Item No. 01 Court No. 1

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE KALAS MAHAL, CHENNAI

(By Hybrid Mode)

Review Application No. 02/2023(SZ) &
I.A. No. 39/2023(SZ)
IN
Original Application No. 14/2017 (SZ)

Meenava Thanthai K.R. Selva
Raj Kumar Meenavar Nala Sangam Applicant

Versus

The Chairman, National Coastal Zone
Management Authority,
Govt., of India, MoEF& CC
New Delhi and Ors. Respondent(s)

BW VLGC Limited: Review Applicant

WITH

Review Application No. 03/2023(SZ) &
I.A NO. 40/2023(SZ)
IN
Original Application No. 16/2017 (SZ)

Saravana Dakshinamurthy Applicant

Versus

Union of India and Ors. Respondent(s)

BW VLGC Limited: Review Applicant

WITH

Review Application No. 06/2023(SZ)
IN
Original Application No. 40/2017 (SZ)

P. Somasundaram, Delhi Applicant

Versus

Union of India and Ors. Respondent(s)

M/s Indian Ocean Shipping Pvt Ltd: Review Applicant

WITH

Review Application No. 07/2023(SZ)
IN
Original Application No. 38/2017 (SZ)

Aswini Kumar, Gurgaon. Applicant

Versus

Union of India and Ors. Respondent(s)

M/s Indian Ocean Shipping Pvt Ltd: Review Applicant

WITH

Review Application No. 08/2023(SZ)
IN
Original Application No. 16/2017 (SZ)

Saravanan Dakshinamurthy, Chennai. Applicant

Versus

Union of India and Ors. Respondent(s)

M/s Indian Ocean Shipping Pvt Ltd: Review Applicant

WITH

Review Application No. 09/2023(SZ)
IN
Original Application No. 14/2017 (SZ)

Meenava Thanthai K.R. Selvaraj Kumar, Chennai. Applicant

Versus

The Chairman, National Coastal
Zone Management
Authority, MOEF & CC,
New Delhi and Ors. Respondent(s)

M/s Indian Ocean Shipping Pvt Ltd: Review Applicant

Date of hearing: 01.05.2023

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. SATYAGOPAL KORLAPATI, EXPERT MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER

Applicant: Mr. G. Stanley Hebzon Singh, Advocate for Original Applicant

Respondent(s): Mr C.A Sundaram, Senior Advocate with Ms. Rohini Musa, Advocate for Review Applicant (BW VLGC Limited) in Review Application No. 02-03/2023 (SZ)

M/s S Vasudevan, K Krishnaswamy & M Deepthadevi, Advocates for Review Applicant (M/s. Indian Ocean Shipping Pvt. Ltd.) in Review Application Nos. 06 to 09 of 2023 (SZ)

ORDER

1. These review applications have been filed against order of this Tribunal dated 06.07.2022 in OA No. 14/2017 (SZ), *Meenava Thanthai K.R. Selva Raj Kumar Meenavar Nala Sangam vs. The Chairman, National Coastal Zone Management Authority, Govt., of India, MoEF&CC New Delhi and Ors.* and other connected matters.

2. We have heard Shri C.A. Sundaram, Senior Advocate appearing for the review applicants and learned Counsel for original applicant and for other appearing parties.

3. The issue dealt with by this Tribunal vide order dated 06.07.2022 relates to claims for compensation by persons affected by collision of two cargo ships near Kamarajar Port on 28.01.2017 and also about restoration of environment in surrounding areas by clearing the oil pollutant from sea

water, creek, Kosasthalaiyar River, Buckingham Canal, Mangroves Forest, Birds Sanctuary etc. with the help of the latest scientific technology and to compensate the victims of damage to the environment in the form of loss of livelihood of the fishermen operating in the area.

