

Item No. 05

(Court No. 1)

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

(By Video Conferencing)

Original Application No. 361/2021

(With report dated 29.03.2022)

Raghu Ramakrishna Raju Kanumuru (M.P.)

Applicant

Versus

State of Andhra Pradesh

Respondent(s)

Date of hearing: 06.05.2022

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

Respondent: Mr. TVS Raghavendra Sreyas, Advocate for APPCB & SEIAA, AP

**ORDER**

1. Grievance in this application is against violation of environmental norms in the course of construction work over the *Rushikonda* Hill near Visakhapatnam, in violation of Master Plan notified by the Urban Development Department under the AP Urban Development Areas (Development) Act of 1975. The area is environmentally sensitive and under Public Trust Doctrine, the State needs to protect the same as per constitutional mandate by taking suitable measures.

2. Vide order dated 17.12.2021, having regard to the allegations of serious nature affecting the *Rushikonda* Hill, the Tribunal appointed a four-member Committee of CPCB, State PCB, SEIAA, Andhra Pradesh

and District Magistrate, Visakhapatnam to undertake site visit, interact with the stakeholders and take remedial action. The Committee was to furnish a factual and action taken report to this Tribunal.

3. In pursuance of above, a report has been filed by the Committee on 29.03.2022 to the effect that construction is for tourism project is proposed for which CRZ clearance has been granted. The project site falls under Coastal Regulation Zone (CRZ-II), as per the mapping done by IRS, Anna University. APTDC submitted proposal to APCZMA for CZR clearance under the provisions of CRZ Notification, 2011, APCZMA communicated the recommendations of No Objection to MoEF & CC on 22.03.2021 for grant of CRZ Clearance to APTDC and the MoEF&CC has issued CRZ clearance on 19.05.2021 for Development of the Project in two stages at Sy.No.19 of Yendada Village, Rushikonda, Visakhapatnam.

The relevant extracts from the report are as follows:

**“About the project:**

*GoAP has allotted land of an extent 69.65 acres in Sy.No.19/1 (2.88 Ac.), 19/4 (51.77 ac.) & 19/3 (15.00 Ac.) in favour of Tourism department vide Rc.No.101/84, dt.09.05.1987 & Rc.No.101/84, dt.03.05.1986. Later APTDC constructed Haritha Resorts & VIHAR with built-up area of 4439 Sq.m in Sy.No.19/3 in the year 2006.*

*Since the resort/block became old, AP tourism department decided to demolish the existing blocks and planned to construct new rooms to develop Tourism project in place of APTDC Haritha Resorts. The old resorts/blocks having built up area of 4439 Sq.m. was found demolished. The details are as follows;*

**Existing resorts (presently demolished):**

| <b>S. No.</b> | <b>Block Name</b>   | <b>Facilities</b>                                    | <b>Ground Floor</b> | <b>First Floor</b> | <b>Total Built-up Area</b> |
|---------------|---------------------|--|---------------------|--------------------|----------------------------|
| 1.            | Old Block- 34 Rooms | Standard Rooms-12, AC deluxe Rooms-20 & Suit Rooms-2 | 730.35              | 730.35             | 1460.7                     |
| 2.            | Restaurant Block    | Restaurant opening seating Kitchen &                 |                     |                    |                            |

|                              |                       |   |         |        |                              |
|------------------------------|-----------------------|---|---------|--------|------------------------------|
|                              |                       | store , ladies and Gents Toilets  | ---     | 290.79 | 290.79                       |
| 3.                           | Conference Hall Block | Conference Hall, Lobby, Souvenir Shop, Ladies and Gents Toilets           | 387.45  | 538.6  | 926.05                       |
| 4.                           | New Block-24 Rooms    | Ac Executive Rooms, AC Luxury Rooms, Presidential Suite, Public Utilities | 1002.62 | 758.63 | 1761.25                      |
| <b>Total Built – up area</b> |                       |   |         |        | <b>4438.72 or 4439 Sq.m.</b> |

The new proposed resort in the said Sy. No. 19 of Yendada (V), Rushikonda, Visakhapatnam is planned to be constructed on a land admeasuring 9.88 acres of site area and 07 blocks, with a total built up area of 19967.97 Sq.m. and GoAP intends to complete by the end of 2022.

