

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Tuesday, the Seventeenth day of April Two Thousand Eighteen

PRESENT

THE HON`BLE MR JUSTICE M. SATHYANARAYANAN

and

THE HON`BLE MR JUSTICE P. RAJAMANICKAM

WMP NOs.8662 and 8663 OF 2018

IN WP.7019/2018

JESU RETHINAM

[PETITIONER IN BOTH THE PETITIONS]

Vs

1 THE UNION OF INDIA [RESPONDENTS IN BOTH THE PETITIONS]
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, O/O MINISTRY OF ENVIRONMENT &
FORESTS, PARYAVARAN BHAVAN, CGO COMPLEX,
LODHI ROAD, NEW DELHI

3 THE STATE OF TAMIL NADU
REP. BY ITS PRINCIPAL SECRETARY TO THE
GOVERNMENT, 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,
76, MOUNT SALAI, GUINDY, CHENNAI 32

Petitions praying that in the circumstances stated
therein and in the respective affidavits filed therewith the High
Court will be pleased to

(i) to issue an order of injunction restraining the 3rd and 4th respondent from taking any further steps relating to the draft CZMP maps uploaded under the heal Revised draft coastal zone management plan on the website of the 3rd respondent at www.environment.tn.nic.in on 19.02.2018, (in WMP.8662/2018) and;

(ii) to issue an order of injunction restraining the 3rd, 4th and 5th respondents from notifying or conducting any public hearing pertaining to the draft coastal zone management plan uploaded on the website of the 3rd respondent at www. environment. tn.nic.in on 19.02.2018, including the public hearings scheduled for Ramanathapuram District on 19.4.2018 Cuddalore district on 18.04.2018 and Thirunelveli district on 12.04.2018, (in WMP.8663/2018) pending disposal of the writ petition.7019

Order : These petitions coming on for orders upon perusing the petitions and the respective affidavits filed in support thereof and upon hearing the arguments of M/S.A.YOGESHWARAN, Advocate for the petitioner in both the petitions and of MR.S.AROCKIAM, FOR 1 & 2 Respondents and of MR.P.H.ARAVIND PANDIAN AAG ASST. BY MR.E.MANOCHARAN, FOR 3 & 4th Respondent on behalf of the Respondents and of MRS.RITA CHANDRASEKAR, Advocate for the 5th Respondent the court made the following order:-

(Order of the Court was made by **M. SATHYANARAYANAN, J.**)

Mr.A.Yogeshwaran, learned counsel appearing for the petitioner, in sum and substance, made a submission that the guidelines for preparation of Coastal Zone Management Plan (CZMP) as Annexure-I to the Coastal Regulation Zone Notification, Ministry of Environment and Forests (Department of Environment, Forests and Wildlife) published in the Gazette of India, Extraordinary dated 06.01.2011, have not been complied with in letter and spirit. The learned counsel appearing for the petitioner has invited the attention of this Court to the interim order dated 06.03.2014 made in A.No.86 of 2014(SZ) on the file of the National Green Tribunal, Southern Zone, Chennai and would submit that the Tribunal, taking note of the submission made on behalf of the respondents that the original plan of the year 1996 was not uploaded in the website, had granted an order of ad-interim injunction restraining the holding of public hearing scheduled to take place on 07.03.2014 in respect of the proposed Coastal Zone Management Plan for Villupuram District and thereafter, the application came to be disposed of on 01.04.2014, wherein the Tribunal had observed that the respondents 3 and 4 are duty bound to strictly adhere to the CRZ Notification, 2011 while preparing the Coastal Zone Management Plan and also to conduct the public hearing and mandates stipulated therein and taking note of the submission made by the learned counsel for the respondents 3 and 4 to the effect that public hearing would be scheduled in future after making wide publicity that too after preparation of Coastal Zone Management Plan in accordance with CRZ Notification, 2011, has disposed of the application granting interim order.

2. Attention of this Court was also invited to the order dated 22.11.2017 made in O.A.Nos.424 of 2016 and 11 of 2014 passed by the National Green Tribunal, Principal Bench, New Delhi, wherein

certain directions have been issued especially with regard to the submission of the Coastal Zone Management Plan by 30.04.2018 and taking advantage of the time limit prescribed by the National Green Tribunal, New Delhi in the above cited order, on the alleged pretext of compliance as to the guidelines, the matter has been hurriedly proceeded with. The learned counsel appearing for the petitioner has further invited the attention of this Court to the proceedings of the CZMP Map (Tamil Nadu State) prepared by National Centre for Sustainable Coastal Management, Ministry of Environment, Forest & Climate Change, Chennai-25 and would submit that the said plan has not been prepared in accordance with the above said guidelines and if at all public hearing is going to be held in respect of Cuddalore and Ramnad Districts, it is only an empty formality and therefore, prays for appropriate interim orders.

