாயத்து
	263- 1	அரசு புறம்போக்கு	வாய்க்கால்	0.05.5	பஞ்சாயத்து
	263- 20	அரசு புறம்போக்கு	நெய்யாம்பல் குளம்	0.14.0	பஞ்சாயத்து
ஆளுர்	17-1	அரசு புறம்போக்கு	கால்வாய்	0.07.5	பொதுப்பணித் துறை
	19-7	அரசு புறம்போக்கு	குளம்	0.09.5	பொதுப்பணித் துறை
	19- 15	அரசு புறம்போக்கு	களம்	0.09.5	வருவாய்த்துறை
	28	அரசு புறம்போக்கு	சாலை	0.21.5	நெடுஞ்சாலைத் துறை
	29-5	அரசு புறம்போக்கு	காஞ்சிரக்குழி குளம்	0.81.0	பொதுப்பணித் துறை
	29-7	அரசு புறம்போக்கு	குளம்	0.08.0	பொதுப்பணித் துறை
	34-3	அரசு புறம்போக்கு	கால்வாய்	0.07.5	பொதுப்பணித் துறை
	35-2	அரசு புறம்போக்கு	திருச்சான் குழி குளம்	0.56.0	பொதுப்பணித் துறை
	35-5	அரசு புறம்போக்கு	நத்தம்	1.45.5	வருவாய்த்துறை
	35-6	அரசு புறம்போக்கு	கோவில்	0.14.5	வருவாய்த்துறை
வாள்வச்ச கோட்டம்	607- 3	அரசு புறம்போக்கு	கால்வாய்	0.18.0	பஞ்சாயத்து
	652	அரசு புறம்போக்கு	கால்வாய்	0.26.5	பஞ்சாயத்து
	655-	அரசு	கால்வாய்	0.20.5	பஞ்சாயத்து

	1	புறம்போக்கு			
	656	அரசு புறம்போக்கு	கால்வாய்	0.10.5	பஞ்சாயத்து
	662	அரசு புறம்போக்கு	வாய்க்கால்	0.11.5	பஞ்சாயத்து
	829- 1	அரசு புறம்போக்கு	தீர்வை ஏற்படாதது (புாறை)	0.36.0	வருவாய்த்துறை
	835- 11	அரசு புறம்போக்கு	தீர்வை ஏற்படாதது (புாறை)	0.60.5	வருவாய்த்துறை
	838- 24	அரசு புறம்போக்கு	தீர்வை ஏற்படாதது (தென்னை)	0.13.20	வருவாய்த்துறை
	841- 1	அரசு புறம்போக்கு	தீர்வை ஏற்படாத தரிசு(ரோடு)	0.08.5	வருவாய்த்துறை
	841- 3	அரசு புறம்போக்கு	தீர்வை ஏற்படாதது (புாறை)	0.10.0	வருவாய்த்துறை
	841- 18	அரசு புறம்போக்கு	தீர்வை ஏற்படாதது (புாறை)	0.02.5	வருவாய்த்துறை
கல்குளம்	387- 1	அரசு புறம்போக்கு	வாய்க்கால்	0.11.5	பொதுப்பணித் துறை
	388- 3	அரசு புறம்போக்கு	ஆறு	0.43.5	பொதுப்பணித் துறை
	393- 8	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.01.0	பொதுப்பணித் துறை
	394- 12பி	ரயத்துவாரி புறம்போக்கு	அரிஜன நலத்துறை மயானம்	0.06.0	ஆதி திராவிட நலத்துறை
	394- 17	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.14.0	பொதுப்பணித் துறை
	404	அரசு புறம்போக்கு	ஆறு	0.83.0	பொதுப்பணித் துறை
	423	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.00.5	பொதுப்பணித் துறை
	424	அரசு புறம்போக்கு	ஓடை	0.17.5	வருவாய்த்துறை
	426- 7	அரசு புறம்போக்கு	குறிஞ்சி குளம்	1.29.5	பொதுப்பணித் துறை
	426- 15	அரசு புறம்போக்கு	வாய்க்கால்	0.22.5	பொதுப்பணித் துறை

கடிதக் குறிப்பு

பொருள்: தகவல் அறியும் உரிமைச் சட்டம் - கல்குளம் வட்டம்

இரணியல் வருவாய் கிராமம் - புறம்போக்கு நிலங்கள்

தொடர்பாக சில விவரங்கள் - கேட்டல்

பார்வை திரு. சுப்பிரமணிய பிள்ளை - தலைவர் - இரணியல்

பேரூராட்சி மனு நாள் 15.09.10

கல்குளம் வட்டம் இரணியல் கிராமம் புறம்போக்கு நிலங்கள் தொடர்பாக
மனுதார் கோரியுள்ள தகவல்கள் கீழ்க்கண்டவாறு தெரிவிக்கப்படுகிறது

வ எண்	புல எண்	தன்மை	பரப்பு	வகைப்பாடு	பொறுப்பில் உள்ள நிர்வாகம்
1	23- 15	அரசு புறம்போக்கு	0.38.5	செட்பிகுளம்	பொதுப்பணித் துறை
2	288- 6	அரசு புறம்போக்கு	0.01.0	வாய்க்கால்	உள்ளாட்சி நிர்வாகம்
3	288- 11	அரசு புறம்போக்கு	0.45.5	இரட்டைக் குளம்	பொதுப்பணித் துறை
4	292- 1	அரசு புறம்போக்கு	0.09.0	வாய்க்கால்	பொதுப்பணித் துறை
5	293- 4	அரசு புறம்போக்கு	0.02.0	வாய்க்கால்	பொதுப்பணித் துறை
6	307- 22	அரசு புறம்போக்கு	0.33.5	பவத்திக் குளம்	பொதுப்பணித் துறை
7	341- 1	அரசு புறம்போக்கு	0.31.0	வாய்க்கால்	பொதுப்பணித் துறை
8	342- 6	அரசு புறம்போக்கு	0.66.0	அரசினங் கோட்டை குளம்	பொதுப்பணித் துறை
9	343- 7	அரசு புறம்போக்கு	0.04.5	வாய்க்கால்	பொதுப்பணித் துறை
10	344- 10	அரசு புறம்போக்கு	0.02.5	வாய்க்கால்	பொதுப்பணித் துறை
11	364- 5	அரசு புறம்போக்கு	0.09.5	வாய்க்கால்	பொதுப்பணித் துறை
12	364- 13	அரசு புறம்போக்கு	0.01.0	பாதை	உள்ளாட்சி நிர்வாகம்
13	365- 5	அரசு புறம்போக்கு	0.11.0	வாய்க்கால்	பொதுப்பணித் துறை
14	377- 2	அரசு புறம்போக்கு	1.54.5	விளாத்திக் குளம்	பொதுப்பணித் துறை
15	378-	அரசு	0.07.0	வாய்க்கால்	பொதுப்பணித்