The Rushikonda Tourism Project is proposed to be taken up with a project cost of Rs.240 Cr. in two stages:

- Stage-I: Site preparation & Road connectivity works with a project cost of Rs.92 Cr.
- Stage-II: Construction of Buildings with a project cost of Rs.148.0 Cr.

**Proposed Resort in place of existing (demolished) Resorts:**

| S. No | Block Name         | Facilities                                   | Stilt | Ground Floor | First Floor | Total Built-up Area |
|-------|--------------------|--|-------|--------------|-------------|---------------------|
| 1.    | Vijayanagar Block  | Presidential Suit, Suit Rooms, Banquet Hall  | --    | 3633.98      | 2194.65     | 5828.64             |
| 2.    | Kalinganagar Block | Banquet Hall, Suit Rooms, Deluxe Suit Rooms, | --    | 2986.48      | 2766.99     | 5753.47             |
|       |                    | Presidential Suit Rooms                      |       |              |             |                     |
| 3.    | Chola Block        | Conference Hall                              | --    | 1307.70      | 1482.175    | 2789.87             |
| 4.    | Pallava Block      | Suite Rooms, Conference Hall                 | --    | 1274.69      | 1081.08     | 2322.29             |

|    |                            |   |               |               |               |                   |
|----|----------------------------|---|---------------|---------------|---------------|-------------------|
| 5. | <i>Gajapathi Block</i>     | <i>Recreational Lounge, Business Centre</i>                                     | <i>391.58</i> | <i>549.01</i> | <i>494.01</i> | <i>1434.42</i>    |
| 6. | <i>Vengi Block</i>         | <i>Private Suit Rooms</i>   | <i>--</i>     | <i>389.12</i> | <i>--</i>     | <i>389.12</i>     |
| 7. | <i>Eastern Ganga Block</i> | <i>Restaurant-225 pax, Lounge Kitchen- 1 No, Toilets- 4 Nos, Parking-30 Nos</i> | <i>--</i>     | <i>821.30</i> | <i>628.97</i> | <i>1450.27</i>    |
|    |                            | <b>Total Built – up area</b>  |               |               |               | <b>19967.97</b>   |
|    |                            |   |               |               |               | <b>19968 Sq.m</b> |

***Present status of the project:***

*At present, the Tourism project is in Stage-I i.e., Site preparation & Road connectivity works are going in an area of 9.88 Acres only in revenue Sy.No.19 on the hill area of Rushikonda, Yendada (V), Rushikonda, Visakhapatnam and construction of buildings is yet to be initiated*

***Clarifications from stakeholder departments:***

***a) Officials of VMRDA clarified that***

- I. As per Old Master Plan-2021, the land use for Sy.No.19 of Rushikonda Village, GVMC limits of Visakhapatnam District is Hill & Forest (G.O.Ms.No.345 MA & UD Department, Dt.30-06-2006).*
- II. As per New Master Plan-2041, the land use for Sy.No.19 of Rushikonda Village, GVMC limits of Visakhapatnam District is Hill & Forest ( GO.Ms.No.136, MA & UD Department, Dt.08-11-2021) is changed and revised for mixed use –III (wherein, Residential, Retail Commercial, Education, Health Care, Hospitality, Public Utilities/Amenities, Offices & Transport are permissible activities).*

*The New Master Plan-2041 is approved and notified after duly following the following procedure as per the provisions under AP MR & UDA Act,2016.*

- As per Section 11 (6) Chapter IV of AP MR & UDA Act, The Authority shall review and revise the Perspective Plan (PP), Master Plan (MP) and Infrastructure Development Plan (IDP) and other statutory plans either at the end of the time period of the Plan or at*

