Item No.4:

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI

Original Application No. 01 of 2021 (SZ) &
I.A. No.63 of 2021 (SZ)

(Through Video Conference)

IN THE MATTER OF:

Tribunal on its own motion
Suo Motu based on the News item in
The Mathrubumi Newspaper, edition
Dt. 03.10.2020, "30 Lakh Cubic Meters of
Sand can be taken from Bharathapuzha"

...Applicant (s)

Versus

Union of India and Ors.

...Respondent(s)

Date of hearing: 16.04.2021.

CORAM:

HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER

HON'BLE Dr. MR. K. SATYAGOPAL, EXPERT MEMBER

For Applicant(s): Suo Motu by Court.

For Respondent(s): Mr. Ashik Ahamed represented
Mr. G.M. Syed Nurullah Sheriff for R1.
Mr. E.K. Kumaresan for R2 to R21.
Mrs. V.K. Rema Smrithi for R22.
Mrs. Vidhyalakshmi Vipin for R23.

Mr. P.B. Krishnan along with

Mr. Smitha Gopinath for Intervenor.

ORDER

1. The above has been posted today for appearance of parties and also for consideration of report to be filed by the Joint Committee.
2. When the matter came up for hearing today through Video Conference, Mr. Ashik Ahamed represented Mr. G.M. Syed Nurullah Sheriff counsel appearing for 1st respondent, Mr. E.K. Kumaresan represented respondents 2 to 21, Mrs. V.K. Rema Smrithi represented 22nd respondent, Mrs. Vidhyalakshmi Vipin represented for 23rd respondent and Mr. P.B. Krishnan along with Mr. Smitha Gopinath appearing for the applicant in I.A. No.63/2021.
3. I.A. No.63/2021 (SZ) was filed by the 3rd party by name Bharathapuzha Samrakshana Samithi to get themselves impleaded in this proceeding on the ground that the Samithi is involved in several activities of protecting ecology of Bharathapuzha River. When they came to know about the Suo Motu proceedings initiated by this Tribunal, they wanted to come on record to help the Tribunal to highlight certain violations being committed by the authorities in carrying out the sand mining in river basin in Kerala, especially in Bharathapuzha.

4. Heard Sr. P.B. Krishnan, counsel appearing for the applicant in I.A. No.63/2021 and also other respondents in the original proceedings.

5. The learned counsel appearing for the applicant in I.A. No.63/2021 submitted that Government has issued two independent orders 1) permitting de-silting and ii) permitting sand mining, on the basis of sand audit conducted by the body which is not authorized under the Rules. He wanted that the things will have to be done only in accordance with law and the District Survey Report has to be prepared by a scientific body as per the Rule 13 of the Kerala Protection of River Banks and Regulation of Removal of Sand Rules, 2002. But here the audit was conducted by a society which is not having expertise in this field.

6. It may be mentioned here that this Tribunal had Suo Motu registered the case on the basis of the newspaper report published in Mathrubumi daily dated 03.10.2020, alleging that 30 lakh cubic meters of sand is likely to be removed from Bharathapuzha without complying with the statutory provisions and this Tribunal, while admitting the matter, appointed a Joint Committee comprising of the regulators including MoEF&CC who has to supervise the implementation of the sustainable sand mining policy in India to ascertain as to whether any violations have been committed by any of the authorities in carrying out those guidelines and statutory provisions under the EIA Notification, 2006 as amended from time to time and also the directions issued by the Hon'ble Supreme Court in

Deepak Kumar's case and also in several such sand mining cases by the National Green Tribunal.

7. So under such circumstances, all the grievances that have been projected by the applicant in the application have been taken note of by the Tribunal, while directing the committee to submit a report.

8. Further, since the Tribunal itself is looking into the issue of environment, impact of river sand mining in State of Kerala of which Bharathapuzha is only a part, we feel that there is no necessity to implead the applicant as a party to the proceedings giving them all the rights of filing pleadings etc.

9. But we feel that they can be permitted to intervene in the matter to help the Tribunal in passing appropriate directions with a view to protect the environment and especially the riverine ecology which is likely to be affected, if unscientific sand mining is permitted.

10. So, the application is allowed to the limited extent of permitting the applicant to intervene in the matter to help the Tribunal by placing necessary materials and also scientific datas, if any, required for the purpose of proper disposal of the case.

11. With the above observations and directions, I.A. No.63 of 2021 is disposed of.

12. The 5th respondent has filed statement of facts regarding the allegation made in the newspaper report based on which Suo Motu proceedings has been initiated.

13. The counsel appearing for the Kerala State Environment Impact Assessment Authority submitted that they wanted three months time for filing the report, as no inspection could be conducted due to the pandemic situation that is prevailing in the State.

14. In fact, the committee was appointed as early as on 06.01.2021, almost three months have lapsed after appointing the committee. They have not even submitted an interim report as what they have done so far and the manner in which they are going to carry out the directions of this Tribunal for filing the report.

15. However, considering the circumstances, we feel that some more time can be granted to committee to submit a report as directed.

16. The committee is directed to submit a report to this Tribunal on or before 28.05.2021 by e-filing in the form of Searchable PDF/OCR Supportable PDF and not in the form of Image PDF along with necessary hardcopies to be produced as per Rules.

17. The committee is also directed to serve the copy of the report, if any, to be filed to the counsel appearing for the intervenor so that they can also address the Tribunal regarding deficiency, if any in the report.

18. The Registry is directed to communicate this order to the members of the committee and also to the official respondents by e-mail immediately so as to enable them to comply with the direction.

19. For filing independent reports by other respondents, if any, and for consideration of report, post on 28.05.2021.

Sd/-
.....J.M.
(Justice K. Ramakrishnan)

Sd/-
.....E.M.
(Shri. Dr. K. Satyagopal)

O.A. No.01/2021 &
I.A. No.63/2021,
16th April, 2021. Mn.