

Why The Coastal Regulation Zone-1991, Notification Could Not Achieve Its Target

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Abstract: India has 7516 Km its coast line, so many rivers flowing from the Himalaya and from other mountains and also have so many rich Biotech reservoirs, national parks and natural habitats. In the pursuance of the Stockholm declaration-1972, the government of India passed, The Environment Protection Act-1986. To protect the environment, but to protect the Coastal areas and the Seas specially, the government of India enacted The Coastal Regulation Zone Regulation-1991, Notification. To enforce this legislation the Supreme Court of India give directions in the writ petition filed by Indian Council for Envirolegal Action a non governmental organization. This CRZ-1991, Notification was amended 19th times in 25 years, and was overruled by the Supreme Court of India in S. Jagannath Vs, Union of India AIR-1997 SC 811 case. Though CRZ-1991, Notification was overruled, yet it produced basic safeguards for the protection of coastal ecology and marine environment of India.

I. INTRODUCTION

Of all things in the world, people are the most precious. It is the people that propel social progress, create social wealth, develop science and technology, and through their hard work continuously transform the human environment. The dangerous level of pollution in water, air, earth and in living beings; major and undesirable disturbances to the ecological balance of the biosphere; destruction and depletion of irreplaceable resources and gross deficiencies, harmful to physical, mental and social health of a man are results of the man-made environment, incarnated due to wrongly or heedlessly application of capability of man to transform his surroundings.

Sea and its coast is an aesthetic gift of God, only comparable with the majestic mountains. Stockholm Declaration of the United Nations Conference on Human Environment-1972: To protect and promote environment at international level, a universal declaration was adopted in year-1972. By this alleged declaration adopted by the United Nations Conference Seven proclamations had been declared and twenty six principles were laid down in this conference, which is known as the *Magna Karta* on Human Environment. Out of these 26 principles, principle no-7 of this alleged

declaration of United Nations on human environment, directs the state to take all possible steps to prevent pollution of the seas.

The provisions of this principle-7 may be read as below:-

“State shall take all possible steps to prevent pollution of the seas by substances that are liable to create hazards to human health to harm living resources and marine life to damage amenities or to interfere with other legitimate uses of the sea.”

In the light of the above noted declaration the Parliament of India passed the following environmental legislations.

The Water (Prevention and Control of Pollution) Act-1974 Recognizing the importance of the prevention and control of pollution of water for human existence Parliament of India has passed this above noted Act. The aim of this Act is to, prevent and control the pollution of water and to maintain the wholesomeness of water for the establishment, with a view to carrying out the purposes of aforesaid boards for the prevention and control of water pollution, for conferring and assigning to such boards power and functions relating thereto and for matters connected therewith.

The Air (Prevention and Control of Pollution) Act-1981: This Act is passed by taking inspiration from the United Nations Conference on the on the human environment. The

conference was held to take appropriate steps for the preservation of the natural resources of the Earth. which despite other things include the preservation of the quality of Air and control of its pollution. But neither this Act nor the Air (Prevention and Control of Pollution). Rules-1972, provides any special or particular provision to prevent or control the Air pollution of coastal and marine areas.

The Environment (Protection) Act-1986:

In the United Nations conference for human environment held, at Stockholm, in which India participates and the Indian delegation led by the then Prime Minister of India Smt. Indira Gandhi took a leading role,

The Government of India in the leadership of the then Prime Minister Smt. Indira Gandhi, participate in this above noted this conference and strongly voiced regarding the environmental concerns. socio-economic legislation, it contains several unique features.

Powers of the Central Government:

Powers provides to the central Government by this Act are as below: Section-3 of this Act deals with power of central Government to take measure to protect and improve environment;

Section-6, deals with the, Power of central Government, to make

Rules, to Regulate Environmental Pollution.

Section-25, deals with, Power of central Government, to make rules

The Coastal Regulation Zone Notification-1991:

The coast of India comprise a wide Variety of diverse habitats and ecosystems from estuaries, coral reefs, sea grass beds, mangrove swamps, creeks, back waters and lagoons to bays cliffs sandy and rocky beaches. The linkages among these wide varieties of diverse habitats and ecosystems are essential for the maintenance of food webs, migration routes and increase productivity.

