

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI  
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**ORIGINAL APPLICATION NO. 435 OF 2018**

**With**

**ORIGINAL APPLICATION NO. 466 OF 2018**

**(MA No. 1105/2018 & 1500/2018)**

**With**

**ORIGINAL APPLICATION NO. 494 OF 2018**

**(MA No. 1149/2018)**

**With**

**ORIGINAL APPLICATION NO. 381 OF 2018**

**(MA No. 867/2018 & 1234/2018 & 1501/2018)**

**IN THE MATTER OF:**

**ORIGINAL APPLICATION NO. 435 OF 2018**

**1. Hussain Khan**

S/o Late Kadar Nawaj Khan  
195, Chinnasadra Chintamani  
Taluk, Chikkaballapura District

**..... Original Applicant**

Versus

**1. Fisheries Department**

Ministry of Animal Husbandry,  
Dairy Development and Fisheries,  
State of Telangana,  
Matsya Bhawan  
Shanthinagar, 4<sup>th</sup> Line,  
Hyderabad - 500009

**2. The Fisheries Development Commissioner**

And Member Secretary of National Committee on Exotics  
Government of India,  
Ministry of Agriculture Department  
And Animal Husbandry & Dairying,  
Krishi Bhavan, New Delhi - 11  
Represented by its Secretary

**3. The Union of India**

Ministry of Water Resources, RD & GR  
Block-11, JLN Stadium,  
CGO Complex, Pragati Vihar  
New Delhi – 110003

.....Respondents

**ORIGINAL APPLICATION NO. 466 OF 2018**

**(MA No. 1105/2018 & 1500/2018)**

**1. Chand Pasha**

S/o Syed Mohammed Khan  
Bylanarasapura, Hoskote Taluk,  
Bengaluru Rural District - 562114

..... Original Applicant

Versus

**1. Tahsildar, Hoskote Taluka**

Bengaluru Rural District  
Mini Vidhana Soudha Building,  
Hoskote, Bagalore – 562114

**2. Director of Fisheries,**

Govt. of Karnataka  
3<sup>rd</sup> Floor, Podium Block, V.V. Center,  
Dr. Ambedkar Road, Bangalore – 560001

**3. District Magistrate (Collector)**

Bengaluru Rural District  
First Floor, Podium Block, V.V. Center,  
Dr. Ambedkar Road, Bengaluru – 560001

**4. The Union of India**

Ministry of Water Resources, RD & GR  
Block-11, JLN Stadium,  
CGO Complex, Pragati Vihar  
New Delhi – 110003

.....Respondents

**ORIGINAL APPLICATION NO. 494 OF 2018**

**(MA No. 1149/2018)**

**1. Mohammed Nazim**

S/o Mohammed Jafar,  
B-18, Christian Colony,  
Patel Chest, New Delhi - 110001

**..... Original Applicant**

Versus

**1. The Chief Executive Officer,**

Fish Farming Development Agency,  
Hapur District Uttar Pradesh - 245101

**2. The Director,**

Fisheries, Government of Uttar Pradesh,  
No. 7, Faizabad Road,  
Babu Ganj, Lucknow – 226020

**3. The Commissioner,**

Fisheries Development & Member Secretary,  
Of National Committee on Exotics,  
Government of India,  
Ministry of Agriculture Department,  
Animal Husbandry & Dairying,  
Krishi Bhawan, New Delhi - 110001

**4. The Union of India**

Ministry of Water Resources, RD & GR  
Block-11, JLN Stadium,  
CGO Complex, Pragati Vihar  
New Delhi – 110003

**5. The Union of India,**

Ministry of Agriculture,  
Department of Animal Husbandry and Dairying  
(Fisheries Division),  
Krishi Bhawan, New Delhi – 110011  
Represented by its Secretary

**.....Respondents**

**ORIGINAL APPLICATION NO. 381 OF 2018**

**(MA No. 867/2018 & 1234/2018 & 1501/2018)**

**1. Sandip Ankush Jadhav**

R/o Kalth Town, No. 1  
Tali, Indapur,  
Dist. Pune

**..... Original Applicant**

Versus

**1. The Union of India**

Ministry of Water Resources, RD & GR  
Block-11, JLN Stadium,  
CGO Complex, Pragati Vihar  
New Delhi – 110003

**2. Maharashtra Fisheries Department**

Commissioner of Fisheries,  
Taraporawala Aquarium,  
Netaji Subhash Road,  
Charni Road, Mumbai – 400002  
Maharashtra

**3. The Fisheries Development Commissioner**

And Member Secretary of National Committee on Exotics  
Government of India,  
Ministry of Agriculture Department  
And Animal Husbandry & Dairying,  
Krishi Bhavan, New Delhi -11  
Represented by its Secretary

**4. The Union of India,**

Ministry of Agriculture,  
Department of Animal Husbandry and Dairying  
(Fisheries Division),  
Krishi Bhawan, New Delhi – 110011  
Represented by its Secretary

.....Respondents

**COUNSEL FOR APPLICANTS:**

Mr. Varun K Copra and Mr. Gurtejpal Singh, Advs.