4. After some orders were passed by the NGT, the matter was considered by the Madras High Court in W.P. No. 2979 of 2018, filed by the owners of Shipping Company, to allow the vessel to be released. The High Court allowed the same to be released subject to claim of Tamil Nadu Government on behalf of victims and environment being Rs. 240 crores. Since the said amount was not paid, the matter was considered by the High Court by way of W.P. No. 8249 of 2018*, Meenava Thanthai K.R. Slevaraj Kumar Vs. The Secretary to Government & Ors.* and vide order dated 12.04.2018, directions were issued as follows:

> *"xxx ……………………………xxx……………………………xxx*
>
> *18. Non-disbursement of compensation has been brought to the notice of this Court. Though Section 26 of the National Green Tribunal Act, 2010, envisages penal action, for non-compliance of the order or decision of the National Green Tribunal (South Zone),* ***Rs.141 crores has now been deposited with the Government by the insurers of the ships involved and meant for disbursing the same to the above said category of persons.*** *As on date, National Green Tribunal (South Zone) is not functioning.* ***About 1,12,051 applications have been received****. We cannot expect all the applicants to move the Principal Bench at Delhi, for suitable orders. Government have already constituted a Committee, which has submitted its report. Government is stated to be scrutinizing the report of the committee. Blank data format has already been prepared for de-duplication. Taking note of the orders of the National Green Tribunal (South Zone), extracted supra and of the fact that responding to the directions, steps have been taken, though claim of the petitioner is in the nature of public interest, on the basis of the representation, dated 10/5/2017, mandamus cannot be issued. However,* ***having regard to the fact that large number of fishermen are affected, due to the collision of the ships and oil spillage, this Court, in exercise of the powers under Article 226 of the Constitution of India, entertains the suo motu Public Interest Litigation, based on the information.***
>
> *19. It is submitted that the Director of Fisheries is the competent authority, to disburse the compensation to the eligible persons, and*

> *he is not a party.* ***To enable disbursement by a competent authority, in exercise of powers under Article 226 of the Constitution of India, we suo motu implead the Director of Fisheries, Chennai, as ninth respondent.***
>
> *20.* ***Inasmuch as the report has already been submitted by the Secretary to the Department, Fisheries Department, second respondent, we direct scrutiny and approval be granted, as expeditiously as possible.*** *Preparation of de-duplication process be completed as expeditiously as possible.* ***Disbursement of due compensation to those eligible be done by the Director of Fisheries, Chennai, within four weeks from today.***
>
> *21. With the above directions, suo motu, public interest writ petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed."*

5. Vide order dated 06.07.2022, the Tribunal passed follow up order in the light of orders of the High Court for which status report was filed by the Fisheries Department of Tamil Nadu. The report showed that out of total compensations of Rs. 240 crores payable in terms of order of the High Court, Rs. 141 crores had already been released to the victims. Bank Guarantee of Rs. 84 crores was furnished in pursuance of order of the High Court, after factoring in earlier deposits of Rs. 141 and Rs. 15 crores. The bank guarantee was to be encashed to utilise the amount for remediation of environment and for balance payment to the victims on pro rata basis as per their verified claims. The said status report is reproduced below:

> *"2. It is submitted that 18 teams have been constituted with Fisheries Department officials in order to assess the exact quantum livelihood loss suffered by various sectors such as Fishing labourer, Fisherwomen in allied activities, allied activity labourer, Fish vendors, owners of Motorized boats, Non-motorized boats and Mechanized boats.*
>
> *3. It is submitted that claim forms duly approved by the Insurance Company of the Shipping companies were distributed to individuals of above sector and fishermen Cooperative Society members.*
>
> *4. It is submitted that, based on the above team report, claims were consolidated for each category and a proposal was sent to Government for Rs.230.078 Crore for providing compensation to 1,12,051 affected fishermen. Accordingly,* ***the Government of***

Tamil Nadu preferred a claim for compensation relief assistance of Rs.230.078 Crore.