India has about 7516 Kilometer of coastal line including Islands many segments of which are fragile and sensitive from the security of the Union of India and environment point of view. Nine states as well as many other union administered has coast line and areas and one forth population of India resides in the coastal areas creating density ranging from more than 2000 person per sq kilometre. The impact of human activity in the coastal system is multifaceted over the years. The population lead and technological development and multifaceted activity in the coastal regions has increased this interaction and also competition for the coastal resources and have caused conflicts among resources users Due to this the coastal areas became sensitive, deteriorative in the quality of life and creates danger to the ecology and environment of the sea and its ingredients, rising sea level, cyclones and storms are also disturbs the coastal ecology and marine environment. Considering these issues and highlighting the mis-utilization of beaches, In year- 1981, the then Prime Minister of India Smt. Indira Gandhi, characteristic of her foresight and vision wrote a letter to all chief ministers of the coastal states, suggesting that an area 500 metres from the High Tide Line (HTL) along the coast be kept free from all activities with a view to stemming unregulated pollution and no permanent construction should be undertaken within 500 metres of the high tide line, and the coastal states take adequate measures

for protecting the coastal environment. In the wake of these directions, the then department of environment set up a working groups on the topic 'Environmental guidelines for Development of Beaches' to handle and examine the issues relating to Land / marine interact ecosystem and to prepare guidelines for environmental management of the beaches. These guidelines prepared by the experts of this department were provided to the coastal state governments and the union territory administrations, for protecting the beaches of the country. But none of the state and union territory government took these guidelines seriously, because these guidelines had no statutory backing. Taking contingency about the failure of these guidelines, issued without statutory backing, the Ministry of Environment and Forest draft Coastal Regulation Zone Notification-1989. In the light of comments, suggestions and objections raised from public, the Ministry of Environment and Forest finalized coastal stretches as The Coastal Regulation Zone Notification1991, to regulate all activities within the whole coastal area- of India.

As per this Costal Regulation Zone Notification-1991 (CRZ-1991) the Coastal stretches are categorized into different zones with aim to conserve the rich and diverse coastal resources and for the better management of the same. The central government declares the coastal stretches of seas, bays, estuaries, creeks, rivers and back waters, which are influenced by tidal action (in the landward side) up to 500 metres from the high tide line (HTL) and the land between the low tide line (LTL) and the high tide line (HTL) as coastal regulation zone by this notification certain activities are declared as prohibited within the particular zone.

Primary Object of the CRZ-1991, Notification: The primary object of the Coastal Regulation Zone-1991 Notification is that, 'To protect and improve coastal environment of India by restricting and regulating human activities on the coast'

Basic Characteristic of the Coastal Regulation Zone Notification-1991:

The general characteristic of the main notification are that a number of activities are declared as prohibited in the coastal regulation zones.

Prohibited Activities: The following activities are declared as prohibited within the Coastal Regulation Zone:

- ✓ Setting up and Expansion of Industrial Units
- ✓ Storage of Chemical and Petroleum Products
- ✓ Fishery and Allied Activities
- ✓ Discharge of Effluents
 - Disposal of Waters Effluents
 - Untreated Wastes and Effluents
- ✓ Dumping:
 - Town Discharge Wastes
 - Ash Discharged from NTPC
- ✓ Land Reclamation and Structure to Prevent Erosion and Salinity Ingression
- ✓ Mining Activities and Extraction of Oil and Natural Gas
- ✓ Extraction of Ground Water
- ✓ Construction Activities
 - In CRZ-I Area
 - Between LTL and HTL
- ✓ Dressing and Shape Changing Activities

Permissible Activities:- A number of activities are declared prohibited by the para-2 of the Coastal Regulation Zone-1991, Notification, but except these above noted prohibited activities, all other activities are permissible and regulated in the Coastal Regulation Zone areas as under:-

Clearance Procedure for Developmental Projects under CRZ-1991, Notification:

Criteria for Clearance:

Clearance shall be given only when, for an activity, if facility of water front and of foreshore is required for this activity, within the CRZ area. Provided that the assessment shall be completed within a period of ninety days and the decision regarding this shall be conveyed within thirty days thereafter, From the receipt of the requisite documents and data from the project authorities.