**COUNSEL FOR RESPONDENTS:**

Mr. P. Venkat Reddy and Mr. Prashant Tyagi, Advs. for Respondent  
No. 1

Mr. Devraj Ashok, Adv. for State of Karnataka

Mr. Amit Tiwary with Mr. Rohit Pratap Singh, Advs. for State of  
Uttar Pradesh

Mr. Aradhendumauli K. Prasad with Mr. Shashank Saxena, Mr.  
Amritesh Raj and Ms. Diksha Gera, Advs. for Ministry of Agriculture

Mr. B.V. Niren with Mr. Kshitij Mudgal, Advs. for CGSC

## JUDGEMENT

**PRESENT:**

**Hon'ble Mr. Justice Raghuvendra S. Rathore (Judicial Member)**

**Hon'ble Dr. Satyawan Singh Garbyal (Expert Member)**

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**Reserved on: 16<sup>th</sup> January, 2019**  
**Pronounced on: 22<sup>nd</sup> January, 2019**

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1. Whether the judgment is allowed to be published on the net?
2. Whether the judgment is allowed to be published in the NGT Reporter?

**Dr. S.S. GARBYAL, (EXPERT MEMBER)**

1. In all these four applications, the subject matter is relating to the rearing of exotic Cat fish in the State of Karnataka, Andhra Pradesh, Telangana and Uttar Pradesh. The applicants have prayed that the respondents be restrained from interfering in their fish farming operations.

2. This Tribunal in O.A. no. 583/2016 on 6<sup>th</sup> September, 2017 had noted that Indian Cat fish breeding is not banned in the ponds, in the State of Karnataka, State of Andhra Pradesh and State of Maharashtra.

3. The Fisheries Development Commission of Ministry of Agriculture, Department of Agriculture and Cooperation, Government of India had written to the Secretary, Fisheries of all the States and Union Territories on 19.12.1997 that the National Committee to oversee regulatory introduction of exotic aquatic fishes in Indian water and had recommended as follows:-

***“The Ministry of Agriculture should write to all the States/UTs to take immediate steps to destroy the existing stock of exotic magur and big head which have been introduced into the country without official sanctions. All hatcheries may be identified and destroyed by the concerned States. It was stressed that exotic magur (Clarias gariepinus) should not establish in the natural***

***environment and cross with the endemic species (Clarias batrachus). A strict controlling measure should also be adopted to avoid spread of exotic disease(s) from (Clarias gariepinus) to the endemic fishes.”***

4. Subsequently the Ministry of Agriculture, Department of Animal Husbandry and Dairying (Fisheries Division) on 29<sup>th</sup> June, 2000 in applications filed before them had ordered, based upon the facts submitted therein and upon collecting factual information based on the scientific evidence furnished by the Fisheries Research, Institute of Indian Council of Agricultural Research as below:-

- (i) ***that Clarias gariepinus is an exotic fish and in line with the prescribed procedures for introduction of any exotic plant or animal every care is to be exercised with regard to effect of the new species on the flora, fauna and the ecological environment of the country where it is being introduced. The fact that the species is grown in African and European countries does not mean that they could be introduced into Indian waters unmindful of its impact within this country. There is no evidence to show that exotic magur found its way through rivers from neighbouring countries. It is evident that the species has been introduced in an unauthorized and clandestine manner and not through natural sources,***
- (ii) ***that Indian species of cat fish (Clarias batrachus) are much less predacious as compared to the exotic magur. Carnivorous feeding habit of any organism which means subsisting or feeding on animal tissue are considered for introduction based on its economical and ecological importance. The predatory habit of the cat fish species under consideration can lead to drastic changes in the eco system in the long run and can cause economic losses. Exotic magur feeds on fish when available, and can switch over to other diets like crustacean and molluses. While the native carnivorous species would not affect the ecological***