5. It is submitted that considering the time delay in getting compensation from insurance companies and as a measure to provide immediate relief to the affected fishers, the State Government vide ***Government Order (Ms).No.58, Animal Husbandry and Fisheries (FS3) Department dated 03.03.2017, sanctioned a sum of Rs.15 crore to provide immediate relief at the rate of Rs.5000/- each to the 30,000 affected fishermen families on 08.11.2017 and the same was released by the Insurer of the Shipping company on 08.11,2017.***

6. It is also submitted that, in the meantime, petitions were filed before this Hon'ble Tribunal by Meenavar Thanthai Selvaraj Kumar in Original Application No. 14 of 2017. This Hon'ble Tribunal directed the Fisheries Department to permit the affected persons to make their claim up to 10.8.2017 and make required study, conduct enquiries to arrive at an appropriate quantum of compensation to be recovered from the ship owners.

7. It is respectfully submitted that, based on the directions of this Hon'ble Tribunal, a team with the officials of the Fisheries Department was constituted to receive the applications from the affected fishermen who have not filed their claim earlier. Based on the scrutiny of applications received on the direction of this Hon'ble Tribunal, 2,442 applications were accepted and revised compensation proposal for Rs.240.07 crore to the affected 1,11,448 fishermen of Tiruvallur, Chennai and Kanchipuram coastal districts has been arrived and submitted to this Hon'ble Tribunal.

8. It is respectfully submitted that, ***as per the orders of Hon'ble High Court, W.A.No.537 of 2018 and CMP. 5302 of 2018, the owners of the Shipping companies shall deposit Rs.141 crore towards the various claims preferred by Government of Tamil Nadu for a sum of Rs.240 crores including the eco restoration and to secure remaining claims out of Rs.240 crore arrange for the execution of Bank guarantee for a sum of Rs.84 crores. Accordingly, the Shipping Companies have released an amount of Rs.141 Crores (including Rs.10 Crore for Ecosystem restoration works) on 28.03.2018. And also, an irrevocable Bank Guarantee worth Rs.84 crore was obtained from the Shipping companies as per the directions of this Hon'ble High Court of Madras.***

9. ***It is also submitted that a relief Recommendation Committee was constituted by the Director of Fisheries to disburse the relief amount of Rs.141 crore received from the insurer of companies under the Chairmanship of Additional Director of Fisheries / Managing Director of Fisheries, TAFCOFED. The Relief Recommendation Committee analyzed the compensation proposal of the Government of Tamil Nadu forwarded to Shipping companies in detail and recommended the following***

compensation package to the affected fishermen in the first phase, considering the release of compensation amount limited to Rs.141 crores by the insurers of Shipping Companies as against the total compensation of Rs.240 Crores. The Relief Recommendation Committee has recommended limited compensation to the categories of Owners of recommended Mechanized Fishing Boat, Motorized Fishing Crafts and Non-motorized Fishing crafts to the maximum of 50% of the assessed value of livelihood loss and for the categories Fishing labourer, Fisherwomen in Fisheries allied activities, Allied activity labourer, Fish vendors, limited to the maximum of 80% of the assessed value livelihood loss as given in the Table:1 below.

Affected Category	***Total no of claims***	***Amount restricted based on amount released by Shipping Company (in Rs/Unit)***	***Total claim amount recommended (In lakh)***
MFB (Category I) Mechanised Fishing Boat Owner	*922*	*35,000*	*4,869.60*
FRP (Category II) Motorised boat Owner	*6,916*	*20,000*	*4,714.50*
Catamaran (Category I) Non Motorised boat owner	*2,467*	*15,000*	*909.00*
Society members (FCS) /Fishing Labourer	*40,580*	*12,000*	*188.50*
Society members (FWCS) Fisherwomen in allied activities	*47,145*	*10,000*	*322.70*
Vendors - Fish Vendors	*9,090*	*10,000*	*1,383.20*
Allied Activities - Labours	*1,885*	*10,000*	*370.05*
Additional members included as per NGT direction	*2,442*	*10,000*	*244.20*
TNFDC	*1*	*20 lakh*	*20.00*
Total	***1,11,448***		***13,021.75***
Restoration measures			*1,000.00*
Contingency			*12.00*
Grand Total	***1 11,448***		***14,033.75***

