BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

SITTING AT PUNE

ORIGINAL APPLICATION NO. 49 OF 2024

Pratap Lal Teli …Applicant

Versus

Secretary, Env Dept., Govt. of Maharashtra & Ors. …Respondents

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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

SITTING AT PUNE

ORIGINAL APPLICATION NO. 49 OF 2024

NOTARY
B. P. SHARMA
Kandivali (E),
Dt. Mumbai
Maharashtra
Regd. No. 10471
Exp. Dt. 31/8/2028
GOVT. OF INDIA

Pratap Lal Teli ...Applicant

Versus

Secretary, Env Dept., Govt. of Maharashtra & Ors. ...Respondents

AFFIDAVIT IN REPLY ON BEHALF OF RESPONDENT NO. 5:

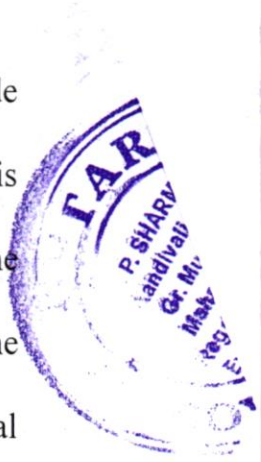
I, Sabira Kadri, aged 57 years, Indian Inhabitant, having my office address at Jio Word Drive, 3rd Floor, Maker Maxity, BKC Mumbai 400051, Authorised Signatory of the Respondent No. 5, do solemnly state on oath and affirm as under:-

1. I am the Head Legal of Respondent No. 5 and I have gone through the above Original Application (the "**Application**") and the documents filed along with the said Application by the Applicant. I am familiar with the facts of the case from office records available with Respondent No. 5 and am competent to depose to the facts in this Affidavit in Reply.

2. I am filing this Reply for the limited purpose of opposing the Original Application and the grant of any reliefs against this Respondent No. 5. I

crave leave of this Hon'ble Tribunal to file further affidavit(s), should the need arise.

3. At the outset, I deny all allegations, contentions and submissions made in the Application, which are contrary to or inconsistent with what is stated in this Reply. Further, I oppose the reliefs prayed for in the Original Application in so far as they pertain to Respondent No. 5. None of the allegations, contentions or submissions in the Original Application which have not been specifically dealt with or denied by me, should be deemed to be admitted. I clarify and submit that the averments made herein are in the alternative and without prejudice to one another.



I. PRELIMINARY OBJECTIONS:

At the further outset, I submit that the captioned Original Application is liable to be dismissed *in limine* with costs, *inter alia*, on the following grounds, which are without prejudice to each other:

1. ***Application is barred by limitation***

1.1 The captioned Original Application has been filed under Sections 14 and 15 read with Section 18 of the National Green Tribunal Act, 2010 ("**NGT Act**"). Sub-section (3) of Section 14 of the NGT Act expressly states that no application for adjudication of dispute under

this section shall be entertained by the Hon'ble Tribunal unless it is made within a period of six months from the date on which the cause of action for such dispute first arose. The proviso to sub-section (3) of Section 14 of the NGT Act states that this Hon'ble Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days. The Respondent No. 5 submits that this Hon'ble Tribunal ought not to entertain the captioned original application and the same deserves to be dismissed at the very threshold on the sole ground of limitation. The Hon'ble National Green Tribunal is a creation of the NGT Act. The NGT Act prescribes strict timelines under Section 14. It is humbly submitted that this Hon'ble Tribunal is bound by the NGT Act.

1.2 Under the NGT Act, two different regimes and periods of limitation are provided for invoking the jurisdiction of this Hon'ble Tribunal. Under Section 14 of the NGT Act, this Hon'ble Tribunal has jurisdiction to resolve all civil cases where substantial question relating to environment is involved. The limitation period for Section 14 is 6 months from the date when the cause of action for such dispute '*first arose*', which is extendable by a period of 60 days on sufficient cause being shown. Further, under Section 15, this

Hon'ble Tribunal has jurisdiction to provide relief and compensation to the victims of pollution, restitution of property of victims and restitution of environment. The limitation period for Section 15 is 5 years from the date when the cause of action for such dispute '*first arose*', which is extendable by a period of 60 days on sufficient cause being shown.

1.3 That the use of the words '*first arose*' as distinct from '*continuous cause of action*'; or '*recurring cause of action*' or '*successive cause of action*' in Section 14 as well as Section 15 of the NGT Act are not only indicators of unambiguous legislative intent and scheme expressed in plain words, but also statutorily and mandatorily fix the starting point of period of limitation. These words no doubt relate to the earliest point of time of inception of cause of action. The interpretation is further reinforced by the use of the words '*from the date*' which again would imply that there is a definite occurrence of cause of action.

1.4 The cause of action on the basis of which the present application has been filed has been attributed to construction being carried out on the said plot allegedly without prior Environment Clearance ("**EC**") and therefore, it is the case of the Applicant that 'this leads to continuous cause of action or a recurring cause of action'. No reason

has been given for the delay in filing the said application beyond the period of limitation. It is submitted that Respondent No. 5 started the construction of the said project from the year 2003 after having obtained all the requisite permissions. Hereto annexed and marked as "**Exhibit-A**" is a copy of the letter dated 3rd July 2003 to Municipal Corporation of Greater Mumbai ("**MCGM**") along with letter dated 4th July 2003 to MMRDA stating that the work for the said project commenced on 27th June 2003. Hence, the cause of action first arose in the year 2003.

1.5 Therefore, the cause of action first arose for any concerned party to file an application under Section 14 of NGT Act in the year 2003 and the present Original Application ought to have been filed within a period not exceeding six months from the start of construction on the project in 2003 extendable by a further period not exceeding sixty days only if the Hon'ble Tribunal is satisfied that the Applicant was prevented from filing the application by sufficient cause, as stipulated in sub-section (3) of Section 14 of NGT Act and the proviso thereto.

1.6 In any event, without prejudice to the above submission, the Applicant, in fact, was aware about the fact of the construction at least in the year 2016, if not earlier, which is evident from the

Applicant's Complaint dated 27th July 2016 to Respondent No. 2-MMRDA and Respondent No. 3-MCZMA stating that the illegal construction is allegedly being carried out at the said plot. Hereto annexed and marked as "**Exhibit-B**" is a copy of the Applicant's Complaint dated 27th July 2016.

1.7 However, the captioned application was filed by the Applicant only on 15th February 2024, which is *ex facie* beyond the period of limitation stipulated in sub-section (3) of Section 14 of the NGT Act and the proviso thereto.

1.8 The Applicant has stated that the information/records/documents have been obtained by the Applicant under the Right to Information Act, 2005 ("**RTI Act**") in July 2023. However, knowledge and making of RTI applications to gather information does not constitute as a valid ground for cause of action. This view has been consistently taken by this Hon'ble Tribunal in several cases which will be cited at the time of arguments. However, even going with this contention, the Applicant has filed the present Application in February 2024 which is beyond the period of limitation under Section 14 of the NGT Act. Therefore, Respondent No. 5 states that the captioned original application is filed beyond the period as prescribed under the NGT Act and deserves to be dismissed.

2. ***Suppression of Material Facts***

2.1 The Applicant has failed to place on record vital and material facts and documents before this Hon'ble Tribunal that clearly demonstrate that the captioned application ought to be dismissed *in limine*. The Applicant has selectively disclosed facts which also amounts to suppression of material facts.

Mumbai
Maharashtra
Regd. No. 10471
Exp. Dt. 27/10/2028
VT. OF INDIA

2.2 The present application makes allegations against Respondent No. 5 regarding alleged illegal construction of the said Project without an Environment Clearance, CRZ Clearance and that the said plot is within the mangrove buffer zone. The Applicant also states that certain information regarding the said project was sought through an application under the Right to Information Act ("**RTI Act**") in July 2023. The Applicant, however, fails to mention that on 27th July 2016, the Applicant herein made a complaint to Respondent No. 2-MMRDA and Respondent No. 3-MCZMA regarding alleged illegal construction being carried out for the said project. The Applicant in his complaint has *inter alia* stated that the said construction is being carried out without a prior EC under EIA Notification or a CRZ Clearance under CRZ Notification. It is also stated that construction is being done in the mangrove buffer zone without any permission. It is pertinent to note that the Applicant has raised the same issues in

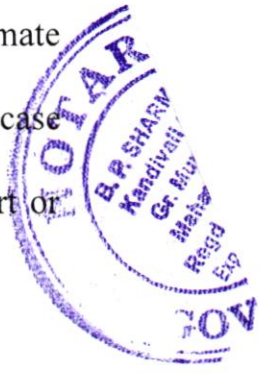
the present Original Application as he did in his complaint of 2016. It is also to be noted that the Applicant has conveniently suppressed the said Complaint dated 27th July 2016 in the present application and has not made any mention of the fact that the said complaint was made by the Applicant as far back as in the year 2016. It is also important to note that another Complaint dated 25th July 2016 was also filed by one Santosh Daundkar on identical issues as the present Applicant's complaint dated 27th July 2016. The said complaint of Mr. Daundkar was considered by Respondent No. 3-MCZMA and thereafter, after careful deliberation, MCZMA decided to withdraw the Stop Work Order dated 11th August 2017 issued to present Respondent No. 5. The Order dated 11th January 2018 clearing the said project and granting permission was also intimated to the Applicant (*Exhibit-Q hereto*). The Applicant has failed to challenge the said decision and all these facts have been malafidely suppressed by the Applicant in the present proceedings.

2.3 It is submitted that the Applicant has suppressed the fact that on 10th August 2017, the Applicant filed Criminal Complaint No. 182 of 2017 before the Hon'ble Court of Metropolitan Magistrate, Bandra against Respondent No. 5 and its directors praying that a First Information Report ("**FIR**") be registered against the parties for

alleged illegal construction for the said project in the mangrove buffer zone area and for *inter alia* violation of CRZ Notification and Environment Protection Act, 1956 ("**the E.P. Act**"). The Ld. Metropolitan Magistrate issued process against Respondent No. 5 and its directors in Criminal Complaint No. 182 of 2017 on 6th June 2019 without giving any opportunity of hearing to Respondent No. 5. The said Order was challenged by Respondent No. 5 in WP No. 1386 of 2020 wherein the Hon'ble Bombay High Court has issued rule and stayed the proceedings of the Criminal Complaint No. 182 of 2017 and the same is pending before the Hon'ble Court. The Applicant is a party to these proceedings and yet, has failed to bring these facts before this Hon'ble Tribunal for reasons best known to the Applicant. Hereto annexed and marked as "**Exhibit-C**" is a copy of Order dated 6th June 2019 passed by the Ld. Magistrate in C.C. No. 182 of 2017, "**Exhibit-D**" is a copy of WP No. 1386 of 2020 without annexures, and "**Exhibit-E**" is a copy of Order dated 23rd March 2022 passed in WP No. 1386 of 2020.

2.4 It is settled law that a person who approaches the Court for granting relief is under an obligation to disclose all material and important facts which have a clear bearing on the issues raised in the matter. And if a person approaches the Court with unclean hands, they must

be dealt with iron hands. Moreover, under sub-section 5 of Section 15 of the NGT Act, it is a specific statutory obligation cast on every claimant of the compensation or relief under the NGT Act to intimate to this Hon'ble Tribunal about the application filed to, or, as the case may be, compensation or relief received from, any other Court or Authority.



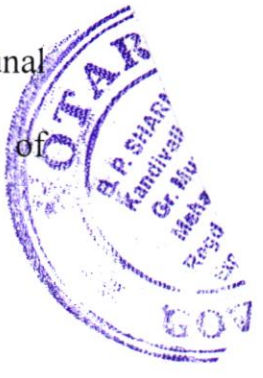
2.5 Respondent No. 5 states that this act of the Applicant clearly makes the Applicant guilty of *suppressio veri* and *suggestio falsi.* The captioned original application is not a *bonafide* application and the original applicant is not a *bonafide* litigant. The Applicant has actively attempted to mislead this Hon'ble Tribunal and on this ground alone the present original application is liable to be dismissed.

3. ***Present application is vexatious and frivolous:***

3.1 The present application is clearly a vexatious and frivolous proceeding. The present Applicant has been filing repeated applications at various forums. The Applicant made a complaint dated 27th July 2016 to Respondent No. 2-MMRDA and Respondent No. 3-MCZMA in the year 2016 raising the same issues as in the present case. Thereafter, a criminal complaint was also filed before the Metropolitan Magistrate in the year 2017 as regards the same

issues by the same Applicant. The Applicant has not brought the said facts before this Hon'ble Tribunal and deliberately suppressed the said facts. Additionally, a Contempt Petition No. 20 of 2018 in PIL No. 87 of 2006 was filed by the same Advocate who is representing the Applicant herein, who was the Advocate for Mr. Santosh Daundkar, the Petitioner in the Contempt Petition. It is pertinent to note that Mr. Daundkar was the Complainant in the Complaint dated 25th July 2016 before the MCZMA on the same issues as the Applicant's Complaint. The Contempt Petition is also pending against the then officers of MMRDA and MCZMA for permitting the construction of the said project purportedly in areas affected by mangroves. A PIL being *PIL No. 83 of 2018 – Abha Singh & Santosh Daundkar v. State of Maharashtra & Ors.* was filed by the same Advocate who is representing the Applicant herein wherein permissions granted for said project by revenue authorities were challenged and the same was disposed of by the Hon'ble Bombay High Court which held that there was no irregularity in issuing the permissions granted to the present Respondent No. 5 for the said project. It is pertinent to note that no appeals have been filed in any of the above proceedings that have been disposed off and the periods for filing such appeals have long since lapsed.

3.2 It is apparent that certain persons have concerted with each other and have repeatedly filed applications in different forums with the sole intention to harass the answering Respondent No. 5. It is submitted that the present Applicant is trying to mislead this Hon'ble Tribunal by filing frivolous proceedings and is guilty of blatant abuse of process of law.



4 ***Applicant is not a Bonafide Litigant or 'Person Aggrieved':***

4.1 The Applicant in the present case is not a person aggrieved by the development of the said project and has no *locus standi* to invoke the jurisdiction of this Hon'ble Tribunal.

4.2 It is a well-settled principle of law that a stranger cannot be permitted to interfere in any proceedings unless he satisfies the Court/ Tribunal that he is an affected and/ or aggrieved party. The applicant has failed to make any averments in the application to substantiate that he is an aggrieved person in the present case. It is submitted that the present Applicant has no causal connection with the said Project and this application is nothing but a roving and fishing inquiry at the instance of a party who has nothing to do with the said plot or said project and on this ground alone, the captioned Original Application ought to be dismissed at the threshold.

4.3 It is well settled that when the credentials and *bonafides* of litigants are raised and when entertaining the grievance of such litigants which is likely to adversely affect the rights of many, the Hon'ble Tribunal must ensure the *bonafides* and credentials of such litigants at the first instance. It is evident that the Applicant has filed the present proceedings in order to harass Respondent No. 5 and thus, is not a *bonafide* litigation. Therefore, on this ground alone, the Original Application ought to be dismissed.

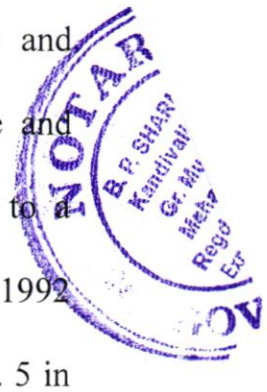
II. **ON MERITS:**

Without prejudice to the aforesaid preliminary objections, Respondent No. 5 prefers the present Reply to address the issues that have been raised in the captioned Original Application on merits and to place the correct facts on record.

5 ***Brief Background of Respondent No. 5***

5.1 The Indian Film Combine Pvt. Ltd., the present Respondent No. 5 was incorporated in 1942 and has been in the business of *inter alia* real estate development, film distribution and exhibition, etc. As part of its business, it bid for and was granted lease of the Government land admeasuring 80,800 sq. mtrs. or thereabouts bearing CTS Nos 341(Pt.) of village Bandra (East) and CTS No. 4(Pt.) of Village

Parighkar (the "**said Plot**") for a period of 99 years with effect from 28th April 1971 renewable for a further period of 99 years for the purpose of developing and operating a Drive-in-Theatre and amenities. Respondent No. 5 operated the Drive-in-Theatre and amenities from 1977 up to 2003. In the interim, pursuant to a Notification issued by the Government of Maharashtra in 1992 permitting redevelopment of cinema theatres, Respondent No. 5 in 1999 had applied for and was granted redevelopment permission for the Drive-in-Theatre under the existing provisions of law. Respondent No. 5 commenced such redevelopment in the year 2003.



5.2 The present Application has been *inter alia* filed alleging that the said redevelopment project has been carried out without an Environment Clearance ("**EC**") and that the construction is being carried out in the mangrove buffer zone in Coastal Regulation Zone ("**CRZ**") area without the requisite permissions.

6 BRIEF FACTS

6.1 Respondent No. 5 is the lessee of Government land admeasuring 80,800 sq. mtrs. or thereabouts bearing CTS Nos 341(Pt.) of village Bandra (east) and CTS No. 4(Pt.) of village Parighkar (the "**said Plot**") for a period of 99 years with effect from 28th April 1971 renewable for a further period of 99 years. Thereafter, plans with

respect to the project were duly approved by Municipal Corporation for Greater Mumbai ("**MCGM**") for construction of a drive-in-theatre. On 23rd December 1977, the construction of the drive-in-theatre was completed, and an Occupation Certificate ("**OC**") was issued by MCGM to Respondent No. 5.

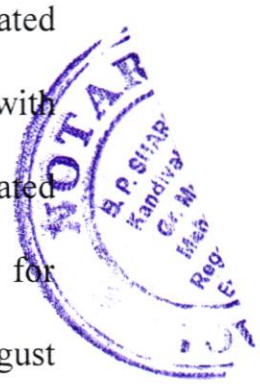
6.2 Respondent No. 5 had developed and was operating the erstwhile Drive-in Theatre with amenities on the said plot, which theatre was operational from 1977 up to the year 2003. In accordance with the prevailing law, Respondent No. 5 was granted permission to re-develop the said drive-in-theatre by developing an integrated composite project comprising of a reduced capacity drive-in theatre, office buildings and a hospitality component *inter alia* comprising a hotel, and a hotel shopping building (the "**said Project**") in the year 1999. Such redevelopment was commenced by Respondent No. 5 in 2003.

6.3 As per the CRZ Notification 1991 and the Coastal Zone Management Plan ("**CZMP**") dated 27th September 1996, the said plot of land was falling in CRZ-II area where development is permitted as per Development Control Rules ("**DCR**") prevailing at the relevant time.

