

BEFORE THE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE BENCH, AT PUNE  
MEMORANDUM OF APPEAL  
UNDER SECTION 14, 15, 16 & 20 OF  
THE NATIONAL GREEN TRIBUNAL ACT, 2010

APPEAL NO. 14 OF 2024

IN THE MATTER OF:

Gavhan Koliwada Matsyavyavasayik )  
Sahakari Sanstha Maryadit, Gavhan )  
Koliwada & Another )

...Appellants

Versus

City and Industrial Development )  
Corporation & Others )

...Respondents

ADDITIONAL AFFIDAVIT BY THE APPELLANTS

I, Shri. Hitesh Harichandra Koli, Chairman of Gavhan Koliwada Matsyavyavasayik Sahakari Sanstha Maryadit, Gavhan Koliwada, the Appellant No. 1 herein, residing at Hanuman Koliwada, Post – N.S. Karanja, Uran, Raigad, Maharashtra – 400704, do hereby solemnly state as follows:

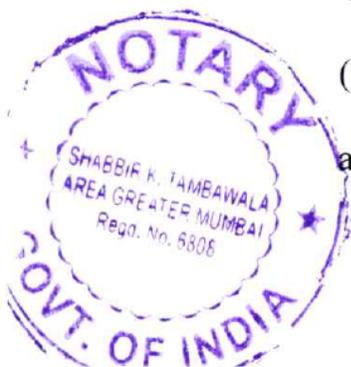


1. I say that I am the authorized signatory of the Appellant No.1 in the above captioned matter and that I am fully authorized and competent to swear this affidavit. I am familiar with the contents of the above captioned matter and have perused the record. I fully adopt and reiterate the contents of the of Appeal No.14 of 2024 filed before this Hon'ble Tribunal and pray that the contents of the Appeal be treated as a part and parcel of this affidavit.

2. I say that I am filing the present affidavit with a view to place additional information which the Appellants did not have at the time of filing the appeal.

3. I say that I have separately filed a compilation of documents which includes the application for Coastal Regulation Zone (CRZ) clearance dated 10/07/2023 (*See Pages 358 - 433*). I have also filed a second compilation of documents which includes the EIA report dated 26.10.2023 (*See Pages 434 - 653*).

4. I say that the coastal road covers an area of almost 7km (5.8km coastal road and an airport link of about 1.2km) and is not an internal city road, as is wrongly claimed by CIDCO, the Project



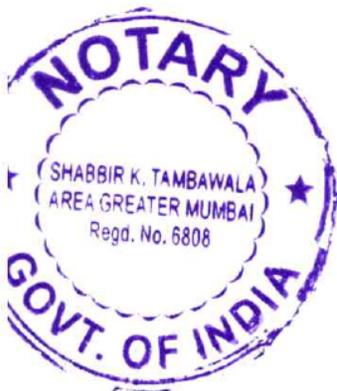
Proponent (PP) and is therefore covered under item number 7(f) of the Environmental Impact Assessment (EIA) notification dated 14/10/2006. Therefore, before an EIA report can be prepared, an application for seeking prior environmental clearance has to be made to the appropriate authority, in this case the Ministry of Environment, Forest and Climate Change of India (MOEF). The project is then screened and appraised at four steps, i.e., (i) screening (ii) scoping (iii) public consultation and (iv) appraisal in the case of Category B projects, and in three steps, i.e., (i) scoping, (ii) public consultation, and (iii) appraisal in case of Category A Projects. This entire procedure has not been followed. Before preparation of the EIA report, the terms of reference (TORs) have to be prepared to determine the studies that are required to be done and after preparation of EIA report, the same is required to be circulated and a public consultation is required to be held.

5. If both an Environmental Clearance (hereinafter referred to as 'EC') and a CRZ clearance under the CRZ notification are required, then the appropriate authority is the MoEF and the appraisal has to be done by the Expert Appraisal Committee. The Appellants crave leave to produce, refer, and rely upon judgments in this regard.



6. Instead of obtaining prior EC, the Respondent No. 1 submitted a proposal under the CRZ Notification 2011 to MCZMA, the Respondent No. 6 herein for CRZ clearance.