	12	புறம்போக்கு			துறை
16	380-1	அரசு புறம்போக்கு	0.19.5	பாதை	உள்ளாட்சி நிர்வாகம்
17	391-13	அரசு புறம்போக்கு	0.01.0	பாதை	உள்ளாட்சி நிர்வாகம்
18	392-6	அரசு புறம்போக்கு	0.01.0	வாய்க்கால்	உள்ளாட்சி நிர்வாகம்
19	393	அரசு புறம்போக்கு	0.17.5	சாலை	நெடுஞ்சாலை துறை
20	394	அரசு புறம்போக்கு	0.25.5	சாலை	நெடுஞ்சாலை துறை
21	396-1	அரசு புறம்போக்கு	0.02.5	வாய்க்கால்	பொதுப்பணித் துறை
22	397-1	அரசு புறம்போக்கு	0.23.0	வாய்க்கால்	பொதுப்பணித் துறை
23	398-2	அரசு புறம்போக்கு	0.48.5	வாய்க்கால்	பொதுப்பணித் துறை
24	656-17	அரசு புறம்போக்கு	0.12.0	வாய்க்கால்	பொதுப்பணித் துறை
25	657-15	அரசு புறம்போக்கு	0.07.5	வாய்க்கால்	பொதுப்பணித் துறை
26	659-3	அரசு புறம்போக்கு	0.01.5	வாய்க்கால்	பொதுப்பணித் துறை
27	660-16	அரசு புறம்போக்கு	0.09.5	வாய்க்கால்	பொதுப்பணித் துறை
28	663-1	அரசு புறம்போக்கு	0.16.0	சாலை	நெடுஞ்சாலை துறை
29	663-9	அரசு புறம்போக்கு	0.56.5	குளம்	பொதுப்பணித் துறை
30	664-2	அரசு புறம்போக்கு	0.03.5	வாய்க்கால்	பொதுப்பணித் துறை
31	665-4	அரசு புறம்போக்கு	0.09.5	வாய்க்கால்	பொதுப்பணித் துறை
32	691-12	அரசு புறம்போக்கு	1.94.5	தாமரைக் குளம்	பொதுப்பணித் துறைகுள
33	695-20	அரசு புறம்போக்கு	0.14.0	வாய்க்கால்	பொதுப்பணித் துறை
34	697-7	அரசு புறம்போக்கு	0.56.0	செந்துனிக் குண்டு குளம்	பொதுப்பணித் துறை

35	698-8	அரசு புறம்போக்கு	0.14.5	குளம்	பொதுப்பணித் துறை
36	751-4	அரசு புறம்போக்கு	0.08.0	சாலை	நெடுஞ்சாலை துறை
37	788-5	அரசு புறம்போக்கு	0.03.0	வாய்க்கால்	பொதுப்பணித் துறை
38	789-23	அரசு புறம்போக்கு	0.02.0	வாய்க்கால்	பொதுப்பணித் துறை
39	791	அரசு புறம்போக்கு	1.26.5	பதுக்குளம்	பொதுப்பணித் துறை
40	860-9	அரசு புறம்போக்கு	0.07.0	பாதை	உள்ளாட்சி துறை
41	860-13பி	அரசு புறம்போக்கு	0.04.0	:ஆதிதிராவிடர் நலத் துறை மயானம்	வருவாய்துறை
42	861-4	அரசு புறம்போக்கு	0.06.5	பாதை	உள்ளாட்சி நிர்வாகம்
43	869-15	அரசு புறம்போக்கு	0.01.1	பாதை	உள்ளாட்சி நிர்வாகம்
44	898-1	அரசு புறம்போக்கு	0.15.5	பாதை	உள்ளாட்சி நிர்வாகம்
45	899-1	அரசு புறம்போக்கு	0.08.0	பாதை	உள்ளாட்சி நிர்வாகம்
46	912	அரசு புறம்போக்கு	0.18.5	சாலை	நெடுஞ்சாலை துறை
47	913-3	அரசு புறம்போக்கு	0.12.5	பாதை	உள்ளாட்சி நிர்வாகம்

பொது தகவல் அலுவலர்

வட்டாட்சியர் அலுவலகம்

கல்குளம்

பெறுநர்

திரு சுப்பிரமணிய பிள்ளை

தலைவர் இரணியல் பெருராட்சி

ந.க.எண்.ஆ-23461-2011

வட்டாட்சியர் அலுவலகம்

அகஸ்வரம்

நாள்: 29.9.2011

கபிதக் குறிப்பு

பொருள்: தகவல் அறியும் உரிமைச்சட்டம் 2005 ன் கீழ் சில

தகவல் கோரிய மனு – தொடர்பாக

பார்வை திரு. சி இராமசாமி திரு எம் இராஜேந்திரன்
வழக்கறிஞர் தக்கலை அஞ்சல் மனு நாள்
7.9.2011

பார்வையில் கண்ட தகவல் அறியம் உரிமைச்சட்டம் மனு தொடர்பாக
கீழ்க்கண்டவாறு தகவல் தெரிவிக்கப்படுகிறது

வ எண் கிராமம்	புல எண்	தன்மை	வகைப்பாடு	புரப்பளவு	நிர்வாகம்
குல சேகர புரம் 1	13- 10	அரசு புறம்போக்கு	தெரு	0.05.5	ஊராட்சி
2	14-1	அரசு புறம்போக்கு	குளம்	2.15.5	பொதுப்பணித் துறை
3	14-3	அரசு புறம்போக்கு	நத்தம்	0.11.0	வருவாய்த்துறை
4	14-4	அரசு புறம்போக்கு	நத்தம்	0.07.5	வருவாய்த்துறை
5	18-2	அரசு புறம்போக்கு	குளம்	2.41.0	பொதுப்பணித் துறை
6	21-4	அரசு புறம்போக்கு	மறுகாலை ஓடை	0.33.5	பொதுப்பணித் துறை
7	22	அரசு புறம்போக்கு	குளம்	4.21.0	பொதுப்பணித் துறை
8	24-2	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.04.0	வருவாய்த்துறை
9	61-1	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.06.5	வருவாய்த்துறை
10	62-1	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.06.0	வருவாய்த்துறை
11	64-1	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.03.0	வருவாய்த்துறை
12	68-1	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.01.0	வருவாய்த்துறை
13	69	அரசு புறம்போக்கு	மறுகால் ஓடை	0.23.5	பொதுப்பணித் துறை
14	74-8	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.02.0	வருவாய்த்துறை
15	92-1	அரசு புறம்போக்கு	மறுகால் ஓடை	0.18.0	பொதுப்பணித் துறை
16	94-5	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.05.5	வருவாய்த்துறை
17	96-5	அரசு	பாதை	0.04.0	ஊராட்சித்துறை

