

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

Application No.141 of 2014 (SZ)

IN THE MATTER OF:

Ossie Fernandes
Co-Convenor,
Coastal Action Network,
54, LDG Road, Little Mount,
Saidapet, Chennai - 600 015.



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Applicant(s)

AND

1. The Union of India
Rep. by its Secretary to Government
Ministry of Environment & Forests
Paryavaran Bhavan, CGO Complex
Lodhi Road, New Delhi.
2. The National Coastal Zone Management Authority
Rep. by its Member Secretary
Office of the Ministry of Environment & Forests
Paryavaran Bhavan, CGO Complex
Lodhi Road, New Delhi.
3. The State of Tamil Nadu
Rep. by its Director
Department of Environment
Fort St. George
Chennai.
4. The Tamil Nadu Coastal Zone Management Authority
Rep. by its Member Secretary
Panagal Building
Saidapet
Chennai - 15.
5. The Tamil Nadu Pollution Control Board
Rep. by its Member Secretary
Annasalai, Chennai.

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Respondent(s)

Counsel appearing for the Applicant:

**M/s. Clifton D Rozario and
Maitreyi Krishnan**

Counsel appearing for the Respondents:

**Smt. C. Sangamithirai for R-1 and R-2
Mr. M.K. Subramanian for R-3 and R-4
Smt. H. Yasmeen Ali for R-5**

ORDER

PRESENT:

HON'BLE SHRI JUSTICE M. CHOCKALINGAM, JUDICIAL MEMBER

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

Dated 29th September, 2015

The counsel for the parties are present and the submissions put forth by them were heard and considered. The applicant has sought for the following reliefs:

(a) Declaring the public hearings conducted for the preparation of Coastal Zone Management Plans for Kanyakumari, Ramanathapuram, Thoothukudi, Pudukottai and Thirunelveli Districts on 31.10.2013, 21.11.2013, 10.12.2013, 23.11.2013 and 07.11.2013 respectively as invalid;

(b) Directing the respondents to re-conduct the public hearings for the purpose of preparation of Coastal Zone Management Plans for the districts of Kanyakumari, Ramanathapuram, Thoothukudi, Pudukottai and Thirunelveli after preparation of CZMPs in accordance with the CRZ Notification, 2011 and after providing wide publicity to as mandated under the CRZ Notification, 2006.

(c) Directing the respondents to upload CZMP 1996 including Coastal Zone Management Maps as per requirement of CRZ 1991 and the concerned Supreme Court Judgement along with the newly prepared plans on the website of the Appropriate Authorities to enable easy access of information to the public.

2. Claiming to be the Co-Convenor, Coastal Action Network, residing at Saidapet, Chennai, the applicant states that aggrieved by the illegal conduct of the public hearings for the preparation of the Coastal Zone Management Plans with reference to the CRZ Notification, 2011 for the districts of Kanyakumari, Ramanathapuram, Thoothukudi, Pudukottai and Thirunelveli he is filing this application. Public hearings were conducted in a manner contrary to the CRZ Notification, 2011

without preparing the maps and plans in accordance with CRZ Notification, 2011. They were not made available to the public also. No plan was drafted by the respondents, but only a map with Survey Numbers was prepared in English. There was no narration of the plan and there were no reasons mentioned for departure from the earlier plan now in force. The old plan or map was not even made available to the public. The website of the 5th respondent also did not contain the old plan or maps along with the notice of public hearing. Thus, it was impossible for the public to make effective participation in the public hearing process, since no information was made available to them by the respondents. All these documents pertaining to the public hearing were filed as Annexure A-1 with the application.

3. Pointing to the same, counsel for the applicant would add that the same executive summary was appended to all the maps with the survey numbers making only some minor modifications. The 3rd respondent has proceeded to prepare Coastal Zone Management Plan which is in essence only a CRZ map. Thus, there is a clear violation of clause 5 of the CRZ Notification, 2011 which deals with the preparation of Coastal Zone Management Plans. Since no wide publicity was made as mandated under CRZ notification, the participation of public was practically excluded. The applicant originally made an Application No.86 of 2014 before this bench and on 06.03.2014 an order of injunction was granted restraining the respondents from conducting public hearing based on the maps prepared in respect of Villupuram District. Subsequently the said application was allowed directing the respondents to prepare the CZMPs strictly in accordance with the CRZ Notification, 2011 and conduct public hearings after making wide publicity. The application was finally disposed on 1.4.2014. Copies of the orders made on 06.03.2014 and 01.04.2014 are filed under Annexure A-2 and A-3. The public hearings in respect of Kanyakumari, Ramanathapuram, Thoothukudi, Pudukottai and Thirunelveli Districts were already completed on 31.10.2013, 21.11.2013, 10.12.2013, 23.11.2013 and 07.11.2013 respectively as found in Annexure A-4. All the aforesaid public hearings also suffered from same infirmities pointed out above. Under such circumstances, the entire public hearings for all the aforesaid districts have got to be