Environmental Clearance:

The principles laid down by the CRZ-1991, Notification made essential to take clearance for some activities, from the Ministry of Environment and Forest Govt. of India. The activities which will require clearance from the aforesaid Ministry reads as below:

- ✓ Construction Activities for Atomic or Defense Purpose
- ✓ Construction Activities:

Operational construction for ports, harbours and light houses and construction activities of jetties, wharves, quays, slipways, pipelines and transmission of these lines, and exploration and extraction of Oil and Natural Gas, with all associated activities and facilities are permissible in CRZ areas. But in case of Lakshadweep Union Territory, scientific study report conducted by central Government in this regard is essential before taking clearance

- ✓ Energy Plants
- ✓ Demolition or Reconstruction
- ✓ Building of Archeological or Historical importance,
- ✓ Heritage buildings and
- ✓ Buildings under public use i.e. worship, education, medical care and cultural activities purposes
- ✓ Other Permissible Activities

All other activities with investment of five Crore or more, Norms as mentioned in sub-paragraph-(2) of paragraph-6 of Annexure-1 will apply on the activities with investment less than Five Crore.

Classification of Coastal Regulation Zones:

The coastal regulation zone notification-1991, has classified the coastal stretches within 500 metres of High Tide Line on the landward side into four categories, and also laid down norms for Regulating the activities in all above noted Coastal areas separately The classification done by this above noted notification, to regulate development activities in the said areas is reads as below:

CATEGORY-I (CRZ-I)

The Coastal Regulation Zone, i.e. (CRZ-I), includes those areas that are ecologically sensitive and important, such as national parks, marine parks, sanctuaries, reserve forests, wild life habitats, mangroves, corals, corals reefs, areas closed to breeding and spawning grounds of fish and other marine life areas, areas of outstanding natural beauty, historical and heritage areas, areas rich in genetic-diversity, areas likely to be

inundated due to rise in sea level consequent upon global warming and such other areas as may be declared by the central government of the concerned authorities at the State / Union Territory level from time to time and this class also contains area between the Low Tide Line and High Tide Line.

CATEGORY-II (CRZ-II)

The Coastal Regulation Zone-II, i.e. (CRZ-II), contains those areas, that have already been developed upto or close to the shoreline. 'Developed areas; are those areas, which are within the Municipal limits or in other legally designated urban areas, are already substantially built up and with drainage system, roads, water supply, sewerage mains and other infrastructural facilities.

CATEGORY-III (CRZ-III)

The Coastal regulation Zone-III, i.e. (CRZ-III), relates those areas that are relatively undisturbed and those, which do not belong to either category-I or category-II of this said notification, CRZ-III also include coastal zone of the rural areas, whether developed or undeveloped and areas within Municipal limits or in other legally designated urban areas, which are not substantially built up.

CATEGORY-IV (CRZ-IV)

The Coastal regulation Zone-IV, i.e. (CRZ-IV), contains the coastal stretches of the Andaman & Nicobars, Lakshadweep and of other Islands, except those areas, which are designated as CRZ-I, CRZ-II or CRZ-III.

Monitoring and Enforcement of the Notification:-

By this Coastal Regulation Zone-1991 Notification, both Ministry of Environment and Forest Govt. of India, State Governments, Union Territories Administrations and such other authorities at the state or Union Territories levels, if any are responsible for monitoring and enforcement of the provisions laid down by this aforesaid CRZ-1991 Notification within their respective jurisdiction.

Neither the Ministry of environment and forest nor the state Government and nor the Union Territory Administration had take note of the Coastal Regulation Zone-1991 Notification seriously. Regarding the non-implementation of this alleged CRZ-1991 Notification,

Implementation of CRZ-1991, Notification:

The enactment of the CRZone-1991, Notification, was done with the comprehensive aim of protection and conservation of our coastal environment, but this Notification, had not been implemented or enforced and not respected by the States having coastal areas for several years,

Indian Council for Envirolegal Action Vs. Union of India

In this case a non profit organization working for the protection of environment filed a public interest litigation with taking plea that, the Coastal Regulation Zone-1991, Notification, had not been implemented or enforced for several years after being enactment of this and due to the non implementation of this Notification, development activities within the coastal areas remained unregulated, thus allowing further environmental degradation. The plea taken by the

Union of India in this case is that, they had practical difficulties in implementing this aforesaid Notification. The Hon'ble Supreme Court held that, 'Even though, laws have been passed for the protection of environment, the enforcement of the same has been tardy, to say the least. With the governmental authorities not showing any concern with the enforcement of the said Acts and with the development taking place for personal gains at the expense of environment and with disregard of the mandatory provisions of law (Para-47).

The enactment of the Coastal Regulation Zone-1991, Notification, in India certainly set the beginning of the state involvement in the conservation of our coasts. The purpose of enactment of this Notification was, to provide comprehensive measures for the protection and conservation of our coastal environment.