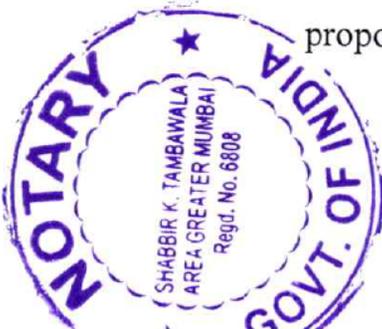
7. This proposal was considered on 17.01.2017 and 18.01.2017 at the 115<sup>th</sup> meeting of MCZMA wherein it was observed that the EIA and the Environment Management Plan (EMP) reports were not specific to the project and that the data listed in the reports was vague. It was also directed that the reports needed to provide the details of the flora and fauna present on the site. The PP was directed to submit a revised EIA and EMP. However, without rectifying the defects, the Respondent No. 1 submitted a revised EIA vide its letter dated 05.05.2017, which was discussed at the 119<sup>th</sup> meeting of MCZMA held from 28.06.2017 to 30.06.2017. Without ensuring compliance of its earlier directions, MCZMA decided to recommend the proposal to the MoEF/Respondent No. 2. Based on the faulty recommendations of the MCZMA, State Environmental Impact Assessment Authority (SEIAA) considered the proposal in its 159<sup>th</sup> meeting on 02.03.2019 and decided to accord CRZ clearance to Respondent No. 1. This clearance was granted on 09.08.2019



and certain conditions were set out, which included that the fisher folk would be consulted before proceeding, that the movement of the fishing boats would not be restricted, and that five times the number of mangroves cut/destroyed would be replaced. This entire process suffered from infirmities as the MCZMA recommended the project without calling upon the PP to rectify the defects which struck at the root of the project. The SEIAA without scrutinizing and without application of mind granted the CRZ clearance.

8. The Respondent No. 1 was also required to approach the Hon'ble High Court for seeking prior permission for cutting mangroves. In accordance with this direction, the Respondent No.1 approached the Hon'ble High Court wherein an order dated 25.04.2023 was passed observing that the procedure adopted by MCZMA for recommending the proposal was defective and granted Respondent No. 1 to seek fresh clearances from MCZMA and SEIAA.

9. Accordingly, Respondent No. 1 resubmitted a proposal for CRZ clearance dated 10/07/2023, which was similar to the earlier proposal, along with an EIA report dated 26.10.2023. The



application for CRZ clearance dated 10/07/2023 is enclosed in the compilation of documents (*See Pages 358 - 433*).

10. The revised CRZ clearance dated 10/07/2023 along with the EIA report dated 26.10.2023 claims to contain (i) phytoplankton and zoo plankton studies and (ii) EMP. This contains just two paragraphs without a detailed study. The said EIA report dated 26.10.2023 was filed after the clearance from MCZMA was granted.

11. I say that the application for CRZ clearance is not in accordance with the requirements under the CRZ Notification, 2011. I say that Regulation 4.2 of CRZ notification 2011 sets out a procedure for obtaining CRZ clearance as well as specifies the documents which must be filed. It is clear from the documents submitted by Respondent No. 1 that the mandatory procedure has not been followed. The defects are as follows:

Form I (Submitted by Respondent No.1; See	The project proponent is required to give details of alternative sites. This has not been done. Admittedly the alignment of the proposed coastal road cuts through CRZ-1A. Whereas,
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Pages 360 - 370)	alternative sites have been rejected either because the alignment cuts through creeks or destroys mangroves. The route recommended runs through ecologically sensitive areas and thus may destroy several lakes, creeks, and mangroves.
Sr. No. 1.28	It states that the alignment will be crossing Moha creek. Whereas, the alternative alignment No. 1 also states that it crosses through creek water, on the basis of which the site was rejected.
Sr. No. 1.30	It falsely states that the alignment would not interfere with the free flow of tidal water when in fact the EIA shows that the road alignment cuts through water bodies and interferes with tidal flow.
Sr. No. 3.3	It does not give details of how the people will be affected and rehabilitated but merely states that people will be able to travel in comfort which has no connection with the living conditions.

