

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
(SPECIAL ORIGINAL JURISDICTION)

WEDNESDAY, THE FIFTH DAY OF MARCH,
TWO THOUSAND AND TWENTY FIVE

:PRESENT:

HONOURABLE SRI DHIRAJ SINGH THAKUR, THE CHIEF JUSTICE
AND

THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI

W.P(PIL) NO: 53 OF 2024 ALONG WITH

WP.(PIL) No.206 OF 2024

W.P(PIL) NO: 53 OF 2024:

Between:

P.L.V.N.Murthy @ Murthy Yadav, S/o P. Sriramulu, Aged 46 years, R/o.

D.No.9-5-53/2/1, Peethalavanipalem, Visakhapatnam - 533017

plvnmurthyadav@gmail. com Cell.No.9848067850

.....Petitioner

AND

1. Union of India, Rep. by its Secretary, Ministry of Environment, Forest and Climate Change, Paryavaran Bhavan, New Delhi.
2. State of Andhra Pradesh, Rep. by its Chief Secretary, 1st Floor, Interim Government Complex, A.P. Secretariat, Velagapudi, Guntur,
3. State of Andhra Pradesh, Rep. by its Principal Secretary, Municipal Administration Department, A.P. Secretariat, Velagapudi, Guntur,
4. Visakhapatnam Metropolitan Regional Development Authority (VMRDA), Rep. By its Metropolitan Commissioner, Siripuram Junction, Visakhapatnam.
5. Andhra Pradesh State Coastal Zone Management Authority, Rep. By its Chairman, C/o Ministry of Environment, Forest, Science and Technology, Secretariat Buildings, Thullur Mandal, Guntur District.

6. Greater Visakhapatnam Municipal Corporation, Visakhapatnam, Rep by its commissioner.Tenneti Bahavan, Asilmetta, Visakhapatnam
7. The District Collector, Visakhapatnam District, Visakhapatnam.
8. The Thasildar, Bheemunipatnam Mandal, Visakhapatnam District.
9. Penaka Neha Reddy, W/o Penaka Rohit Reddy, R/o. Flat No.425, Road No.18, Jubilee Hills, Hyderabad, Telangana.

Respondent No.9 was incorporated as per C.O.dt.23.08.2024 in WP(PIL) No.53 of 2024

.....Respondents

Petition under Article 226 of the Constitution of India is filed praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ or order or direction with more particularly in the nature of WRIT OF MANDAMUS declaring the inaction of the Respondent authorities in stopping illegal construction of permanent concrete structure within CRZ-1 area in Bheemunipatnam beach, situated in ward No.3 of Bheemunipatnam town Sy.Nos.1516, 1517, 1519 and 1523 of G.V.M.C limits, Visakhapatnam District, is illegal, arbitrary and unconstitutional and consequently direct the respondent authorities to remove the constructed structures and take necessary steps to restore natural habitat to its pristine glory, while initiating criminal action against the builders for ravaging sand dunes and CRZ area.

IA NO: 1 OF 2024

Petition under Section 151 CPC is filed praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the Respondent authorities to stop all further construction activities on Bheemunipatnam beach, situated in ward No.3, Bheemunipatnam town, Sy.Nos.1516,1517,1519 & 1523 of G.V.M.C limits,

Visakhapatnam District, Pending disposal of WP(PIL) 53 of 2024, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and the order of the High Court order dated 23.08.2024 , 18.09.2024 & 05.02.2025 made herein and upon hearing the arguments of Sri K.S.Murthy, learned Senior Counsel appearing for Sri.Ponnada Sree Vyas, Advocate for the Petitioner and of Deputy Solicitor General of India for Respondent No.1, GP for GAD for Respondent nos.2 & 5, GP for MA & UD for Respondent No.3, Sri.V.Surya Kiran Kumar, Standing Counsel for Respondent No.4, Sri.K.Madhava Reddy, Standing counsel for Respondent No.6, GP for Revenue for Respondent Nos. 7 & 8 and Sri Ponnagulu Satya Reddy, learned counsel representing Sri P.Subash, learned counsel for respondent No.9;

WP.(PIL) No.206 OF 2024

Between:

GRAMAABHIVRUDDI SEVASANGAM, Register Number 524/99, Yeguvapeta, Bheemunipatanam, Represented by President Ganta Nooka Raju.

Petitioner/s

AND

1. The Union of India, represented by its Secretary, Ministry of Environment, Forest, and Climate Change, Paryavaran Bhavan, New delhi.
2. The State of Andhra Pradesh, represented by the Chief Secretary, Andhra Pradesh Secretariat, Amaravati.
3. The State of Andhra Pradesh, Rep by its Principal secretary Municipal Administration Department, A.P Secretariat, Velagapudi Guntur.
4. Andhra Pradesh Coastal Zone Management Authority (APCZMA), represented by its Member Secretary, Science and Technology Secretariat, Buildings Thullur Mandal Guntur District.