3. *Per contra*, Mr.P.H.Arvind Pandian, learned Additional Advocate General, assisted by Mr.E.Manoharan, learned Additional Government Pleader appearing for the respondents 3 and 4 has drawn the attention of this Court to the Status Report filed by the Director, Department of Environment, Chennai-5 dated 17.04.2018 and would submit that CRZ Notification, 2011 guidelines have been fully complied with and even for the year 1991, the plan has also been uploaded in the website and would further submit that it is open to the concerned persons to raise all objections/grievances/submissions/questions etc., in the public hearing, which will be considered before finalization and it would be done strictly in accordance with CRZ Notification, 2011. The learned Additional Advocate General would further submit that since public hearing is scheduled to be held on 18.04.2018 and 19.04.2018 in respect of Cuddalore and Ramnad Districts and that maps have also been prepared at a cost of around Rs.3 Crores, interim order may not be granted and would further add that the merits of the rival contentions put forward by the parties are to be adjudicated at the time of final disposal of the writ petition.

4. This Court has considered the rival submissions and also perused the materials placed before it.

5. The final order dated 01.04.2014 made in A.No.86 of 2014 (SZ) passed by the National Green Tribunal, Southern Zone, Chennai, though pertains to public hearing in respect of Villupuram District, in the considered opinion of the Court, in the light of the observations made in para 3 of the said order, the concerned respondents are duty bound to strictly adhere to CRZ Notification, 2011 while preparing the Coastal Zone Management Plan and while conducting public hearing also reasonable opportunity should be given to the concerned persons to put forward their views/objections.

6. It is also relevant to extract the directions issued by the National Green Tribunal, Principal Bench, New Delhi dated 22.11.2017 made in O.A.Nos.424 of 2016 and 11 of 2014:

" 1. All the State Governments without default and delay will submit CZMP to Ministry of Environment, Forest

& Climate Change by 30th April, 2018. In the event any State Government and UT do not submit the said plan, they shall be liable for exemplary costs of Rs.5 lacs which should be recovered from the salary of the defaulting Officer. The non-compliance would invite action for violating the orders of the Tribunal.

2. Within three months thereafter that is by 31st July, 2018 the Ministry of Environment, Forest & Climate Change shall issue approval in regard to the fixation of hazard line and CZMP for the respective State covering the entire coastal area. Now if the Officers and Ministry of Environment, Forest & Climate Change commit default they shall be liable to be proceeded against in accordance with law.

3. We also grant liberty to Ministry of Environment, Forest & Climate Change to move the Tribunal well in time if there is default on the part of any of the States. But Ministry of Environment, Forest & Climate Change would not be permitted to contend non-cooperation from States as the reason for delay, if any, in compliance of the deadline in this order. We are putting Ministry of Environment, Forest & Climate Change at Notice.

The Applicant would also at liberty to approach the Tribunal if so advised.

The interim order dated 05.02.2018 shall continue till July, 2018.

With above observations, Original Application Nos.11/2014 and 424 of 2016 stand disposed of without any order as to costs."

7. The learned Additional Advocate General, on instructions, would submit that whatever be the prescriptions made/mandate cast upon the fourth respondent authority, it would be strictly adhered to and complied with and there may not be any lapse on their part and the entire exercise is being done purely in public interest, especially taking into consideration the environmental aspect.

8. Therefore, it is open to the petitioner and other persons interested to appear in the public hearing meeting scheduled to be held on 18.04.2018 and 19.04.2018 in respect of Cuddalore and Ramnad Districts and put forward their views/objections/grievances and it shall be duly taken note of and considered before finalization and forwarding of the same to the Ministry of Environment, Forest & Climate Change, who in-turn, shall take into consideration as to the strict compliance and adherence to the norms before proceeding further.

9. These Miscellaneous Petitions are disposed of accordingly.

Post the main writ petition on 21.06.2018. Counter affidavit of the respondents with supporting documents by then.

-sd/-
17/04/2018

/ TRUE COPY /

Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE SECRETARY TO
GOVERNMENT, UNION OF INDIA
MINISTRY OF ENVIRONMENT & FORESTS,
PARYAVARAN BHAVAN, CGO COMPLEX, LODHI ROAD,
NEW DELHI

2 THE MEMBER SECRETARY,
NATIONAL COASTAL ZONE MANAGEMENT
AUTHORITY, O/O MINISTRY OF ENVIRONMENT &
FORESTS, PARYAVARAN BHAVAN, CGO COMPLEX,
LODHI ROAD, NEW DELHI

3 THE PRINCIPAL SECRETARY TO
THE GOVERNMENT, STATE OF TAMIL NADU,
DEPARTMENT OF ENVIRONMENT,
FORT ST. GEORGE, CHENNAI

4 THE MEMBER SECRETARY,
TAMIL NADU COASTAL ZONE MANAGEMENT
AUTHORITY, PANAGAL BUILDING, SAIDAPET,
CHENNAI 15

5 THE MEMBER SECRETARY,
TAMIL NADU POLLUTION CONTROL BOARD,
76, MOUNT SALAI, GUINDY, CHENNAI 32

C.C. to M/S.A.YOGESHWARAN Advocate Sr.No.4754

C.C. to MR.S.AROCKIAM, Advocate Sr.No.4756

Order

in

WMP.Nos.8662 & 8663/2018

in

WP.7019/2018

Date :17/04/2018

From 26.2.2001 the Registry is issuing certified
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RRI 19/04/2018