

3. These respondents have already filed a reply affidavit and additional reply affidavit in the above OA. Contents of these affidavits may also be kindly read along with this objection.

4. The OA itself is not maintainable as it is time barred and an application for considering the issue of limitation as a preliminary issue has been already filed by these respondents. The cause of action for the OA first arose in 2015 and therefore the above OA is hopelessly time barred. It is liable to be rejected solely on this ground. Hence the above IA is not liable to be entertained.

5. It is also submitted that the Hon'ble High Court of Kerala had rejected WP(C) No. 35647/2016 filed for same reliefs on the OA and therefore the issue is already covered by the judgment of the Hon'ble High Court.

6. The OA has been filed with ulterior motives and that has been clearly pointed out by these respondents in the reply affidavit. The applicant has not disputed those averments in the reply affidavit.

7. The applicant is an organization surviving only on paper and it is only an instrument in the hands of some persons with vested interest who are making all efforts to prevent Lakshadweep Administration from constructing the beach road. The petitioner has no bonafides and it is not having any credibility. The petitioner has not proved or even claimed any trustworthiness as a genuine organization. It has no history of undertaking any significant activity for protection of environment. It is not therefore entitled to maintain the OA as well as the above IA before this Hon'ble Tribunal.


8. The construction of beach road has been planned in different segments. The 1st phase is between the main jetty and fisheries jetty. This stretch is about 1 kilometer. Work has been completed at a length of more than 460 meters already in this section. All trees in the remaining area of the 1st phase are already removed. The balance of convenience is therefore in favour of permitting the Administration to complete the work of the 1st phase.

9. The allegations and contentions in the interim application are misleading and incorrect. Regarding the averments in paragraph 4.1 of the I.A it is submitted that the ongoing construction work of beach road is not in violation of the IIMP. It may kindly be noticed that Annexure R3 produced along with the reply affidavit filed by the respondents 3 to 5 in the OA clearly shows that construction of roads is an activity permitted within the no development zone. The allegation that coastal ecology is adversely affected is incorrect and hereby denied.

10. The averments and allegations in paragraph 4.2 are misleading and exaggerated. As already stated in the reply affidavit environment impact assessment is not required for the ongoing construction. The construction is being carried out with necessary permissions. The petitioner has raised these allegations despite the reply affidavit filed by these respondents wherein all these allegations are already controverted. The allegation that reinforced concrete is being used for construction is also misleading. Reinforced concrete is being used only for the construction of the trench for laying pipe lines and cables and not for the construction of the road. It is essential to keep the cables and pipes safe when heavy vehicles move through the road. The


photographs produced do not show any illegal activity. On the other hand it shows that the road is being constructed leaving sufficient distance from the sea.

11. The contentions in paragraph 4.3 & 4.4 are also incorrect. The coastal ecology is not harmfully affected by the construction of the road. These respondents are not unaware of the requirement to ensure that the ecology of the islands are to be protected scrupulously. They are more concerned in this regard than the petitioner/ applicant which is raising the environmental concerns only as a ploy to frustrate the road project. At the same time it is the responsibility of these respondents to ensure sufficient infrastructural facilities in all islands. Since Agatti Island is a strategically important island where the only airport of the Union Territory is situated, present roads having only 3 meters of width are not sufficient for several purposes. From the national security angle also the present road infrastructure in the island is grossly inadequate. Therefore the beach road having 5 meters of width is being constructed. As already stated in the reply affidavit the alignment through accreted lands was chosen to ensure a road network connecting the entire coastal area of the island and also to avoid acquisition of private lands. The construction of roads are permitted as per Annexure R3. The sand dunes are not being massively altered as alleged. There is no violation of the Island Protection Zone Notification as alleged. In all islands of Lakshadweep concrete roads have been constructed as it is the most suitable technique in the geographical conditions of Lakshadweep Islands. It is also pertinent to point out that beach roads like the present



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road under construction in the Agatti Island have been constructed already in many other islands.

12. With regard to the contentions in paragraph 4.5 & 4.6 it is submitted that the OA itself is not maintainable and it is clearly an abuse of the process of law. These respondents have specifically alleged in their reply affidavit that the petitioner is an organization which is not known even to the public of Agatti Island. It is an organization registered by a handful people. It is not having any credentials to maintain the above OA. It is acting as a tool in the hands of some persons with vested interests. As already pointed out in the reply affidavit some natives of the Agatti Island who wanted to grab the accreted lands adjoining their private properties have been making all possible efforts to thwart the beach road project as it is being constructed entirely through the accreted lands. Every attempt made by such persons with vested interests by approaching different courts have failed. All litigations filed before the Hon'ble High Court of Kerala against the road project were rejected. Though an SLP was filed before the Hon'ble Supreme Court against the judgment of the Division Bench of the Hon'ble High Court no stay was granted by the Hon'ble Apex Court. The above OA was filed when two writ petitions filed to block the road construction were pending before the Hon'ble High Court. This OA was filed anticipating dismissal of the writ petitions. The only purpose of filing the above OA is to prevent the ongoing construction. The OA is actuated by malafides. As already pointed out it is clearly time barred. Therefore no interim order is liable to be granted to the petitioner/applicant.


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13. It is also submitted that there is no merit in the grounds in the IA for the reasons already stated. The present IA is yet another attempt to stop the road construction. It is most humbly submitted that the construction which was planned originally in 2015 was delayed by several years because of interventions and litigations by unscrupulous elements like the petitioner herein. The cost of construction multiplied several times due to such interventions. The adverse impact on state exchequer is evident. So also any construction activity in the islands can be conducted only during the fair weather seasons. As already pointed out, construction is already completed at a length of more than 460 meters. About 540 meters is remaining in the 1st phase of the road. The entire stretch of the 1st phase is already cleared for the construction and the construction is steadily progressing. If the construction is to be put on hold at this stage the same will result in huge loss to public exchequer and further delaying of the construction of the road which is essential for the improvement of infrastructural facilities of the island. It is also relevant to point out that there is huge public demand in the island to complete the construction of the entire beach road at the earliest. Hence the request for restraining these respondents from continuing the construction is against public interest also. It is also against the considerations of balance of convenience. When the OA itself is not maintainable the above IA is not liable to be entertained in any view of the matter. It is yet another attempt to stop the road project after failing in many other attempts made before the Hon'ble High Court of Kerala and Hon'ble Supreme Court. Hence these respondents most humbly pray that the above IA may kindly be rejected.


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What is stated above is true and correct to the best of my knowledge, information and belief.

Dated this the 23rd day of November, 2020



DEPONENT

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Lakshadweep Office
Cochin-3

Solemnly affirmed by the deponent, who is personally known to me, in my office at Ernakulam, on this the 23rd day of November, 2020



S. MANU
SCGSC

**BEFORE THE NATIONAL GREEN TRIBUNAL,(SZ), SITTING
AT CHENNAI**

I.A. No. 121 of 2020

In

OA No. 132 of 2020

Agatti Island Kera Karshaka Sanghom Applicant

Vs.

Union of India & others Respondents

OBJECTION FILED BY THE RESPONDENTS 3 & 4

**S. MANU
Senior Central Government Standing Counsel
for the Lakshadweep Administration**