6.4 On 9th July 1997, MoEF&CC published an amendment to the CRZ Notification 1991 (*Exhibit-HH hereto*) delegating powers to the State Government for granting CRZ Clearance for projects with investment exceeding 5 crores rupees. On 26th November 1998, in exercise of the powers conferred by sub-section (1) and (3) of Section 3 of the E.P Act, the Central Government constituted MCZMA conferring certain powers on it. On 4th January 2002, MCZMA was reconstituted and empowered to examine all projects proposed in CRZ area and give their recommendations before the project proposals are referred to the Central Government or the agencies who have been entrusted to clear such projects under CRZ Notification 1991. Thereafter, on 22nd April 2003, an amendment to CRZ Notification 1991 was introduced revoking powers delegated to the State Government for granting CRZ Clearance for projects with investment exceeding 5 crores rupees. Therefore, from July 1997 to April 2003, CRZ Clearances for projects with investment exceeding Rs.5 crores were issued by the State Government to whom the power was delegated as per law. However, from January 2002 onwards, the recommendations of MCZMA were mandatory before such clearance. In this period, several clearances were issued by the competent authority in accordance with the law. In the matter of *Tata Hydro-Electric Power Supply Company Limited v. Principal*

Secretary, Energy and Environment, Govt. of Maharashtra & Ors., *(1999) 4 BCR 566*, wherein there was a challenge to the requisite licenses and clearance for setting up of a L.P.G. storage and handling facility, the Hon'ble Court has upheld the clearance issued by the Environmental Department of the Government of Maharashtra dated 16th February 1995, a clearance issued by the Department of Explosive dated 28th March 1995 and the clearance issued by the Municipal Corporation of Greater Bombay on 11th September 1995, and has categorically held that there was no contravention of the CRZ Notification therein. Similarly, in the matter of *Kisan Mehta & Ors. v. State of Maharashtra*, *(2001) 1 BCR 451*, the Hon'ble Court has upheld the development permissions and sanctions granted for development and construction of plot of land abutting the sea by the Bombay Municipal Corporation which was issued in accordance with the CRZ Notification 1991. We crave leave to refer and provide the relevant judgments as and when required. Hereto annexed and marked as "**Exhibit-F-colly**" is a copy of Notification of MCZMA constitution dated 26th November 1998, copy of Notification of reconstitution of MCZMA dated 4th January 2002 and copy of amendment to CRZ Notification dated 22nd April 2003.

6.5 Accordingly, on 14th June 1999, Respondent No. 5 made an application for a CRZ Clearance before the State of Maharashtra under the CRZ Notification for implementing the said integrated project as the said plot was falling in CRZ-II area in accordance with amendment to CRZ Notification dated 9th July 1997 which delegated powers to the State Government for granting CRZ Clearance for projects with investment exceeding 5 crores rupees. On 6th August 1999, CRZ Clearance was granted by the State of Maharashtra for the said project as an integrated and composite project in accordance with the CRZ Notification 1991 and the approved CZMP. Hereto annexed and marked as "**Exhibit-G**" is a copy of CRZ Application dated 14th June, 1991, "**Exhibit-H**" is a copy of CRZ Clearance dated 6th August 1999.



6.6 On 5th December 2001, layout plan for the said integrated project was approved by MCGM and Commencement Certificate for the said integrated project was issued by Respondent No. 2-MMRDA, being the Special Planning Authority for Bandra Kurla Complex, subject to terms and conditions enumerated therein. On 25th November 2002, amendment of the approved layout plan was also approved by Respondent No. 2-MMRDA by issuance of Commencement Certificate dated 25th November 2002. Hereto

annexed and marked as "**Exhibit-I**" is a copy of Commencement Certificate dated 5th December 2001.

6.7 On 27th June 2003, the construction of the said project commenced, and a work start notice was duly issued by Respondent No. 5 giving the said intimation to Respondent No. 2-MMRDA as well as MCGM (*Exhibit-A hereto*).

6.8 As per directions from MoEF dated 16th April 2002 for review of the CZMP, the said plot shown on CZMP was to be re-examined as the desirable width of the creek for CRZ restriction measured from the HTL of one bank to opposite bank showed some discrepancy on the approved CZMP and the Government of Maharashtra requested MoEF to allow them to prepare revised CZMP for Brihan Mumbai municipal area to the scale of 1:4000 as per approved Development Plan to avoid any further ambiguity while issuing development permissions. Therefore, on 4th July 2003, Respondent No. 5 requested a clarification from the Maharashtra Government on whether the said plot would be affected by the aforesaid. On 17th October 2003, the Urban Development Department, Government of Maharashtra clarified to Respondent No. 5 that there was no objection to develop said plot in accordance with the CRZ Clearance dated 6th August 1999 issued to Respondent No. 5 as all development

proposed for the said project on the said plot was on the landward side of the existing authorised structure/ imaginary line. Hereto annexed and marked as "**Exhibit-J**" is a copy of letter dated 17th October 2003 issued by UD Department, Government of Maharashtra to Respondent No. 5.

6.9 Thereafter, on 6th February 2004, Respondent No. 5 applied to Respondent No. 2-MMRDA for amendments to the approved layout plan dated 5th December 2001. On 14th/16th December 2004, Respondent No. 2-MMRDA passed an order refusing to grant approval of the amendment to the layout stating some deficiencies relating to provisions like road set back area, provision of recreational ground ("RG"), building projection, CRZ stipulations, EIA Clearance, traffic/transportation requirements to meet vehicular traffic. Accordingly, Respondent No. 5 filed an Appeal before the Appellate Authority, i.e., Hon'ble Chief Minister, Government of Maharashtra, in his capacity as Urban Development Minister under Section 47 of the Maharashtra Regional and Town Planning Act, 1966 ("**MRTP Act**") against the Order dated 14th/16th December 2004.

6.10 On 14th June 2005, a hearing was conducted for the Appeal before the Appellate Authority, the Hon'ble Chief Minister. On 15th January

2007, the Appellate Authority passed a detailed order quashing and setting aside the Order dated 14th/16th December 2004 and granted permission to Respondent No. 5 to carry out the said project as per amended plans with certain modifications. The Appellate order is actually the planning permission granted by the planning authority. Relevant portions of the Order are reproduced hereinbelow for ease of reference:

...bai ...ashtra ...No. 10471 ...Dt. 23/10/2028 T. OF INDIA

"***6.4 D) Reg. Coastal Regulation Zone (CRZ)***

6.4.2 Having carefully considered the submissions of the Respondents and the Appellants and on verification of the facts of the matter from the Urban Development Department, I am of the opinion that the Respondents have erred in requiring the Appellant to obtain de novo permission from the Ministry of Environment and Forest (MoEF), Government of India. Their reliance on the letter dated 16.4.2002 of MOEF is misplaced. ***In the instant case, permission was granted as far back as 6th August 1999 by the State Government under delegated powers of the Central Government under the Environment Protection Act, 1986 for the said Project consisting of the total redevelopment including all the buildings comprising the project. The Respondents have failed to appreciate that this CRZ NOC and clarification has been issued for the whole project and not for a part or phase of the redevelopment.*** *Therefore, it is not necessary to obtain fresh or separate. "No Objection Certificate" for any part of the project. Accordingly the objection of the respondent in this regard is hereby rejected.*

6.5 E) Reg. Environmental Impact Assessment (EIA) Clearance

The Respondents have taken a stand that the appellant is required to obtain EIA Clearance under the provisions of Notification No. S. O. No. 801(E), dated 7th July 2004 issued by MOEF, GOI.

6.5.2 On consideration of the submission of the parties, I am of the view that this contention of the Respondents is misplaced. ***The***

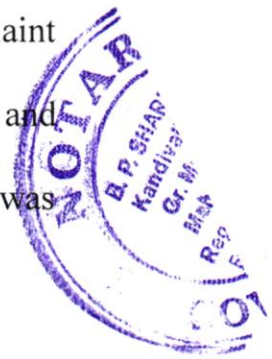
Appellant's entire project has been approved under CRZ provisions and is accordingly excluded from the scope of Notification No. SO-60(E) dated 27.1.1994 as amended by Notification No. S.O. 801(E) dated 7.7.2004. *Accordingly, the objection of the respondent in this regard is rejected.*"

6.11 Hence, the applicability of the EIA Notification was excluded once the CRZ Notification is applicable as per the exemption clause (3) of the EIA Notification. Therefore, the Hon'ble Chief Minister, the Appellate Authority has categorically held that Respondent No. 5 was carrying on the construction of the said project in accordance with the conditions stipulated in the valid and subsisting CRZ Clearance dated 6th August 1999 and also held that the said project does not require Environmental Clearance as it is excluded from the scope of the EIA Notification 1994 as amended from time to time which was subsisting at the time as CRZ Notification was applicable to the said project. The said Appellate Order of the Hon'ble Chief Minister has not been challenged till date and thus, has attained finality. Hereto annexed and marked as "**Exhibit-K**" is a copy of Order dated 17th January 2007 passed in *Appeal No. TPB 4305/207/CR-78/05/UD-11 – Indian Film Combine Pvt. Ltd. v. MMRDA.*

6.12 On 24th September 2009, the Maharashtra Pollution Control Board ("**MPCB**") granted the Consent to Establish ("**CTE**") for the said project. One of the conditions stipulated by MPCB in the CTE was that Respondent No. 5 to obtain EC as per EIA Notification and CRZ Clearance from MCZMA/MOEF. In lieu thereof, Respondent No. 5 made a representation to Respondent No. 2-MPCB intimating the Order dated 15th January 2007 passed by the Appellate Authority, the Hon'ble Chief Minister. Respondent No. 2-MPCB accordingly, requested the Environment Department, Govt. of Maharashtra for clarification regarding whether Respondent No. 5 needs to obtain prior EC and CRZ Clearance or not. Hereto annexed and marked as "**Exhibit-L**" is a copy of letter dated 23rd February 2016 from MPCB to Environment Department, Govt. of Maharashtra.

6.13 On 27th July 2016, Mr. Pratap Lal Teli, the Applicant herein made a complaint to Respondent No. 2-MMRDA and Respondent No. 3-MCZMA regarding alleged illegal construction being carried out for the said project. The Applicant in his complaint has *inter alia* stated that the said construction is being carried out without a prior EC under EIA Notification or a CRZ Clearance under CRZ Notification. It is also stated that construction is being done in the mangrove buffer zone without any permission. It is pertinent to note that the

Applicant has raised the same issues in the present original application as he did in his complaint of 2016. It is also to be noted that the Applicant has conveniently suppressed the said Complaint dated 27th July 2016 (*Exhibit-B hereto*) in the present application and has not made any mention of the fact that the said complaint was made by the Applicant as far back as in the year 2016.



6.14 On 28th to 30th June 2017, Respondent No. 3-MCZMA took cognizance of a complaint filed by one Mr. Santosh Daundkar alleging contravention of the herein regarding the construction for the said project. Respondent No. 3-MCZMA decided to seek certain details regarding the construction from Respondent No. 5 and in the meantime, directed Respondent No. 2-MMRDA to stop work of the said project. Hereto annexed and marked as "**Exhibit-M**" is a copy of the 119th Minutes of Meeting of Respondent No. 3-MCZMA dated 28th to 30th June 2017.

6.15 Meanwhile, on 10th August 2017, the Applicant filed Criminal Complaint No. 182 of 2017 before the Hon'ble Court of Metropolitan Magistrate, Bandra against Respondent No. 5 and its directors praying that a First Information Report ("**FIR**") be registered against the parties for alleged illegal construction for the said project in the mangrove buffer zone area and for *inter alia*

violation of CRZ Notification and Environment Protection Act, 1956. It is to be noted that the Applicants have failed to mention that the Applicant has filed the said Criminal Complaint and suppressed the said Criminal Complaint in the present proceedings for reasons best known to the Applicant. Hereto annexed and marked as "**Exhibit-N**" is a copy of Criminal Complaint No. 182 of 2017 without annexures.

6.16 On 11th August 2017, Respondent No. 3-MCZMA issued stop work notice under Section 5 of the Environment (Protection) Act, 1956 and MCZMA vide letter dated 22nd August 2017 sought certain information from Respondent No. 5 regarding the project. On 28th August 2017, Respondent No. 5 made a detailed reply to all the queries raised by Respondent No. 3-MCZMA in its 119th minutes of meeting dated 28th to 30th June 2017. Respondent No. 5 has stated in its reply that the construction of the entire project is as per CRZ Clearance dated 6th August 1999 and no Environmental clearance is required as it is outside the purview of EIA Notification. Respondent No. 3-MCZMA was also informed that since there were no mangroves at the project site which was within 150 mtrs. from the HTL and in CRZ-II area, no mangrove buffer zone was applicable. On 6th September 2017, a hearing was held where the Complainant,

Respondent No. 5 and MMRDA officials were present and gave their say. On 7th September 2017, Respondent No. 2-MMRDA also submitted their reply to MCZMA. Hereto annexed and marked as "**Exhibit-O**" is a copy of Reply dated 28th August 2017 of Respondent No. 5 to Respondent No. 3-MCZMA.

6.17 On 15th & 16th September 2017, Respondent No. 3-MCZMA considered the submissions made and after a detailed deliberation, MCZMA decided to withdraw the Stop Work Order dated 11th August 2017 subject to compliance of conditions enumerated therein. On 11th January 2018, Respondent No. 2-MCZMA intimated the decision arrived at on 15th & 16th September 2017 to Respondent No. 2-MMRDA. Importantly, a copy of the above decision was specifically also sent to the Applicant herein. Pertinently, the said decision of Respondent No. 3-MCZMA has not been challenged and has attained finality. On 16th February 2018, Respondent No. 2-MMRDA replied to MCZMA giving its reply to the compliances sought for by MCZMA wherein *inter alia* the Authority has stated that all the conditions have been complied and therefore, no action is warranted on the construction of the said project. Hereto annexed and marked as "**Exhibit-P**" is a copy of 121st Minutes of Meeting of MCZMA and 122nd minutes of meeting,

"**Exhibit-Q**" is a copy of letter dated 11th January 2018 from MCZMA to MMRDA and "**Exhibit-R**" is a copy of 16th February 2018 from MMRDA to MCZMA.

6.18 Somewhere in November 2017, Santosh Daundkar filed a Contempt Petition No. 20 of 2018 in PIL No. 87 of 2006 in respect of the same project, against the then Metropolitan Commissioner, MMRDA and the then Additional Chief Secretary, Environment Department, Government of Maharashtra for contempt of Order dated 6th October 2005 passed in PIL No. 87 of 2006 wherein a complete freeze was imposed on development activities in areas affected by mangroves for permitting the construction of the said project. It is pertinent to note that Mr. Daundkar was represented by the same Advocate who is representing the Applicant herein. The contempt petition is currently pending before the Hon'ble High Court. Hereto annexed and marked as "**Exhibit-S**" is a copy of Contempt Petition No. 20 of 2018 without annexures. We crave leave to refer and rely on the pleadings of the Contempt Petition as and when required.

6.19 On 5th March 2018, as per the request of MPCB dated 23rd February 2016 for clarification regarding applicability of CRZ and EC Clearance for the said project, the Environment Department of the Government of Maharashtra clarified that the said project was an

ongoing composite project which was granted Commencement Certificate dated 5th December 2001 from MMRDA and CRZ Clearance dated 6th August 1999 from the State Government and it was concluded that the EIA Notification 1994 and amendment to EIA Notification dated 7th July 2004 were not applicable to the said project. It was also pointed out that the area under construction was less than the initial proposed area and was an ongoing project and EIA Notification dated 14th September 2006 was not applicable. MPCB was accordingly directed to take appropriate decision in the matter. Hereto annexed and marked as "**Exhibit-T**" is a copy of Clarification from the Environment Department of the Government of Maharashtra dated 5th March 2018.

6.20 On 27th March 2018, MPCB decided to grant Respondent No. 5 Consent to operate for the said project subject to conditions stipulated therein in accordance with the clarification of the Env. Department, Government of Maharashtra. Hereto annexed and marked as "**Exhibit-U**" is a copy of Minutes of 9th Consent Appraisal Committee Meeting of MPCB dated 27th March 2018 granting Consent to operate to Respondent No. 5.

6.21 Meanwhile, a complaint was made against Respondent No. 5 alleging that construction of the said project was being carried out

on mangrove area. On 30th June 2018, the Forest Conservator, Mumbai Mangrove Conservation Unit ("**MMCU**") after conducting an inspection of the site of the said project came to a conclusion that the boundary wall at the plot mentioned in the Complaint exists since long time, the notified mangrove area is up to 400 metres from the wall. The construction of the said project is not being done by destroying the mangroves and the said site is outside the notified mangroves area. Hereto annexed and marked as "**Exhibit-V**" is a copy of letter dated 30th June 2018 of the Forest Conservator, MMCU.

6.22 On 6th June 2019, the Ld. Metropolitan Magistrate passed an ex-parte Order issuing process against Respondent No. 5 and its directors in Criminal Complaint No. 182 of 2017 (*Exhibit-C hereto*) for alleged violations of Section 15 of the Environment Protection Act, 1956. It is reiterated that the said Criminal Complaint No. 182 of 2017 was filed by the Applicant herein for the same cause of action as the present original application and the said Complaint has been deliberately suppressed by the Applicant from the Hon'ble Tribunal for reasons best known to the Applicant.

6.23 On 11th March 2020, Respondent No. 5 and its Directors filed a Writ Petition No. 1386 of 2020 under Section 482 of CrPC (*Exhibit-D*

hereto) for quashing the Ld. Magistrate's order dated 6th June 2019 in C.C. No. 182 of 2017, wherein the Applicant was arrayed as a party-Respondent. On 23rd March 2022, the Hon'ble Bombay High Court issued Rule and continued the stay granted earlier to the Order dated 6th June 2019 passed in C.C. No. 182 of 2017 (*Exhibit-E hereto*) and the matter is currently pending for final hearing before the Hon'ble Bombay High Court. Despite the express provisions of Section 15(5) of the NGT Act, the above proceedings have been deliberately suppressed from the Hon'ble Tribunal by the Applicant for reasons best known to the Applicant.

6.24 On 4th February 2022, Respondent No. 3-MCZMA based on another complaint regarding the said project came to an incorrect view that the area of the said project was within 50 meters mangrove buffer zone and that prior permission of the Hon'ble High Court is required by Respondent No. 5. On 4th March 2022, Respondent No. 3-MCZMA intimated Respondent No. 5 that in light of the Contempt Petition No. 20 of 2018 which was presently *sub-judice* and since the area is within 50 meters mangrove buffer area as per report of the Mangrove cell, prior permission of the Hon'ble High Court is required for the said project. While issuing the decision of 4th February 2022 and letter dated 4th March 2022, MCZMA completely

ignored the earlier decisions which were binding on the authority. No Show Cause Notice was issued by the Authority to Respondent No. 5 and the said decision was arrived at without giving any hearing to Respondent No. 5. Thus, the said decision of MCZMA is contrary to the earlier decisions of MCZMA and contrary to law. Hereto annexed and marked as "**Exhibit-W**" is a copy of 157th Minutes of Meeting of MCZMA dated 4th February 2022 and "**Exhibit-X**" is a copy of letter dated 4th March 2022 issued by MCZMA to Respondent No. 5.