5. The Environmental Officer, Andhra Pradesh Pollution Control Board (APPCB), Visakhapatnam.
6. The District Collector, Visakhapatnam District, Visakhapatnam.
7. Visakhapatnam Metropolitan Regional Development Authority VMRDA, Rep by its Metropolitan Commissioner Siripuram Junction, Visakhapatnam.
8. The Greater Visakhapatnam Municipal Corporation (GVMC), represented by its Commissioner.
9. The Revenue Divisional officer (R.D.O), Bheemunipatnam, Visakhapatnam district.
10. The Thasidhar, Bheemunipatnam Mandal, Visakhapatnam district.
11. The Police commissioner of Visakhapatnam, visakhapatnam city .
12. C.M.D (Chairman & Managing director), APEPDCL Visakhapatnam district.
13. The Bheemunipatnam zone Municipal Corporation, represented by its Zonal Commissioner. Visakhapatnam district.
14. Assistant City Planner (ACP), Bheemunipatnam zone Municipal Corporation, Visakhapatnam district.
15. M/s Viragoo Restro Bar, Rep by the Proprietor, Smt Maddipati Sireesha, D/o. Soma Sundara Rao, Situated at Sy. No. 329/5A, Kapuluppada, Ward-4, Zone-1, Bheemli, Visakhapatnam. Smt. Maddipati Sireesha, D/o Soma Sundar Rao, Aged about 41 Years, R/o D.No.25-85/84,B-D3, Gayatri Nagar, Road No.4, PM Palem, Vishakhapatnam-530004.
16. Sea-horse Restro bar., Now Running as B-Zag, Rep by the Proprietor, Polavarapu Rama Mani, W/o Anand, age 48 years, R/o D.No.2-21/143, Flat No.5/1, Sriram Panorama Hills, Law college road, Yendada, Visakhapatnam-530045. Amatapu Srikanth Manikanta Sai Kumar, S/o Kanaka Rao, age 27 years, R/o SL 15/4, Panorama Hills, Law college road, Yendada, Visakhapatnam-530045.

17. Teeram Beach resort., Rep by the Proprietor, SOS junction, Bheemunipatnam, pin-531163, Visakhapatnam.
18. Sanctum bar and restaurant (previously named as Bay watch resort), Rep by the Proprietor, opposite thotlakonda, NTR beach road, Mangamaripeta, kapuluppada, Andhra Pradesh, pin 530048. email- sanctumbay@ gmail.com

Respondent/s

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ, order or ~~1~~ direction more particularly one in the nature of writ of mandamus

1. direct the respondents to take immediate action against the illegal constructions and businesses like Sea-horse Restro bar. Now Running as B-Zag, Viragoo neo age pub, Teeram Beach resort and Sanctum bar and restaurant (previously named as Bay watch resort,) operating in the Bheemunipatnam CRZ zone.
2. Cancel licenses or permissions (if any) granted in violation of CRZ regulations.
3. Direct the Respondents to conduct a thorough investigation and Identify and demolish into all illegal constructions and unauthorized businesses in the Bheemunipatnam CRZ area and to pass such other order or orders as this Honourable Court may deems fit just and proper in the circumstances of the case.
4. Direct the Respondents to prepare a detailed action plan for restoring the coastal ecosystem damaged by illegal activities;

IA NO: 1 OF 2024:

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to An immediate stay on all activities (Pub, Bar, Restaurant) and business operations of Sea-horse Restro bar. Now Running as B-Zag, Viragoo neo age pub, Teeram Beach resort and Sanctum bar and restaurant

(previously named as Bay watch resort) in the CRZ areas of Bheemunipatnam coastal zone, pending disposal of WP(PIL).No.206 of 2024, on the file of the High Court.

IA NO: 2 OF 2024:

Petition under Section 151 CPC is filed praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to Directions to the corresponding Respondents to disconnect the electricity connection, water connection, sanitation and etc. at immediate enforce, pending disposal of WP(PIL).No.206 of 2024, on the file of the High Court.

IA NO: 3 OF 2024:

Petition under Section 151 CPC is filed praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to Directions to the Respondents to fence off ecologically sensitive zones and prevent further encroachments, pending disposal of WP(PIL).No.206 of 2024, on the file of the High Court.