*balance in the natural water bodies which have been established over a very long time period (thousands of year) the same cannot be presumed of the exotic magur. Further, farmers in UP have experienced problems in culturing exotic magur with carps due to its carnivorous nature since it is inimical to carps in a mixed culture and also competes for the food available. Instances of cannibalism is also reported in pond culture. Although there is no natural hybridization with the local cat fish at present the possibility cannot be over-ruled.*

*(iii) That though many exotic species do not breed naturally, it is observed that exotic magur has been naturally reproducing in ponds (in UP) and has been potential to cause ecological damage. Experiments have already been taken up in Central Institute of Freshwater Aquaculture to evaluate the exotic magur and indigenous cat fish along with their hybridization. Though it has not been found to carry any exotic disease as yet, the possibility of the exotic magur to be carriers of any exotic disease cannot be ruled out. Since husbandry practices are very rare, the changes of epidemics is quite high,*

*(iv) That a decision on introduction of any exotic species into the culture system cannot be taken in isolation based on factors such high yielding capacity or its market value alone. Other ecosystem has to be paid due attention to. Indiscriminate stocking of exotic magur in ponds has been observed to adversely affect the catla production. Though exotic magur grows faster, it has been a poor survival rate. Further, introduction of any exotic species requires the approval of the National Committee on Exotic Species set up for this purpose and the applicants should have applied to this Committee for introduction of any exotic species including exotic magur along with the recommendations of the concerned State Government.*

5. In sum and substance breeding of exotic magur (Cat fish) was not allowed without the approval of National Committee on Exotic Fishes and also the State Government concerned because of its potential to cause ecological damage in our country.

6. The case of the applicants is that they are breeding Indian Cat fish which is not a banned fish and therefore, they should be allowed to rear them in their ponds. Applicants have also submitted that the Respondents are under a mistaken belief that the cat fish being reared by them are **Clarias gariepinus**. They have submitted that Thai cat fish and Indian cat fish are the same species of fish i.e. **Clarias batrachus** and the Respondents have wrongly labelled Thai cat fish i.e. **Clarias batrachus** as African cat fish. The applicants have, therefore, requested the Tribunal to issue appropriate direction or orders refraining Respondents from taking any coercive action against rearing, cultivation, storage and transportation of Thai Cat fish.

7. The Respondent States have submitted that the applicants are breeding banned fish i.e. **Clarias gariepinus** under the fake shadow of Indian catfish i.e. **Clarias batrachus** which has been confirmed by the test report of NBFGR (a unit of ICAR). The Counsel appearing for the State of Uttar Pradesh has categorically stated that the fish being cultured in the ponds of Hawal Madopur, Dist. Hapur is absolutely banned fish i.e. **Clarias gariepinus**. A similar submission has also been made for the Ld. Counsels appearing for the State of Karnataka, Andhra Pradesh and Telangana.

8. There is no dispute whatsoever, that the breeding of Indian catfish i.e. **Clarias batrachus** is allowed in our country and breeding of exotic catfish i.e. **Clarias gariepinus** (Thai Magur) and its hybrids is banned in all the States and the Union Territories. In the facts and circumstances, we direct as follows:-

- (1) The breeding and culturing of exotic cat fish or its hybrids (Thai Magur etc.) i.e. **Clarias gariepinus** is prohibited in all the States and the Union Territories. The existing stock will be



destroyed forthwith. For this purpose concerned District Collectors/ District Commissioners will take necessary action by forming inspection teams of officials of the fisheries Department for inspection of fish ponds and proper identification of prohibited **Clarias gariepinus** i.e. Thai Magur which are being reared and to destroy such stocks forthwith.

(2) All the cat fish breeders shall be required to source their fish from State Fisheries Department or from the agencies which are authorized by the Department for this purpose.

(3) Compliance report of this order shall be filed by the Directors of Fisheries Department of all the States and Union Territories within a period of one month.

9. With these aforesaid directions Original Application Nos. 381/2018, 435/2018, 466/2018 and 494/2018 are disposed of and the Miscellaneous Application Nos. 867/2018, 1234/2018, 1501/2018, 1149/2018, 1105/2018 & 1500/2018 in consequence thereof, shall also stand disposed of, with no order as to cost.

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**Justice Raghuvendra S. Rathore**  
**(Judicial Member)**

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**Satyawan Singh Garbyal**  
**(Expert Member)**

**Dated: 22<sup>nd</sup> January, 2019**  
**New Delhi**