		புறம்போக்கு			
18	98-2	அரசு புறம்போக்கு	தெரு	0.08.0	ஊராட்சித்துறை
19	99	அரசு புறம்போக்கு	சாலை	0.26.5	தேசிய நெடுஞ் சாலை துறை
20	103- 3	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.02.0	பொதுப்பணித் துறை
21	183- 1	அரசு புறம்போக்கு	தரிசு	1.58.0	வருவாய்த்துறை
22	183- 5	அரசு புறம்போக்கு	தரிசு	0.43.0	வருவாய்த்துறை
23	185- 1	அரசு புறம்போக்கு	தீர்வை ஏற்பட்ட தரிசு	0.12.5	வருவாய்த்துறை
24	187- 11	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.02.0	வருவாய்த்துறை
25	728- 4	அரசு புறம்போக்கு	குளம்	6.70.0	பொதுப்பணித் துறை
26	730- 1	அரசு புறம்போக்கு	கால்நடை பாதை	0.04.0	ஊராட்சி
27	730- 2	அரசு புறம்போக்கு	தரிசு	0.01.0	வருவாய்த்துறை
28	730- 3	அரசு புறம்போக்கு	குளம்	0.01.0	பொதுப்பணித் துறை
29	732- 4	அரசு புறம்போக்கு	வாய்க்கால்	0.04.5	வருவாய்த்துறை
30	736- 2	அரசு புறம்போக்கு	வாய்க்கால்	0.98.0	வருவாய்த்துறை
இரவி பதூர் -1	15-7	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.03.0	வருவாய்த்துறை
2	16-1	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.01.0	வருவாய்த்துறை
3	18-7	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.09.0	வருவாய்த்துறை
4	20	அரசு புறம்போக்கு	சாலை	0.32.0	நெடுஞ்சாலை துறை
5	21-1	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.04.5	வருவாய்த்துறை
6	24-5	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.04.5	வருவாய்த்துறை
7	24-7	அரசு	பாசன	0.14.0	வருவாய்த்துறை

		புறம்போக்கு	வாய்க்கால்		
8	24-10	அரசு புறம்போக்கு	மறுகால் ஓடை	1.00.5	பொதுப்பணித் துறை
9	60-5	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.03.0	வருவாய்த்துறை
10	61-3	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.01.0	வருவாய்த்துறை
11	73-3	அரசு புறம்போக்கு	தீர்வை ஏற்படாதது	0.23.5	வருவாய்த்துறை
12	78-7	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.06.5	வருவாய்த்துறை
13	79-2	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.01.0	வருவாய்த்துறை
14	80	அரசு புறம்போக்கு	தீர்வை ஏற்படாதது	4.52.0	வருவாய்த்துறை
15	83-1	அரசு புறம்போக்கு	ஓடை	0.28.5	பொதுப்பணித் துறை
16	84	அரசு புறம்போக்கு	ஓடை	0.23.0	பொதுப்பணித் துறை
17	85-1	அரசு புறம்போக்கு	வாய்க்கால்	0.18.5	வருவாய்த்துறை
18	86-6	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.04.5	வருவாய்த்துறை
19	92-9	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.01.0	வருவாய்த்துறை
20	92-10	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.01.0	வருவாய்த்துறை
21	92-11	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.02.5	வருவாய்த்துறை
22	93-2	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.03.0	வருவாய்த்துறை
23	185-1	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.08.5	வருவாய்த்துறை
24	186-4	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.03.5	வருவாய்த்துறை
25	187-1	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.08.5	வருவாய்த்துறை
26	190	அரசு புறம்போக்கு	சாலை	0.16.5	நெடுஞ்சாலை துறை
கொட்டா	8-2	அரசு	வாய்க்கால்	0.20.0	வருவாய்த்துறை

ரம் -1		புறம்போக்கு			
2	21	அரசு புறம்போக்கு	குளம்	4.13.0	பொதுப்பணித் துறை
3	24-6	அரசு புறம்போக்கு	வாய்க்கால்	0.02.5	வருவாய்த்துறை
4	26-2	அரசு புறம்போக்கு	பாசன வாய்க்கால்	6.03.0	பொதுப்பணித் துறை
5	450- 16	அரசு புறம்போக்கு	குட்டை	0.01.0	வருவாய்த்துறை
6	450- 19	அரசு புறம்போக்கு	வரத்துக் கால்	0.14.0	பொதுப்பணித் துறை
7	453- 4	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.03.0	பொதுப்பணித் துறை
8	454- 5	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.02.5	வருவாய்த்துறை
9	456- 8	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.01.5	வருவாய்த்துறை
10	457- 1	அரசு புறம்போக்கு	வரத்துக் கால்	0.05.5	பொதுப்பணித் துறை
11	457- 6	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.01.0	வருவாய்த்துறை
12	494	அரசு புறம்போக்கு	குளம்	5.78.5	பொதுப்பணித் துறை
13	514- 14	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.01.5	வருவாய்த்துறை
14	515	அரசு புறம்போக்கு	குளம்	9.23.5	பொதுப்பணித் துறை
15	524- 1	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.02.5	வருவாய்த்துறை
16	524- 4	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.00.5	வருவாய்த்துறை
17	524- 5	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.02.0	வருவாய்த்துறை
18	524- 17	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.02.0	வருவாய்த்துறை
19	526- 3	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.01.0	வருவாய்த்துறை
20	528- 1	அரசு புறம்போக்கு	மறுகால்	0.20.0	பொதுப்பணித் துறை
21	529-	அரசு	பாசன	0.03.5	வருவாய்த்துறை

	8	புறம்போக்கு	வாய்க்கால்		
22	535-1	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.62.5	வருவாய்த்துறை
23	535-10	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.03.0	வருவாய்த்துறை
24	536-10	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.01.5	வருவாய்த்துறை
25	583-3	அரசு புறம்போக்கு	மறுகால்	0.15.5	பொதுப்பணித் துறை
26	589-1	அரசு புறம்போக்கு	குளம்	6.13.0	பொதுப்பணித் துறை
27	685-1	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.03.5	வருவாய்த்துறை
28	689-1	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.02.5	வருவாய்த்துறை
29	691-2	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.00.5	வருவாய்த்துறை
30	691-16	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.00.5	வருவாய்த்துறை
31	691-22	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.02.0	வருவாய்த்துறை
32	694-5	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.01.0	வருவாய்த்துறை
33	694-15	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.00.5	வருவாய்த்துறை
34	695-5	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.07.0	வருவாய்த்துறை
35	699	அரசு புறம்போக்கு	சாலை	0.20.5	நெடுஞ்சாலை துறை
36	700-5	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.04.0	வருவாய்த்துறை
37	701-9	அரசு புறம்போக்கு	குளம்	1.05.5	வருவாய்த்துறை
38	715-4	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.01.5	வருவாய்த்துறை
39	722-1	அரசு புறம்போக்கு	குளம்	8.58.0	பொதுப்பணித் துறை
40	722-2	அரசு புறம்போக்கு	குளம்	4.85.5	பொதுப்பணித் துறை
41	722-	அரசு	குளம்	8.80.5	பொதுப்பணித் துறை