The Hon'ble Court by its order, directed the states Governments and Union Territories to prepare their coastal zone management plans (CZMPs) and also directed them, to get approval within three months from the Ministry of Environment and Forest. The state Governments and Union Territory submitted their coastal zone management plans (CZMPs) on 29th September 1996 to the Ministry, but the aforesaid Ministry asked the revised CZMPs from each coastal state and Union Territory with respect to their general and specific conditions. In the compliance of order passed by Hon'ble Supreme Court in this case, The Ministry of Environment and Forest constituted National Coastal Zone Management Authority at the central level and 13 State and Union Territory level Coastal Zone Management Authorities by using the power conferred by The Environment Protection Act-1986. These authorities constituted with eight members, out of these four members are bureaucrats from concerned departments and remaining four are the experts of the field of coastal Management. The role of state and Union Territory level authorities is to monitor and implement the Coastal Regulation Zone Notification-1991 and to prepare Integrated Coastal Zone Management plans and creation of awareness about this, but these authorities did not work properly due to weak infrastructure, insufficient fund and lack in proper training to the officials concerned. This CRZ-1991, Notification was welcomed by the coastal communities, people's group and conservationists, but this legislation create a furor among the stakeholders of industries, industrial aquaculturists and tourism & hotel lobbies. Short term financial gain of industrialist and of land developers, affects the security and future of millions of traditional fishing families by generating physical and ecological displacement. Mere recently the global demand for fish and fish products attracted industrialist aquaculturists to invest in coastal aquaculture, therein looking for short term financial gain, rather than long term ecological sustainable use, contributed to the degradation of coastal ecosystems. The cultured organisms are raised in a variety of aquatic milieus ranging from fresh water ponds to brackish water lagoons and the coastal sea, at a different scales of operation from small home- stead ponds, cages in flowing fresh water, impounded brackish lagoons and large scale industrial operations covering several hundred hectares artificially in sea and fresh water, it caught up in the entire east and west coasts of the country. The culture of

marine shrimp in India and in other developing nations has had a devastating impact on the ecology of coastal areas and displaced local inhabitants and their activities and is empowered local actions from the management of common property resources and formatted social unrest.

Violation and lake of the CRZ-1991, Notification-

Like other legislations this Notification also have some deficiencies, but violations of this legislation are more rather than others. The violations and lakes of this Notification reads as below-

- ✓ Implementing authorities has not been taken sufficient and proper punitive action relative to the number of violation,
- ✓ Seaward component was completely absent from the definition of the coastal regulation zone provided by the CRZ-1991 Notification,
- ✓ There is a lack among the stake holder and the public participation ,
- ✓ There are no provisions for either public hearings or disclosures of information,
- ✓ The major drawback of the coastal regulation zone notification is that, the actual protection zone defined by it covers only an extremely narrow strip of the shoreline while, its provision are supposed to apply to coastal stretcher of seas, bays, estuaries, creeks, rivers and backwaters which are influenced by tidal action and several other ecologically sensitive areas along the coast,
- ✓ The property rights on land or the unofficial rights acquired or claimed by the fisherman on the basis of prescription or by living for a long term in the public property very close to the sea give a cover for them to argue against the provisions of the CRZ-1991, Notification,
- ✓ The offender were succeed to manage either by bribing or by using their political influence in getting, things done this Notification,
- ✓ Regarding the various provisions of CRZ regulations, on coastal resource conservation, protection, promotion, improvement and their management and right provided by this notification, no awareness was maintained about these,
- ✓ Many times administration also has not take due care and diligence in implementation of this Notification,
- ✓ Fisherman generally believe and feel that the provisions for Conservations and protection of coastal resources are not binding on them,
- ✓ In year-2004, Tsunami had damaged most of those houses located very close to the sea,
- ✓ To implement and enforced the provisions of Coastal Regulation Zone-1991, Notification rules, the Panchyat concerned faced the problem of lake of fund to set up a centralized liquid and solid waste
- ✓ disposal systems, and digging bore wells in the restricted zones for sufficient Municipal supply of water,
- ✓ At the time of discussion of the proposals, policies and strategies regarding the violations of this Notification, above 90% officials and politicians at the local level Panchyats concerned are not bothered or take into belief,
- ✓ (14) Note more that 15% of the public fully knows about the provisions laid down by this Notification, hence very

few peoples oppose the violations of this aforesaid Notification, Very low percentage near about 12% of the Panchyat officials and politicians feels that this Notification, is good for the people and society in general and they also believe that, it is not necessary to sustain the natural resources of their region concerned,