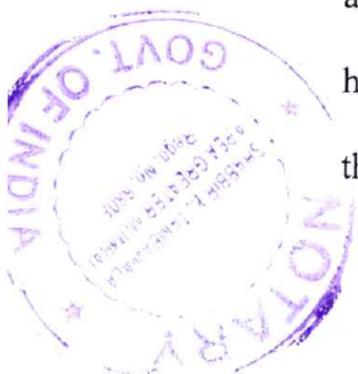


Sr. No. 3.4	Though the project proponent is required to give details of vulnerable people who will be affected, it falsely states that no one will be affected. Though a large number of fisherfolk and their families will be affected, the project proponent has falsely stated that it is " <i>not envisaged</i> ".
Sr. No. 3.5	Though details are required to be given regarding the effect on local communities, fisher folk, on their livelihood, etc., it has falsely been stated that the alignment will not affect the navigated route or fishing grounds, and that uninterrupted access to fish landing points are provided.
Sr. No. 9.4	The project proponent is required to give details of cumulative effects. Though there are existing and similar projects in the vicinity, no cumulative studies have been carried out, including marine studies, coastline studies, socio-economic studies, and other relevant studies.



12. I, therefore, most humbly say that Form-I has several inaccuracies and falsehoods and therefore on this ground alone the CRZ clearance should be set aside.

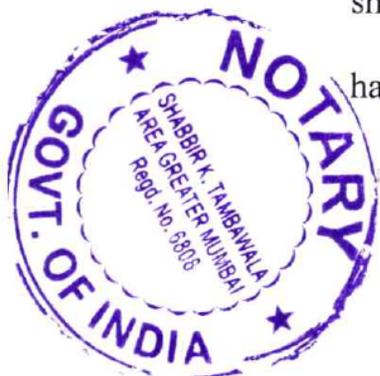
13. It is apparent from the report prepared by the Institute of Remote Sensing dated July 2023 (*See Page 389*) that the project proponent has prepared its own cadastral map of the area which has been used as the base map. The manner in which the local level CRZ maps were prepared is set out in the report at Page 391 of the Compilation. This is contrary to the "*Guidelines For Preparation of Coastal Zone Management Planes*" set out at Annexure-I of CRZ Notification 2011. Cadastral (Village) maps in the scale of 1:3960 or the nearest scale are required to be used as the base maps. These maps are available with revenue authorities and are prepared as per standard norms and cannot be prepared by the project proponent. Only the maps prepared by the revenue authorities can be relied upon. Because of the faulty preparation of the PP, fishing villages, common properties of the fisherman communities, fishing jetties, ice plants, fish drying platforms or areas infrastructure facilities of fishing and local communities have not been shown, as a result of which it is not known where the fishing areas and fish breeding zones are located. By wrongly



not showing the fishing zones and ecologically sensitive areas, the PP has wrongly claimed that none of these areas will be affected.

14. Demarcation of cadastral maps can be done only by local agencies approved by the Central Government. The local agencies are required to work under the guidance of the concerned State Government. Not having identified the fishing villages and common properties of the fisher folk as well as fishing zones in the water bodies and the fish breeding areas, it is not known how the project proponent could have prepared the EIA and arrived at the conclusion that the fishing areas/zones will not be affected. This is particularly so since the fishing areas have not been identified on the CZMPs. The Supreme Court is currently seized of the matter regarding the wrong preparation of CZMP maps, which have been prepared without the cadastral maps and without demarcating the fishing and other local communities.

15. The project proponent has attached the Topo map of 10km areas around the project area (*See Page 371*). The map does not show the fishing areas/villages/zones, since the cadastral maps have not been referenced.



16. Though the Hon'ble High Court has directed the project proponent to submit detailed studies on phytoplankton and zooplankton, this has not been done. This can be seen from Pages 411 to 415 of the compilation of documents placed on record before this Hon'ble Tribunal, where cursory remarks have been made without conducting or relying upon detailed studies.

17. I say that besides Form I, Clause 4.2 of the CRZ Notification 2011 lists the documents that are required for obtaining CRZ clearance. These documents are as under:

- (i) Rapid EIA report including marine and terrestrial component. *(Not done by the PP in the present case)*
- (ii) Comprehensive EIA with cumulative studies for projects in the stretches classified as low and medium eroding by MoEF. This is especially important in the present case as the area in question has an eroding coastline. *(Not done by the PP in the present case)*
- (iii) Disaster management report. *(Not done by the PP in the present case)*



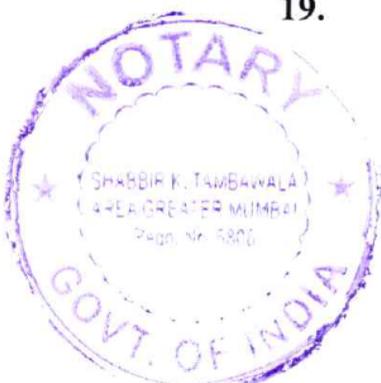
- (iv) CRZ map indicating HTL as LTL demarcated by one of the authorized agencies appointed by the MOEF in 1:4000 scale. *(Not done by the PP in the present case)*

It is evident from the document filed at Page 391 of the compilation that the authorized agency has not prepared the map, rather it has been prepared by the project proponent.