6.25 On 25th April 2022, Respondent No. 5 made a representation to the Respondent No. 3-MCZMA to remove the condition of taking prior High Court permission which was incorrectly imposed by MCZMA without giving any hearing to Respondent No. 5. The said representation *inter alia* brought out the fact that as recorded in the minutes of its meeting dated 15th & 16th September 2017, by which the MCZMA had cleared the project, it was specifically pointed out by the MMRDA officials as follows:

> "……*The MMRDA officials further submitted that the mangroves are not present on the plot under reference, however, at present, the plot boundary maybe situated between 50 meters mangroves buffer zone, which is subject to verification as it is a dynamic matter*."

This fact was not brought to the notice of MCZMA in its meeting of 4th February 2022 when the decision for prior High Court permission was taken as Respondent No. 5 was not given an opportunity to be present at this meeting.

6.26 On 26th June 2024, Respondent No.5, pursuant to a discussion on the matter with the MCZMA, made a further representation to the MCZMA attaching therewith *inter alia* the earlier representation dated 25th April 2022, complete details including relevant facts in respect of the above subject and the order of the Hon'ble High Court of Bombay dated 11th December 2023 in the matter of Writ Petition No. 15318 of 2023 - *Shivtej Builders and Developers vs The Navi Mumbai Municipal Corporation & Ors.*

6.27 The said representations are currently pending before Respondent No. 3-MCZMA for deliberation. Hereto annexed and marked as "**Exhibit-Y**" is a copy of the representation dated 25th April 2022 made by Respondent No. 5 to MCZMA, "**Exhibit-Z**" is a copy of the representation dated 26th June 2024 made by Respondent No 5 to MCZMA (sans Annexures), "**Exhibit-AA**" is a copy of the Order of the Hon'ble High Court dated 11th December 2023 in the matter of Writ Petition No. 15318 of 2023 - *Shivtej Builders and Developers vs The Navi Mumbai Municipal Corporation & Ors.*

6.28 In May 2023, the present Applicant filed Original Application No. 38 of 2023 before this Hon'ble Tribunal raising the same issues as the present application. On 6th April 2023, this Hon'ble Tribunal, at the Applicant's request was pleased to allow the Applicant to withdraw the said OA No. 38 of 2023 as the Applicant failed to provide adequate evidence to substantiate its case. Hereto annexed and marked as "**Exhibit-BB**" is a copy of Order dated 6th April 2023 passed in OA No. 38 of 2023 by this Hon'ble Tribunal. Thereafter in February 2024, the present Application was filed by the Applicant alleging that that the construction of the said project is illegal and without valid permissions.

7 ALLEGATIONS AS AGAINST RESPONDENT NO. 5

7.1 Respondent No. 5 submits that the allegations against Respondent No. 5 in the present application are two-fold:

(a) The construction of the said Project is being carried out without Environmental Clearance and therefore, it is in violation of the EIA Notification.

(b) The construction of the said Project is being carried out within 50 mtrs. mangrove buffer zone without any prior permission.

7.2 **THE SAID PROJECT IS EXCLUDED FROM THE SCOPE OF EIA NOTIFICATION**

EIA NOTIFICATION, 1994:

7.2.1 Ministry of Environment, Forest and Climate Change ("**MoEF&CC**") issued the EIA Notification, 1994 in exercise of its powers conferred under Section 3(2)(v)(1) of the Environment (Protection) Act, 1956 read with Rule 5(3)(d) of the Environment (Protection) Rules, 1986 for the purpose of granting environmental clearance for industries enumerated in the Schedule to the Notification. The said Notification was amended from time to time. Clause 2 of the EIA Notification 1994, before the final amendment of 7th July 2004 provides the requirement and procedure for seeking environment clearance of projects and reads as follows:

> "*I(a) Any person who desires to undertake any new project in any part of India or the expansion or modernization of any existing industry or project listed in the Schedule-I shall submit an application to the Secretary, Ministry of Environment and Forests, New Delhi.*"

Clause 3 of the EIA Notification 1994 lists out the industries/activities that are exempt from EIA Notification 1994 and reads as follows:

> "*3. Nothing contained in this Notification shall apply to:*
> *(a) any item falling under entry Nos. 3, 18 and 20 of the Schedule-I to be located or proposed to be located in the areas covered by the Notifications S.O. No. 102 (E) dated 1st February, 1989,* ***S.O.***

***114 (E) dated 20th February, 1991**; *S.O. No. 416 (E) dated 20th June, 1991* and S.O. No.319 (E) dated 7th May, 1992.*"

7.2.2 Respondent No. 5 states that the Project was sanctioned on 5th December 2001 by the sanctioning authority i.e. MMRDA which also sanctioned the amendments to the Project on 25th November 2002, pursuant to which work on the Project was commenced in June 2003. Thus, it is clear that the relevant period for obtaining EIA clearance, if at all required, was the period 2001-2003. During this period, the notification governing the grant of EIA clearances was the EIA Notification 1994, as amended from time to time, which was not applicable to construction projects. However, for new construction projects falling under a CRZ area, clearance was required only under the CRZ Notification.

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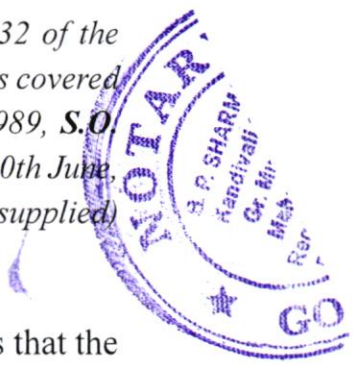
AMENDMENT TO EIA NOTIFICATION DT. 07.07.2004:

7.2.3 It was only thereafter, that the Central Government, by an amendment Notification dated 7th July, 2004, bearing No. S.O. 801(E), for the first time included, in Schedule I to the said Notification, as item 31 thereof, the entry "New construction projects". However, by the same amendment Notification, para 3 of the 1994 EIA Notification was also amended so as to specifically exclude from its applicability "New construction projects" **located or proposed to be located** in CRZ

areas. The relevant portion of Clause 3of the Notification reads as follows:

> *"3. Nothing contained in this Notification shall apply to:*
> *a. any item falling under entry Nos. 3, 18 and 20, **31** and 32 of the Schedule-I to be located or proposed to be located in the areas covered by the Notifications S.O. No. 102 (E) dated 1st February, 1989, **S.O. 114 (E) dated 20th February, 1991**; S.O. No. 416 (E) dated 20th June, 1991 and S.O. No.319 (E) dated 7th May, 1992." (Emphasis supplied)*



7.2.4 Accordingly, in light of the above, Respondent No. 5 submits that the Project was specifically excluded from the applicability of the EIA Notification of 1994 and the amendment notification of 7th July 2004 by virtue of having obtained CRZ permission on 6th August 1999, which was the only clearance required for the said Project under applicable law.

7.2.5 Without prejudice to the aforesaid submission, and in the alternative, it is further submitted that:

"Explanation (i)" of the said amendment Notification dated 7th July, 2004, bearing No. S.O. 801(E), reads as follows:-

> *"Explanation –*
> *New construction projects which were undertaken without obtaining the clearance required under this notification, and where construction work has not come up to the plinth level, shall require clearance under this notification with effect from this 7th day of July, 2004."*

7.2.6 From a perusal of the EIA Notification 1994, as amended by amendment Notification dated 7th July 2004, it is evident that Clause 2 of the EIA Notification 1994 requires Environmental Clearance to be obtained by any person who desires to undertake any new project in any part of India or expansion or modernization of any existing industry or project listed in Schedule-I of the said Notification. The Explanation (i) after Clause 3 in the said Notification states that clearance as required by the EIA Notification 1994, as amended by amendment Notification dated 7th July 2004 shall be necessary for New construction projects that were undertaken without obtaining Environmental Clearance required under the said Notification and where construction work has not progressed up to the plinth level. Respondent No. 5 further submits that whereas para 3(a) of the said amendment Notification (which is a non-obstante clause) excluded from its applicability all "New construction projects" **located or even "proposed" to be located** in the area covered by the CRZ Notification No. SO 114(E), (irrespective of whether or not the construction work had come up to the plinth level) the aforesaid Explanation (i) thereof, in addition also excluded from the applicability of the said amendment Notification dated 7th July 2004, new construction projects located even outside areas covered by the

CRZ Notification, if such projects had reached the plinth level on or before 7th July, 2004, being the date of the amendment Notification.

7.2.7 Therefore, Environment Clearance required under the EIA Notification 1994 was not necessary for such projects where construction had reached the plinth level till 7th July 2004. In the present case, the construction of the said project started on 27th June 2003 which is evident from the start of work notice dated 4th July 2003 issued by Respondent No. 5 to MMRDA and the plinths of Building 'B' and Building 'C' of the said project were constructed prior to 15th May 2004, which is prior to the cut-off date of 7th July 2004 stipulated in the amendment dated 7th July 2004 to the EIA Notification of 1994. Therefore, even otherwise, the said project did not require Environmental Clearance under the said EIA Notification 1994 as amended upto 7th July 2004. Hereto annexed and marked as "**Exhibit-CC-colly**" are copies of the CCs of Building 'B' and Building 'C' in the said Project with the relevant portions highlighted.

EIA NOTIFICATION, 2006:

7.2.8 The Notification No. S.O. 1533 dated 14th September 2006 (EIA Notification 2006) is a subsequent notification, which supersedes the earlier 1994 amended EIA Notification and on the very face of it has been specifically made prospective in its applicability, only for new

projects to be commenced after its coming into effect, or for expansion of existing projects. Respondent No. 5 submits that a law or notification can have retrospective effect only when it is specifically so provided therein. In this case, the operative part of the EIA Notification 2006 in fact specifically states that:

> "*on and from the date of its publication the required construction of new projects or activities or the expansion or modernization of existing projects or activities..... shall be undertaken in any part of India only after the prior environmental clearance .....in accordance with the procedure specified hereinafter in this notification*".

7.2.9 Respondent No. 5 further submits that the EIA Notification 2006 dated 14th September 2006 does not apply to the Respondent No. 5's Project which had already been sanctioned and on which construction work had been commenced based on the CRZ clearance under the CRZ Notification of 20th February, 1991, and as no additional area is intended to be put up by the Respondent No. 5 in respect of the Project, the Respondent No. 5's Project did not amount to a "new project" or an expansion or capacity addition in respect of an existing project under the provisions of the EIA Notification 2006.

7.2.10 Accordingly, in light of the above, Respondent No. 5 submits that as the Project is not a new project or an expansion or capacity addition in respect of an existing project under the provisions of EIA Notification 2006 and given that the EIA Notification of 2006 is

prospective in nature as stipulated on the face of it, the EIA Notification of 2006 is not applicable to the Respondent No.5's project. Hereto annexed and marked as "**Exhibit-DD**", "**Exhibit-EE**" and "**Exhibit-FF**" are copies of EIA Notification 1994, Amendment Notification dated 7th July 2004 and EIA Notification 2006, respectively.

7.2.11 Additionally, it is the Applicant's case that:

- Order of the Hon'ble Chief Minister dated 15th January 2007 has not relied on EIA Notification 2006 which was purportedly in force at the time.

7.2.12 It is submitted that the hearing of the Appeal under Section 47 of MRTP Act was conducted on 14th June 2005. On 15th January 2007, the Appellate Authority, the Hon'ble Chief Minister passed a detailed order quashing and setting aside the Order dated 14th/16th December 2004 and granted permission to Respondent No. 5 to carry out the said project as per amended plans on the basis of the hearing that took place on 14th June 2005 and rightly held that the said project has been approved under CRZ provisions and is accordingly excluded from the scope of EIA Notification 1994 as amended by Notification dated 7th July 2004. In any event, the Hon'ble Chief Minister could not consider the EIA Notification 2006 which came into force after the

hearing dated 14th June 2005 took place. The said appellate Order of the Hon'ble Chief Minister has not been challenged till date and thus, has attained finality. The Applicant has incorrectly relied on the EIA Notification 2006 which came into force after the construction of the said project had already started in accordance with all the applicable permissions under law including the CRZ permission dated 6th August 1999. Therefore, the question of relying on the provisions of the EIA Notification 2006 or obtaining prior environmental clearance does not arise. The same is also fortified by letter dated 5th March 2018 (*Exhibit-T hereto*) of the Government of Maharashtra clarifying that the said project does not require any further environmental clearance.

7.2.13 Respondent No. 5, therefore, submits that the Applicant's contention that construction of the said project is being carried out without an EC is untenable and ought to be dismissed as devoid of any merits.

8 THE SAID PROJECT DOES NOT FALL WITHIN 50 MTRS. MANGROVE BUFFER ZONE

8.1 Respondent No. 1-MoEF&CC issued the CRZ Notification 1991 in exercise of powers conferred under Section 3(2)(v)(1) of the Environment (Protection) Act, 1956 read with Rule 5(3)(d) of the Environment (Protection) Rules, 1986 for the purpose of declaring coastal stretches as coastal regulation zone and for classification of

lands falling into various CRZ categories such as CRZ I, II, III, IV, etc. and thus, are statutory in nature. Under the notification, every activity in CRZ areas could be categorized as prohibited, permitted and regulated activity under the Notification. In order to identify which lands fall within which CRZ zone, a Coastal Zone Management Plan ("**CZMP**") was to be prepared by the concerned authority which delineated the lands in coastal areas and their respective classification. Respondent No. 3-MCZMA was constituted under the CRZ Notification as the expert agency to examine all projects in CRZ and accord recommendation as per the provisions of the applicable CRZ Notification for the State of Maharashtra.

8.2 The Coastal Regulation Zone ("**CRZ**") Notification was first issued on 19th February 1991 under clause (d) and sub-rule (3) of rule 5 of the Environment Protection Act, 1986. Under the CRZ Notification, 1991, CZMP was identified and prepared and approved on 22nd September 1996 for the State of Maharashtra enumerating the CRZ areas. Annexure-I of the CRZ Notification 1991 defined CRZ-I and CRZ-II areas as under:

> "***Category I (CRZ-I):***
>
> *(i) Areas that are ecologically sensitive and important, such as national parks/marine parks, sanctuaries, reserve forests,*

*wildlife habitats, **mangroves**, corals/coral reefs, areas close to breeding and spawning grounds of fish and other marine life, areas of outstanding natural beauty / historically / 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 or the concerned authorities at the State/Union Territory level from time to time.*

a. Area between Low Tide Line and the high Tide Line.

***Category-II (CRZ-II):** The areas that have already been developed up to or close to the shoreline. For this purpose, "developed area" is referred to as that area within the municipal limits or in other legally designated urban areas which is already substantially built up and which has been provided with drainage and approach roads and other infrastructural facilities, such as water supply and sewerage mains.*"

8.3 Under CRZ Notification 1991, there was no provision of a buffer zone in respect of mangroves and as per the approved CZMP, the said plot was falling in CRZ-II area where development is permitted as per Development Control Rules ("**DCR**") prevailing therein. Hereto annexed and marked as "**Exhibit-GG**" is a copy of CRZ Notification 1991.

8.4 On 9th July 1997, MoEF & CC published an amendment to the CRZ Notification 1991 delegating powers to the State Government for

granting CRZ Clearance for projects with investment exceeding 5 crores rupees. In accordance with the amendment, Respondent No. 5 made an application to the State Government for CRZ Clearance and accordingly, on 6th August 1999, Respondent No. 5 was granted CRZ Clearance for the composite project after thorough scrutiny. The said CRZ Clearance dated 6th August 1999 has been taken into consideration by all sanctioning authorities including MMRDA, MCZMA and the Environment Department, Govt. of Maharashtra. Hereto annexed and marked as "**Exhibit-HH**" is a copy of Notification dated 9th July 1997 of MoEF & CC.

8.5 By way of the interim order dated 6th October 2005 in PIL No. 87 of 2006 – *Bombay Environment Action Group versus State of Maharashtra & Ors.*, a complete freeze was imposed on development activities in areas affected by mangroves and this Hon'ble Court was pleased to direct in paragraph 8 sub-clause (iii) that all construction taking place within 50 mtrs. on all sides of all mangroves should be stopped forthwith. The requirement of a mangrove buffer zone of 50 meters with an area of 1000 square meters or more was introduced on 27th September 1996. Hereto annexed and marked as "**Exhibit-II**" is a copy of Order dated 6th October 2005 in PIL No. 87 of 2006.

8.6 In the interregnum, CRZ Notification 1991 was superseded by CRZ Notification 2011 on 6th January 2011. The relevant provisions of the CRZ notification are reproduced hereinbelow for case of reference:

> *"7..*
>
> *(i) CRZ-I,– A. The areas that are ecologically sensitive and the geomorphological features which play a role in the maintaining the integrity of the coast,-*
>
> *(a)* ***Mangroves, in case mangrove area is more than 1000 sq mts, a buffer of 50 meters along the mangroves shall be provided;***
>
> *(b) to (k)*
>
> *B. The area between Low Tide Line and High Tide Line;*
>
> *(ii) CRZ-II,- The areas that have been developed upto or close to the shoreline.*
>
> *Explanation.- For the purposes of the expression "developed area" is referred to as that area within the existing municipal limits or in other existing legally designated urban areas which are substantially built-up and has been provided with drainage and approach roads and other infrastructural facilities, such as water supply and sewerage mains."*

8.7 Thus, what was laid down in the CRZ Notification 2011, was that a buffer of 50 mtrs. was required to be maintained in case mangroves area is more than 1000 sq. mtrs. and such buffer zone would form part of CRZ-I. It was also laid down that areas that have been developed upto the shoreline within existing municipal limits and which have been provided with approach roads and other

infrastructure facilities would form part of CRZ-II where development is permitted under the notification. Hereto annexed and marked as "**Exhibit-JJ**" is a copy of CRZ Notification 2011.