	3	புறம்போக்கு			துறை
42	729-2	அரசு புறம்போக்கு	ஹரிஜன குடியிருப்பு	0.62.5	பொதுப்பணித் துறை
43	730-1ஏ	அரசு புறம்போக்கு	தீர்வை ஏற்பட்டது	0.42.0	வருவாய்த்துறை
44	731-1	அரசு புறம்போக்கு	ஓடை	0.19.5	பொதுப்பணித் துறை
45	731-4	அரசு புறம்போக்கு	தீர்வை ஏற்பட்டது	0.83.5	வருவாய்த்துறை
46	731-5	அரசு புறம்போக்கு	வண்டி பாதை	0.20.0	வருவாய்த்துறை
தூமரை குளம் 1	53-16	அரசு புறம்போக்கு	சாலை	0.02.0	நெடுஞ்சாலை துறை
2	68	அரசு புறம்போக்கு	குளம்	3.65.5	பொதுப்பணித் துறை
3	70-4	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.03.0	வருவாய்த்துறை
4	70-6பி	அரசு புறம்போக்கு	தமிழ்நாடு குடிநீர் வடிகால் வாரியம்	0.03.0	
5	74-1	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.01.0	வருவாய்த்துறை
6	77-10	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.01.0	வருவாய்த்துறை
7	80-8	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.01.0	வருவாய்த்துறை
8	81-7	அரசு புறம்போக்கு		0.17.0	வருவாய்த்துறை
9	81-8	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.01.0	வருவாய்த்துறை
10	85-3	அரசு புறம்போக்கு		0.00.5	வருவாய்த்துறை
11	85-8	அரசு புறம்போக்கு		0.03.0	வருவாய்த்துறை
12	85-14	அரசு புறம்போக்கு		0.06.0	வருவாய்த்துறை
13	85-15	அரசு புறம்போக்கு		0.01.5	வருவாய்த்துறை
14	85-17	அரசு புறம்போக்கு		0.00.5	வருவாய்த்துறை

15	85-34	அரசு புறம்போக்கு		0.00.5	வருவாய்த்துறை
16	183	அரசு புறம்போக்கு	குளம்	6.25.0	பொதுப்பணித் துறை
17	220	அரசு புறம்போக்கு	வரத்துக் கால்	0.13.0	பொதுப்பணித் துறை
தேரூர்	17	அரசு புறம்போக்கு	ஒடை	0.20.5	பொதுப்பணித் துறை
	41	அரசு புறம்போக்கு	கால்வாய்	0.23.0	பொதுப்பணித் துறை
	42	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.24.0	பொதுப்பணித் துறை
நாகர் கோயில் 1	3-1	அரசு புறம்போக்கு	குளம்	9.72.0	பொதுப்பணித் துறை
2	14	அரசு புறம்போக்கு	சாலை	0.40.5	நெடுஞ்சாலை துறை
3	15	அரசு புறம்போக்கு	சாலை	0.39.5	நெடுஞ்சாலை துறை
4	16-6	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.01.5	வருவாய்த்துறை
5	19	அரசு புறம்போக்கு	சாலை	0.32.0	நெடுஞ்சாலை துறை
6	20	அரசு புறம்போக்கு	சாலை	0.26.0	நெடுஞ்சாலை துறை
7	22-2	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.05.5	வருவாய்த்துறை
8	27	அரசு புறம்போக்கு	சாலை	0.47.5	நெடுஞ்சாலை துறை
9	28-5	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.05.0	வருவாய்த்துறை
10	30-2	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.09.0	வருவாய்த்துறை
11	99-3	அரசு புறம்போக்கு	குட்டி குளம்	0.86.0	பொதுப்பணித் துறை
12	101	அரசு புறம்போக்கு	சாலை	0.40.5	நெடுஞ்சாலை துறை
13	130-1	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.00.5	வருவாய்த்துறை
14	131-7	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.11.5	வருவாய்த்துறை

15	132-1	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.09.0	வருவாய்த்துறை
16	133-5	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.04.5	வருவாய்த்துறை
17	134	அரசு புறம்போக்கு	சாலை	0.48.0	நெடுஞ்சாலை துறை
18	139-6	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.05.5	வருவாய்த்துறை
19	140-3	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.03.0	வருவாய்த்துறை
20	146	அரசு புறம்போக்கு	குளம்	21.33.5	பொதுப்பணித் துறை

மேற்படி தகவல் தொடர்பாக மேல்முறையீடு செய்ய விரும்பினால் இக்கடிதம் கிடைக்கப் பெற்ற 30 தினங்களுக்குள் அகஸ்தீ

ஸ்வரம் வட்டாட்சியருக்கு மேல்முறையீடு செய்யலாம்

பொது தகவல் அலுவலர் மற்றும்

தலைமையிடத்து துணை

வட்டாட்சியர் அலுவலகம் அகஸ்தீஸ்வரம்

பெறுநர்

திரு சி இராமசுவாமி

வழக்கறிஞர் தக்கலை

அனுப்பநர்

பெறுநர்

பொது தகவல் அர்வலர் மற்றும்

திரு ஜெயராமன்

தலைமையிடத்து துணை வட்டாட்சியர்

கொல்லக்குடிவிளை

தோவாளை

கப்பியறை

ஆ2-5852-2015 நாள் 24.11.2015

அய்யா

பொருள் தகவல் அறியம் உரிமைச்சட்டம் தோவாளை வட்டம்

திருப்பதிசாரம் மற்றும் ஆரல்வாய்மொழி கிராமங்களி

லுள்ள புறம்போக்கு நிலங்களின் விபரம் கேட்டது

தகவல் அனுப்பதல் தொடர்பாக

பார்வை திரு ஜெயராமன் மனு நாள் 28.10.2015

பார்வையில் காணும் தகவல் அறியம் உரிமைச் சட்ட மனுவில்

கோரியுள்ள தகவல்கள் பின்வருமாறு வழங்கப்படுகிறது

திருப்பதிசாரம் கிராமம்

வ எண்	புல எண்	வகைபாடு	தன்மை	புரப்பு	சம்பந்தப்பட்ட துறை
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1	80-1	புறம்போக்கு	பாசன வாய்க்கால்	0.01.5	பொதுப்பணித் துறை
2	81-1	புறம்போக்கு	பாசன வாய்க்கால்	0.05.5	பொதுப்பணித் துறை
3	84	புறம்போக்கு	வாய்க்கால்	0.72.5	பொதுப்பணித் துறை
4	86-8	புறம்போக்கு	பாசன வாய்க்கால்	0.01.5	பொதுப்பணித் துறை
5	92-5	புறம்போக்கு	பாசன வாய்க்கால்	0.03.5	பொதுப்பணித் துறை
6	92-7	புறம்போக்கு	பாசன வாய்க்கால்	0.05.5	பொதுப்பணித் துறை
7	181- 8	புறம்போக்கு	எண்ணெய் குளம்	12.55.0	பொதுப்பணித் துறை
8	181- 10	புறம்போக்கு	கீளுவக் குளம்	6.53.5	பொதுப்பணித் துறை
9	360- 4	புறம்போக்கு	பாசன வாய்க்கால்	0.04.0	பொதுப்பணித் துறை
10	361- 1	புறம்போக்கு	பாசன வாய்க்கால்	0.07.5	பொதுப்பணித் துறை
11	361- 6	புறம்போக்கு	பாசன வாய்க்கால்	0.05.5	பொதுப்பணித் துறை
12	363- 1	புறம்போக்கு	பாசன வாய்க்கால்	0.04.0	பொதுப்பணித் துறை
13	363- 7	புறம்போக்கு	பாசன வாய்க்கால்	0.03.5	பொதுப்பணித் துறை
14	364- 3	புறம்போக்கு	பாசன வாய்க்கால்	0.03.0	பொதுப்பணித் துறை
15	365- 2	புறம்போக்கு	பாசன வாய்க்கால்	0.01.0	பொதுப்பணித் துறை
16	365- 3	புறம்போக்கு	பாசன வாய்க்கால்	0.00.5	பொதுப்பணித் துறை
17	373	புறம்போக்கு	வரத்துக் கால்	0.22.5	பொதுப்பணித் துறை
18	375- 7	புறம்போக்கு	பாசன வாய்க்கால்	0.07.5	பொதுப்பணித் துறை
19	376- 6	புறம்போக்கு	பாசன வாய்க்கால்	0.07.5	பொதுப்பணித் துறை
20	384- 3	புறம்போக்கு	பாசன வாய்க்கால்	0.04.5	பொதுப்பணித் துறை
21	389- 1	புறம்போக்கு	பாசன வாய்க்கால்	0.17.5	பொதுப்பணித் துறை

