

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

Civil Appeal No 5516 of 2022

Sanghar Zuber Ismail

Appellant

Versus

**Ministry of Environment, Forests and
Climate Change and Another**

Respondents

ORDER

- 1 Following the order of remand by this Court dated 31 August 2021, the National Green Tribunal¹ appointed a Joint Committee to assess the environmental impact of the proposed expansion of the refinery.
- 2 Paragraph 3.5.5 of the report specifically deals with ecologically sensitive areas and is extracted below:

“It is India’s first Marine National Park established in 1982. The marine sanctuary area has various species of hard & soft corals, prawns, sponges, crabs, turtles, water birds and brown, green & red algae. The Marine National Park & Sanctuary has coral reefs, mangroves, sea-grass beds, mudflats, network of creeks and other ecosystems which support rich marine life & bird life. Marine National Park is situated in 162.89 km² area and 457.92 km² of Marine Sanctuary in the Gulf of Kutch. Gulf

1“NGT”

of Kutch has 42 islands, out of which 33 islands have coral reef. There are islands with sandy beaches and mangrove swamps. These islands are a treasure-trove of marine species and a paradise for birdwatchers. The Jamnagar city is on the coast of Gulf of Kutch in the state of Gujarat & has clean Islands & Beaches, Hills, Temples, Palaces, Forest, Fantastic Bird life in the Bird Sanctuary & Marine Sanctuaries and Fascinating Corals and Marine Life in the Marine National Park. All these attraction makes Jamnagar a good centre for Tourism Development (District Human Development Report, Jamnagar).

The Marine National Park & Sanctuary area found in the marine national park. It has dense mangrove forests with *Avicennia marina*, *Ceriops tagal*, *Aegiceras corniculatum* & *Rhizophora mucronata*. During field studies at Marine National Park, dense and luxurious growth of mangroves was seen. The area was dominated by the presence of *Avicennia marina* and *Rhizophora* species of mangrove. Fishing activities were also noticed in the marine park area. It also supports breeding ground and migratory path to most of the migratory birds. Flock of Greater Flamingo (*Phoenicopterus roseus*) and Sarus Crane (*Grus antigone*) birds were observed in marine national park during site visit. A number of other birds namely Painted Stork (*Mycteria leucocephala*), Great Blue Heron (*Ardea herodias*) and Great Egret (*Ardea alba*) were also inhabited the area. Status of mangroves and migratory birds observed in the Marine National Park are shown in Plate 3.5.10. has Coral Reefs, 37 species of Hard & Soft Corals, 70 species of Sponges, 27 species of Prawns, 30 species of Crabs, 200 species of Molluscs, Endangered Sea Turtles like the Green Sea, Oliver Riddley & Leather Back, Porpoise, Common Dolphins, Indo-Pacific bottlenose Dolphins and Indo-Pacific hump-backed dolphins. Also it supports growth of algae which comprises of 108 species of brown, green & red algae. Ray fishes which also include Sting Rays are all found in the marine national park. It has dense mangrove forests with *Avicennia marina*, *Ceriops tagal*, *Aegiceras corniculatum* & *Rhizophora mucronata*.

During field studies at Marine National Park, dense and luxurious growth of mangroves was seen. The area was dominated by the presence of *Avicennia marina* and *Rhizophora* species of mangrove. Fishing activities were also noticed in the marine park area. It also supports breeding ground and migratory path to most of the migratory birds. Flock of Greater Flamingo (*Phoenicopterus roseus*) and Sarus

Crane (*Grus antigone*) birds were observed in marine national park during site visit. A number of other birds namely Painted Stork (*Mycteria leucocephala*), Great Blue Heron (*Ardea herodias*) and Great Egret (*Ardea alba*) were also inhabited the area. Status of mangroves and migratory birds observed in the Marine National Park are shown in Plate 3.5.10.”

- 3 After referring to the report of the Joint Committee, the NGT has noted that there would be no adverse impact on the marine eco system since (i) the mangrove cover has increased in 2021 as compared to 2019; (ii) the unit has complied with the recommendations of the National Environment Engineering Research Institute² on risk assessment; (iii) the inter-tidal assessment of corals and biotic community shows no adverse impact, thereby maintaining biodiversity; and (iv) the unit has a well defined system in place for maintaining health, safety and other safeguards.

- 4 Apart from appraisal by the Environmental Assessment Committee, the Joint Committee evaluated the impact of the expansion after undertaking a site visit and interacting with stakeholders. The NGT was apprised of the public hearings conducted in the context of the expansion of the refinery which indicated that the stakeholders had no objection. The expansion, as the above extract from the report indicates, is within the precincts of the refinery and there is an assessment by the expert adjudicatory body that the expansion would not have any adverse effect on the environment.

²“NEERI”

- 5 In view of the above findings, which have been arrived at and having perused the record, we find that no substantial question of law would arise for consideration by this Court.
- 6 The appeal is accordingly dismissed.
- 7 Pending applications, if any, stand disposed of.

.....J.
[Dr Dhananjaya Y Chandrachud]

.....J.
[Hima Kohli]

New Delhi;
November 7, 2022
CKB

ITEM NO.6

COURT NO.2

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No.5516/2022

SANGHAR ZUBER ISMAIL

Appellant(s)

VERSUS

MINISTRY OF ENVIRONMENT, FORESTS AND
CLIMATE CHANGE & ANR.

Respondent(s)

(With IA No.117992/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT)

Date : 07-11-2022 This appeal was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MS. JUSTICE HIMA KOHLI

For Appellant(s)

Mr. Purvish Jitendra Malkan, AOR

For Respondent(s)

Mr. Mukul Rohatgi, Sr. Adv.
Mr. Chinmoy P. Sarma, Sr. Adv.
Mr. Somiran Sharma, AOR

UPON hearing the counsel the Court made the following
O R D E R

- 1 The appeal is dismissed in terms of the signed order.
- 2 Pending applications, if any, stand disposed of.

(CHETAN KUMAR)
A.R.-cum-P.S.

(SAROJ KUMARI GAUR)
Assistant Registrar

(Signed order is placed on the file)