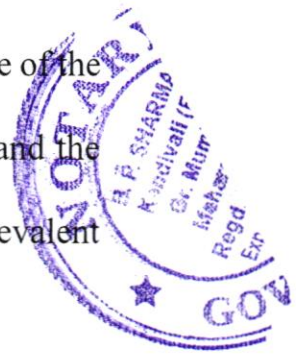
8.8 During the pendency of the said PIL No. 87 of 2006, several affected parties filed Chamber Summons in PIL No. 87 of 2006 *inter alia* to modify the Order dated 6th October 2005 to not apply to certain plots of land in Malvani-Malad (West) and Versova-Andheri region in Mumbai. Vide an Order dated 29th July 2015 in the Chamber Summons No. 172 of 2007 in PIL No. 87 of 2006 along with connected matters, this Hon'ble Court held that where a plot of land falls in 50 meters mangrove buffer zone but was already part of an approved layout with infrastructure facilities within a municipal area or in an existing legally designated urban area as on 6th January 2011, then it would have to be treated as falling in CRZ-II area. Paragraph 29 of the judgment dated 29th July 2015 read with the Order dated 3rd September 2015 lays down that CRZ clearance can be granted in respect of a plot of land falling within 50 mtrs. buffer zone if the plot in question is on the landward side of the existing road or existing authorized structure and is a part of a developed area. Hereto annexed and marked as "**Exhibits-KK and LL**" are copies of Order dated 29th July 2015 and Order dated 3rd September 2015.

8.9 A Special Leave Petition No. 533-539 of 2016 was filed against the Orders dated 29th July 2015 and 3rd September 2015 which was dismissed vide an Order dated 20th January 2016. Hereto annexed and marked as "**Exhibit-MM**" is a copy of Order dated 20th January 2016 passed in SLP (C) No. 533-539 of 2016. Hence, the Order dated 29th July 2015 and 3rd September 2015 have attained finality.

8.10 On 5th March 2018, the State of Maharashtra published a Circular clarifying and confirming the interpretation of this Hon'ble Court vide Order dated 29th July 2015 in Chamber Summons No. 172 of 2007 in PIL No. 87 of 2006. Thereafter, vide Judgment and Order dated 17th September 2018 in PIL No. 87 of 2006, this Hon'ble Court was pleased to dispose of the said PIL, with various findings and directions. Hereto annexed and marked as "**Exhibit-NN**" is a copy of Circular dated 5th March 2018 and "**Exhibit-OO**" is a copy of Judgment dated 17th September 2018 in PIL No. 87 of 2006.

8.11 It is submitted that in the present case, as recorded in the minutes of the 121st meeting of MCZMA dated 15th & 16th September 2017, the construction is on the land ward side of the imaginary line from existing authorized structure. Further, as stated above, there is no mangroves buffer zone as per the approved CZMP of 2000 in respect

of the said plot under CRZ Notification 1991. Thus, upon a conjoint reading of the judicial pronouncements set out above, the relevant circular and CRZ notifications, it can be clearly seen that none of the contentions and allegations of the Applicant are warranted and the construction has been carried out in accordance with the prevalent law.



8.12 The Applicant has also alleged that the construction of the project has been divided into two phases, Phase-I purportedly being the non-CRZ component and Phase-2 being the CRZ part of the project. Respondent No. 5 submits that no demarcation of the project into phases has been carried out by Respondent No. 5. The said project is an integrated project for which requisite CRZ Clearance and building permissions have been obtained. This is also evident from the Appellate Order dated 15th January 2007 which reiterates that this is an integrated project carried out in the said plot. There is no sub-division of the said plot. The layout and FSI for the entire integrated project has been approved by MMRDA by its layout approval on 5th December 2001 and the FSI utilization and provision of recreation ground etc. is based on an integrated master plan and not as per demarcated, sub-divided phases as alleged by the Applicant. The Applicant is attempting to mislead this Hon'ble

Tribunal by seeking to artificially divide an integrated project into diverse portions and contending that each portion would require distinct approvals and permissions.

8.13 Respondent No. 5 submits that as evidenced from the above, the said project is being developed totally in accordance with the provisions of the CRZ Notification, the CRZ Clearance granted to it and the applicable CZMP of 2000. Respondent No. 5 further submits that the mangrove buffer zone as alleged by the Applicant is not applicable to the said project and hence, no separate permission from the Hon'ble Bombay High Court has to be obtained by Respondent No. 5.

9 ISSUE REGARDING CHANGE IN USE OF THE SAID PLOT IS ALREADY DECIDED

9.1 On 10th March 1992, the Government of Maharashtra issued a policy to permit redevelopment of cinema theatres. Accordingly, on 19th March 1999, Respondent No. 5 sought permission from the Government to carry out the said project. On 8th July 1999, Government of Maharashtra passed a Government Resolution giving its permission for said project to Respondent No. 5. Subsequently, requisite permissions were obtained from concerned authorities. On 15th July 1999, the Collector passed a reasoned Order

granting permission to Respondent No. 5 to carry out the said project in accordance with law.

9.2 The issue of change in use from Drive-in theatre to a large commercial complex without the requisite permissions came up before the Hon'ble Bombay High Court in *PIL No. 83 of 2018 – Abha Singh & Santosh Daundkar v. State of Maharashtra & Ors.* wherein permissions granted for said project by revenue authorities were challenged. It is pertinent to note that Petitioner No. 1 therein is also the Advocate representing the present Applicant and the PIL has also been incidentally filed through the same Advocate representing the present Applicant. Vide Order dated 22nd April 2019, the Hon'ble High Court *inter alia* held that there was no illegality or impropriety in the permission granted to Respondent No. 5 and accordingly, was pleased to dispose of the petition. There has been no challenge to the said Order and the same has attained finality. It is also pertinent to note that the said Order of the Hon'ble High Court has been suppressed in the present application. Hereto annexed and marked as "**Exhibit-PP**" is a copy of Order dated 22nd April 2019 passed in PIL No. 83 of 2018.

9.3 It is submitted that the said issue has been finally decided in PIL No. 83 of 2018 and hence, it is submitted that the permission accorded

to Respondent No. 5 for the said project has been granted by following due procedure of law and without any infirmities.

10 **PERMISSIONS GRANTED IN ACCORDANCE WITH LAW**

10.1 Respondent No. 5 submits that the construction for the said project has been accorded requisite permission by MMRDA, being the special planning authority for the area in question. It is reiterated that the 1st Commencement Certificate in the layout was issued on 5th December 2001 based on the approved CZMP under CRZ Notification 1991. Thereafter, a work start notice was duly issued by Respondent No. 5 on 3rd & 4th July 2003 intimating to MMRDA and MCGM that the construction work had commenced on 27th June 2003. The Govt. of Maharashtra vide NOC dated 6th August 1999, granted CRZ clearance for the project in favour of Respondent No. 5 and the approval of plans and Commencement Certificate granted on 5th December 2001 by MMRDA was in accordance with the CRZ clearance.

10.2 Thereafter, the construction has been carried out by Respondent No. 5 upon obtaining various permissions from MMRDA. Respondent No. 5 craves leave to produce the list of all permissions and approvals obtained as and when required.

10.3 It is also pertinent to note that the Government of Maharashtra had passed an order under Section 47 of the Maharashtra Regional Town Planning Act, 1966 on 15th January 2007, in which it is recorded that the entire project has been approved from the CRZ point of view and is excluded from the scope of the EIA notification issued by MoEF.

10.4 It is pertinent to note that MMRDA issued the building permission based on the approved CZMP for the State of Maharashtra wherein there is no mangrove buffer zone provided qua the said plot and also based on the fact that the said buildings on said plot are on the landward side of the imaginary line parallel to the HTL drawn from the existing authorised structure.

10.5 It is also pertinent to note that on 5th March 2018, as per the request of MPCB dated 23rd February 2016 for clarification regarding applicability of CRZ and EC Clearance for the said project, the Environment Department of the Government of Maharashtra clarified that the said project was an ongoing composite project which was granted Commencement Certificate dated 5th December 2001 from MMRDA and CRZ Clearance dated 6th August 1999 from the State Government and it was concluded that the EIA Notification 1994 and amendment to EIA Notification dated 7th July 2004 were

not applicable to the said project. It was also pointed out that the area under construction was less than the initial proposed area and was an ongoing project and EIA Notification dated 14th September 2006 was not applicable.

11 It is submitted that the allegations against the Respondent No. 5 are wholly misplaced and without any basis. Respondent No. 5 is carrying out the construction of the said project with all valid permissions and in accordance with law. It is submitted that based on the decisions taken from time to time as regards applicability of EIA Notifications as well as applicability of CRZ Notifications, Respondent No. 5 has invested huge sums of money for the said project and has significantly altered its position to its detriment based on the decisions passed by the authorities which have not been challenged till date by anybody in any court of law. It is submitted that the portion of the integrated project that is wrongly alleged to be affected by the 50m mangrove buffer zone as of 2022 by the Applicant may comprise a small part of the hotel shopping building and part of the hotels. The hotel shopping building has been operational since 7th October 2021 and many prominent international retailers/brands are currently occupying the units therein after paying significant amounts of valuable consideration pursuant to which rights have been created in their favour by valid lease / leave and licence/ business conducting agreements and all having made significant

investments in interior fit outs etc. to conduct their operations. It is submitted that the entire construction of the superstructure of the hotels in the said project has long since been completed and the same is in CRZ-II area and within the original boundary wall that was sanctioned and constructed around the year1977 and even today is still the boundary wall of the said Project and also on the landward side of the imaginary line from authorised structures originally sanctioned and constructed around 1977. Only the interiors and services works are balance to be completed for the hotels. It is submitted that the allegations against the present Respondent No. 5 are therefore wholly untenable and without any basis.

12 Respondent No. 5 will not be dealing with the Original Application in seriatim more particularly since the entire bogey of allegations and contentions raised in the Original Application have been dealt with and answered in terms of the aforesaid. However, the present Respondent No. 5 expressly craves leave to file an Additional Affidavit dealing with the Memo of Application in a paragraph-wise manner, if the circumstances so warrant. Respondent No. 5 states that the issues and grievances raised by the Applicant stand fully answered in terms of all that is stated hereinabove as regards Respondent No. 5 and thus, the Original Application has failed to make out a cogent and compelling case for grant of any reliefs by this Hon'ble Tribunal.

13 In these facts and circumstances, Respondent No. 5 states that the captioned Original Application ought to be dismissed *in toto* as against the Respondent No. 5.

Date: 11th November, 2024

Place: MUMBAI

Respondent No. 5

Advocates for Respondent No. 5

VERIFICATION

I, Sabira Kadri, aged 57 years, Indian Inhabitant, the Authorised Signatory of Respondent No. 5, having my office address at Jio World Drive, 3rd floor, Maker Maxity, Bandra (East), Mumbai – 4000 51 do hereby state that I have submitted this Affidavit on solemn affirmation and oath. I have verified that the facts are true based on office records available with Respondent No. 5. I have not suppressed any material fact known to me and relevant to this matter.

Date: 11th November 2024

Place: MUMBAI

BEFORE ME

B. P SHARMA
B.Sc., LL.B
NOTARY
MAHARASHTRA
(GOVT. OF INDIA)
Reg. No. 10471

Notarial Serial No 988/2024
Dated 11 NOV 2024

Respondent No. 5

THE INDIAN FILM COMBINE PVT. LTD.

REGD. OFFICE : MAKER TOWER 'F', 1ST FLOOR, 85, CUFFE PARADE, MUMBAI - 400 005. TEL.: +91 (22) 22185291 / 40402020 FAX : +91 (22) 66345042
CIN : U92100MH1942PTC003702

CERTIFIED TRUE COPY OF THE RESOLUTION PASSED AT THE MEETING OF THE BOARD OF DIRECTORS OF THE INDIAN FILM COMBINE PRIVATE LIMITED HELD ON OCTOBER 13, 2022

"**RESOLVED THAT** in supersession of the resolution passed at the meeting of the board of directors of the Company held on October 13, 2021 Shri Manish Maker (DIN: 00249176), Shri Rajkumar Mullick (DIN: 06530175), Shri Puneet Gupta (DIN: 00511765), Directors of the Company and Shri Rajmal Nahar, Authorised Representative of the Company, be and are hereby severally authorized to do and/or execute one or more of the following acts, deeds and things on behalf of the Company as may be required in connection with the business operations of the Company and the legal matters involving the Company:

i) to make any application(s), whether for approvals, registration, no objection letter, license or otherwise, to amend / rectify existing applications, registration or submit fresh applications as may be required before various authorities including, Central/State Excise, Labour, Trademark Authority, Regional Transport Office, Food Standards and Safety Authority, Police, Urban Improvement Trust, Department of Health, Department of Metrology, Municipal Authorities, MMRDA, Mahanagar Gas Limited, Fire department and/or such other Central Government/ State Government / quasi judicial Authorities and/or officials and to do all such acts, deeds and things as may be required for the above purpose;

ii) to sign, negotiate, execute and amend any application, declaration, undertakings, deed(s), document(s), agreement(s) (including Leave and License agreements, Lease/sub-lease Agreement, Business Conducting Agreement, Indenture of Lease and such other agreements), Term Sheet(s), Letter of Intent, Memorandum of Understanding, affidavit, application(s), writing(s), receipts, bills, invoice, tender, bids, banking and commercial documents, employment related documents, other paper(s), documents, instrument(s), on behalf of the Company, as may be required for the above purpose;

iii) to appear before the Registrar and Sub-Registrar of assurances in any District or Sub-District to register the documents under the law applicable, for the time being in force, for the registration of documents and to present for the registration the deed of conveyances, Leave and License agreements, Lease/sub-lease Agreement, any other agreement and other documents executed by the Company and also to admit execution thereof and to do all such acts, deeds, matters and things as may be necessary or proper for the effectual completion and registration of the said documents;

iv) to appear, represent the Company before various Central / State Government(s) / Public Sector Undertaking(s) / Corporations / Undertakings / any Authority, Judicial, Quasi-Judicial Authority including any Appellate Authority, Court or Tribunal, any Official or Authorities, Revenue, Municipal, Labour Departments, Local Bodies, Customs & Excise Authorities, RBI, any Public Officer or otherwise in relation to matters including but not limited to

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CIN : U92100MH1942PTC003702

Income Tax, Sales Tax, Excise, Customs, Service Tax, GST and all other matters, as may be applicable to the company and proceedings before them of any nature whatsoever and to do all such acts, deeds, matters, and things as may be necessary or proper;

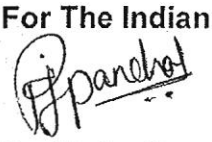
v) to commence, prosecute, file, defend any action, Suit, Writ Petition, Complaint, Appeal, Revision and Review Petition, Application and/or all other legal proceedings of whatsoever nature before any Judicial authority, Quasi-judicial authority including any Appellate Authority, Court, Tribunal, any other Government authorities and Public bodies empowered by law to hear any suit or proceedings or enquiry to sign, affirm, verify, submit, plaints, written statements, application, affidavit, complaint, vakalatnama, power of attorney, consent terms, correspondence and any other writings etc. in the name of the company, for and on behalf of the Company, and to present, the same before any judicial, quasi judicial authority including Appellate Authority, Court, Tribunal, any other Government authorities and Public bodies etc., to give evidence and to produce any documents, to swear Affidavits on behalf of the company and to carry out all the necessary acts, deeds, matters and things, as may be required;

vi) to appoint, engage, substitute, discontinue any lawyers, counsels, solicitors, on behalf of the Company and to do all the acts, deeds, matters and thigs as may be required;

vii) to nominate / appoint, from time to time, the executive(s) of the Company and/or any other person(s) as Attorney(s) / Authorised Persons of the Company, for attending to such matters and for such purposes and with such powers and authorities as they may deem expedient and necessary and to sign and execute the necessary Power(s) of Attorney / Authority Letter(s)/Vakalatnama on behalf of the Company.

RESOLVED FURTHER THAT the Common Seal of the Company be affixed, if so required, to any such deed(s), document(s), agreement(s), application(s), writing(s), other paper(s) or instruments in the presence of any of the aforesaid Directors/ Authorised Signatory / Authorised Persons of the Company."

For The Indian Film Combine Private Limited



Pratiksha Panchal
Company Secretary

THE INDIAN FILM COMBINE PVT. LTD.

REGD. OFFICE : MAKER TOWER 'F', 1ST FLOOR, 85, CUFFE PARADE, MUMBAI - 400 005. TEL.: +91 (22) 22185291 / 40402020 FAX :+91 (22) 66345042
CIN : U92100MH1942PTC003702

Date: July 2, 2024

Letter of Authority

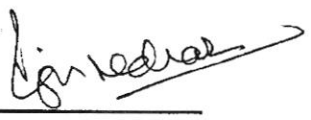
With respect to the captioned matter and in terms of the authority granted to me as per Board Resolution dated October 13, 2022 (a copy of the aforesaid board resolution is appended hereto), on behalf of The Indian Film Combine Private Limited ("Company"), I hereby authorize Shri Ravi Arora, General Manager, Finance & Accounts and Ms. Sabira Kadri, Legal Head of the Company to severally:

i) Commence, prosecute, file, defend any action, Suit, Writ Petition, Complaint, Appeal, Revision and Review Petition, Application and/or all other legal proceedings of whatsoever nature before any Judicial authority, Quasi-judicial authority including any Appellate Authority, Court, Tribunal, legal forum and any other Government authorities and Public bodies empowered by law to hear any suit or proceedings or enquiry to sign, affirm, verify, submit, plaints, written statements, application, affidavit, complaint, vakalatnama, power of attorney, consent terms, correspondence and any other writings etc. on behalf of the Company and to appear, represent the Company, to give evidence and to produce any documents, to swear Affidavits on behalf of the company before any judicial, quasi-judicial authority including Appellate Authority, Court, Tribunal, legal forum and any other Government authorities and Public bodies, Notary etc., and to carry out all the necessary acts, deeds, matters and things, as may be required in connection with the legal matters involving the Company;

ii) Appoint, engage, substitute, discontinue any lawyers, counsels, solicitors, on behalf of the Company and to do all the acts, deeds, matters and thigs as may be required for the aforesaid purpose;

iii) Nominate / appoint, from time to time, any other person(s) as Attorney(s) / Authorised Persons of the Company, for attending to such matters and for such purposes and with such powers and authorities as they may deem expedient and necessary and to sign and execute the necessary Power(s) of Attorney / Authority Letter(s) / Vakalatnama on behalf of the Company.

For The Indian Film Combine Private Limited



Rajmal Nahar
Authorised Representative

THE INDIAN FILM COMBINE PVT. LTD.

REGD. OFFICE . MAKER TOWER 'F', 1ST FLOOR, CUFFE PARADE, MUMBAI - 400 005. TEL. : 2218 5291-97 FAX : 5634 5042

4th July 2003

The Metropolitan Commissioner
Mumbai Metropolitan Region Development Authority
MMRDA Building
Bandra Kurla Complex
Bandra (East)
Mumbai – 400 051.