The Appeal coming on for hearing, upon perusing the Petition and the memorandum of grounds filed in support thereof and the earlier order of the High Court dated 08.01.2025 made herein and upon hearing the arguments of M/s. N JOY, Advocate for the Petitioners, learned GP FOR GAD for the Respondent No.2, learned GP FOR MUNICIPAL ADMINISTRATION AND URBAN DEVELOPMENT for the Respondent Nos.3&4, Sri Y. SOMA RAJU, Standing Counsel for the Respondent No.5, learned GP FOR REVENUE for the Respondent Nos.6, 9&10, Sri A.S.C. BOSE, Standing Counsel for the Respondent No.8, the Court made the following;

ORDER:

“By virtue of our previous orders followed by the last order dated 05.02.2025, we had directed the constitution of a Committee with a view to survey the Bheemunipatnam Beach and submit a report with a view to identify the violations and based upon the report, to enable the Greater Visakhapatnam Municipal Corporation (G.V.M.C.) and the Andhra Pradesh State Coastal Zone Management Authority to take appropriate action.

Report has now been submitted by the team which was constituted pursuant to our orders dated 05.02.2025. It has been reported that the violations which were identified have since been removed from the spot.

Photographs have been placed on record, which would, however, show that while the structures above the ground have been demolished, that part of the wall, which was constructed illegally and without any permission and contrary to the Coastal Zone Regulations below the surface, still continues to exist.

Learned counsel for the petitioner – Sri K. S. Murthy stated that an attempt appears to have been made to cover with sand that part of the wall which the G.V.M.C. did not remove and is stated to be below the surface level.

We are unable to understand as to how the report which was submitted by the Committee before us did not identify or bring to our notice this particular fact that it is only that part of the wall which was above the surface that had been removed. An impression was sought to be given to us that the entire violation committed by private respondent No.9 had been removed, which actually does not appear to be so on the spot.

Smt S. Pranathi, learned Special Government Pleader, states that the concrete structure which exists from the surface level and below is so hard that it may require some extra effort to remove the same.

Mr. K. S. Murthy also suggested that the removal of the structure below the surface perhaps requires some specialized methods which may be time consuming.

Be that as it may, in our opinion, the degree of difficulty in removing the structure which existed below the surface would not be a justification enough for the Committee not to report the existence of such a structure. As to whether the structure below the surface can at all be permitted to exist is nobody's guess, as any concrete structure which otherwise disturbs the ecology of that particular area or other which is a protected area/eco sensitive area has to be removed and the natural eco system necessarily is required to be restored.

We do not appreciate the action of the official respondents and especially the members of the Committee which also included an Environmental Engineer in not bringing to our notice in the report that there was still in existence a part of a concrete structure which extended over 588 meters and went up to a depth of six feet.

The extent of environmental damage that has been caused to the environment on account of such an illegal activity conducted by private respondent No.9 needs to be assessed properly for which appropriate damages also then need to be slapped on the said private respondent No.9 and others found involved.

With a view to assess the extent of damage caused and the damages which are required to be recovered from the violator/violators, we direct the constitution of a team which should consist of a Senior Scientist from the National Institute of Oceanography, Visakhapatnam and officers to be selected and appointed by the Ministry of Environment and Forest having expertise in the subject who will visit the spot and assess the extent of damage so caused. Needless to say that the damages shall be borne by the private respondent No.9.

Not only this, violation of the Coastal Zone Regulations, as have been undoubtedly established in the present case, calls for initiation of criminal prosecution in terms of the provisions of the Environment (Protection) Act, 1986 (for short, "the Act of 1986") and other enabling provisions.

Learned counsel for the petitioner – Mr. K. S. Murthy has drawn our attention to Section 19 of the Act of 1986, which envisages that the Court can take cognizance of an offence under the said Act only on the basis of a complaint filed by an officer who is otherwise authorized by the Central Government in that regard.

We had requested the learned Additional Solicitor General – Sri Challa Dhanamjaya to specify as to who is the officer authorized by the Central Government to file a complaint.

We are informed that the Ministry of Environment, Forest and Climate Change has issued a Notification dated 30.09.2022 appointing the State Coastal Zone Management Authorities and Union Territory Coastal Zone Management Authorities within their respective territorial jurisdiction as authorities who can file such complaints.

We, accordingly, direct that a complaint be registered by the said authorized person in the light of the violations committed. We also further direct the G.V.M.C. that the entire expenses which have been incurred or shall be incurred on the demolition of the structures raised illegally by private respondent No.9 shall be recovered from the said respondent.

In W.P(PIL).No.206 of 2024 also, learned counsel for the petitioner has sought to highlight the violation of the Coastal Zone Regulations.