10. ***It is submitted that since the Insurance Company has released only Rs.141 crores against the total claim of Rs.240 crores, based on the recommendation of Relief Recommendation Committee, the Assistant Director of Fisheries, Thiruvallur, Chennai and Kancheepuram districts have collected individual beneficiaries' information such as Aadhar card, Bank Account details, address proof, etc. and all these data were de-duplicated in order to avoid multiple payments to the beneficiaries. It is submitted that the Compensation amount was paid only to the eligible beneficiary after due verification and the compensation amount has been directly transferred to the Bank Account of beneficiary through ECS. The Department has followed the best possible procedure to ensure the transparency in the disbursement of Oil spill compensation to the beneficiaries.***

11. It is submitted that, based on the Relief Recommendation Committee constituted under the chairmanship of Additional Director of Fisheries (Marine), and based on their recommendation, the first phase relief amount was disbursed to the applicants is detailed in the Table:2 below:

Table:2

Affected Category	***Total no of claims***	***Total claim Amount Recommended (In lakh)***
MFB (Category I) Mechanised Fishing Boat Owner	*916*	*320.48*
FRP (Category II) Motorised boat Owner	*5,073*	*1,014.48*
Catamaran (Category I) Non Motorised boat owner	*314*	*47.10*
Society members (FCS) Fishing Labourer	*43,672*	*5,240.64*
Society members (FWCS) Fisherwomen in Fisheries allied activities	*44,760*	*4,476.00*
Vendors - Fish Vendors..	*7331*	*733.10*
Allied Activities - Labours	*1720*	*172.00*
Additional members included as per NGT direction	*941*	*92.60*
TNFDC	*1*	*20.00*
Total	*1,04,728*	*12,116.4*
Restoration measures		*1,000.00*

Contingency		*12.00*
Grand Total		*13,128.40*

12. ***It is respectfully submitted that out of 1,11,448 applications,***
relief assistance of Rs.121,16.40 lakh has been disbursed to 1,04,728 beneficiaries, 6,720 applications were rejected after de-duplication and scrutiny of documents. Thorough scrutiny of application and document verification were done before disbursement of compensation to 1,04,728 beneficiaries accounts as Direct Benefit Transfer (DBT).

13. It is submitted that 1,04,728 eligible members who are affected by the oil spill have received first phase compensation amount of Rs.13,128.40 lakh and the remaining compensation amount of Rs.7,211.14 lakh have to be paid to affected fishers from the available bank guarantee amount of Rs. 8,400.00 lakh. The detailed breakup of the remaining compensation amount of Rs.7,211.14 lakh is given in the Table: 3 below:

Table:3

Affected Category	***Original claim***		***Amount Disbursed***		***Amount to be disbursed from Bank guarantee***	
	Total no of claims	***Total claim amount (Rs. in Lakh)***	***No of claims***	***Amount Disbursed (Rs. in Lakh)***	***No of claims***	***Amount to be Disbursed as per committee (Rs. in Lakh)***
MFB (Category I)	*922*	*2,496.29*	*916*	*320.48*	*916*	*2,161.76*
Society members (FCS)/ fishing labourers	*49,963*	*10,699.5*	*49,059*	*6,302.22*	*49,059*	*4,415.31*
Society members (FWCS)/fisher women in allied activities	*47,145*	*8,646.64*	*44,760*	*4,476.00*	*44,760*	*3,580.8*
Vendors	*9,090*	*1,315.81*	*7,331*	*733.10*	*7,331*	*293.24*
Allied Activities	*1,885*	*416.35*	*1,720*	*172.00*	*1,720*	*172*
Additional members included as per NGT direction	*2,442*	*369.24*	*941*	*92.60*	*941*	*28.23*