Sub : **Commencement of work in respect of development of layout on Survey No.4(P) of Parighkhar [City Survey No.8 (P)] and Survey No.341 (P) of Bandra [City Survey No.629 (P)] situated at Bandra (East), Bandra Kurla Link Road, Ward H (East).**

Dear Sirs,

In the above matter, we are enclosing herewith a copy of a letter sent by us to the Municipal Corporation of Greater Mumbai dated 3rd July 2003.

This is for your information.

Thanking you,

Yours faithfully,
For THE INDIAN FILM COMBINE PVT.LTD.

DIRECTOR

Encl :a/a

THE INDIAN FILM COMBINE PVT. LTD.

REGD. OFFICE . MAKER TOWER 'F', 1ST FLOOR, CUFFE PARADE, MUMBAI - 400 005. TEL. : 2218 5291-97 FAX : 5634 5042

3rd July, 2003.

To,
Executive Engineer (Building Proposal)
H (East) Ward
Municipal Corporation of Greater Mumbai.
Mumbai.

Sir,

Re : CE /723/BSII/LOH/S of 2.12.2002.

We have given notice for start of work in respect of development of layout on Survey No. 4(P) of Parighkhar [City Survey No. 8(p)] and Survey No. 341(P) of Bandra [City Survey No. 629(P)] situated at Bandra (East), Bandra Kurla Link Road, Ward H(East).

This is to inform you that as stated in our notice dated 16th June 2003, the work has been commenced on 27th June, 2003.

Thanking you,

Yours faithfully,
For **THE INDIAN FILM COMBINE PVT.LTD.,**

DIRECTOR

बृहन्मुंबई महानगर पालिका
एच. विभाग
दिनांक 04 JUL 2003
कार्यकारी अभियंता इमारती
प्रस्ताव (पश्चिम) उपनगरे

Exhibit - B

(3)

To

The Chief

Town and Country Planning Division

Mumbai Metropolitan Region Development Authority

Bandra East, Mumbai-500051

7985
30.7.16

2263
3/8/16

DATED: 27th July, 2016

SEAC

SUB: Illegal Construction of Shopping Malls, Office Complex and Hotel on Plot reserved for Drive-in Theatre near Kala Nagar, Bandra Kurla Complex, Mumbai – Request to take statutory action and to issue 'Stop Work Order'.

Sir,

This complaint is being lodged on the facts, provisions of law and other details which are specified hereunder:

1. INTRODUCTION:

1.1 On the land mentioned in the caption, for which the Mumbai Metropolitan Region Development Authority (MMRDA) has been designated as the Planning Authority, a large construction is coming up on about 20 acres of land. It comprises a shopping mall, hotel, office areas, etc. This land, as a Lessor, is owned by the Government of Maharashtra, through the Collector. In the statutory Development Plan, this land is reserved for drive-in theatre.

5/8/16

SEIAA(L)

1.2 The land under reference is in an eco-sensitive area for the following reasons:

- The land, abuts large stretches of mangroves on the Mithi River, at the mouth of the Mahim creek and is influenced by tidal actions.
- A substantial portion of the land is in the Coastal Regulation Zone (CRZ) area.
- 'Drive-in theatre' is a statutory designation for this land. For this reason, before the demolition of the said drive-in theatre, this land had enormous open spaces and was not substantially built-up.
- Since this land is in an eco-sensitive area, the Development Plan of the Mumbai Metropolitan Region Development Authority has placed it outside the commercial, social and residential development, which

Issues pertains to CRZ and C.C is for MS — MCZMA Hence imperative to TC-4

Update 3/8/16.

SK

have otherwise been specifically marked. For this reason, except for the essential user of a drive-in theatre, there is no FSI which has been infused on this land.

1.3 The construction referred to above, is being done after committing a series of violations of law. This, coupled with the fact that this land is in an eco-sensitive area, would make it imperative for a citizen abiding by his Fundamental Duties under Article 51A (g) of the Constitution of India, to get concerned.

1.4 Hence, this complaint, on due legal advice, is being lodged in relation thereof.

1.5 The gist of allegations and brief facts linked thereto, along with the related provisions of law, are placed hereunder.

2.0 BRIEF FACTS:

2.1 Vide allotment letter of the, the Collector, Mumbai Suburban District dated 15th April, 1971, a Government Land of 80,800 square metres, i.e. about 20 acres was allotted Mssrs. India Film Combine Pvt. Ltd. (hereinafter called the Project Proponent). This land was given for a lease of 99 years for the purpose of setting up a drive-in theatre. Consequent upon the said allotment, a drive-in theatre was set-up and became a landmark of Mumbai City.

2.2 This land is situated at Survey No. 341 (Part) of Bandra and Survey No. 4 (Part) of Parighkhar, of Mumbai Suburban District and is abutting the Mithi River. Vast stretches of mangroves flank the river. This is apparent from the attached Google Earth Satellite Photograph. As per the statutory Coastal Zone Management Plan, a good part of this land is in the CRZ area. The CRZ demarcations have been more precisely shown in the Development Plan sheet of the Municipal Corporation which is attached. That this land is in a CRZ area has also been taken cognisance of by the MMRDA which is the Planning Authority for the Bandra-Kurla Complex.

2.3 The statutory use of this land, as reflected in the Development Plan sheets of the Municipal Corporation and also the Mumbai

Metropolitan Region Development Authority for the Bandra Kurla Complex, is the drive-in theatre.

2.4 As per the then prevailing Coastal Regulation Zone Notification, 1991, there were six inhibiting factors which constrained the development of the land:

(a) FSI Freeze in CRZ areas on cut-off date of 19 February, 1991:

THAT in a CRZ area, there was an FSI Freeze as on 19th February, 1991. This was clarified by the MoEF vide letter of 8th September, 1998. The Development Plan of Bandra-Kurla Complex did not classify this plot either as a commercial plot, or as a residential plot, or as a plot for social facilities. Under this Development Plan, FSI of 1.5 could emanate from land marked as residential and an FSI of 2 could emanate from a land marked as commercial (except commercial land at G Block where FSI is '4') and an FSI of '1'.5' could emanate from land marked as for Social Facilities. On all other lands, there was no FSI assigned. Since, there was a FSI freeze on a CRZ land, no development was possible on this land, particularly on that large portion of land which was affected by the CRZ.

(b) Change of use not permitted in CRZ areas:

THAT as per the Coastal Regulation Zone Notification, 1991 and the Coastal Regulation Zone Notification, 2011, on redevelopment of a property, it is not permitted to effect a change of use. In other words, the user of the place as of drive-in theatre could not have been changed so as to construct shopping malls, large office complexes, hotel and restaurants.

(c) Development Plan reservation could not be altered in the CRZ area:

THAT as per the Development Plan prepared by the MMRDA this land has been assigned a very specific user, i.e. of the drive-in theatre. If the MMRDA and the Urban Development Department of the Government of Maharashtra were to have changed the zoning designation of the plot in the Development Plan from that of a drive-in theatre to other users and brought it in the commercial zone so that an FSI of '2' could be infused in the plot, then it would have been a *sine quo non* to have taken permission from the Maharashtra Coastal Zone Management Authority, and the Ministry of

Environment and Forests, New Delhi. This would not have easily come by, for the reason of the stringent stipulations set in the CRZ Notifications.

(d) Substantial portion of the land was in CRZ–III where except repairs no construction permitted:

Since the land was not substantially built up, hence it had to be reckoned as being in CRZ-III even though the CRZ map classified as it being in CRZ-II. This stipulation has been made in the Coastal Zone Management Plan of 19th January, 2000. Similar stipulations have been provided for under the Coastal Regulation Zone Notification, 2011. For this reason, it was impossible to build anything on the said land except repairing old structures with same extent of plinth.

(e) Construction being done illegally on the seaward side of the imaginary line parallel to the High Tide Line (HTL):

THAT as per the provisions of the Coastal Regulation Zone Notification, 1991, the construction could have been done only towards the landward side of imaginary line drawn from the existing structures. This imaginary line had to be drawn parallel to the HTL, taking reference from an authorised structure as existing on 19 February, 1991. Even if the provision is interpreted most liberally, yet the distance of the said authorised structure, from the HTL would be at least 62 metres. In other words, the constant distance of 62 metres was required to have been maintained from the HTL. Notwithstanding these legal provisions yet the construction has been done to the extent of as less than 30 m from the HTL.

(f) Construction being done in the Mangrove Buffer Zone:

THAT since there were large areas of mangroves abutting the plot, hence, a part of the land was in the Mangrove Buffer Zone of 50 metres. As per the Coastal Zone Management Plan and also the Mangroves Order of the Hon'ble High Court, no activity, including construction of roads and boundary wall was permitted in the Mangrove Buffer Zone. Notwithstanding the same, such construction has been done.

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2.5 Since it was well-nigh impossible to construct such large shopping mall etc. on the said land, hence the only option left was to take law in own hands by using the following modus operandi:

(a) Make public servants pliable and to accord stretched interpretation of unconnected laws to favour the Project Proponent. While doing so, the relevant and specific laws having a bearing on the impugned construction would be disregarded.

(b) Keep a vigil in all the offices of the public servants and to block RTI information related to the divulging of statutory orders, office notings and such other information which is required to be placed in the website and for public display at the site. In other words, to erect and iron wall so that the information about the corruption does not come out even though the law mandated that such information should be placed on public display or be made available to the members of the public.

(c) Not to take permission from the Statutory Authorities including the Ministry of Environment and Forests, New Delhi, the Maharashtra Coastal Zone Management Authority, the National Coastal Zone Management Authority and the Hon'ble High Court related to mangroves and construction in the CRZ area. The public servants who grant permission to construct and who stand at vigil at the site, i.e. the officers of the Mumbai Metropolitan Region Development Authority, would cooperate.

(d) To effect the change of the entire designation of a drive-in theatre by incorrectly applying the rule of a normal auditorium type cinema theatre. The only way for using a drive-in theatre, so designated in the Development Plan, for malls etc. was to have effected a modification in the Development Plan under section 37 of the Maharashtra Regional and Town Planning Act, 1966, which was not done.

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2.6 Against the background as aforesaid, and notwithstanding the legal position stated above, the Project Proponent, sometime in the late nineties and thereafter, started contemplating to demolish the drive-in theatre and to abolish its user. Then, on this large piece of land in the most prime area of Mumbai, he planned to construct large office complexes, a huge shopping mall, restaurants and a hotel.

2.7 However, for such radical change of use for the said land, there were formidable hurdles. These hurdles were:

(a) The land was allotted to the Project Proponent by the Government of Maharashtra at a highly concessional rate was for the drive-in theatre. If there could be a change of use, then the government could take back the land and either used it for a public purpose, or auction it for deriving revenues.

(b) The land was in a CRZ area, abutting the mangroves. The development was constrained because of six statutory issues, detailed ***Para 2.4 (a) to Para 2.4 (f)*** stated above.

2.8 Due to the constraints imposed as referred to above, if law were to have been followed, then it would have been impossible to go ahead. So the best strategy was simple, nay crude – Take law in own hands, with the help of certain compromised statutory officials.

2.9 In order to accomplish such nefarious deeds, the Project Proponent with such vulnerable statutory officials entered into a conspiracy.

2.10 Pursuant to the said conspiracy, the Project Proponent got permissions from the land owning authority, i.e. the Collector, Mumbai Suburban District, to effect a change of use by paying some cosmetic amount, highly disproportionate to the market prices being fetched by the Mumbai Metropolitan Region Development Authority during public auctions in the relatively lesser prime areas of Bandra Kurla Complex. This order from the Collector, would then be supplemented by certain illegal orders issued without statutory authority by the Urban Development Department, for development in the CRZ area. In such

(9) 2

strides, omission would be done within the meaning of section 2 (n) of the Code of Criminal Procedure, 1973 related to bringing on record such provisions, which would inhibit, constrain or curtail the impugned construction.

2.11 As a follow-up to the aforesaid arrangement, the following purported permissions were taken, which were to drive the project forward, much in violation of the law:

(A) The Collector, as the Owner of the land, permitted the change of use vide his Order dated 8th July, 1999. For this he applied the rule that was related to redevelopment of closed theatres which was not applicable for a drive-in theatre as it is a totally different classification altogether under Rule 52 of the Development Control Regulations for Greater Mumbai, 1991. The Collector also disregarded the fact that to allow a change of use would defeat the very expediency on which the land was allotted for which the price was quoted as a less profitable drive-in theatre and not for highly lucrative constructions such as shopping mall etc. Further, if the land was to be developed as a shopping mall, commercial office complex, hotels etc., in that case, the logic of original allotment would turn inconsequential and irrational and the only option thereafter was the have allotted the land for a public project or to auction it in terms of the Maharashtra Land Revenue (Disposal of Government Land) Rule, 1971 and while abiding by the essential spirit of the 'Doctrine of public trust' as enunciated and upheld by the Hon'ble Courts in several rulings.

(B) NOC was issued by the Urban Development Department of the Government of Maharashtra for the change of use and for the construction in the CRZ area, without authority. That the Urban Development Department had no such authority has been explained in detail by the Hon'ble High Court in the case of Adarsh CHS. Needless to add that a somewhat similar permission was given by the Urban Development Department, as if it was a CRZ clearance, for development by effecting change of use. Further, the Competent Authority to grant CRZ clearance was the Maharashtra Coastal Zone Management

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Authority under the Notification of 2002. Further, that under the Maharashtra Government Rules of Business the competent department to deal with environmental matters was the Environment Department of the Government of Maharashtra and not the Urban Development Department.

(C) Based on the aforesaid, the MMRDA has been giving construction permissions under the Maharashtra Regional and Town Planning Act, 1966, from time to time, and has been approving the amended plans. Based on such permissions a part of construction has been accomplished and a part of construction is under progress.

3.0 VIOLATIONS OF LAW:

While many of the violations of laws have been alluded to in the foregoing, be that as it may, the following violation of laws, *inter alia* are being more specifically detailed hereunder:

3.1 FIRST: No change of use permitted in CRZ areas:

As per the provisions of Coastal Regulation Zone Notification, 1991 and Coastal Regulation Zone Notification, 2011, as also clarification issued by the Ministry of Environment and Forests, New Delhi on 8th September, 1998, there cannot be any change in the use of the land, as it was on or before 19th February, 1991. On that date, and before that, the user of the said land was that of a drive-in theatre. Hence, if any reconstruction had to take placed, except for the use of drive-in theatre no other use was permissible.

3.2 SECOND: No mandatory Maharashtra Coastal Zone Management Authority permission:

As per the ruling given by the Hon'ble High Court in the case of Adarsh CHS, and also as per the accepted position enunciated

in the Maharashtra Coastal Zone Management Authority Notification of 2002 and also of 1998, and ancillary laws in relation thereto, no construction could have taken place without the permission of the Maharashtra Coastal Zone Management Authority. Notwithstanding the clear-cut law mentioned above, yet no specific permission was taken from the said Authority.

3.3 THIRD: Urban Development Department NOC for CRZ matters illegal:

As apparent from the historical imagery derived from the Google Earth Satellite Photographs, the construction on the land commenced after the purported clearance was given by the Urban Development Department of the Government of Maharashtra on 12th October, 2003. Somewhat similar had what happened in the case of Adarsh CHS, where too the MMRDA was the Planning Authority, and where too, an NOC was issued by the Urban Development Department and the same was held illegal and invalid in the eyes of the law by the Hon'ble High Court. Since the said NOC was illegal in nature, hence any permission based on such an NOC would not be valid.

Even otherwise the Urban Development Department has no authority under the Maharashtra Government Rules of Business read with the First Schedule. At Entry No. 22.01 of the Schedule it has been clearly stated that the matters related to "Environment and all matters relevant thereto" would be dealt with the Environment Department of the Government of Maharashtra. Obviously, the Urban Development Department had encroached upon the statutory jurisdiction of the Environment Department, so stipulated under the said Maharashtra Government Rules of Business notified under the provisions of Article 166 of the Constitution of India.

3.4 FOURTH: No FSI on the plot:

Drive-in theatre is on the plot of land which is within the Bandra Kurla Complex for which the Planning Authority is the

Mumbai Metropolitan Region Development Authority. As per the Development Plan of the MMRDA the land classification from where FSI could be generated was placed into 3 categories, namely, commercial, residential and social. The respective FSI for these three categorisations was assigned as under:

Commercial: In G Block FSI of '4'. In other parts of Bandra Kurla Complex on commercial land, FSI was of '2'.

Residential: FSI was '1.5'

Social: FSI was '1'5'.

From the Development Plan of the Bandra Kurla Complex it is apparent that the land of the drive-in theatre was neither in commercial area, nor in residential area and neither it was the social area. It was outside such classifications since the land was designated as that of the drive-in theatre, where the consumption of FSI was negligible, as basically space was given for the parking of the cars. Hence no FSI was assigned to this plot of about 20 80,800 square metres i.e. of about 20 acres or 8.08 hectares.

The aforesaid surmise is confirmed from the facts stated in the statutory Development Plan. As per this Plan, the drive-in theatre is situated in the 'E' Block of the Bandra Kurla Complex. The aggregate FSI which emanates from the entire 'E' Block comes to merely 99,500 square metres. This aggregate FSI would include several buildings such as the MMRDA offices, Family Court Building, Income Tax Offices etc.

It is seen that against the aggregate FSI of 99500 square metres for the entire E Block comprising buildings as above, an additional illegal FSI of 1,15,561 square metres was infused into the E Block in an absolutely illegal manner.

Therefore, at a place where the Development Plan stipulated no FSI, and at a place where the aggregate FSI for the entire plot was shown as that of 99,500 square metres, and mammoth additional FSI of 1,15,561 square metres was created in an illegal

(13)

manner, and which afforded a mammoth pecuniary advantage to the Project Proponent, and which by every means would qualify as an act of Criminal Misconduct by a Public Servant, so explained in section 13 of the Prevention of Corruption Act, 1988.

3.5 FIFTH: No enhanced FSI permitted in CRZ areas:

As per the Coastal Regulation Zone Notification, 1991 and the clarifications issued on 8th September, 1998 and further also under the Coastal Regulation Zone Notification, 2011, the FSI as prevailing on 19 February, 1991, would prevail.

In this case, it is seen that as per the Development Plan for the Mumbai Metropolitan Region Development Authority, there was no FSI allotted to the drive-in theatre and that the aggregate FSI of the entire E-Block was just 99,500 square metres, which was essentially attributed to the MMRDA offices, Income Tax Offices, Family Court building etc.

As stated in the preventive paragraph, an illegal FSI of 1,15,561 square metres was infused into the drive-in theatre plot, in blatant violation of the statutory Development Plan.

Since, there was a freeze in FSI in the CRZ areas, and since a large part of the plot is under the CRZ, hence the enhancement of FSI to 1,15,561 square metres was illegal and would not be in consonance with the Coastal Regulation Zone Notification, 1991 and the Coastal Regulation Zone Notification, 2011.