set aside with a direction to respondents to strictly comply with the mandate as found under CRZ Notification, 2011.

4. The respondents, on notice, entered appearance and filed their respective reply. The 4th respondent, Tamil Nadu Coastal Zone Management Authority, against whom the allegations are made that the public hearings were not conducted in accordance with law and CRZ maps were prepared not strictly following the mandate and CRZ Notification, 2011, has filed a detailed reply. It would be apt and appropriate to reproduce the reply of the 4th respondent in paragraphs 11 and 12 which reads as follows:

“ 11. I humbly submit that in the meantime the Ministry of Environment, Forests & Climate Change in 1r. No.11-64/2011 - SICOM (Vol.II) date 7th October 2014, issued several new guidelines for the preparation of CZMP's. As per the revised guidelines, the National Centre for Sustainable Coastal Management(NCSCM), constituted by the MoEF & CCC, shall revalidate the HTL for all the coastal areas. Further the NCSCM has to furnish the mappings of Ecologically Sensitive Areas (ESA), covering mangroves, coral reefs, sand dunes, mudflats, salt marsh, turtle nesting sites, horse shoe crab habitats, seagrass bed, nesting ground of birds, demarcating of Critically Vulnerable Coastal Areas and the preparation of said documents are under progress at NCSCM, Anna University, Chennai for all the coastal states.

12. I humbly submit that after receiving the above documents from the NCSCM action will be taken for the preparation of CZMPs, afresh, by making suitable alteration, corrections etc., on the draft CZMP Maps already prepared., based on the documents of NCSCM. Then the same shall be made available for public domain for obtaining views, remarks, and suggestions of stakeholders. The Finalization of CZMPs shall be done duly considering all the suggestions, views of stakeholders as per the CRZ Notification 2011. Further action shall not be taken on the basis of existing draft CZMP Maps.”