22	390-6	புறம்போக்கு	பாசன வாய்க்கால்	0.25.5	பொதுப்பணித் துறை
23	392-29	புறம்போக்கு	வாய்க்கால்	0.04.0	பொதுப்பணித் துறை
24	393-2	புறம்போக்கு	வாய்க்கால்	0.10.5	பொதுப்பணித் துறை
25	394-1	புறம்போக்கு	வாய்க்கால்	0.13.5	பொதுப்பணித் துறை
26	394-3	புறம்போக்கு	வாய்க்கால்	0.10.0	பொதுப்பணித் துறை

குமாரபுரம் கிராமம்

வ. எண்	புல எண்	வகைபாடு	தன்மை	புரப்பு	சம்பந்தப்பட்ட துறை
1	541	அரசு புறம்போக்கு	வரத்துக் கால்	0.28.0	பொதுப்பணித் துறை
2	550	அரசு புறம்போக்கு	வரத்துக் கால்	0.17.0	பொதுப்பணித் துறை
3	693-6	அரசு புறம்போக்கு	பாசனக் கால்வாய்	0.03.5	பொதுப்பணித் துறை
4	694-1	அரசு புறம்போக்கு	தீர்வை ஏற்பட்டது	0.14.0	வருவாய்த்துறை
5	700-20	அரசு புறம்போக்கு	பாசனக் கால்வாய்	0.02.0	பொதுப்பணித் துறை
6	701-2	அரசு புறம்போக்கு	பாசனக் கால்வாய்	0.03.0	பொதுப்பணித் துறை
7	701-10	அரசு புறம்போக்கு	பாசனக் கால்வாய்	0.03.0	பொதுப்பணித் துறை
8	705-5	அரசு புறம்போக்கு	பாசனக் கால்வாய்	0.09.5	பொதுப்பணித் துறை
9	706-1பி	அரசு புறம்போக்கு	பொய்கைக் கால்வாய்	0.11.0	பொதுப்பணித் துறை
10	707-3பி	அரசு புறம்போக்கு	பொய்கைக் கால்வாய்	0.10.0	பொதுப்பணித் துறை

ஆரவாய்மொழி தெற்கு கிராமம்

வ. எண்	புல எண்	வகைபாடு	தன்மை	புரப்பு	சம்பந்தப்பட்ட துறை
1	153-5	அரசு புறம்போக்கு	குளம்	0.04.5	பொதுப்பணித் துறை
2	212	அரசு புறம்போக்கு	ஓடை	0.38.5	பொதுப்பணித் துறை

3	214	அரசு புறம்போக்கு	ஓடை	0.15.0	பொதுப்பணித் துறை
4	223- 1	அரசு புறம்போக்கு	ஊர் நத்தம்	1.08.0	வருவாய்த்துறை
5	224- 1	அரசு புறம்போக்கு	கால்வாய்	0.90.0	பொதுப்பணித் துறை
6	224- 2	அரசு புறம்போக்கு	நத்தம்	0.26.5	வருவாய்த்துறை
7	226	அரசு புறம்போக்கு	மறுகால் ஓடை	0.16.5	பொதுப்பணித் துறை
8	229- 17	அரசு புறம்போக்கு	ஓடை	0.16.0	பொதுப்பணித் துறை
9	231	அரசு புறம்போக்கு	ஓடை	0.16.0	பொதுப்பணித் துறை
10	292	அரசு புறம்போக்கு	ஓடை	0.26.5	பொதுப்பணித் துறை
11	334	அரசு புறம்போக்கு	அன்று வந்திக் குளம்	9.53.5	பொதுப்பணித் துறை
12	336- 3	அரசு புறம்போக்கு	பாசன வாய்க்கால்	0.08.0	பொதுப்பணித் துறை
13	745- 5	அரசு புறம்போக்கு	ஓடை	0.26.5	பொதுப்பணித் துறை
14	751- 5	அரசு புறம்போக்கு	ஓடை	0.13.0	பொதுப்பணித் துறை
15	753- 7	அரசு புறம்போக்கு	குளம்	0.08.5	பொதுப்பணித் துறை

பொது தகவல் அலுவலர் மற்றும்
தலைமையிடத்து துணை வட்டாட்சியர்
தோவாளை

அனுப்பநர்

பொது தகவல் அர்வலர் மற்றும்
தலைமையிடத்து துணை வட்டாட்சியர்
தோவாளை

பெறுநர்

திரு நா. சிவசுப்பிரமணியன்
கண்ணாட்டுவிளை
நெய்யூர்

ஆ2-5732-2015 நாள் 13.11.2015

அய்யா

பொருள் தகவல் அறியும் உரிமைச்சட்டம் தோவாளை மற்றும்
திருப்பதிசாரம் மற்றும் திருப்பதிசாரம் கிராமங்களில்

புறம்போக்கு நிலங்கள் குறித்து தகவல் கேட்டது

அறிக்கை அனுப்பதல் தொடர்பாக

பார்வை திரு சிவசுப்பிரமணியன் மனு நாள் 26.10.2015

பார்வையில் காணும் தகவல் அறியும் உரிமைச் சட்ட மனுவில்

கோரியுள்ள தகவல்கள் பின்வருமாறு வழங்கப்படுகிறது

திருப்பதிசாரம் கிராமம்

வ எண்	புல எண்	வகைபாடு	தன்மை	புரப்பு	சம்பந்தப்பட்ட துறை
1	50	அரசு புறம்போக்கு	ஆறு	0.76.0	பொதுப்பணித் துறை
2	51	அரசு புறம்போக்கு	ஆறு	0.69.0	பொதுப்பணித் துறை
3	54-3	அரசு	பாசன வாய்க்கால்	0.02.0	பொதுப்பணித் துறை
4	55-8	அரசு	பாசன வாய்க்கால்	0.06.0	பொதுப்பணித் துறை
5	56-1	அரசு	பாசன வாய்க்கால்	0.05.5	பொதுப்பணித் துறை
6	63-5	அரசு	பாசன வாய்க்கால்	0.04.5	பொதுப்பணித் துறை
7	64-1	அரசு	பாசன வாய்க்கால்	0.13.5	பொதுப்பணித் துறை
8	65-1	அரசு	பாசன வாய்க்கால்	0.08.5	பொதுப்பணித் துறை
9	74-1	அரசு	பாசன வாய்க்கால்	0.20.0	பொதுப்பணித் துறை
10	76- 10	அரசு	பாசன வாய்க்கால்	0.05.0	பொதுப்பணித் துறை