3.6 SIXTH: Construction done illegally on the seaward side of the imaginary line parallel to the HTL:

It is a settled position in the law as apparent from the Coastal Regulation Zone Notification, 1991, and which has been enunciated in explanatory letter of the Ministry of Environment and Forests, New Delhi dated 8th September, 1998, along with the

further explanatory letter of 7th September, 1999, that no construction can be done on the seaward side of the imaginary line drawn parallel to the authorised structure as it was on 19 February, 1991.

Even if a very liberal interpretation is accorded to these provisions, the most seaward authorised building was the projector room of the drive-in theatre. As apparent from the historical imagery of the Google Earth Satellite Photograph, the distance of the said projector room to the HTL was about 72 metres. Thus an imaginary line had to run parallel to the HTL and that there could be no construction on the seaward side of this imaginary line running 72 m parallel to the HTL running along the creek influenced by tidal actions.

However, as apparent from the current Google Earth Satellite Photograph of the site, a large construction is taking place within the 72 of the HTL. Hence, without prejudice to the other contentions raised herein, all construction which is within 72 metres of the HTL including roads and buildings, have to be reckoned as illegal and pruned immediately.

3.7 SEVENTH: Construction being done on the Mangrove Buffer Zone:

It is clearly apparent from the historical imagery of the Google Earth Satellite Photographs and also from the current Google Earth Satellite Photograph, that the construction is being done within the 50 m Mangrove Buffer Zone.

In this reference, the undersigned would bring to your notice the provisions of Coastal Zone Management Plan of 27th September, 1996, where it was stipulated that "all mangroves with an area of 1000 square metres or more would be classified as CRZ-I with a buffer zone of at least 50 metres." This position was reiterated by the Hon'ble High Court in relation to the order it gave on mangroves, where the following it was stipulated that "Regardless of ownership of the land, all construction taking place

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within 50 metres on all sides of all mangroves shall be forthwith stopped."

It is indeed regretted to note that construction and building of internal roads is being done in the Mangrove Buffer Zone in open defiance to the law and the orders of the Hon'ble High Court, and yet the Mumbai Metropolitan Region Development Authority is not taking the requisite action.

3.8 EIGHTH: Mangroves have been destroyed during the course of construction:

It is seen from the historical imagery of the Google Earth Satellite Photographs, that there was a large patch of the mangroves on the southern side of the drive-in theatre plot and that it was a swamp where saline water could be seen. However, much of such mangroves have now been destroyed and that they cease to exist and also that the flow of saline water into the swamp has been plugged.

For such reasons, it would be in the fitness of things to get the mangroves replanted so that the pristine position could be restored and that the ingress of sea water be re-established. Once this is done, then it would be necessary to apply the 50 m Mangrove Buffer Zone and that all construction including construction of roads, be removed and that the said Buffer Zone would become clear of any human intervention, akin to its undisturbed state.

3.9 NINTH: Construction permitted without Environment Clearance:

It is seen that the cost of this project was exceeding Rs. 50 crore and that the complex would be used by more than 1000 persons. Hence, it was required to have taken a prior Environment Clearance under the provisions of Environment Impact Assessment Notification of 1994 as modified on 7th July, 2004.

As apparent from the historical imagery of the Google Earth Satellite Photographs, on 7th July, 2004, many of the buildings had not reached upto the plinth level. Therefore, as per the said Notification, it was required to have taken a prior Environment Clearance from the Ministry of Environment and Forests, New Delhi after conducting the Public Hearing in the prescribed manner. In particular the following was provided for:

> "New construction projects which were undertaken without obtaining the clearance required under this notification and where construction work has not come up to the plinth level shall require clearance under this notification with effect from the 7th day of July, 2004. "

Further, the Environment Impact Assessment Notification of 2006 came into force on 14th September, 2006. It stipulated that in case there was an expansion or modernisation of an existing project a fresh Environment Clearance was required. It is further seen that the aggregate Built-up Area for the entire construction, including all the activity area would be exceeding 1.5 lakh square metres. Since there are several buildings which constitute the layout, hence this entire development would have to be reckoned as being in Category B-1 under the provisions of the Environment Impact Assessment Notification of 2006.

It is also seen that post 7th July, 2004, the project was amended. However, for such amendments, no prior Environment Clearance was taken under provisions of the Environment Impact Assessment Notification of 2006 and that no "Terms of Reference" were issued and that no "Environment Impact Assessment Report" was prepared under the prescribed formats and scope, as prescribed under the EIA Manual and the Ministry of Environment, Forests and Climate Change.

Since the project has not taken a prior Environment Clearance under the provisions of Environment Impact Assessment Notification of 1994 and further under the Environment Impact Assessment Notification of 2006, hence, the construction of the project is illegal *ab initio*. For, under both the Notifications a prior Environment Clearance was required and that

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even preliminary work could not have been done. Under the laws of the land enunciated in the ruling of Adarsh CHS, such construction which comes up without Environment Clearance and CRZ Clearance, ought to be demolished.

3.10 TENTH: No CRZ clearance taken even though the cost of the project was more than Rs. 5 crore and that it was a building under public use:

It is seen that the cost of this project right from the inception was exceeding Rs. 5 crore. This fact was known when the Urban Development Department of the Government of Maharashtra gave the CRZ NOC on 17th October, 2003. As per the provisions of the Coastal Regulation Zone Notification, 1991,(as amended on 22nd April, 2003) it was required to take prior Environment Clearance of the MoEF, for the approval of any project in a CRZ area whose cost was more than Rs. 5 crore.

It was also provided for under Para 3(2) (iv) of the Coastal Regulation Zone Notification, 1991, that a prior Environment Clearance was required for demolition of a building under public use. Since an important part of the drive-in theatre, i.e. the projector room was demolished around the year 2010, as can be seen from the historical imagery of Google Earth Satellite Photograph, hence for such demolition a prior Environment Clearance was required.

Notwithstanding the aforesaid position, just as it happened in the case of Adarsh CHS, no statutory CRZ clearance from the Ministry of Environment and Forests, New Delhi, was taken. Hence, the entire construction becomes illegal. Therefore, abiding by the ruling of the Hon'ble High Court in the case of Adarsh CHS, the entire construction need to

4.0 Requests:

In view of the violations of law catalogued in the foregoing, it would be apt and proper to tender the following requests:

(a) THAT since the entire construction is illegal, hence abiding by the ratio of the ruling of the Hon'ble High Court, in the case of Adarsh CHS, the impugned construction be demolished.

(b) THAT for any further development, the same may be undertaken in accordance with the law, i.e. without any change in user as has been stipulated in the Coastal Regulation Zone Notification, 1991 and the Coastal Regulation Zone Notification, 2011.

(c) THAT any further construction be undertaken only after taking the prior Environment Clearance, under the provisions of the Environment Impact Assessment Notification of 2006.

(d) THAT the responsibility of the concerned public servants be fixed in the matter and further departmental and action under the Prevention of Corruption Act, 1988, be taken in accordance with the law.

(e) THAT till the time the issues are finally decided, 'Stop Work Order' may be issued for the on-going construction.

5. The undersigned has not annexed the documents because you being the Planning Authority would have all such references, in an authentic manner, available with You. However, should You require any clarification the undersigned or his Lawyer shall be forthcoming in clarifying with the same.

6. It is further to be carefully noted that the Project Proponent has been trying to block all information to be given under the Right to Information Act, 2005 even though they are statutory orders, and many of them are required to be displayed at the website or at the project site.

7. It is also relevant to note that the Project Proponent has filed unprecedented number of cases before the various Public Information Officers so as to block such information which is critical to environment

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and which even otherwise are required to be placed in the website of the various departments and also that of the Project Proponent. This disposition of the Project Proponent be carefully taken note of and it creates an intriguing circumstance to show his apprehensions, that the illegalities need to be kept secret and not brought on record by concerned citizens. Logically, these circumstances need to be viewed adversely against the Project Proponent.

8. The undersigned looks forward to hearing from you at an early date.

Yours faithfully,

(Prataplal Teli)

FROM:
Pratap Lal Teli
Chawl No. 10, Room No. 203,
Punjabi Colony, GTB Nagar,
Sion Koliwada, Mumbai – 400037

TEL: (9869818906)

COPY SUBMITTED TO: The Member-Secretary, Maharashtra Coastal Zone Management Authority under the provisions of Para II. of the MCZMA Notification of 6th March, 2012 for urgent statutory action and to issue immediate 'Stop Work Order'.

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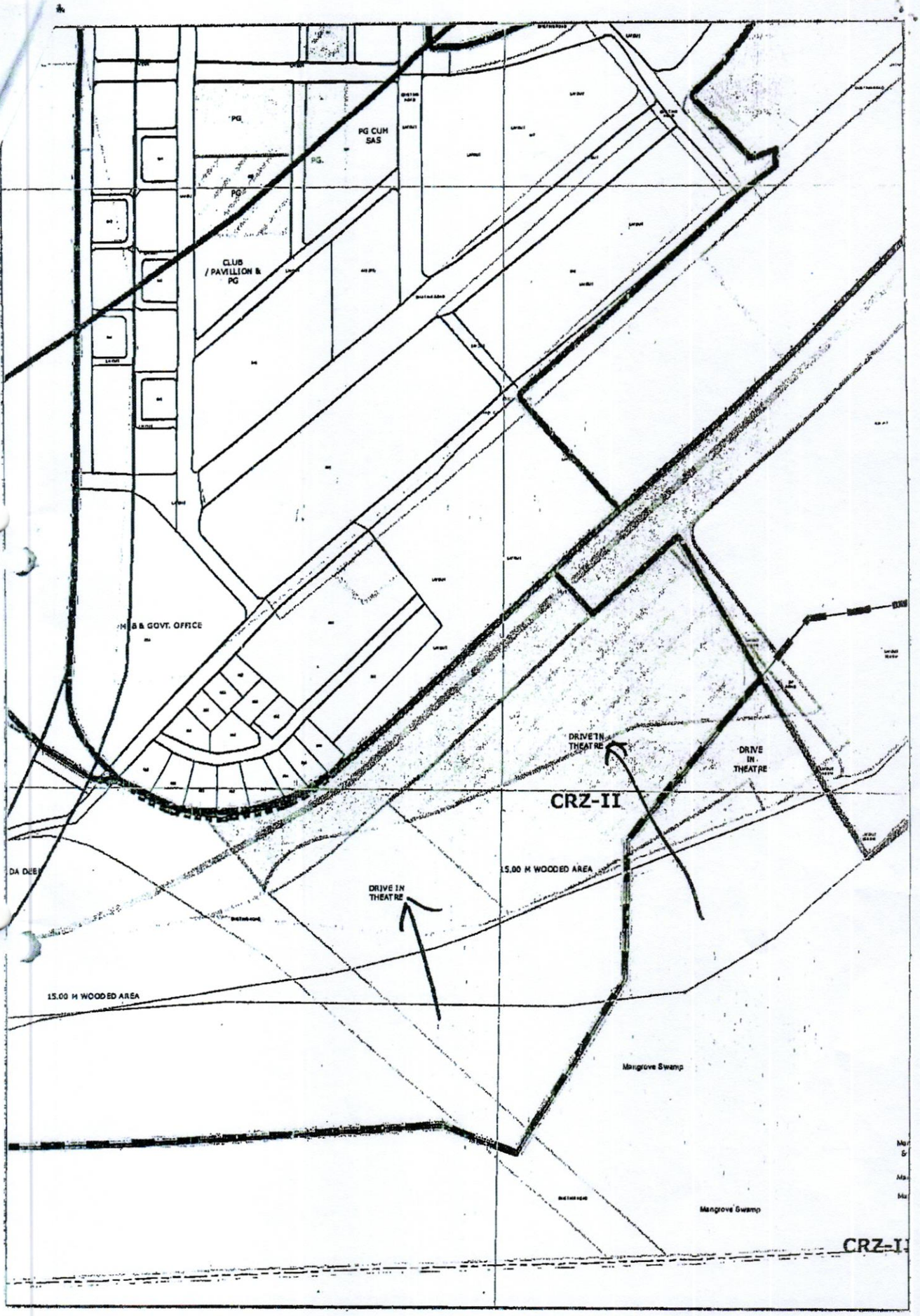
Bandra East
Dr Babasaheb Ambedkar Udyan
Gandhi Nagar
MIG Colony MIG
E Block BKC
Baba Saheb Ambedkar Chawl
I Block BKC
Dharavi Village
Sneshwad
Habib Nagar
Bhatiya Nagar

21


PG
PG CUM SAS
CLUB / PAVILLION & PG
H & GOVT. OFFICE
DRIVE IN THEATRE
DRIVE IN THEATRE
CRZ-II
15.00 M WOODED AREA
DRIVE IN THEATRE
15.00 M WOODED AREA
Mangrove Swamp
Mangrove Swamp
CRZ-I

Complaint 2016/CR 43/TC 4

To,

Chief Executive
MMRDA, Bandra-Kurla
Complex - C-14 and 15, E-Block
Bandra (E) Mumbai - 400051

भारत सरकार सेवार्थ

श्री
आवक लिपिक
पर्यावरण विभाग
मंत्रालय, मुंबई-32.

Exhibit - C

ORDER BELOW EXH.1 IN C.C. No.182/SW/2017

Heard the complainant at length. Perused the documents made available on record. The complainant has issued notice as per section 19 of the Environment Protection Act. On perusal of the same, it prima facie appears that, the ingredients of the section 15 of the Environment Protection Act are attracted herein against accused No.1 to 3 and 6. However, it will not be proper to issue notice against accused No.4 and 5 in view of section 18 of the Act and for want of sanction to prosecute which will be necessary in the case. The complainant has made out the case for issuance of process against accused No.1 to 3 and 6. Hence, issue process against them u/ scc. 15 of the Environment Protection Act.

METROPOLITAN MAGISTRATE BANDRA, MUMBAI

Place : Mumbai.
Date :06.06.2019

Metropolitan Magistrate
71st Court, Bandra, Mumbai.

TRUE COPY
21/12/19
Judicial Clerk
71st Court, Bandra, Mumbai.

Exhibit - D

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

IN ITS CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1386 OF 2020

DISTRICT: MUMBAI

Dr. Ranbir Appar Maker & Ors. .....Petitioners

Versus

State of Maharashtra & Anr. .....Respondents

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I

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
IN ITS CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 1386 OF 2020

DISTRICT: MUMBAI

Dr. Ranbir Appar Maker & Ors. ...Petitioners

Versus

State of Maharashtra & Anr .....Respondents

SYNOPSIS

[This Writ Petition is filed under section 482 of the Criminal Procedure Code, 1973 ("**CrPC**"), for quashing the Ld. Magistrate's Order dated 6th June, 2019 whereby the Ld. Magistrate has, pursuant to the Criminal Complaint numbered as C.C. No.182 / SW / 2017 ("**Criminal Complaint**"), issued process against the Petitioners for alleged violation of Section 15 of the Environment Protection Act, 1986.

LIST OF DATES AND EVENTS

Sr. No.	Date	Particulars
1.	From 1977 upto 2003	Petitioner No.4 had developed, and was operating the erstwhile Drive-in Theatre with amenities on the land bearing CTS Nos 341(Pt.) of village Bandra (East) and CTS No. 4(Pt.) of village Parighkar.
2.	Since 2003	Petitioner No. 4 is re-developing the said Drive-in theatre by developing an integrated composite project comprising of a reduced capacity drive-in theatre, office buildings and a hospitality component ("**said Project**").

3.		The said Project is being developed after obtaining all requisite permissions from the concerned authorities including Coastal Regulation Zone ("**CRZ**") clearance, under the Coastal Regulation Zone Notifications, 1991 issued under the Environment Protection Act.
4.	27.07.2016	Respondent No.2 ("**Complainant**") filed a complaint with the Mumbai Metropolitan Region Development Authority ("**MMRDA**"), *inter alia*, alleging contravention of the provisions of the Environment Protection Act, 1986, including construction within the 50 m mangrove buffer zone.
5.		The Complainant submitted a copy of this complaint to the Member-Secretary, Maharashtra Coastal Zone Management Authority ("**MCZMA**"), under the provisions of Para II of MCZMA Notification of 6th March 2012 "*for urgent statutory action and to issue immediate Stop Work Order*".
6.	On or about 25.07.2016	Around the same time, one Mr. Santosh Daundkar also filed a complaint with the MCZMA ("**MCZMA Complaint**") alleging contravention of the provisions of the Environment Protection Act including construction within the 50 m mangrove buffer zone.
7.	28th to 30th June 2017	The MCZMA Complaint was taken up for consideration by MCZMA at the 119th Meeting of the MCZMA, when it was decided to seek certain

III

		information from Petitioner No.4, and to direct MMRDA to stop the work till the time the matter is decided on the basis of the information to be so submitted. The Minutes of the 119th Meeting of the MCZMA were published on the website of MCZMA.
8.	On or about 10.07.2017	Even whilst the MCZMA Complaint was pending consideration before the MCZMA, the Complainant filed a complaint with the BKC Police Station under Sec. 39 of the Criminal Procedure Code ('**Cr.P.C**") against Petitioner No.4, Petitioner No.1 (as its then Managing Director), Petitioner Nos.2 and 3 as directors of Petitioner No.4 and against two officials of MMRDA, for alleged violation of the Environment Protection Act, 1986 ("**Environment Protection Act**") including construction within 50 m mangrove buffer zone and offences under Sec. 120-B read with Se. 409 of the Indian Penal Code ("**IPC**"), and for recording an FIR u/s 154 of the Cr.P.C.
9.	On or about 24.07.2017	Without awaiting the outcome of his Complaint dated 10th July 2017, the Complainant issued a Notice under section 154(3) of the Cr.P.C. to the Dy. Commissioner of Police (Zone-VIII), BKC, calling upon him to register an FIR based on the Complaint dated 10.07.2017 and to investigate the matter expeditiously under the provisions of Chapter XII of the Cr.P.C.

IV

10.	On or about 10.08.2017	Without awaiting the outcome of his complaint before the BKC Police Station and that of his notice under section 154(3) of the Cr. P.C, to the Dy. Commissioner of Police, (Zone-VIII), BKC, the Complainant filed a criminal complaint in the Court of the Metropolitan Magistrate, Bandra, being Criminal Case No. 182 / SW / 2017 (the **"Criminal Complaint"**).
11.		Pertinently, the very allegations made by the Complainant in the Criminal Complaint also formed part of the MCZMA Complaint and Complainant's own complaint to the MCZMA dated 27.07.2016.
12.		The Complainant, in the Criminal Complaint, prayed for an order under Sec.156 (3) of the Cr.P.C to the Bandra Kurla Complex Police Station to register a FIR against the Petitioners and the two MMRDA officials under Sec.154 of the Cr.P.C for alleged offences Sec. 120-B read with Sec. 409 of the IPC and Sec.15 of the Environment Protection Act.
13.		The Complainant's allegations in the Criminal Complaint was based on an alleged conspiracy with certain officials of the MMRDA, allegedly obtaining of permissions illegally to construct a 'large building' within "50 meters of the notified mangrove area" of the Mithi river in BKC Area of Mumbai.