TNFDC	*1*	*63.40*	*1*	*20.00*	*1*	*43.4*
Total	***1,11,448***	***24,007.23***	***1,04,728***	***12,116.4***	***1,04,728***	***10,694.74***
Interim relief amount disbursed to fisherfolk						*1,500.00*
families						
Contingency						*12.00*
Restoration measures						*1,000.00*
Unspent amount						*971.6*
Amount required from the available bank guarantee						*7,211.14*

14. ***It is submitted that, in compliance to the order of this Hon'ble Tribunal, dated 26.04.2017 in Application nos. 14, 16, 38 & 40 of 2017, a report was submitted this Hon'ble Tribunal based on the site inspection dated 29.6.2017 by a Joint Committee comprising of officials from TNPCB, MoEFCC and Fisheries. During that inspection the committee visited 25 contaminated sites to verify the status and found that there was no deposit of oil residue. During the earlier inspection on 29.6.2017 following recommendations were given by the committee and the status of implementation was verified by the present Joint Committee during the visit dated 6.8.2020 and are given in the Table:4 as below:***

Table:4

SL No	***Recommendation dated 29.6.2017***	***Committee Remarks***
1	*Authorization under the provisions of Hazardous Wastes Management, Handling and Transboundary) Rules, 2016 needs to be obtained from TNPCB for the bio-remediating oil contaminated sand.*	*1. Tamil Nadu Pollution Control Board (TNPCB) had accorded authorization under Hazardous and Other Wastes (Management and Transboundary Movement) Rules 2016, vide Authorization No.17HFC8126640 dated: 15.2.2017 to dispose the oily waste through the process of bio-remediation developed by M/s. Indian Oil Corporation Limited [IOCL] using Oilivorous Bacteria.* *2. Accordingly, about 184.42 MT of material consisting of sludge oil mixed with seawater (159.35 KL) and oil contaminated sand (25.075 MT) was treated using bio-remediation, by M/s. IOCL. Subsequently, For the second*

		phase treatment, the KPL has obtained authorization under Hazardous and Other Wastes (Management and Transboundary Movement) Rules 20 16, for the disposal by bioremediation of the balance quantity of the oily wastes and oil contaminated sand from TNPCB vide Authorization No.19HRC27210863 dated 16.09.2019 for treating (i) 55 KL of oily sludge and (ii) 225 T of oil contaminated sand lying in the port by bio-remediation using Oilivorous bacteria developed by M/s. Indian Oil Corporation Limited. (iii) 15T of the solid waste mixed with the contaminated sand for disposal through TSDF for incineration. *3. Now the second phase bioremediation of oily waste of about 55 KL and oil contaminated sand of about 225 MT process is in progress.*
2	*Damaged poly-ethylene liners at the periphery of the bio-remediation site should be replaced at the earliest.*	*1. The damaged Poly ethylene liner at periphery of Bioremediation site was replaced immediately and process was completed in September 2017.* *2. Now the second phase bioremediation of oily waste of about 55 KL and oil contaminated sand of about 225 MT process is in progress.*
3	*Dedicated closed sheds with impervious concrete lining shall be provided for storage of balance quantity of oily sludge as well as oil contaminated sand. The shed shall be equipped with Adequate fire safety arrangements in order to meet any exigency.*	*3. As directed by the Committee, dedicated closed shed with impervious lining was provided for the storage of oil contaminated sand. The oily sludge was stored in leak proof plastic barrels of various sizes and the same were kept covered with plastic sheets and placed on concrete surface. Regular monitoring of the barrels was carried out. The bio-remediation pit and the shed are located adjacent to KPL fire station, where fire tender, fire extinguishers and crew are available round the clock. Personnel are deployed to continuously monitor the bioremediation site on regular basis.* *4.. The oil contaminated sand stored in the shed and the oily sludge stored in the barrels are put in a pit and is being treated by bioremediation process, and the shed was now dismantled and removed.*
4	*Empty buckets, empty barrels, sintex tanks used for collection of oily sludge, sand contaminated with oil residues, HDPE bags, gunny*	*1. Authorization under Hazardous and Other Wastes (Management and Transboundary Movement) Rules 2016 was obtained from Tamil Nadu Pollution Control Board (TNPCB) vide*