*fixed intervals as decided by the Authority, or as directed by the Government.*

- *In the present case, the Master Plan – 2021 was sanctioned with horizon year of 2021. The process for review and revise the Master Plan has been initiated in the year 2016 by appointing a consultant, so as to complete the entire process before expiry of the Master Plan - 2021.*
- *VMRDA is spread over in two Districts i.e., Vizianagaram and Visakhapatnam in Andhra Pradesh covering 35 Mandals (Vizianagaram 16 Mandals & Visakhapatnam 19 Mandals), 895 Villages (Vizianagaram 521 Villages & Visakhapatnam 374 Villages) and 4 Urban Local Bodies i.e., Greater Visakhapatnam Municipal Corporation, Vizianagaram Municipal Corporation, Yelamanchili Municipality, Nellimarla Nagar Panchayat. Total population of the VMRDA area as per 2011 census is 40.7 lakhs. The Master Plan aims at sustainable development, evolving development vision, and a road map for balanced growth of region by regulating future spatial development for horizon year of 2041.*
- *The Draft notification for Perspective Plan – 2051 and Master Plan – 2041 was issued by the Metropolitan Commissioner, VMRDA on behalf of the Authority on 16.06.2021, as per Sub-Section (1) of Section 12 of APMR &UDA Act 2016 and notification procedure prescribed in Section 2 (31) (a) of Chapter-I of the same act, duly calling objections/suggestions from any person or body within 30 days from the notification.*
- *> The draft Master Plan was published in the District Gazettes of both Visakhapatnam, Vizianagaram and both the District Collectorates, all Tahsildar Offices, all ULBs and all Gram Panchayaths in the jurisdiction of the VMRDA. The time limit extended from 15.07.2021 to 31.07.2021, 07.08.2021 and further extended up to 23.08.2021 for receiving the objection and suggestions.*
- *In response to the above notification, a total number of 17,460 objections and suggestions were received on the draft Master Plan from the general public including the Urban Local Bodies (ULBs), Rural Local Bodies (RLBs), line departments such as Irrigation, Railways, Forest, Revenue, APIIC, Port Trust, Mines, Defense etc., up to 23.08.2021 on different categories such as proposed Master Plan roads, land uses etc. **Out of which, no complaint was received against the land use proposed for the subject under reference.***
- *Further it is also submitted that the Hon'ble Member of Parliament, did not submitted any objection on the subject matter before 23-08-2021, which is the last date for receipt of objections/suggestions on the draft Master Plan notification issued on 16.06.2021.*
- *Further, the Government have constituted a Technical Expert Committee (TEC) to review and make*

suggestions on objections/suggestions received from the public upon the Draft Perspective Plan - 2051 and Draft Master Plan-2041 of VMRDA. Accordingly, as per the suggestion of the Technical Committee, all the 17460 objections have been addressed out of which 82% of objections considered positively.

- As per the Technical Committee review and suggestions, the hills of reserved forest blocks have been designated with the land use under green category to conserve the same. Further, it is submitted that an extent of 360 Sq.kms of area from Kailasagiri to proposed Bhogapuram Greenfield Airport (Bhogapuram Airport & Influence Area-BAIA) has been identified to develop with form based planning, as the said area is expected to be developed with rapid growth.
- As part of Form based planning, the land uses categorized in BAIA as Mixed Land Use-I, II, III & IV. All hills other than reserved forest blocks in BAIA area have been designated as Mixed -III, wherein, Residential, Retail Commercial, Education, Health Care, Hospitality, Public Utilities/Amenities, Offices & Transport are permissible activities.
- The hills other than reserved forest blocks situated in rest of the VMRDA (excluding BAIA) limits have been designated as brown zone, in which limited activities are permissible such as IT hub, Tourism Projects, Recreational except in Eco-sensitive & Heritage zone. Special projects sanctioned by the Govt. shall also be permitted in this zone (brown zone).
- Subsequently, after addressing all the objections/suggestions, the draft Master Plan proposals have been submitted to the Government along with all required documents and plans on 25-10-2021 and after careful examination of the matter, the Government has approved the Master Plan – 2041 vide G.O.Ms.No.136 MA & UD Department, Dt.8-11-2021 duly exercising the powers conferred by Section 13 of the Andhra Pradesh Metropolitan Region and Urban Development Authorities Act, 2016 (Act 5 of 2016).
- Further, it is to inform that since, the New Master Plan for the horizon year – 2041 comes into force with effect from 08-11-2021, the earlier Master Plan – 2021 issued vide G.O.Ms.No.345 MA & UD Department, Dt.30-06-2006 was superseded.

The copy of notification G.O.Ms.No.136, Municipal Administration & Urban Development (M) Department, 08<sup>th</sup> November, 2021 is enclosed as **Annexure 1**.

**b) Department of Forests** clarified that the above subject land not falls under Forest Reserved Blocks. Moreover, forest department has surveyed and issued valuation letter for the existing trees in the project site. The copy of the value assessment letter issued by Forest Department is enclosed as **Annexure 2**.