தோவாளை கிராமம்

வ எண்	புல எண்	வகைபாடு	தன்மை	புரப்பு	சம்பந்தப்பட்ட துறை
1	599	அரசு புறம்போக்கு	ஓடை	0.41.0	பொதுப்பணித் துறை
2	605- 2	அரசு புறம்போக்கு	ஓடை	0.57.5	பொதுப்பணித் துறை
3	615- 3	அரசு புறம்போக்கு	ஓடை	0.55.0	பொதுப்பணித் துறை
4	625- 6	அரசு புறம்போக்கு	ஓடை	0.10.5	பொதுப்பணித் துறை
5	652-	ரயில்வே	நிலம்	0.04.5	ரயில்வேதுறை

	15				
6	728	அரசு புறம்போக்கு	ஓடை	0.68.5	பொதுப்பணித் துறை
7	729	அரசு புறம்போக்கு	ஓடை	0.43.5	பொதுப்பணித் துறை
8	793-2	அரசு புறம்போக்கு	வண்டிப் பாதை	0.25.5	பஞ்சாயத்து
9	793-3	அரசு புறம்போக்கு	நத்தம்	0.07.0	வருவாய்த்துறை
10	793-4	அரசு புறம்போக்கு	நத்தம்	0.03.5	வருவாய்த்துறை
11	793-5	அரசு புறம்போக்கு	நத்தம்	0.03.3	வருவாய்த்துறை
12	793-6	அரசு புறம்போக்கு	நத்தம்	0.02.5	வருவாய்த்துறை
13	795-1	அரசு புறம்போக்கு	ஓடை	0.23.0	பொதுப்பணித் துறை

பொது தகவல் அலுவலர் மற்றும்
தலைமையிடத்து துணை வட்டாட்சியர்
தோவாளை

81. These public informations definitely show that in various private lands as well as government poramboke lands, large number of Vaikkal, Kulam, Odai, river, cart track and irrigation channels are shown to be in existence enroute the proposed realigned route. In the light of objections raised by large number of people during "public hearing" in respect of water bodies, the EAC ought to have applied its mind independently at least to direct the project proponent to produce the revenue records and make inspection of the spots concerned through its committee before recommending the same. Otherwise, the public consultation process, enunciated in the EIA Notification, 2006 will only become an empty formality which cannot be true. It is a meaningful exercise to know the mind of local people.

82. It is unfortunate that even MoEF & CC, which is the Regulatory Authority having an independent obligation to consider the same on merits, of course, based on the EAC recommendation, has also failed to make note of the vital aspect of existence of large number of water bodies. One can definitely take judicial note of the existence of large number of water bodies in Kanniyakumari District which is not only a small District in

terms of geography but also connecting the adjacent Kerala State and the EAC should have taken a little more effort in scrutinising the EIA report as well as the “public consultation” papers in an appropriate manner. If only an ordinary prudent person goes through the public consultation papers, as it is seen in the records submitted by the learned counsel appearing for the MoEF & CC, certainly a spot inspection ought to have been proposed to be made, to find out the correctness of the existence of the water bodies in the area. After all preservation of natural springs, odais and other water bodies is absolutely necessary and it forms part of important duties of the government and considering otherwise should be only in the rarest of rare cases and cannot be taken as a routine process. In our view, after referring to the documents submitted by the learned counsel appearing for the MoEF & CC, it is clear that the process of “appraisal” has not been done by the EAC in an appropriate and proper manner at all .

83. However, we are conscious of the fact that during the course of hearing and also as seen from the additional replies/affidavits/documents submitted by the respondents with regard to the measures to be taken and design of the structures such as bridges, culverts etc., in safeguarding the water bodies and for allowing free flow of water, have been furnished and the respondents have tried to justify the proposed alignment of the road. But that does not satisfy the purpose. Detailed study and impact of the project on such large number of water bodies which form the major part of the local eco-system consisting ecologically sensitive wetlands in Kanyakumari District, should have been undertaken during the EIA. The EAC should have applied its mind on this vital environmental issue, if necessary by making spot inspection and should have undertaken detailed appraisal and should have suggested recommendations on how to go ahead with the project without affecting the waterbodies, more so, in the context of large number of people who attended the public hearing, raised their concerns on the effect of project on waterbodies.

84. The order of the apex court in HINCHLAL TIWARI V. KAMALA DEVI (2001) 6 SCC 496) while considering about the community resources and need for their protection like forests, tanks, ponds, hillocks and mountains etc which are the nature’s bounty and need for their protection, has clearly held that they help to maintain the delicate ecological balance and need to be protected for that reason and maintenance of that is the essence

of right guaranteed under Article 21 of the Constitution of India. The Supreme Court has held as follows:

“13. It is important to notice that the material resources of the community like forests, tanks, ponds, hillock, mountain etc. are nature's bounty. They maintain delicate ecological balance. They need to be protected for a proper and healthy environment which enables people to enjoy a quality life which is the essence of the guaranteed right under Article 21 of the Constitution. The Government, including the Revenue Authorities i.e. Respondents 11 to 13, having noticed that a pond is falling in disuse, should have bestowed their attention to develop the same which would, on one hand, have prevented ecological disaster and on the other provided better environment for the benefit of the public at large. Such vigil is the best protection against knavish attempts to seek allotment in non-abadi sites.”

85. The protection of this natural water courses and water ways form part of inter generational equity as held by the Hon'ble Supreme Court in STATE OF H.P. V. GANESH WOOD PRODUCTS (1995) 6 SCC 363 as follows:

“ 51. It is also violative of the National Forest Policy and the State Forest Policy evolved by the Government of India and the Himachal Pradesh Government respectively - besides the fact that it is contrary to public interest involved in preserving forest wealth, maintenance of environment and ecology and considerations of sustainable growth and inter-generational equity. After all, the present generation has no right to deplete all the existing forests and leave nothing for the next and future generations.”