	bags soiled with oily residues, used gum boots & other oil contaminated personnel protective equipment, oil contaminated absorbent booms/ absorbent pads and fishing nets with oily deposits are to be considered as Hazardous Wastes and authorization has to be obtained at the earliest and the waste needs to be Disposed immediately. Further, Dedicated closed sheds with impervious concrete lining shall be provided for storage of these materials	*authorization No.17HFC8126640 dated 15.2.20 17. As per Clause 13 under Additional Specific conditions, the waste barrels/ drums were disposed to TSDF, Gummudipoondi.* *2. The balance quantity of the solid wastes was stored in a covered shed adjacent to the bio-remediation pit. Authorization was obtained from TNPCB under Hazardous and Other Wastes (Management and transboundary Movement) Rules 2016 vide Authorization No. 19HRC27210863, dated: 16.09.2019 for the second phase of bioremediation process. Accordingly, the oil contaminated*
5	*Bio-remediation site required to be fenced and display sign boards needs to be kept for every 30 meters along the periphery of the site. Kreb wall around the periphery of the site shall be constructed immediately.*	*During the 1st phase of bio-remediation fencing a long with display boards were erected and later removed. Agreed to make fencing for the second phase also.*
6	*Total Petroleum Hydrocarbons content in the oily sludge& oil contaminated sand which is being bio-remediated should be continuously monitored.*	*1. The 1st phase bioremediation was initiated on 06.02.2017 by M/s.Indian Oil Corporation Limited. Subsequently at every 15th day, the composite soil samples were taken from the site and analyzed for Total Petroleum Hydrocarbons and Polycyclic aromatic hydrocarbons content.* *2. The final report on "Bioremediation of oil sludge and oil contaminated sand from Ennore Port, at Kamarajar Port Limited (KPL), Chennai" submitted by IOCL, Faridabad was forwarded to TNPCB by KPL*
7	*Total Petroleum Hydrocarbons content in the ground water Samples and soil samples needs to be analyzed by M/s KPL through a MoEF&CC recognized laboratory.*	*1. During the Phase-I Bio-Remediation process, for monitoring of ground water contamination, 12 peizometric wells were installed around the pit having a depth of 20 feet. Water samples were analyzed for oil content and heavy metals. The analysis results are given in the report submitted by M/s. IOCL, the final report on "Bioremediation of oil sludge and oil contaminated sand from Ennore Port, at Kamarajar Port Limited (KPL), Chennai. KPL monitored ound water through M/ s.*

		Richardson & Cruddas (1972) Ltd. [A Govt. of India Undertaking], a recognized laboratory, during the process of bioremediation. *2. The reportof analysis revealed that oil and grease and petroleum hydrocarbons in all the wells are Below detection Limit (BDL). The analysis reports along the final report submitted by M/s. IOCL was forwarded to Tamil Nadu Pollution Control Board vide our letter dated 08.01.2018.*

15. ***It is also submitted that, the Joint Committee Inspection team noticed that the Authorities (M/s. Kamaraj Pvt Ltd and Indian Oil Corporation Ltd.) has implemented the recommendation of the committee report based on the inspection dated 29.6.2017 in its letter and spirit. The committee members carried out the inspection at 1st and 2nd phase of Bio-remidial site in M/s Kamarajar Port Limited and the shoreline stretch of Ennore in Tiruvallur District. It is also observed that the parameters are within the limit and therefore no evidence of seepage of oil from the bioremediation site to the surrounding area.***

16. It is respectfully submitted that the Oil spill incident has led to mortality of aquatic organisms and in certain cases profound impact on the physical status of these organisms. There is a remarkable decline in the quantity of fish catches consequent to the oil spill particularly in near shore areas. Aquatic resources need to be enhanced in the Oil spill affected districts which would enable enhancement of livelihood of Fishers, As a measure to restore ecosystem, out of the total amount of Rs.141 Crore released by the Insurer of the Shipping companies an amount of Rs.10.00 Crore has been included towards restoration of marine ecosystem in the three districts affected due by oil spill incident. The said amount has been allocated for fabrication and installation of artificial reefs in 30 locations in the oil spill affected districts viz., Chennai, Thiruvallur and Kancheepuram. CMFRI has been entrusted with the Consultancy services and site identification and deployment has been completed. Now the condition in the affected area is normal.