V

14.	06.09.2017	Pursuant to the 119th Meeting of the MCZMA, a hearing was conducted under the chairmanship of the Additional Chief Secretary (**"ACS"**), Environment & Chairman, MCZMA, wherein Petitioner No.4 (as the project proponent), MMRDA and Santosh Daundkar were heard by the ACS, and MMRDA and Santosh Daundkar were directed to file their written submissions in the matter.
15.	07.09.2017	The MMRDA, by its letter addressed to the ACS, provided the information/clarifications that were required by the MCZMA at the said 119th meeting. The said Santosh Daundkar however did not file any written submissions.
16.	15th and 16th September 2017	Thereafter, the MCZMA, in its 121st Meeting, deliberated the matter, cleared the said Project and decided to withdraw the stop work notice.
17.		In its 121st Meeting, the MCZMA, *inter alia*, noted MMRDA's submissions that the said Project is ongoing, construction in CRZ area is in accordance with the CRZ approval granted by the UDD, GoM in the year 1991, and that there are no significant changes in the proposed plans in CRZ area and plans remained same as approved in the year 2001, and that in fact, the construction area is reduced in the CRZ area and there is no increase in FSI and that no mangroves were present on the Project site.

18.	30.10.2017	The MCZMA, at its 122nd Meeting, confirmed the Minutes of the 121st Meeting with requisite corrections.
19.		Whilst the proceedings before the Ld. Metropolitan Magistrate were ongoing, the BKC Police Station, acting upon the complaint filed by the Complainant with them, called upon Petitioner No. 3 to appear in person and to record his statement on the said police complaint.
20.	13.10.2017	Petitioner No. 3 accordingly attended the BKC Police Station and his statement was recorded by the concerned Police Inspector, when Petitioner No. 3 also submitted the requisite documents, as recorded in his statement, including the orders passed by this Hon'ble Court dated 29.07.2015 and 3.09.2015 (in the same PIL No.87 of 2006 in which the said interim order dated 06.10.2005 had been passed) which modified the said Interim Order.
21.	07.12.2017	The Ld. Magistrate, after hearing arguments in support of the Criminal Complaint, rejected the prayer for directing an investigation under Section 156 (3) of the Cr.P.C. *vide* a detailed Order dated 07.12.2017.
22.		The said Order dated 07.12.2017, *inter alia*, proceeded on the ground that the alleged offences mainly relate to Section 15 of the Environment Protection Act, and as per Section 19 thereof, the Court can take cognizance of any

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		offence under that Act only upon a private complaint, and cannot do so based on a police report.
23.		By the said Order dated 07.12.2017, the Ld. Magistrate however granted liberty to the Complainant to adduce evidence under Section 200 of the Cr.P.C.
24.	11.01.2018	The MCZMA, by its letter addressed to MMRDA, recorded that the MCZMA, after considering MMRDA's response, the information furnished by MMRDA and Petitioner No.4, and the opinion received from the Law and Judiciary Department, and after deliberations in the 121st meeting held on 15th & 16th September 2017, decided to withdraw the stop work order dated 11.8.2017 subject to compliance of the terms and conditions specified therein.
25.		Copies of the aforesaid letter dated 11th January 2018 addressed to the Metropolitan Commissioner, MMRDA were marked by the MCZMA, amongst others, to the Complainant, Santosh Daundkar, and Petitioner No. 4.
26.	20.01.2018	Despite the absence of any averments or prayer in the Criminal Complaint for issuing process against the accused persons (Petitioner Nos.1 to 4 are arraigned as Accused Nos.1,2,3 and 6 respectively), the Ld. Magistrate proceeded to

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		record the verification statement of the Complainant.
27.		In his verification statement, the Complainant suppressed the aforesaid complaint to the MCZMA, the proceedings before the MCZMA and the outcome thereof. It may be noted that the verification statement of the Respondent No.2 recorded by the Ld. Magistrate on oath does not disclose even a *prima facie* case against the Petitioners and in fact demonstrates clear non-application of mind by the Ld. Magistrate.
28.	16.02.2018	By its letter, MMRDA clarified that in view of the stipulated conditions contained in MCZMA's aforesaid letter dated 11.01.2018 having been already complied with, there was no need to take any action on the redevelopment of the Drive-in-Theatre on the site under reference.
29.	09.07.2018	Complainant made an application to the Ld. Metropolitan Magistrate praying that his written pleadings be adopted as his arguments. At this stage too, the Complainant suppressed the aforesaid complaint to the MCZMA and the outcome thereof.
30.	06.06.2019	The Ld. Metropolitan Magistrate issued process against Petitioner Nos. 1 to 4 vide its Order dated 06.06.2019 while, *inter alia*, observing that the Complainant had issued notice as contemplated under Section 19 of the Environment Protection

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		Act, and a prima *facie* case was made out that Section 15 of the Environment Protection Act is attracted against the present Petitioners.
31.		Despite several opportunities, the Complainant suppressed from the Ld. Metropolitan Magistrate, Bandra, several material facts, including that the Complainant had filed a complaint to the MCZMA alleging, *inter alia*, the very same violation as that made in the Criminal Complaint, etc.
32.		In doing so, the Complainant knowingly and deliberately, suppressed the aforesaid material facts, with the intent of procuring an adverse order against Petitioners 1 to 4, taking advantage of the fact that the Petitioners could not have had the opportunity to be heard at that stage.

Points to be urged

1. The Ld. Magistrate could not in law have taken cognizance of the Criminal Complaint as that was barred by Section 19 of the Environment Protection Act. Since the Complainant fell under Section 19(b), he was **statutorily** required to give a prior **notice of not less than 60 (sixty) days**, of the alleged offence and of the Complainant's intention to make a complaint, to the Central Government or the authorities concerned. Section 19 was not complied with. The cognizance by the Ld. Magistrate was therefore bad in law.

2. Pursuant to complaints filed by the Complainant and one Santosh Daundkar in July 2017 with the MCZMA, the statutory authority

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constituted by the MoEF (Central Government) under section 3(1) and (3) of the Environment Protection Act, 1986, the MCZMA took up the complaint for consideration at its 119th Meeting in June 2017, sought clarifications from MMRDA and Petitioner No.4, granted a hearing to the said Santosh Daundkar and Petitioner No. 4 before the Additional Chief Secretary Environment & Chairman, MCZMA, held a hearing and heard the said Santosh Daundkar and Petitioner No. 4, sought written submissions from the MMRDA and Santosh Daundkar (Santosh Daundkar did not file any written submissions) and thereafter granted its clearance at its 121st Meeting held on 15th & 16th September 2017. The MCZMA being the Competent Authority found no violation of the CRZ Notification 2011 nor of this Hon'ble Court's order dated 6th October, 2005 nor consequently of the Environment Protection Act. It is submitted that once the Competent Authority having so determined the matter, (the very purpose of a notice under Section 19(b)) and concluded that there is no violation, it is no longer open in law to nevertheless file a complaint and for a Court to take cognizance of an alleged offence under the Environment Protection Act. Indeed, a court would lack the jurisdiction to do so. If section 19 is not so interpreted it would render the provisions of section 19(a) and (b) otiose.

3. The Complainant, despite several opportunities, including at the time of submitting his verification statement, suppressed the aforesaid complaint to the MCZMA, the proceedings before the MCZMA and the clearance granted to the Project by the MCZMA. It is therefore clear the said order for issuance of process has been obtained by suppression of material information and documents

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that would have debunked the Complainant's case and the Complainant has, by suppressing this material information and documents, fraudulently obtained the said Order. It is settled law that an order that has been obtained by fraud on a Court or authority is a complete nullity and ought to be set aside at the very threshold on that very ground alone.

4. That the verification statement on oath recorded by the Ld. Metropolitan Magistrate does not disclose any offence against the Petitioners as alleged. A Magistrate is required to examine the nature of the allegations made in the complaint and the evidence both oral and documentary to see if it is sufficient for the complainant to succeed in bringing charge home to the accused. In other words, the examination of the complainant on oath is for the purpose of ascertaining whether a prima facie case is made out against the accused to issue process so that the issue of process is prevented on a complaint which is either false or vexatious or intended only to harass. Applying the aforesaid principles of law to the verification statement in the present case, it is evident that it suffers from a lack of application of judicial mind and hence is bad in law.

5. The Ld. Magistrate has committed a patent error in holding that the requirement under Section 19 of the Environment Protection Act has been fulfilled by the Complainant. Such an observation clearly demonstrates the non-application of mind and mechanical approach adopted by the Ld. Magistrate.

6. The Ld. Magistrate has mechanically stated that *prima face*, the ingredients of Section 15 of the Act are attracted against the

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Petitioners and therefore, process should be issued against them. However, there are no reasons accorded to this finding and the passing of such a non-reasoned order has caused severe prejudice to the Petitioners.

7. The Impugned Order dated 6th September 2019, passed by the Ld. Magistrate issuing process against the Petitioners is without jurisdiction, without authority of law, bad in law, contrary to the provisions of the Environment Protection Act, ultra vires and null and void, and is liable to be quashed and set aside.

Acts applicable

1. Environment Protection Act, 1986;
2. Indian Penal Code, 1860;
3. Criminal Procedure Code, 1973; and
4. Any other Act.

Authorities relied upon

To be tendered directly if any

Place: Mumbai
Date: 11th March 2020

Mahernosh Humrahwala
Advocate for the Petitioners

Amended on 16th day of March, 2020
Pursuant to the order dated 13/03/2020
passed by the Hon'ble smt. Justice Sadhana Jadhav

NOTARY
Name: Bidhu Pandey
Area : Wardala (E)
Maharashtra
Regn. No. 10324
Expires on
24.10.2023
GOVT. OF INDIA

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

IN ITS CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 1387 OF 2020

DISTRICT: MUMBAI

In the matter of Article 227 of the Constitution of India;

And

In the matter of Section 482 of the Code of Criminal Procedure, 1973;

And

In the matter of quashing and setting aside of the order issuing process

dated 06/06/2019 under Section 15 of the Environment Protection Act, 1986 in Criminal Case No. 182 / SW / 2017 by the Ld. Metropolitan Magistrate, 71st Court at Bandra, Mumbai.

1. Dr. Ranbir Appar Maker, aged about 80 years, Indian inhabitant, Chairman Emeritus of The Indian Film Combine Private Limited, having registered office at Maker Tower, 'F', 1st floor, 85, Cuffe Parade, Mumbai 400 005

2. Manish Ranbir Maker, aged about 45 years, Indian Inhabitant, Director of The Indian Film Combine Private Limited, having registered office at Maker Tower, 'F', 1st floor, 85, Cuffe Parade, Mumbai 400 005

3. Puneet Rajkumar Gupta, aged about 48 years, Indian Inhabitant, Director

of The Indian Film)
Combine Private Limited,)
having registered office at)
Maker Tower, 'F', 1st floor,)
85, Cuffe Parade, Mumbai)
400 005)

4. The Indian Film Combine)
Private Limited, a private)
limited company)
incorporated under the)
Indian Companies Act,)
1913 having its registered)
office at Maker Tower, 'F',)
1st floor, 85, Cuffe Parade,)
Mumbai 400 005) ...Petitioners

Versus

1. State of Maharashtra at)
the instance of Bandra)
Kurla Complex Police)
Station, through the Public)
Prosecutor, High Court,)
Bombay)

2. Pratap Lal Teli)
Chawl No. 10, Room)
No.203 Punjabi Colony,)
GTB Nagar, Sion)

Koliwada, Mumbai 400)

037) ..... Respondents

TO
THE HON'BLE CHIEF JUSTICE AND OTHER
PUISNE JUDGES OF THIS HON'BLE COURT

THE HUMBLE PETITION OF THE PETITIONERS ABOVENAMED

MOST RESPECTFULLY SHEWETH:

1. **Parties**

1.1. Petitioner Nos.1 to 4 are arraigned as Accused Nos.1,2,3 and 6 respectively, in a criminal complaint dated 10/08/2017 filed by one Pratap Lal Teli (**"Complainant"**) under Section 156(3) of the Code of Criminal Procedure, 1973 (**"Cr.P.C"**) which has been numbered as C.C. No.182 / SW / 2017 (hereinafter referred to as the **"Criminal Complaint"**) filed before the Ld. Metropolitan Magistrate's 71st Court at Bandra, Mumbai (**"Ld. Magistrate"**).

1.2. Petitioner No.1 is the Chairman Emeritus of Petitioner No. 4 which is a company under the Companies Act, 1913. Petitioner Nos. 2 and 3 are Directors of Petitioner No.4.

1.3. Respondent No. 1 is the State of Maharashtra. Respondent No.2 is the complainant in the Criminal Complaint No.182/SW/2017 filed in the Court of the Ld. Metropolitan Magistrate, 71st Court at Bandra, Mumbai.

1.4. The challenge in this Writ Petition is to an order of the Ld. Magistrate dated 06/06/2019 (**"the Impugned Order"**) whereby the Ld. Magistrate has, pursuant to the Criminal Complaint, issued process against the Petitioners for

alleged violation of Section 15 of the Environment Protection Act, 1986 (the "**Environment Protection Act**").

2. **Complaint**

2.1. Petitioner No.4 had developed, and was operating the erstwhile Drive-in Theatre with amenities on the land bearing CTS Nos 341(Pt.) of village Bandra (east) and CTS No. 4(Pt.) of village Parighkar (the "**said Land**"), which theatre was operational from 1977 upto 2003. Petitioner No. 4, since 2003, is re-developing the said drive-in theatre by developing an integrated composite project comprising of a reduced capacity drive-in theatre, office buildings and a hospitality component inter alia comprising a hotel, and a hotel shopping building (the "**said Project**") after having obtained all requisite permissions from the various authorities concerned including Coastal Regulation Zone ("**CRZ**") clearance, under the Coastal Regulation Zone Notifications, 1991 issued under the Environment Protection Act.

2.2. The Complainant filed the present Criminal Complaint before the Ld. Magistrate praying for an order under Section 156 (3) of the Cr.P.C to the Bandra Kurla Complex Police Station to register a First Information Report under Section 120-B read with Section 409 of the Indian Penal Code, 1860 ("**IPC**"), and Section 15 of the Environment Protection Act. The Registry has issued process in the Complaint and sent to Petitioner No.4 together with a copy of the Criminal Complaint through Police Station Bandra. A copy of the said process together with Criminal

Complaint along with all annexures is annexed hereto and marked "**Exhibit-A**".

2.3. The case of the Complainant alleging offences under section 120-B read with section 409 of the IPC and section 15 of the Environment Protection Act, as borne out from the Criminal Complaint, included the following:

2.3.1 That the present Petitioners, allegedly in conspiracy with certain officials of the Mumbai Metropolitan Region Development Authority ("**MMRDA**"), illegally obtained permissions to construct a 'large building' within "50 meters of the notified mangrove area" of the Mithi river in the Bandra Kurla Complex Area of Mumbai;

2.3.2 That this was in violation of the Coastal Regulation Zone Notification 2011 read with the Coastal Zone Management Plan of 1996 and the order dated 6th October, 2005 of this Hon'ble Court in PIL 87 of 2006, and hence a violation of Section 15 of the Environment Protection Act, 1986.

2.3.3 That despite addressing complaints to the police praying for an investigation in the alleged offences, there was no action taken by the police, which prompted the Complainant to lodge the present Criminal Complaint under Section 156 (3) of the Cr.P.C, praying that the Ld. Magistrate order an investigation by the police.

3. **Rejection of Prayer for Investigation under Sec.156(3)**

3.1. The Ld. Magistrate, after hearing arguments in support of the Criminal Complaint, was pleased to reject the prayer for directing an investigation under Section 156 (3) of the Cr.P.C. *vide* a detailed order dated 07/12/2017, inter alia on the ground that the alleged offences mainly relate to Section 15 of the Environment Protection Act, and as per Section 19 of the Environment Protection Act, the court can take cognizance of any offence under this Act, only upon a private complaint, and cannot do so based on a police report.

3.2. By the said order, the Ld. Magistrate however granted liberty to the Complainant to adduce evidence under Section 200 of the Cr.P.C.

A copy of the said Order dated 07/12/2017 passed by the Ld. Magistrate rejecting the Complainant's prayer under Section 156 (3) of the Cr.P.C is annexed hereto and marked "**Exhibit-B".**

4. **Issuance of Process**

4.1. Despite the absence of any averments or prayer in the Criminal Complaint for issuing process against the Accused persons, the Ld. Magistrate proceeded to record the verification statement of the Complainant on 20/01/2018. A copy of the said verification statement is annexed hereto and marked "**Exhibit-C"**.

4.2. It is pertinent to note that the verification statement of the Respondent No.2 recorded by the Ld. Magistrate on oath as envisaged by S.200 of the Code of Criminal Procedure

does not disclose even a prima facie case against the Petitioners and in fact demonstrates a clear non application of mind by the Ld. Magistrate.

4.3. Thereafter, the Ld. Magistrate issued process against the present Petitioners under Section 15 of the Environment Protection Act *vide* an order dated 06/06/2019 ("**Impugned Order**"), *inter alia* observing that:

4.3.1. The Complainant had issued notice as contemplated under Section 19 of the Environment Protection Act;

4.3.2. That it would not be proper to issue notice against accused Nos. 4 and 5, who are officers of MMRDA, in view of Section 18 of the Environment Protection Act and for want of sanction to prosecute, which would be necessary in this case.;

4.3.3. A prima facie case was made out that Section 15 of the Environment Protection Act is attracted against the present Petitioners and that the Complainant had made out a case for issuance of process against the present Petitioners.

A copy of the Impugned Order dated 06/06/2019 is annexed hereto and marked "**Exhibit-D**".

4.4 Please see Rider "A"

Rider "A"

4.4. "The above Criminal Complaint came up before the Ld. Metropolitan Magistrate on 26th November, 2019, when an application for exemption of Petitioner No.1 from personal appearance for the day was made on his behalf, which application was granted vide Order dated 26th November, 2019 subject to Petitioner No.1 furnishing bail at the next hearing, i.e. on 17th March, 2020. Hereto annexed and marked **Exhibit "D-1"** is a true copy of the Application for exemption of Petitioner No.1 from personal appearance together with the handwritten Order dated 26th November, 2019 endorsed thereon, issued by the Judicial Clerk of the 71st Court, Bandra. A typed version of the said order dated 26th November, 2019, is hereto annexed and marked **Exhibit "D-2"**.