It is stated that in the adjoining area where the violations had been highlighted in W.P(PIL).No.53 of 2024, there are four restaurants/restobars etc., which have come up in gross violation of the Coastal Zone Regulations without obtaining any permission whatsoever from any authority.

We, therefore, direct the Committee already constituted to survey the adjoining area where the said structures are stated to be located and to submit a report to this Court in detail as to whether the said structures are in violation of the Regulations or not.

The concerned parties may also be given an opportunity to associate with the team which visits the spot.

List the matters on 26.03.2025."

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AS SD/- M.SRINIVAS
ASSISTANT REGISTRAR
SECTION OFFICER

For AS

To,

1. The Secretary, Ministry of Environment, Forest and Climate Change, Union of India, Paryavaran Bhavan, New Delhi.
2. The Chief Secretary, State of Andhra Pradesh, 1st Floor, Interim Government Complex, A.P. Secretariat, Velagapudi, Guntur,
3. The Principal Secretary, Municipal Administration Department, State of Andhra Pradesh, A.P. Secretariat, Velagapudi, Guntur,
4. The Metropolitan Commissioner, Visakhapatnam Metropolitan Regional Development Authority (VMRDA), Siripuram Junction, Visakhapatnam.
5. The Chairman, Andhra Pradesh State Coastal Zone Management Authority, C/o Ministry of Environment, Forest, Science and Technology, Secretariat Buildings, Thullur Mandal, Guntur District.(2, 3 & 5 by Special Messenger)

6. The Commissioner, Greater Visakhapatnam Municipal Corporation, Visakhapatnam, Tenneti Bahavan, Asilmetta, Visakhapatnam
7. The District Collector, Visakhapatnam District, Visakhapatnam.
8. The Thasildar, Bheemunipatnam Mandal, Visakhapatnam District
9. Penaka Neha Reddy, W/o Penaka Rohit Reddy, R/o. Flat No.425, Road No.18, Jubilee Hills, Hyderabad, Telangana.
10. The Member Secretary, Andhra Pradesh Coastal Zone Management Authority (APCZMA), Science and Technology Secretariat, Buildings Thullur Mandal Guntur District.
11. The Environmental Officer, Andhra Pradesh Pollution Control Board (APPCB), Visakhapatnam.
12. The District Collector, Visakhapatnam District, Visakhapatnam.
13. The Metropolitan Commissioner, Visakhapatnam Metropolitan Regional Development Authority VMRDA, Siripuram Junction, Visakhapatnam.
14. The Commissioner, Greater Visakhapatnam Municipal Corporation (GVMC).
15. The Revenue Divisional officer (R.D.O), Bheemunipatnam, Visakhapatnam district.
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17. C.M.D (Chairman & Managing director), APEPDCL Visakhapatnam district.
18. The Zonal Commissioner, Bheemunipatnam zone Municipal Corporation, Visakhapatnam district.
19. Assistant City Planner (ACP), Bheemunipatnam zone Municipal Corporation, Visakhapatnam district.
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23. The Proprietor, Sanctum bar and restaurant (previously named as Bay watch resort), opposite thotlakonda, NTR beach road, Mangamaripeta, kapuluppada, Andhra Pradesh, pin 530048. email-sanctumbay@ gmail.com (Addressee Nos.1 to 24 by RPAD)
24. One CC to SRI. N JOY Advocate [OPUC]
25. One CC to SRI Y. SOMA RAJU, STANDING COUNSEL [OPUC]
26. One CC to Sri A.S.C. BOSE, STANDING COUNSEL [OPUC]
27. One CC to DEPUTY SOLICITOR GENERAL, High Court of AP [OPUC]
28. One CC to SRI.PONNADA SREE VYAS Advocate [OPUC]
29. One CC to SRI.V.SURYA KIRAN KUMAR, Standing Counsel [OPUC]
30. One CC to SRI.K.MADHAVA REDDY, Standing Counsel [OPUC]
31. Two CCs to GP FOR REVENUE, High Court of A.P.[OUT]
32. Two CCs to GP FOR GAD, High Court of A.P.[OUT]
33. Two CCs to GP FOR MA & UD, High Court of A.P.[OUT]
34. One CC to M/s S.Pranathi, Special GP [OPUC]
35. One CC to Sri P.Subash, Standing Counsel [OPUC]
36. One CC to Sri Yelisetti Somaraju, Standing Counsel [OPUC]
37. Two spare copies.

HIGH COURT

HC,J

&

RC,J

DATED: 05/03/2025

LIST ON 26.03.2025

ORDER

W.P(PIL) NO: 53 OF 2024 ALONG WITH
WP.(PIL) No.206 OF 2024

DIRECTION