17. It is submitted that the joint inspection committee has submitted the following conclusion.

> ***"During the visit no oil residue was noticed at the affected site and also the fishing activate are now in normal condition which was resumed soon after 2 to 3 months after the incident as per the data of Fisheries department, So far an amount of Rs.13128.40 lakh (including restoration amount) has been utilized and disbursed to fisherfolk. It is also noted that the port***

authorities and Indian Oil Corporation teams has successfully completed stage I of bioremediation process using IOC, R&D developed bioremediation technology, which was initiated on 6.2.2017 for treating 184 MT of oil sludge and oil contaminated sand. Now all the environmental parameters at the bioremediation site is found to be within the permissible limit and no contamination was observed in the site including ground water and soil quality, which was also evident from the analysis report. It is also noted that vegetation has started growing on the stage-I site, which is an indicator of good soil quality. Now for treating the balance oil sludge/oil contaminated soil, stage II bioremediation process is in progress and will continue till the Total Petroleum Hydrocarbon reaches to the permissible level (THP less than 1%). The committee observed that condition of the affected areas due to oil spill is now reaches to normal".

18. It is submitted that, the bank guarantee furnished for Rs.84 Crore by the Shipping Companies need to be kept alive until the release of balance insurance amount will be paid to beneficiaries. The details of disbursement of claims, the Shipping Companies has been informed vide Director of Fisheries letter No.2836/P3/2017 Dated 08.08.2019 that an amount of Rs.121.164 Crore was disbursed to 1,04,728 affected fishermen and details of category wise disbursement was furnished stating that the disbursement of remaining compensation is in progress. This information has been informed to the Shipping Companies through email dated 08.08.2019 also.

19. It is also submitted that the Shipping Companies' claim that all the claims including an account of loss of ecology, restoration cost, remedial measures etc., has already been taken care of by the deposit of Rs. 156 core and there are no further claims which are either pending nor arise in future and all the claims of different nature have been finally settled, cannot be sustained and Bank Guarantee executed in favour of Department of Fisheries, Government of Tamil Nadu cannot be returned because the original compensation preferred by Government of Tamil Nadu before the National Green Tribunal is for Rs.240 crores against which only Rs.156 crores has been released by the Shipping Companies towards compensation. Hence, to accommodate all the fishermen affected by the oil spill within the amount of Rs.156 crores released by the Oil Companies, the extent of compensation has been limited against the original claim.

20. Finally, it is submitted that if the Bank guarantee amount of Rs.84 crore executed in favour of Department of Fisheries, Government of Tamil Nadu is release at this point of time, there is no amount or guarantee or any other source to receive the compensation amount from the Shipping Companies to release the balance compensation of Rs.72.11 crore claimed by the Department of Fisheries, Government of Tamil Nadu."

6. Considering the above, the Tribunal held that since quantification of amount of Rs. 240 crores had attained finality, out of which two sums - Rs. 15 crore and 141 crores stood released. Remaining unpaid amount of compensation to the extent of verified claim and cost of remediation measures was required to be met out of the Bank Guarantee which was directed to be encashed and after appropriating the amount required for remediation, the remaining amount was directed to be disbursed proportionately to the extent of verified claim. Relevant part of order of this Tribunal is reproduced below:

> *"xxx ……………………………….xxx……………………………….xxx*
>
> *11. From the above, it is seen that compensation of Rs. 141 crores stands released against total compensation claim of Rs. 240 crores in terms of agreement between the fishing companies and State on behalf of fishermen, approved by the High Court which order has been acted upon and attained finality. Neither any material has been produced to substantiate higher claim nor it is possible for the tribunal to go beyond the order of the High Court. Thus, the Tribunal has to act within the purview of the said order. Thus, claim of the applicants beyond the order of the High Court cannot be accepted.*
>
> *12. What remains is the claim for payment of unpaid amount of compensation available to the extent of verified claim and remediation/rehabilitation of ecological integrity. Remediation measures which remain to be taken in terms of status report may now be expeditiously completed, utilizing the amount already allocated for the purpose, in the interest of aquatic flora and fauna. Bank guarantees may be encashed and after deducting the amount to be appropriated towards restoration measures, the remaining unpaid amount be disbursed proportionately to the affected persons, already identified, but not exceeding the verified claim. This may be overseen by a joint Committee headed by the Principal Secretary, Fisheries, Tamil Nadu with Director Fisheries, Tamil Nadu and the District Magistrate, Chengalpattu as members. The Director, Fisheries, Tamil Nadu will be the nodal agency for coordination and compliance. The Committee will be at liberty to take assistance from any other individual/institution as may be found necessary for executing the work. Since it is stated that there are some errors in calculations in Table 3 furnished in the status report of Fisheries Department, the same may be looked into by the Committee."*

7. Against above order, Appeal was preferred before the Hon'ble Supreme Court which was dismissed as withdrawn with liberty to file review application before the Tribunal vide order dated 19.09.2022 in Civil Appeal D. No. 24807 of 2022, *BW VLGC PTE. Ltd. vs. State of Tamil Nadu & Ors.* The order is reproduced below:

> *"xxx ....xxx ....xxx*
> *It is submitted that Status Report, as such, was uploaded on 08.07.2022 and, therefore, the appellant had no opportunity to controvert the Status Report. In that view of the matter, learned counsel appearing on behalf of the appellant seeks permission to withdraw the present appeals with liberty to approach the learned Tribunal by way of review application(s) and to controvert the Status Report. As and when such review application(s) is/are preferred, the same be considered in accordance with law and on its/their own merits and after giving an opportunity to the appellant.*
>
> *The Appeals stand dismissed as withdrawn with above liberty.*
>
> *In case any adverse order is passed by the Tribunal, it will be open for the appellant to challenge the the present order before this court along with the order to be passed in review aThe Appeals stand dismissed as withdrawn with above liberty.pplication(s).*
>
> *The disbursement of amount above Rs. 141 crores is ordered to be stayed for a period of one week from today so as to enable the appellant to approach the Tribunal."*

8. Learned Senior Counsel for review applicants submitted that even though the amount of Rs. 240 crores has achieved finality and part amount paid and for remaining bank guarantees was given which has since been encashed, only concern of the review applicants is that it should be associated with the exercise of remediation measures and further disbursement with liberty to raise objections to the compliance being strictly in terms of orders of the High Court and this Tribunal.

9. We see no objection to the suggestion being accepted and direct that the joint Committee, constituted by the Tribunal, which is to effectuate the orders of the High Court which have attained finality, may also associate the review applicant and other stakeholders. All parties are free to put

forward their objections/suggestions/submissions in writing within one month from today, apart from any other mode of association which may be found necessary by the Committee. The amount available towards encashment of Bank Guarantee may be kept in an interest bearing fixed amount subject to such mode of deposit not obstructing or delaying utilisation/disbursement. We take on record statement of learned counsel for the parties that the amount of Rs. 141 crores mentioned in the last line in the order of Hon'ble Supreme Court should be read as Rs. 84 crores, as amount of Rs. 141 crores had already been disbursed as noted earlier. Thus, there could possibly be no stay of disbursement of amount already disbursed admittedly.

The review applications stand disposed of accordingly.

All pending IAs will also stand disposed of.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Dr. Satyagopal Korlapati, EM

Dr. A. Senthil Vel, EM

May 01, 2023
Review Application No. 02/2023(SZ) &
I.A. No. 39/2023(SZ)
IN OA No. 14/2017 (SZ) &
other connected matters
DV