

Item No.1

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

(By Video Conferencing)

ORIGINAL APPLICATION NO.12 OF 2023 (WZ)

Anil A. Masurkar

.... Applicant

Versus

Union of India through Secretary,
MoEF&CC and others

.... Respondents

Date of hearing: 10.02.2023

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicant : Mr. Omkar Ajit Keni, Advocate

ORDER

1. This application has been moved under Sections 14 and 15, read with Section 20 of the National Green Tribunal Act, 2010, highlighting therein the Public Appeal dated 01.12.2022, which is annexed at pages 71 and 72 of the paper-book, which allows hatpati sand dredging in slot "C" of Kalawal creek in Masure village, Taluka Malvan, District Sindhudurg, which has not been allotted for sand auction it being a small island located in eco-sensitive area as per letter dated 27.10.2016 (annexed at pages 76 to 78 of the paper-book). Now, ignoring the said letter dated 27.10.2016, vide his letter dated 01.12.2022 (annexed at pages 70 to 72 of the paper-book), respondent No.4 – District Collector, Sindhudurg has opened Gat "C" for sand exploitation. The village Masure alongwith three small islands are located in Kalawal creek. Due to sea level rise, soil erosion and sand mining by way of hatpati, the edges of the creek, agricultural land and coconut tree have submerged into Kalawal creek. The said hatpati/traditional mining was being carried out without

the control/monitoring of respondent No.3 – Maharashtra Maritime Board, respondent No. 4 – District Collector, Sindhudurg, respondent No.5 – District Mining Officer, Sindhudurg, respondent No.6 – Sub-Divisional Officer, Kudal and respondent No.7 – Tahsildar, Malvan. Due to exploitation of the sand, the depth of “C” slot in creek has increased to more than 20 feet in low tide and above 40 feet in high tide, which is in front of the village and nearby islands. This has resulted in contamination of ground-water. On these islands, about 120 residential houses having population of 600 are there, and most of the people residing there depend on farming and fishing for their livelihood.

2. It is further submitted in the application that as per report of the Joint Committee in Original Application No.23 of 2022 (WZ), the Tondavali-Talashil stretch of Kalawal creek is in proximity of the Critically Vulnerable Coastal Area (CVCA), which is highly ecologically sensitive area as is indicated in the approved CZMP. The applicant is fighting against the irregular, unscientific sand mining/dredging/hatpati process. In the year 2016, Maharashtra Maritime Board – respondent No. 3 issued letter to respondent No.4 – District Collector, Sindhudurg identifying the “C” slot as environmentally sensitive area, which was not to be allotted for hatpati/traditional sand mining. The depth of the slot “C” is now more than 17 to 20 feet in low tide and 35 to 40 feet in high tide. As per letter dated 27.06.2016, respondent No.3, there is only 3 meter height permissible for hatpati/traditional sand mining/dredging for clearing the navigational channel. As against it, in slot “C”, there is 4 times more depth. This activity is against the provisions of EIA Notification, 2006, Sindhudurg District Survey Report, 2017, Office Memorandum (OM) dated 08.11.2011 issued by the MoEF, Sustainable Sand Mining Guidelines, 2016 and 2020 and the Sand Mining Framework, 2018. Apart from it, by various directions of the Hon’ble

High Court, Hon'ble Supreme Court as well as this Tribunal, the sand mining activity is prohibited in this area. Therefore, it is prayed that the District Collector, Sindhudurg and Mining Officer, Sindhudurg – respondent Nos.4 and 5, respectively be directed not to allot sand dredging/hatpati for "C" slot in violation of the MoEF Office Memorandum dated 08.11.2011 as well as Govt. Resolution dated 28.01.2022 issued by the Govt. of Maharashtra (English translation of which has not been submitted on record, hence, we direct the applicant to produce English version of the said Govt. Resolution within one week). Further a prayer is made to appoint a Committee to inspect and measure the depth of "C" slot of Kalawal creek at Masure village and the District Collector, Sindhudurg be directed not to issue permit for the same till the final decision in this case apart from consequential reliefs.

3. During argument, learned counsel for the applicant has drawn our attention to page 80 of the paper-book, which is Office Memorandum dated 08.11.2011, which provides guidelines for management of the sand bar including its removal. It is recorded that on the request received from the State Government with regard to removal of the sand bars by manual methods by traditional communities, the said proposal was examined and in the light of the provisions of CRZ Notification, 2011, it has laid down certain conditions for removal of sand bar by traditional coastal communities only by manual method. It is argued that these conditions have not been followed while issuing the permission for hatpati activity.

4. We find that substantial question relating to the environment has been raised in this application. Hence, the application deserves to be admitted and accordingly, it is admitted.

5. We direct the Registry to issue notice to the respondents, returnable within four weeks.

6. The applicant is directed to provide copies of the Original Application along with its annexures/relevant documents for being served to the respondents within a week.

7. The applicant is further directed to take necessary steps for service of notice upon the respondents by both ways and also through available e-mail.

8. Put up this matter on 05.04.2023.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

February 10, 2023
O.A. No.12/2023 (WZ)