

Item No.14:

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

(Through Video Conference)

**Original Application No.76 of 2022 (SZ) &
I.A. Nos.116, 144, 146 of 2022 (SZ)**

IN THE MATTER OF:

Damayanthi Subray Mesta
Karnataka.

...Applicant(s)

Department of Public Works,
Ports & Inland Water Transport
Bangalore and Ors.

...Respondent(s)

Date of hearing: 21.10.2022.

CORAM:

HON'BLE Smt. JUSTICE PUSHPA SATHYANARAYANA, JUDICIAL MEMBER

HON'BLE Dr. SATYAGOPAL KORLAPATI, EXPERT MEMBER

For Applicant(s): M/s. Sreeja Chakraborty.

For Respondent(s): Mr. Darpan K.M. for R1 & R8.
Mr. Satish Parasaran, Sr. Adv. along with
Mr. Aravind A.S. for R2.
Mr. Vasanth H.K. for R3 & R4.

ORDER

1. In view of the urgency expressed in this matter which relates to M/s. Honnavar Port Private Limited (hereinafter referred to as 'HPPL'), we intend to pass the following order:-
2. The application is raising a substantial question relating to the environmental impact arising out of the ongoing project viz., the construction of a four-lane, 4 Km long and dedicated road corridor to provide port connectivity for the port project viz., M/s. Honnavar Port Private Limited.
3. The allegation is that the said road is being constructed in CRZ - I and CRZ - III which is a 'No Development Zone', as it is 200 m from the High Tide Line on the landward side. The HPPL has proposed to start the harbour in an extent of 44 Ha. of land.
4. The contention of the 2nd respondent is that as per the Final EIA Report, 'Connectivity' is referred as follows:

"1.3.2 Connectivity

The site has good road connectivity. NH 17 passes through Honnavar towards East of project site at a distance of about 1 km. The site is connected to Bellary through NH 63 and NH 17. NH 17 meets NH 63 near Ankola at about 45 km from the site. Presently the site can be approached from a single lane black topped road that runs in continuation to NH 17 and then lies parallel to the shoreline.

The site can be easily accessed through Konkan railway (Connecting Kerala with Mumbai) The barge / vessel loading facility proposed at Honnavar is at a distance of 5.0 km from Honnavar railway station and 14 km from Manki railway station.

The nearest Airports are at Mangalore and Goa which is about 155 km and 140 km respectively and the nearest seaport is at Karwar which is about 60 km from the project site."

5. It is stated that the NH - 17 passes through Honnavar towards the East of the project site at a distance of about 1 Km. The site is connected to Bellary through NH - 63 and NH - 17. Recently, the site is connected to Bellary through NH - 63 and NH - 17. Presently, the site can be approached from a single lane black topped road that runs in continuation to NH - 17 and then lies parallel to the shoreline.
6. In the same report, the proposed dedicated rail/road corridor has been mentioned, in which, options have been given by the HPPL.

"2.6.16.1 Road Connectivity Option : I

The road in this option takes off from NH 17 at Topalgaere and then traverses southeast a distance of around 0.90 km. A proposed bridge passing over River Bagdani will connect the road to the project site. Thus the overall length of this connectivity option will be around 1 km with a width of 25 m with a provision of double lane road.

2.6.16.2 Road Connectivity Option : II

In this option the proposed road starts from NH 17 at Kasarkod. This road will then run south east for some distance and then aligns parallel to the shoreline till it reaches the proposed project site. This option will be parallel to the existing single lane road at an offset distance of 100 m. The total length of this road from NH 17 to the proposed site is 4 km. This road connectivity will have a width of 25 m."

7. Today, when the matter was taken up, the CEO of HPPL was personally present and informed that Option (i) if proceeded with would obstruct the movement of the vessels and it was by mistake, the consultant had given such an option. Option (ii) is concerned, it is a parallel road to the existing single lane road at an offset distance of 100 m and the total length of this road from NH - 17 to the proposed site is 4 Km and the said road connectivity will have a width of 25 m.

8. When this was pointed out, the applicant very seriously objected that it is a 'No Development Zone' and the existing road could not be used by the HPPL.
9. It is also pertinent to note that in the Karnataka SCZMA's report dated 18.08.2022 that the CRZ Clearance had been issued for the activities mentioned within the 44 Ha. of land in CRZ - I B & CRZ - III areas and breakwater construction in CRZ - IV areas. No approval for construction of new roads, outside the area mentioned i.e. 44 Ha. has been given by the SCZMA - Karnataka.
10. A communication from the office of the Regional Director (Environment), Department of Forest, Ecology and Environment addressed to the Principal Secretary to the Government, Ecology and Environment, Department of Forest, Ecology and Environment, Bangalore dated 03.10.2022 is produced by the 2nd respondent. The said communication relates to the report regarding the road connecting to the Honnavur port area.

