



FISHERMEN AND FRIENDS OF THE SEA

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Bhadose Sooknanan (First Applicant) and Fishermen and Friends of the Sea- FFOS (Second Applicant) v Environmental Management Authority- EMA (Respondent) and The Ministry of Energy and Energy Affairs (Interested Party) CV2014-00813

Facts:

Since 2004, FFOS has been informing the EMA on the commercial and economic importance of the marine environment of the Gulf of Paria to coastal fishing communities and the negative impact of seismic surveys on the fishery.

Sometime in 2013, the EMA granted a Certificate of Environmental Clearance, (**CEC**) (CEC3963/2013) to Petrotrin to conduct a 3-dimensional seismic survey to cover an area of approximately 510 square kilometers within Soldado Fields and the North Marine Field located in the Gulf of Paria off the West Coast of Trinidad. The EMA as it had many times in the past, did not require Petrotrin to conduct an Environment Impact Assessment, (**EIA**) prior to the approval of the CEC. FFOS argued that data must be collected before, during and after the seismic survey to understand its true impact on the marine environment and the fishery. Further FFOS requested the EMA to hold its hand in issuing the CEC and instead to require that Petrotrin conduct an EIA so as to determine the effects of the seismic survey and to properly mitigate against these potential impacts.

The EMA argued that it relied on their Practitioner's Guide and the EIA Standard Operating Procedure (**SOP**) which provides a criterion for determining whether a project requires an EIA.

Court: High Court

FFOS applied for leave for Judicial Review to challenge the decision of the EMA to grant a CEC. FFOS claimed that the EMA did not properly exercise its discretion nor take into consideration the impact or possible impact of seismic surveys on the fishing community and on the corresponding marine life which the fishing community is dependent.

FFOS relied on grounds such as:

1. Sustainable Development
2. Precautionary Principle
3. Intergenerational Equity
4. Excluded Statutory Public Consultation

5. General requirement to foster public participation in management of the environment

Outcome:

FFOS was unsuccessful and did not appeal the High Court decision.

The Judge – Justice Kangaloo despite endorsing and acknowledging that the precautionary principle is integrated into our Law, determined that the EM Act has conferred on the EMA to use their discretion whether or not an EIA is required for a particular application. The Judge also took the view that when an EIA is not required as part of the CEC process, there is no statutory requirement for public consultation.