86. While enunciating the principle of Public Trust Doctrine evolved from the Roman Law, the Supreme Court has decided in M.C. MEHTA V. KAMALNATH (1997) 1 SCC 388 as follows:

“24. The ancient Roman Empire developed a legal theory known as the "Doctrine or the Public Trust. It was founded on the ideas that certain common properties such as rivers, sea-shore, forests and the air were held by Government in trusteeship for the free and unimpeded use of the general public. Our contemporary conceded about 'the environment' bear a very close conceptual relationship to this legal doctrine. Under the Roman Law these resources were either owned by no one (res nullious) or by everyone in common (res communious). Under the English common law, however, the Sovereign could own these resources but the ownership was limited in nature, the Crown could not grant these properties to private owners if the effect was to interfere with the public interests in navigation or fishing. Resources that were suitable for these uses were deemed to be held in trust by the Crown for the benefit of the public Joseph L. Sax, Professor of Law, University of Michigan - proponent of the Modern Public Trust Doctrine - in an erudite article "Public Trust Doctrine in Natural Resource Law: Effective Judicial Intervention", Michigan Law Review, Vol. 68 Part-1 p.473, has given the historical background of the Public Trust Doctrine as under:

"The source of modern public trust law is found in a concept that received much attention in Roman and English law - the nature of property rights in rivers, the sea, and the seashore. That history has

been given considerable attention in the legal literature, need not be repeated in detail here. But two points should be emphasized. First, certain interests, such as navigation and fishing, were sought to be preserved for the benefit of the public; accordingly, property used for the those purposes was distinguished from general public property which the sovereign could routinely grant to private owners. Second, while it was understood that in certain common properties - such as the seashore, highways, and running water – ‘perpetual use was dedicated to the public’, it has never been clear whether the public had an enforceable right to prevent infringement of those interests. Although the state apparently did protect public uses, no evidence is available that public rights could be legally asserted against a recalcitrant government.”

25. The Public Trust Doctrine primarily rests on the principle that certain resources like air, sea, waters and the forests have such a great importance to the people as a whole that it would be wholly unjustified to make them a subject of private ownership. The said resources being a gift of nature, they should be made freely available to everyone irrespective of the status in life. The doctrine enjoins upon the Government to protect the resources for the enjoyment of the general public rather than to permit their use for private ownership or commercial purposes. According to Professor Sax the Public Trust Doctrine imposes the following restrictions on governmental authority:

"Three types of restrictions on governmental authority are often thought to be imposed by the public trust: first, the property subject to the trust must not only be used for a public purpose, but it must be held available for use by the general public; second, the property may not be sold, even for a fair cash equivalent; and third property must be maintained in particular types of uses".

87. Precautionary principle apart from “polluter pays” principle in the light of sustainable development concept which are inseparable ingredients of our environmental jurisprudence, was affirmed in a landmark judgment by the Apex Court in VELLORE CITIZENS’WELFARE FORUM V. UNION OF INDIA (1996) 5 SCC 647 has held as follows:

“10. The traditional concept that development and ecology are opposed to each other, is no longer acceptable.”Sustainable Development” is the answer. In the International sphere, "Sustainable Development" as a concept came to be known for the first time in the Stockholm Declaration of 1972. Thereafter, in 1987 the concept was given a definite shape by the World Commission on Environment and Development in its report called “Our Common Future”. The Commission was chaired by the then Prime Minister of Norway, Ms. G.H. Brundtland and as such the report is popularly known as "Brundtland Report". In 1991 the World Conservation Union, United Nations Environment Programme and World Wide Fund for Nature, jointly came out with a document called "Caring for the Earth" which is a strategy for sustainable living. Finally, came the Earth Summit held in June, 1992 at Rio which saw the largest gathering of world leaders ever in the history - deliberating and chalking out a blue print for the survival of the planet. Among the tangible achievements of the Rio Conference was the signing of two conventions, one on biological diversity and another on climate change. These conventions were signed by 153 nations. The delegates also approved by consensus three non binding documents namely, a Statement on Forestry Principles, a declaration of principles on environmental policy and development and initiatives and Agenda 21, a

programme of action into the next century in areas like poverty, population and pollution. During the two decades from Stockholm to Rio "Sustainable Development" has come to be accepted as a viable concept to eradicate poverty and improve the quality of human life while living within the carrying capacity of the supporting ecosystems. "Sustainable Development" as defined by the Brundtland Report means "Development that meets the needs of the present without compromising the ability of the future generations to meet their own needs". We have no hesitation in holding that "Sustainable Development" as a balancing concept between ecology and development has been accepted as a part of the Customary International Law though its salient features have yet to be finalised by the International Law Jurists.

11. Some of the salient principles of "Sustainable Development", as culled out from Brundtland Report and other international documents, are Inter-Generational Equity, Use and Conservation of Nature Resources, Environmental Protection, the Precautionary Principle, Polluter Pays principle, Obligation to assist and cooperate, Eradication of Poverty and Financial Assistance to the developing countries. We are, however, of the view that "The Precautionary Principle" and "The Polluter Pays" principle are essential features of "Sustainable Development". The "Precautionary Principle" - in the context of the municipal law – means:

(i) Environment measures - by the State Government and the statutory authorities must anticipate, prevent and attack the causes of environmental degradation.

(ii) Where there are threats of serious and irreversible damage lack of scientific certainty should not be used as the reason for postponing, measures to prevent environmental degradation.

(iii) The "Onus of proof" is on the actor or the developer/industrial to show that his action is environmentally benign.

12. "The Polluter Pays Principle" has been held to be a sound principle by this Court in *Indian Council for Enviro- Legal Action vs. Union of India* ((1996)3 SCC 212 p.246, para 65). The Court observed:

"..... We are of the opinion that any principle evolved in this 'behalf should be simple practical and suited to the conditions obtaining in this country".

The Court ruled that: (SCC p.246, para 65)

".... Once the activity carried on is hazardous or inherently dangerous, the person carrying on such activity is liable to make good the loss caused to any other person by his activity irrespective of the fact whether he took reasonable care while carrying on his activity. The rule is premised upon the very nature of the activity carried on".

Consequently the polluting industries are "absolutely liable to compensate for the harm caused by them to villagers in the affected area, to the soil and to the underground water and hence, they are bound to take all necessary measures to remove sludge and other pollutants lying in the affected areas". The "Polluter Pays" principle as interpreted by this Court means that the absolute liability for harm to the environment extends not only to compensate the victims of pollution but also the cost of restoring the environmental degradation. Remediation of the damaged environment is part of the process of "Sustainable Development" and as such polluter is liable to pay the cost to the individual sufferers as well as the cost of reversing the damaged ecology.

13. *The Precautionary Principle and the Polluter Pays Principle have been accepted as part of the law of the land. Article 21 of the Constitution of India guarantees protection of life and personal liberty. Articles 47, 48A and 51A (g) of the Constitution are as under:*

"47. Duty of the State to raise the level of nutrition and the standard of living and to improve public health. The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and in particular, The State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.

48-A. Protection and improvement of environment and safeguarding of forests and wild life. The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.

51-A. (g) To protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures."

Apart from the constitutional mandate to protect and improve the environment there are plenty of post independence legislations on the subject but more relevant enactments for our purpose are: The Water (Prevention and Control of Pollution) Act, 1974 (the Water Act), The Air (Prevention and Control of Pollution) Act, 1981 (the Air Act) and the Environment Protection Act, 1986 (the Environment Act). The Water Act provides for the constitution of the Central Pollution Control Board by the Central Government and the constitution of one State Pollution Control Boards by various State Governments in the country. The Boards function under the control of the Governments concerned. The Water Act prohibits the use of streams and wells for disposal of polluting matters. Also provides for restrictions on outlets and discharge of effluents without obtaining consent from the Board. Prosecution and penalties have been provided which include sentence of imprisonment. The Air Act provides that the Central Pollution Control Board and the State Pollution Control Boards constituted under the later Act shall also perform the powers and functions under the Air Act. The main function of the Boards, under the Air Act, is to improve the quality of the air and to prevent control and abate air pollution in the country. We shall deal with the Environment Act in the later part of this judgement.