*"Office of the Regional Director (Env.) (Forest Ecology and Environment)
ParisaraBhavana, Habbuwada Karwar-581306, E-mail
rdekwr2010@gmail.com Phone: 08383-223997*

No: RDE/CRZ/HPPL/2022-23/1253

Date: 03-10-2022

To

*Principal Secretary to the Govt
(Ecology and Environment)
Department of Forest Ecology and Environment
Bangalore.*

Dear sir,

Sub: Report regarding road connecting to Honnavar port area

Ref: 1. E-mail dated: 20-09-2022

2.Environmental Clearance letter from SEIAA

Karnataka No: SEIAA/22/IND/2011 Dated: 21-09-20112

3. Government Notification No:
AHF/210/FDS/2015, Bangalore Dated: 02-05-2017:

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With respect to the above subject mentioned, in connection with case no. OA 76/2022 1A 116/2022 the Hon'ble National Green Tribunal, Chennai bench has passed the following Order on 22.08.2022:

"The stay granted is with respect to the ongoing construction of the impugned 4-Lane 4km long, 25-40m wide road on No Development Zone' of CRZ II area (within 200m from HTL) and on CRZ-1-A and 1-B area on forest land in violation of CRZ Notification, 2011 undertaken by the Port Department "

Earlier, the project of "Development of barge/ vessel loading facility" at Kasarkod Tonka sand spit area in a total extent of 44 Ha, by HPPL was recommended to SEIAA as per the proceedings of Karnataka State Coastal Zone Management Authority meeting held on 28-05-2012.

With regard to said case vide reference (1) it was instructed to give a clear picture about the roads available to approach the project area by way of a report after spot inspection.

Site Inspection Report:

From the site inspection, it is found that, a kaccha road (road with Gravels Mixture) runs parallel to the beach from National Highway-17 currently NH.66) at Kasarakod up to the proposed port area in CRZ-II No Development Zone area and as per the information from the port department the said kaccha road was formed during the construction of sea wall (for protection from sea erosion) by the Port Department along the Kasarakod seashore, as the said road falls within the limits of Port Department. Presently Honnavara Ports Pvt. Ltd has intended to develop the said Kaccha road for the purpose of port development as connecting road from National Highway.

There is an another road connecting to the port area which runs north from National Highway-17 (currently NH.66) and then passes through the residential area in the centre of Kasarakod village, next to the fishing harbour and upto Honnavar Proposed port area. This road is approximately 2.3 km from the National Highway to the port area entrance and continue in the proposed port area also. The Fisheries department vide Government Order which reference (3) has stated that the said road is Fisheries Link Road and it is found that along the said fisheries link road there are many residential, commercial, school buildings, fishing harbour etc.

The report is submitted for your kind information."

11. The learned counsel appearing for the 2nd respondent would submit that as per the site inspection report referred to above, there is a Kaccha Road (road with gravel mixture) that runs parallel to the beach from NH - 17 at Kasarkod upto the proposed port area in CRZ - III [No Development Zone area]. It was developed while forming the construction of a sea wall for protection from sea erosion and it further

states that the said road falls within the limits of the Port Department. Presently, the HPPL has intended to develop the said Kaccha Road for the purpose of port development as connecting road from National Highway as well. Be that as it may, we want to refer to the CRZ III (A) (i)

“III. CRZ-III-

A. Area upto 200mts from HTL on the landward side in case of seafront and 100mts along tidal influenced water bodies or width of the creek whichever is less is to be earmarked as “No Development Zone (NDZ)”-

(i) the NDZ shall not be applicable in such area falling within any notified port limits;

12. The above regulation refers to areas falling within any notified port limits. However, the communication referred to above states that the road falls within the limits of the Port Department. Therefore, the question that arises for consideration is whether the road in dispute will fall within the exempted area of the notified port limits which is to be decided only by the concerned authorities viz., SCZMA – Karnataka and SEIAA – Karnataka with reference to Coastal Zone Regulation (CRZ) Notification and Environmental Impact Assessment (EIA) Notification in vogue taking into account the Final EIA Report submitted by the project proponent.
13. As it is represented that the port activities have come to a grinding halt in view of the interim order granted by the Tribunal, the 2nd respondent insisted on permission being granted to use the existing single road referred to above for the port activities, till such time the application is decided finally by the National Green Tribunal. In this regard, we are constrained to state that it will be appropriate for the authorities referred to above to take a call on this and pass appropriate orders as per law.

14. Therefore, the 2nd respondent is given the liberty to approach the authorities for the usage of the existing road by making an application to the SCMZA - Karnataka and followed by an application before the SEIAA - Karnataka and let the same be examined by the authorities and pass appropriate orders as per law.

15. Post the matter on 05.12.2022.

Sd/-

Smt. Justice Pushpa Sathyanarayana, JM

Sd/-

Dr. Satyagopal Korlapati, EM

O.A. No.76/2022 (SZ)
I.A. No.116, 144, 146/2022 (SZ),
21st October, 2022. Mn.