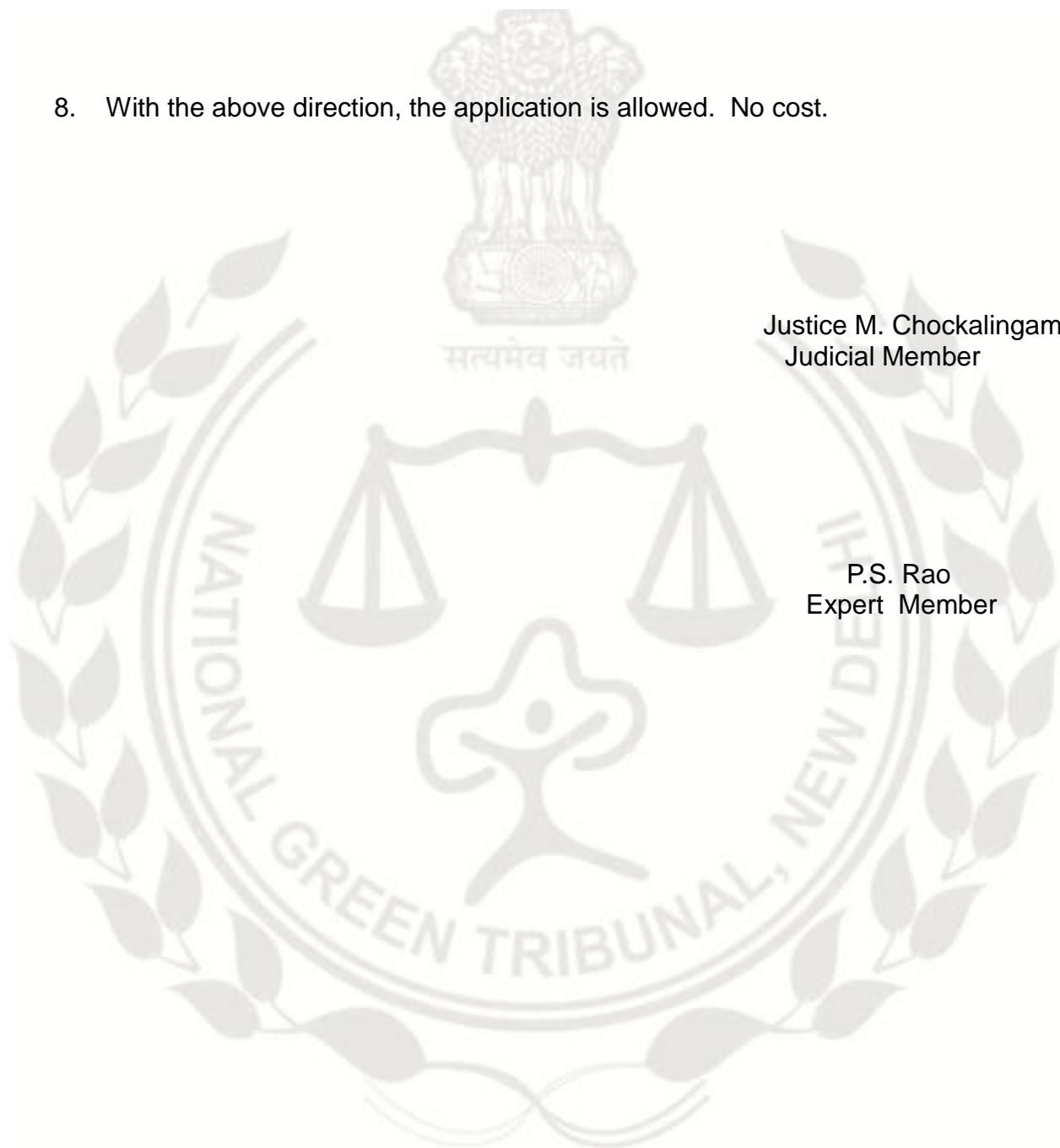
5. From the reading of the above it would clearly indicate that the new guidelines have been given for preparation of CZMPs and also revised guidelines by the National Centre for Sustainable Coastal Management (NCSCM)., constituted by the MoEF & CCC should reevaluate HTL for all the coastal areas. Apart from that the NCSCM has to furnish the mappings of Ecologically Sensitive Areas (ESA)., covering mangroves, coral reefs, etc., demarcating the Critically Vulnerable Coastal Areas and the preparation of said documents are under progress. For all the coastal areas, it is also made to clear that after receiving the above documents from NCSCM action will be taken for the preparation of CZMPs afresh by making suitable alterations, corrections, etc., on the draft CZMP Maps already prepared and it would also be made available in public domain for obtaining their views, remarks and suggestions and the finalization of CZMPs would be done duly considering all the suggestions, views of stakeholders strictly following the CRZ Notification, 2011.

6. Pointing out the reply, counsel for the applicant would submit that the affidavit is filed by the Ministry of Environment, Forest and Climate Change shown as 1st respondent to the effect that the draft CZMPs were not received from the state of Tamil Nadu for approval. But the public consultation on draft CZMPs for five districts of Tamil Nadu have been done. However, it was not made clear about the finalization of the draft CZMPs by the state and if any application was filed before the Tribunal prior to the finalization of the draft CZMPs, it is nothing premature.

7. In view of the reply, it will be quite clear that the plans originally prepared by the 4th respondent, which are assailed by the applicant herein, cannot be acted upon and after duly following the guidelines issued by the Ministry of Environment, Forests & Climate Change, necessary preparation of CZMPs afresh would be taken. Equally only after the preparation of those plans, they have to be put in public domain and necessary public hearings are convened and conducted to voice their views and suggestions of the stakeholders. Under such circumstances, the public hearings originally conducted in respect of all the above mentioned districts namely Kanyakumari, Ramanathapuram, Thoothukudi, Pudukottai and Thirunelveli and also the maps prepared by the 4th

respondent which are challenged now, are remain set aside. Hence, it is made clear that the 4th respondent has to necessarily follow the notification as mandated and all the guidelines and also the new guidelines which have got to be given by the MoEF in that regard.

8. With the above direction, the application is allowed. No cost.



Justice M. Chockalingam
Judicial Member

P.S. Rao
Expert Member

NGT