**c) Officials of APTDC** informed that earlier GoAP has allotted land of an extent 69.65 acres in Sy.No.19/1 (2.88 Ac.), 19/4 (51.77 ac.) & 19/3 (15.00 Ac.) in favour of Tourism department vide Rc.No.101/84, dt.09.05.1987 & Rc.No.101/84, dt.03.05.1986. Later APTDC constructed Haritha Resorts & VIHAR with built-up area of 4439 Sq.m in Sy.no.19/3 in the year 2006. The copy is enclosed as **Annexure 3.**

Now the proposal is to develop Tourism project in place of APTDC Haritha Resorts on a land admeasuring 9.88 acres of site area and 07 blocks, with a total built up area of 19967.97 Sq.m.

**d) CRZ clearance** The project site area falls under CRZ-II as per the mapping done by IRS, Anna University. APTDC has submitted proposal to APCZMA seeking CZR clearance under the provisions of CRZ Notification, 2011 for Development of Tourism project APCZMA communicated the recommendations of No Objection to MoEF & CC on 22.03.2021 for grant of CRZ Clearance to APTDC for Development of Tourism Project. MoEF&CC has issued CRZ clearance to APTDC on 19.05.2021 for Development of Tourism Project in two stages at Sy.No.19 of Yendada Village, Rushikonda, Visakhapatnam. The copy is enclosed as **Annexure 4.**

**e) APPCB** has issued NOC dt.17.06.2021 for applying for CRZ Clearance to develop Tourism Project in Sy.No.19 of Yendada Village, Rushikonda, Visakhapatnam and condition is stipulated in NOC that the APTDC shall apply for CFE for project along with copies of CRZ clearance, before starting construction of project. The copy is enclosed as **Annexure 5.**

#### **4. Conclusion:**

In view of the above observations & document submitted by the respective department, the joint committee made following conclusion:

- Rushikonda Hill S.No. 19 land total extent of 69.65 Acres was allotted to APTDC by the Government of A.P for development of tourism & construction of Beach Resort namely Haritha Resorts. So, the G.O.Ms.No.345 MA & UD Department, Dt.30-06-2006 mentioned in the application found not applicable to carry out the construction of Resorts. The proposed project is being executed within the allotted area of APTDC.
- As informed by VMRDA, The Draft notification for Perspective Plan – 2051 and Master Plan – 2041 was issued by the Metropolitan Commissioner, VMRDA on behalf of the Authority on 16.06.2021, duly calling objections/suggestions from any person or body. Further, the Government addressed the objections/suggestions received from the public upon the Draft by constituting a Technical Expert Committee (TEC). The New Master Plan for the horizon year – 2041 comes into force with effect

*from 08-11-2021, the earlier Master Plan – 2021 issued vide G.O.Ms.No.345 MA & UD Department, Dt.30-06-2006 was superseded. As per new notified master plan, Rushikonda Hill was categorised as mixed zone. VMRDA informed that no objection was received against the draft notification against the subjected area.*

- *Moreover, clearances/NOC were obtained for establishment of new proposed project in an area of 9.88 acres from CRZ, APPCB, Forest department etc. and old resort was found demolished. Presently Site preparation & Road connectivity works are going in the area. No building construction started in the project area.*

*According to the above conclusion, no violation is observed by the joint committee against the project Haritha Resorts being carried out by APTDC.”*

4. We have duly considered the report and find that though the area is said to be falling in CRZ-II as per mapping been done by Anna University, it needs to be verified whether as per CZMP, the category of the site is CRZ II. Further, we find it necessary to ascertain from an independent Committee whether such project is viable having regard to eco sensitiveness if the Hill, which may be adversely affected by such project.

5. Accordingly, we constitute a joint Committee of National Coastal Zone Management Authority (NCZMA), AP Coastal Zone Management Authority (APCZMA), National Centre for Sustainable Coastal Management (NCSCM), with APCZMA being nodal agency for coordination and compliance. The Committee may look into the permissible use as per approved CZMP and environmental viability of the project and whether CRZ clearance needs to be revisited. A report may be filed by the Committee within one month by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.

6. Till next date of hearing, no further constructions may be undertaken. Notice be issued to the APTDC and MoEF&CC by email who may file their response, if any, before the next date.

List again on 11.07.2022.

A copy of this order be forwarded to NCZMA, APCZMA, NCSCM, APTDC and MoEF&CC by e-mail for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Prof. A. Senthil Vel, EM

May 06, 2022  
Original Application No. 361/2021  
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