14. In view of the above-mentioned constitutional and statutory provisions we have no hesitation in holding that the precautionary principle and the polluter pays principle are part of the environmental law of the country.

*15. Even otherwise once these principles are accepted as part of the Customary International Law there would be no difficulty in accepting them as part of the domestic law. It is almost accepted proposition of law that the rule of Customary International Law which are not contrary to the municipal law shall be deemed to have been incorporated in the domestic law and shall be followed by the Courts of Law. To support we may refer to Justice H.R. Khanna's opinion in *A.D.M Jabalpur vs Shivakant Shukla* (AIR 1976 SC 1207), *Jolly George Varghese's case* (AIR 1980 SC 470) and *Gramophone Co. case* (AIR 1984 SC 667).*

16. The Constitutional and statutory provisions protect a person's right to fresh air, clean water and pollution-free environment, but the source of the right is the inalienable common law right of clean environment. It would be useful to quote a paragraph from Blackstone's commentaries on the Laws of England (Commentaries on the Laws of England of Sir William Blackstone)

Vol.III, fourth edition published in 1876. Chapter XIII, "Of Nuisance" depicts the law on the subject in the following words:

"Also, if a person keeps his hogs, or other noisome animals, or allows filth to accumulate on his premises, so near the house of another, that the stench incommodes him and makes the air unwholesome, this is an injurious nuisance, as it tends to deprive him of the use and benefit of his house. A like injury is, if one's neighbour sets up and exercises any offensive trade; as a tanner's, a tallow chandler's, or the like; for though these are lawful and necessary trades, yet they should be exercised in remote places; for the rule is, "sic utere tuo, ut alienum non laedas;" this therefore is an actionable nuisance. And on a similar principle a constant ringing of bells in one's immediate neighbourhood may be a nuisance

..... With regard to other corporeal hereditaments; it is a nuisance to stop or divert water that used to run to another's meadow or mill; to corrupt or poison a water-course, by erecting a due house or a lime-pit, for the use of trade, in the upper part of the stream; 'to pollute a pond. from which another is entitled to water his cattle: to obstruct a drain; or in short to do any act in common property, that in its consequences must necessarily tend to the prejudice of one's neighbour. So closely does the law of England enforce that excellent rule of gospel-morality, of "doing to others, as we would they should do unto ourselves'."

17. Our legal system having been founded on the British Common law the right of a person to pollution free environment is a part of the basic jurisprudence of the land.

88. The same principle was reiterated subsequently by the Supreme Court in the case of A.P. POLLUTION CONTROL BOARD V. PROF. M.V. NAYUDU (1999) 2 SCC 718 as follows:

"33. A basic shift in the approach to environmental protection occurred initially between 1972 and 1982. Earlier the Concept was based on the "assimilative capacity" rule as revealed from Principle 6 of the Stockholm Declaration of the U.N. Conference on Human Environment, 1972. The said principle assumed that science could provide policy-makers with the information and means necessary to avoid encroaching upon the capacity of the environment to assimilate impacts and it presumed that relevant technical expertise would be available when environmental harm was predicted and there would be sufficient time to act in order to avoid such harm. But in the 11th Principle of the U.N. General Assembly Resolution on World Charter for Nature, 1982, the emphasis shifted to the "Precautionary Principle", and this was reiterated in the Rio Conference of 1992 in its Principle 15 which reads as follows:

"Principle 15.- In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for proposing cost-effective measures to prevent environmental degradation."

34. In regard to the cause for the emergence of this principle, Charmian Barton, in the article earlier referred to in Vol.22, Harv. Envtt. L. Rev. (1998), p.509 at p.547 says:

"There is nothing to prevent decision-makers from assessing the record and concluding there is inadequate information on which to reach a determination. If it is not possible to make a decision with

'some' confidence, then it makes sense to err on the side of caution and prevent activities that may cause serious or irreversible harm. An informed decision can be made at a later stage when additional data is available or resources permit further research. To ensure that greater caution is taken in environmental management, implementation of the principle through judicial and legislative means is necessary."

In other words, inadequacies of science are the real basis that has led to the precautionary principle of 1982. It is based on the theory that it is better to err on the side of caution and prevent environmental harm which may indeed become irreversible.

35. The principle of precaution involves the anticipation of environmental harm and taking measures to avoid it or to choose the least environmentally harmful activity. It is based on Scientific uncertainty. Environmental protection should not only aim at protecting health, property and economic interest but also protect the environment for its own sake. Precautionary duties must not only be triggered by the suspicion of concrete danger but also by (justified) concern or risk potential. The precautionary principle was recommended by the UNEP Governing Council (1989). The Bomako Convention also lowered the threshold at which scientific evidence might require action by not referring to "serious" or "irreversible" as adjectives qualifying harm. However, summing up the legal status of the precautionary principle, one commentator characterised the principle as still "evolving" for though it is accepted as part of the international customary law, "the consequences of its application in any potential situation will be influenced by the circumstances of each case". (See First Report of Dr. Sreenivasa Rao Pemmaraju, Special -Rapporteur, International Law Commission dated 3.4.1998 paras 61 to 72)"

Therefore, the catena of judgments of the apex court make it very clear that protection of water bodies and other natural resources form part of right to life guaranteed under Article 21 of the Constitution of India. The EAC ought to have taken the judicial dictum while performing statutory function of "appraisal" before making recommendation to the Regulatory Authority.

89. Now that we have come to a conclusion that the EAC has not properly made its appraisal, the next question that arises for our consideration is as to whether on that ground and on the facts and circumstances of the case, the EC granted by the MoEF & CC should be set aside. As we have already held that other portions of the process of EC have been done in accordance with EIA Notification, 2006, except the portion of "appraisal", we are of the considered view that instead of setting aside the same, the EC shall be kept under suspension for a period of six months within which time the MoEF & CC shall refer to EAC for reappraisal of the issue based on the above said facts and then make recommendation based on which the Regulatory Authority may pass appropriate final orders.

90, Accordingly,

(1) Application Nos.116 and 127 of 2013 stand dismissed, as not maintainable.

(2)Application Nos. 104, 111 and 112 of 2013 are partly allowed with a direction that the EC granted by the MoEF & CC to the project proponent dated 9.9.2010 shall be kept in abeyance for a period of six months, within which time the MoEF & CC shall refer the entire matter back to the EAC for reappraisal, which shall, after taking into consideration of the above said facts, particularly the objections raised during the public consultation process and referring to the revenue records, as stated in the RTI information elicited above and if necessary to depute a team of its members to visit the place before making appropriate recommendation and pass appropriate orders and thereafter the Regulatory Authority viz., MoEF & CC to pass appropriate orders. The entire process shall be completed within the period of six months.

There shall be no order as to cost

Justice Dr.P. Jyothimani

Judicial Member

Shri P.S. Rao

Expert Member

Office to note:

The documents filed in
Volume Nos.I to IV are
directed to be returned to
the counsel for MoEF & CC