- ✓ Above than 90% of the local officials, public and politicians believe that, no positive change can be done through implementation of this Notification in their reasons concerned rather than positive, they feel threatened due to this CRZ, Notification implementation,
- ✓ There was no provision in this CRZ-1991, Notification regarding the needs of the special nature of various coastal zones, where the Tidal influence is being experienced deep into various backwaters, canals and rivers for example kerala,
- ✓ Having irrespective of the diversity of the regions in India, common yardstick was applied through this Notification,
- ✓ To understand the provisions laid down by the Coastal Regulation Zone-1991, Notification and their impact on their property rights and privileges, proper publicity, information, awareness, advertisement and training was not maintained to the public,
- ✓ Failure of officials to protect the several benefits of this Notification to the coastal resources and their sustainability to the long run, has created hatred among the peoples living in the coastal zones to accept this CRZ Notification,
- ✓ This Notification does not envisage any step to be taken to counter the sea level rise,
- ✓ None of the State Governments submit their Coastal Zone Management programme, with mandatory time period of one year as stimulated by this aforesaid Notification,
- ✓ After the implementation of Hon'ble Supreme Court of India, States submit their Coastal Zone Management Programmes, but the Ministry of Environment and Forest, grant only conditional approval and asked the States, to re-submit their revised Coastal Zone Management Programmes.
- ✓ But till fixed date no revised edition was re-submitted to the aforesaid Ministry of Govt. of India by the State concerned,
- ✓ Coastal Regulation Zone-1991, Notification do not relate to activities out side the Coastal Regulation Zone areas, while that effect the coast,
- ✓ Most of the States in their Coastal Zone Management Programmes, have incorrectly classified the Coastal Regulation Zone areas, thereby allowing various activities in ecologically sensitive and fragile zones,
- ✓ No proper guidelines regarding High Tide Lines (HTL) and Low Tide Lines (LTL) were evolved by the Ministry of Environment and Forest Govt. of India, thee none of the State has been done any work for identification of zones and field implementation of this Notification,
- ✓ According to plea taken by the States that there was lack of adequate infrastructure and in proper funding in this Notification,

- ✓ By this Notification only the States having coastal area were assembled and States not having coastal line were exempted, while these States were also connected indirectly and play effective role in the protection, promotion, conservation and management of coastal zones,
- ✓ Highly growing population and urbanization also create pressure and is responsible for violation of the norms laid down by this aforesaid CRZ-1991, Notification,
- ✓ This Notification stipulated uniform rules and regulations even for both simple and ecologically sensitive areas, like as Island of Andaman and Nicobar,
- ✓ To check the violations of this Notification, no monitoring mechanisms was made,
- ✓ Pollution arising from the land based activities was not taken into account and Sates not having coastal areas was not taken into belief by the Ministry of Environment and Forest, by this Notification and by its 25 amendments,
- ✓ The responsibility of implementation of the principles laid down by this Notification was primarily assigned to the State Government but the existence of this CRZ Notification was absolutely ignored by the State Government authorities.

S. Jagannath Vs, Union of India

In this case the petitioner take plea that intensive and semi-intensive shrimp farming in the ecologically fragile coastal areas must be prohibited and not allowed, because these shrimp culture industries are not directly related to the water or directly needing foreshore facilities, while the representative of the shrimp industries forced on the fact that, shrimp industries are directly related to the waterfront and can not exist without foreshore facilities. The Supreme Court held that, the shrimp farms do not need waterfront facilities directly, the apex court further held that the purpose of the Coastal Regulation Zone-1991, Notification, is to protect the fragile coastal areas and activities, which caused environmental degradation can not be permitted and the Central Government was ordered to constitute an authority having all necessary powers to protect the issues regarding coastal areas specially, to deal with the situation created by the shrimp culture industry in the coastal States and Union Territories

REFERENCES

- [1] United Nations conference on Human Environment-1972, Held on 5 to 16 June-1972 in Stockholm Brazil,
- [2] The Water (Prevention and Control of Pollution) Act-1974
- [3] The Air (Prevention and Control of Pollution) Act-1981
- [4] The Environment (Protection) Act-1986
- [5] The Coastal Regulation Zone Notification-1991
- [6] Indian Council for Envirolegal Action Vs. Union of India, AIR-1996 SC 1446
- [7] S. Jagannath Vs, Union of India, AIR-1997 SC 811