

**BEFORE THE NATIONAL GREEN TRIBUNAL****SOUTHERN ZONE, CHENNAI****Application No.4 of 2017 (SZ)**

In the matter of

Blaicy Dixon  
Glad Villa,  
Vettuthora,  
Kadinamkulam Grama Panchayat,  
Thiruvananthapuram 695 588

.. Appellant

Vs.

Kerala Coastal Zone Management Authority  
Rep. by its Secretary,  
Department of Environment and  
Climate Change,  
Kerala State, Pattom,  
Thiruvananthapuram 695 024

.. Respondent s

**Counsel appearing for the appellant**

M/s.P.B.Sahasranaman  
Kamaleshkannan Subramanian  
& S.Sai Sathya Jith

**Counsel appearing for the respondent**

Mr.T.N.C.Kaushik

**ORDER**

Present

Hon'ble Shri Justice Dr. P. Jyothimani, Judicial Member  
Hon'ble Shri P.S.Rao, Expert Member

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1<sup>st</sup> August, 2017  
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The applicant, who is having a Villa called Glad Villa at Vettuthara, Kadinamkulam Grama Panchayat, Thiruvananthapuram has filed the present application to set aside the proceedings of the 79<sup>th</sup> Meeting Agenda Item No.79.03.02 of the Kerala Coastal Zone Management Authority dated 15.10.2016 and also to direct the Kerala Coastal Zone

Management Authority to prepare the Coastal Zone Management Plan classifying that the Panchayat area comes under CRZ II as Developed Area and send the same for approval to the Government of India.

2. The Kerala State Coastal Zone Management Authority in its reply filed before this Tribunal on 07.07.2017, has referred to an order of this Tribunal passed in a similar matter in Application No.262 of 2014 wherein a direction is stated to have been issued to MoEF & CC to give opportunity to public to raise objections while conducting public hearing before the statutory notification is issued on Coastal Zone Management plan as per CRZ Notification, 2011. It is also stated that Kadinamkulam area does not fulfil the requirements for converting it into CRZ II from CRZ III category. It is stated that being a Panchayat it is not a legally designated "Urban Area".

3. Mr.P.B.Sahasranamam, learned counsel appearing for the applicant submits that under the Coastal Zone Regulation Notification, 2011 and also the subsequent clarification issued by MoEF & CC, it is stated that the State Coastal Zone Management Authority has to conduct public hearing for the purpose of deciding about the zone. It is not correct to state that the Public Hearing should be conducted by MoEF & CC. The learned counsel would also submit that while deciding the same, it is open to the Kerala State Coastal Zone Management Authority to obtain Expert Opinion from the Organisation like that of NCSCM which is a Government of India Organisation. It is also his submission that when once under CRZ Notification, 2011, the State Coastal Zone Management Authority is empowered to prepare the Coastal Zone Management Plan, it is certainly not open to the Authority to pre judge the issue as to whether it shall be

considered CRZ II or CRZ III before conducting the public hearing. It is further submitted that the Panchayat cannot be deprived to be designated as Urban Area.

4. On the other hand, Mr.T.N.C.Kaushik, learned counsel appearing for the respondent submits that the State Coastal Zone Management Authority is proposing to conduct public hearing. Since there was a clarification required, the matter has been referred to Government of India, NCSCM and immediately after the clarification is received the public hearing will be conducted. The learned counsel also would submit that even though it is stated in paragraph 7 of the reply that there was no possibility of converting the Panchayat area as CRZ II, the Authority will independently take a decision after conducting the public hearing. On a reference to the Coastal Zone Management Regulation, 2011, it is clear that for the Coastal Zone Management Authority which has to prepare the Coastal Zone Management Plan, it should be done based on the public hearing as seen in many communications issued by the Government of India by way of clarification. Therefore, it is not correct to state that ultimately the MoEF & CC to conduct public hearing.

5. In our order referred to in the reply dated 1<sup>st</sup> April, 2015 in Application No.262 of 2014, we have only stated that even in cases where the State Coastal Zone Management Authority, viz., 2<sup>nd</sup> respondent therein, fails to consider the objections, it is the duty of the MoEF & CC to ensure that such objections are considered properly before issuing final notification. Therefore, in any event, we make it clear that public hearing shall be conducted by the State Coastal Zone Management Authority and such

enquiry should be conducted in the same District as per the Rules and the views of the Panchayat shall also be considered in a proper manner.

6. In so far as it relates to the conversion of CRZ III to CRZ II category, it remains a fact that the stand of the Authority as on date, is that the area is covered under Category III which means “No Development Area”. In as much as under statutory authority, the State Coastal Zone Management Authority has to decide after conducting public hearing impartially without pre judging the issue, it is the duty on the part of the Authority to take into account as to whether the area is an urban area or whether legally designated Urban Area or a “Developed Area”. The ‘developed area’ as explained in CRZ Notification 2011 is as follows:

“For the purposes of the expression “developed area” is referred to as that area within the existing municipal limits or in other legally existing legally designated urban areas which are substantially built up and has been provided with drainage and approach roads and other infrastructural facilities such as water supply and sewerage mains”

7. By virtue of the said definition, it is very clear that State Coastal Zone Management Authority cannot blindly take a decision that Panchayat area is not designated as Urban Area. The explanation makes it clear about the development area which should be considered. In addition to that annexure I to the CRZ Notification, 2011 under Item I.D. Hazard Mapping clause II. Classification of CRZ areas under sub clause 6 it is made clear that CRZ II areas shall be those areas which have been substantially built-up with a ratio of built-up plots to that of total plots is more than 50%.

8. Therefore, nowhere there is a mention about that Panchayats falling only under CRZ-III and Municipal areas coming under the CRZ-II as

per the Notification, 2011 and the guidelines are clear as stated above. Therefore, we make it clear that while conducting enquiry and also making appropriate recommendation, the State Coastal Zone Management Authority shall strictly follow various guidelines given under the CRZ Notification, 2011 including the definition of “ Developed Area” and “Legally Designated Urban Area”, by following the above said procedure. The State Coastal Zone Management Authority after conducting public hearing, shall pass appropriate recommendations to the Government of India for proper directions and preparation of Coastal Zone Management Plan. It is always open to the State Coastal Zone Management Authority to obtain appropriate clarification from MoEF & CC regarding Panchayats to be covered under the “Developed Area”.

With the above directions, the application is disposed of. There shall be no order as to cost.

Justice Dr.P.Jyothimani  
Judicial Member

Shri P.S.Rao  
Expert Member

NGT