- (v) The CRZ map normally covering 7km radius around the project site. *(The said map has been prepared and does show the fishing area villages, fish breeding zones, etc. – contrary to what has been claimed by the project proponent)*

18. I say that I have subsequently obtained a copy of the revised EIA report dated 26.10.2023 which I have filed covering Pages 434 – 653 in the compilation of documents.

19. I say that the objections to the said report are as under:



(i) The coastal road falls within two districts, i.e., Thane and Raigad, which consist of tropical moist mixed deciduous forest (*See Page 507 for Thane District*). Raigad is ecologically sensitive and shows variation in topography from high altitudinal Sahyadri hill range to coastal plains (*See Page 507*). It has a variety of forests from moist mixed deciduous forests to tropical semi-evergreen forests and swamp forests on land including mangroves along the alignment (*See Page 508 - 509*). The EIA records that the alignment passes through the Moha creek and mini-Moha Island. These have luxurious mangroves. Mangroves are also located at the Nhava creek. All these areas/mangroves are going to be affected whereas the project proponent has underestimated the number of mangroves which will be damaged.

(ii) The EIA report also records a large number of waterbodies - several ponds and lakes have been identified. These are proposed to be destroyed. At Page 521 of the compilation of documents, it is recorded that the alignment passes through wetlands,

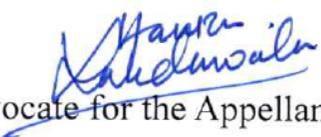




interviewed, whereas a large number of villages who were opposed to the project were not interviewed. The Appellants have annexed a list of the villages hereto.

21. The Appellant herein craves leave to add, alter, amend, or delete any part of this affidavit with prior leave of this Hon'ble Court. Further, the Appellant craves leave to file additional affidavits, as and when necessary, to bring additional facts on record.

22. In light of the aforesaid, the Appellants pray that the captioned appeal be allowed and the reliefs prayed for therein be made absolute.

  
Advocate for the Appellants

  
Appellant No. 1

(Shri. Hitesh Harichandra Koli, Chairman of Gavhan Koliwada Matsyavyavasayik Sahakari Sanstha Maryadit, Gavhan Koliwada)

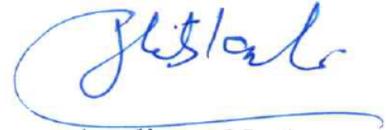


VERIFICATION

I, Shri. Hitesh Harichandra Koli, Chairman of Gavhan Koliwada Matsyavyavasayik Sahakari Sanstha Maryadit, Gavhan Koliwada, the Appellant No. 1 herein, residing at Hanuman Koliwada, Post – N.S. Karanja, Uran, Raigad, Maharashtra – 400704 , do hereby state and solemnly declare that what is stated in the petition in paragraph no. 1 to 22 hereinabove is based on my own knowledge and belief and I believe the same to be true, and that I have not concealed anything from this Hon'ble Tribunal.

Solemnly declared at )

On this 26<sup>th</sup> day of June 2024 )

  
Applicant No.1

(Shri. Hitesh Harichandra Koli, Chairman of Gavhan Koliwada Matsyavyavasayik Sahakari Sanstha Maryadit, Gavhan Koliwada)

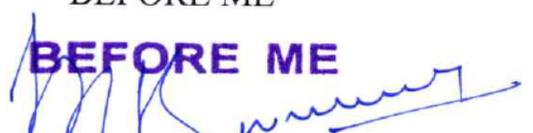
Identified by me

  
**HAMZA LAKADAWALA**

Advocate for the Appellant

BEFORE ME

**BEFORE ME**

  
**S. K. TAMBAWALLA**  
ADVOCATE, HIGH COURT  
B-23, Taheri Manzil  
Nesbit Road, Mazgaon  
Mumbai - 400 010

**NOTARY & REGISTERED**  
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Sr. No..... dt.....