5. **Brief Statement of Relevant Facts**

It is necessary to briefly set out certain facts that are pertinent to demonstrate the hollowness of the Complainant's case. The indubitable and documented facts are as follows:

5.1. Complaint filed with MCZMA

5.1.1. The Complainant had filed a complaint dated 27th July 2016 (**"Complaint"**) to the Mumbai Metropolitan Region Development Authority (**"MMRDA"**), the special planning authority in respect of the Bandra Kurla Complex in which the said Land is located, inter alia alleging contravention of the provisions of the Environment Protection Act, including construction within the 50 meter mangrove buffer zone. The Complaint included the following allegations:

> *"2.4(f)* ***Construction being done in the Mangrove Buffer Zone:***
> *THAT since there were large areas of mangroves abutting the plot, hence, a part of the land was in the Mangrove Buffer Zone of 50 metres. As per the Coastal Zone Management Plan and also the Mangroves Order of the Hon'ble High Court, no activity, including construction of the roads and boundary wall was permitted in the Mangrove Buffer Zone. Notwithstanding the same, such construction has been done."*

> *"3.7* ***SEVENTH: Construction being done on the Mangrove Buffer Zone:***
> *It is clearly apparent from the historical imagery of the Google Earth Satellite Photographs and also from the current Google Earth Satellite Photograph, that the construction is being done within the 50 m Mangrove Buffer Zone.*
>
> *In this reference, the undersigned would bring to your notice the provisions of Coastal Zone*

Management Plan of 27th September, 1996, where it was stipulated that "all mangroves with an area of 1000 square metres or more would be classified as CRZ-I with a buffer zone of at least 50 metres." This position was reiterated by the Hon'ble High Court in relation to the order it gave on mangroves, where the following it was stipulated that "Regardless of ownership of the land, all construction taking place within 50 metres on all sides of all mangroves shall be forthwith stopped."

It is indeed regretted to note that construction and building of internal roads is being done in the Mangrove Buffer Zone in open defiance to the law and the orders of the Hon'ble High Court, and yet the Mumbai Metropolitan Region Development Authority is not taking the requisite action.

3.8 ***EIGTH: Mangroves have been destroyed during the course of construction:***
It is seen from the historical imagery of the Google Earth Satellite Photographs, that there was a large patch of the mangroves on the southern side of the drive-in theatre plot and that it was a swamp where saline water could be seen. However, much of such mangroves have now been destroyed and that they cease to exist and also that the flow of saline water into the swamp has been plugged.

For such reasons, it would be in the fitness of things to get the mangroves replanted so that the pristine position could be restored and that the ingress of sea water be re-established. Once this is done, then it would be necessary to apply the 50 m Mangrove Buffer Zone and that all construction including construction of roads, be removed and that the said Buffer Zone would become clear of any human intervention, akin to its undisturbed state."

5.1.2. The Complainant specifically submitted a copy of this complaint to the Member-Secretary, Maharashtra Coastal Zone Management Authority ("**MCZMA**"), under the provisions of Para II of MCZMA Notification of 6th March 2012 "*for urgent statutory action and to issue immediate Stop Work Order*". It may be noted that the MCZMA is a

statutory body constituted by notifications issued from time to time by the Government of India in the Ministry of Environment and Forests under the Environment Protection Act, 1986, as an expert body specifically tasked and mandated to enquire into and review cases of alleged violations of provisions of the Environment Protection Act, the Rules made thereunder and the CRZ Notifications, and to file complaints under section 19 of the Environment Protection Act. Hereto annexed and marked **"Exhibit - E"** is a copy of the complaint dated 27th July 2016 submitted by the Complainant to the MCZMA. Hereto annexed and marked **"Exhibit - F"** is a copy of the Notification dated 13th April 2015 constituting the MCZMA and conferring authority upon it, which notification was in force at the relevant time.

5.1.3. Around the same time that the Complainant filed his complaint with the MCZMA, on or about 25th July 2016, one Mr. Santosh Daundkar had also filed a complaint with the MCZMA (the **"MCZMA Complaint"**) alleging contravention of the provisions of the Environment Protection Act including construction within the 50 meter mangrove buffer zone.

5.1.4. The aforesaid MCZMA Complaint was taken up for consideration by the MCZMA at the 119th Meeting of the MCZMA held on 28th to 30th June 2017, and the

minutes thereof were duly published on the website of MCZMA. At the said 119th Meeting of the MCZMA, after deliberation, the MCZMA decided to seek certain information from Petitioner No.4, and decided to direct MMRDA to stop the work till the time the matter is decided on the basis of the information to be submitted to the MCZMA. Hereto annexed and marked "**Exhibit – G**" is a copy of the Minutes of the aforesaid 119th Meeting of the MCZMA.

5.1.5. Pursuant to the 119th Meeting of the MCZMA, a hearing was conducted on 6th September 2017, under the chairmanship of the Additional Chief Secretary (**"ACS"**), Environment & Chairman, MCZMA, wherein Petitioner No. 4 (as the project proponent), MMRDA and the aforesaid Santosh Daundkar were called upon to present their say. The said Santosh Daundkar, Petitioner No.4 and MMRDA were heard by the ACS, Environment & Chairman, MCZMA, at the said hearing, and the said Santosh Daundkar and MMRDA were directed to submit their written submissions in the matter.

5.1.6. The MMRDA, by its letter dated 7th September 2017 addressed to the ACS, Environment & Chairman, MCZMA, provided the information/clarifications that were required by the MCZMA at the said 119th meeting. The said Santosh Daundkar however did not file any written submissions.

5.1.7. Thereafter, the MCZMA, in its 121st Meeting held on 15th and 16th September 2017, deliberated the matter, cleared the Project and decided to withdraw the stop work notice. The MCZMA noted the following submissions on behalf of the MMRDA. viz.

> *"The MMRDA official and PP submitted that the project is ongoing and construction in CRZ area is in accordance with the CRZ approval granted by the UDD, GoM in the year 1991. It was further presented that there are no significant changes in the proposed plans in CRZ area and plans remained same as approved in the year 2001. In fact, the construction area is reduced in the CRZ area and there is no increase in FSI. The MMRDA officials further submitted that the mangroves are not present on the plot under reference, however, at present, the plot boundary may be situated between 50 m. mangroves buffer zone, which is subject to verification as it is dynamic matter. ...".*

The MCZMA held as follows:

> *"Considering the above, including opinion of Law and Judiciary Department, and information furnished by the MMRDA and PP, the Authority after deliberation decided to withdraw the stop work order dated 11.8.2017 of the MCZMA subject to compliance of following:*
>
> 1. *MMRDA to ensure that it was ongoing project as mentioned in its reply and approved on 5.12.2001 to which commencement certificate was issued in the year 2003.*
> 2. *MMRDA to ensure that there are no subsequent changes in the original approved plans for the project undertaken in CRZ area.*
> 3. *MMRDA to ensure that ongoing work is as per the provisions of the CRZ Notification and beyond mangroves buffer zone as applicable.*
> 4. *As per the opinion of the Law and Judiciary department, the MMRDA and PP to ensure that no condition of the clearances including CRZ NoC is violated. And, no construction should be undertaken in mangroves or its mangroves 50 buffer zone.*
> 5. *In the event, conditions No.1 to 4 as above, are not complied with, the MMRDA shall stop*

the work and report the violation of the CRZ Notification to the Authority at the earliest".

Hereto annexed and marked **Exhibit "H"** is a copy of the Minutes of the 121st Meeting of the MCZMA. These Minutes were duly published on the MCZMA website.

5.1.8. The MCZMA, at its 122nd Meeting held on 30th October, 2017, confirmed the Minutes of the 121st Meeting with requisite corrections. Conditions 2, 3, 4 of the order of the 121st Meeting were corrected to read as follows:

"2. *MMRDA to ensure that there are no significant subsequent changes in the original approved plans for the project undertaken in CRZ area.*
3. *MMRDA to ensure that ongoing work is as per the provisions of the CRZ Notification and beyond mangroves buffer zone as applicable, as per approved CZMP of 2000.*
4. *As per the opinion of the Law and Judiciary department, the MMRDA and PP to ensure that no condition of the clearances including CRZ NoC is violated. And, no construction should be undertaken in mangroves or its mangroves 50 buffer zone, as per approved CZMP of 2000."*

Hereto annexed and marked "**Exhibit- I**" is a copy of the Minutes of the 122nd Meeting, which was also duly published on the website of MCZMA.

5.1.9. The MCZMA, by its letter dated 11th January 2018 addressed to the Metropolitan Commissioner, MMRDA recorded that the MCZMA, after taking into account MMRDA's response, the requisite information furnished by MMRDA and Petitioner No.4, and the opinion received from the Law and

Judiciary Department, and after deliberations in the 121st meeting held on 15th & 16th September 2017, decided to withdraw the stop work order dated 11.8.2017 subject to compliance of the terms and conditions set out below:.

i. *MMRDA to ensure that it was ongoing project as mentioned in its reply and approved on 5.12.2001 to which commencement certificate was issued in the year 2003.*
ii. *MMRDA to ensure that there are no significant subsequent changes in the original approved plans for the project undertaken in CRZ area*
iii. *MMRDA to ensure that ongoing work is as per the provisions of the CRZ Notification and beyond mangroves buffer zone as applicable, as per approved CZMP of 2000.*
iv. *As per the opinion of the Law and Judiciary department, the MMRDA and PP to ensure that no condition of the clearances including CRZ NoC is violated. And, no construction should be undertaken in mangroves or its mangroves 50 m buffer zone, as per approved CZMP of 2000.*
v. *In the event, conditions No.1 to 4 as above, are not complied with, the MMRDA shall stop the work and report the violation of the Notification to the Authority at the earliest.*

Pertinently, copies of the said letter dated 11th January 2018 addressed to the Metropolitan Commissioner, MMRDA were marked by the MCZMA, amongst others, to the Complainant, the said Santosh Daundkar, and to Petitioner No.4. A copy of the aforesaid letter dated 11th January 2018 of the MCZMA is hereto annexed and marked "**Exhibit - J**".

5.1.10. In response to MCZMA's aforesaid letter dated 11th January, 2018, MMRDA, by its letter dated 16th February 2018, clarified that in view of the

stipulated conditions contained in MCZMA's aforesaid letter dated 11th January 2018, having been already complied with, there was no need to take any action on the redevelopment of the Drive-In-Theatre on the site under reference. A copy of the said letter dated 16th February 2018 addressed by MMRDA to the MCZMA is hereto annexed and marked "**Exhibit - K**".

5.1.11. It is pertinent to note that the allegations made by the Complainant in the Criminal Complaint also formed part of the Complaint dated 27th July 2016 filed by the Complainant, as also the complaint dated 25th July 2016 filed by the said Santosh Daundkar, before the MCZMA. Those very allegations were deliberated upon by MCZMA and clearance to the Project was granted. Pertinently, a copy of the letter dated 11th January 2018 of the MCZMA clearing the Project was marked to the Complainant well before the Impugned Order dated 6.6.2019 was passed by the Ld. Magistrate.

5.2. Complaint filed by the Complainant with BKC Police Station

5.2.1. Even whilst the MCZMA Complaint was pending consideration before the MCZMA, on or about 10th July 2017, the Complainant filed a complaint with the Bandra Kurla Complex Police Station ("BKC Police Station") against Petitioner No.4, Petitioner No.1 (as the then Managing Director of Petitioner No.4) and

Petitioner Nos.2 and 3 herein in their capacities as directors of Petitioner No.4 and against two officials of MMRDA, for alleged violation of the Environment Protection Act including construction within 50 m mangrove buffer zone. By the said complaint, the Complainant sought recording of the aforesaid 'information' by way of a First Information Report under section 154 of the Cr.P.C against Petitioners 1 to 4 and the said MMRDA officials. A copy of the Police Complaint is annexed at Ex. H to the Criminal Complaint.

5.2.2. Soon thereafter, without awaiting the outcome of his complaint dated 10th July 2017 to the BKC Police Station, on or about 24th July, 2017, the Complainant issued a Notice under section 154(3) of the CrPC to the Dy. Commissioner of Police (Zone-VIII), BKC, calling upon him to register an FIR based on the complaint dated 10th July 2017 and to investigate the matter expeditiously under the provisions of Chapter XII of the CrPC, a copy of which letter is annexed at Ex.I to the Criminal Complaint.

5.2.3. Further very soon thereafter, without awaiting the outcome of his complaint before the BKC Police Station and that of his notice under section 154(3) of the Cr. P.C, to the Dy. Commissioner of Police, (Zone-VIII), BKC, on or about 10th August 2017, the Complainant filed the said Criminal Complaint in the Court of the Metropolitan Magistrate, Bandra.

5.2.4. In the meanwhile, whilst the proceedings before the Ld. Metropolitan Magistrate were ongoing, the BKC Police Station, acting upon the complaint filed by the Complainant with the BKC Police Station, called upon Petitioner No. 3 in writing to appear in person and to record his statement on the said police complaint. Petitioner No. 3 accordingly attended the Bandra Kurla Complex police station on 13th October 2017 and the statement of Petitioner No. 3 was recorded by the concerned Police Inspector, BKC Police Station. Along with the recording of his statement, Petitioner No. 3 also submitted the requisite documents, as recorded in his statement, including the orders passed by this Hon'ble Court dated 29th July 2015 and 3rd September 2015 (in the same PIL No.87 of 2006 in which the said interim order dated 6th October, 2005 had been passed) which modified the said Interim Order. Hereto annexed and marked "**Exhibit - L**" is a copy of the statement made by Petitioner No. 3 before the BKC Police Station (along with a translation thereof in English) sans annexures.

5.2.5. The Criminal Complaint thereafter appeared on the board of the Ld. Metropolitan Magistrate, Bandra, from 22nd November 2017 onwards from time to time on several occasions, and finally, on 6th June 2019, the Ld. Metropolitan Magistrate passed the order for

issuance of process against the Petitioner Nos.1 to 4.

5.3. Suppression of MCZMA Proceedings

5.3.1. Despite several opportunities, over a protracted period of time, and more particularly, on 20th January 2018, at the time of recording of the verification under section 200 of CrPC, the Complainant suppressed from the Ld. Metropolitan Magistrate, Bandra, the following material facts:

a) that the Complainant had filed a complaint to the MCZMA alleging inter alia the very same violation, on the part of the Petitioners in respect of the said Project, as that made in the Criminal Complaint;

b) the hearings granted by MCZMA, the deliberations held at the 119th, 121st and 122nd Meetings of the MCZMA (Minutes of which were duly published on the website of MCZMA), the orders passed thereon by MCZMA clearing the Project and the communication dated 11th January 2018 conveying the same to MMRDA with a copy thereof marked to the said Mr. Santosh Daundkar and to the Complainant;

5.3.2. Even as late as 9th July 2018, when the Complainant made an application to the Ld. Metropolitan Magistrate praying that his written pleadings be

adopted as his arguments, the Complainant suppressed the aforesaid facts.

5.3.3. In doing so, the Complainant knowingly and deliberately, suppressed the aforesaid material facts, information and documents with the intent of procuring an adverse order against Petitioners 1 to 4, taking advantage of the fact that the Petitioners could not have had the opportunity to be heard at that stage.

GROUNDS

6. Aggrieved by the Impugned Order, the Petitioners beg to approach this Hon'ble Court invoking its inherent jurisdiction to quash and set aside the Impugned Order as without jurisdiction, without authority of law, bad in law, contrary to the provisions of the Environment Protection Act, ultra vires and null and void, on the following grounds, each of which is without prejudice to the other:

A. Non-Compliance with Statutory Notice

7. The Ld. Magistrate could not in law have taken cognizance of the Criminal Complaint as that was barred by Section 19 of the Environment Protection Act. Section 19 was not complied with. Section 19 is reproduced hereunder:

> "***Cognizance of offences***- *No Court shall take cognizance of any offence under this Act except on a complaint made by-*
> *(a) the Central Government or any authority or officer authorised in this behalf by that Government; or*
> *(b) any person who has given* ***notice of not less than sixty days****, in the manner prescribed, of the alleged offence and of*

his intention to make a complaint, to the Central Government or the authority or officer authorised as aforesaid." (emphasis supplied)

8. It is clear that the present Complaint was preferred by a private citizen who did not come under the definition of 'Central Government or any authority or officer authorized in the behalf by that Government' and therefore, the Complainant did not fall within the purview of Section 19 (a) of the Environment Protection Act. Since the Complainant fell under Section 19(b), he was **statutorily** required to give a prior **notice of not less than 60 (sixty) days**, of the alleged offence and of the Complainant's intention to make a complaint, to the Central Government or the authorities concerned.

9. As per the Complainant's own factual narration, he had served a notice under Section 19(b) of the Environment Protection Act on 24/07/2017. Although there is no date of receipt on the copies of the proof of posting of this notice furnished by the Complainant, even assuming without admitting, that the notice reached the MCZMA on the very same day of posting, viz. 24/07/2017, the Complainant ought to have waited for at least 60 (sixty) days, viz. till 22/09/2017 before filing the Criminal Complaint. Instead, he filed the Criminal Complaint on 10/08/2017 i.e. within less than 18 (eighteen) days of the notice. This action was clearly illegal as it falls foul of the statutory requirement under Section 19 of the Environment Protection Act. On this ground alone, the Ld. Magistrate ought to have dismissed the Criminal Complaint. It is humbly submitted that this infirmity goes to the root of the matter and cannot be cured. Therefore, the Ld. Magistrate erred while

ignoring this crucial aspect while passing the Impugned Order. A copy of the said notice dated 24/07/2017 is annexed hereto and marked "**Exhibit-M**". A copy of the case status information as available on the E-Courts website, evidencing the date of filing of the Criminal Complaint is annexed hereto and marked "**Exhibit-N**".

10. It is submitted that the only manner in law that the Magistrate could have taken cognizance in a matter such as the present, was by strict compliance with the provisions of section 19. Section 19 being a special statute provision, its provisions would operate in supersession of any inconsistent provisions in the Code of Criminal Procedure. The Ld. Magistrate was thus barred in law and had no jurisdiction to take cognizance of any complaint, except as provided by section 19, and the conditions of section 19 not having been satisfied, the purported cognizance is bad in law, without authority of law and liable to be quashed.

B. The Competent Authority (MCZMA) had cleared the Project and rejected the complaint of violation of the CRZ Notification 2011 and this Hon'ble Court's Order dated 6th October, 2005.

11. The Project had received CRZ clearance on 06/08/1999 and the development permission dated 5th December 2001 from the MMRDA, the Planning Authority. Thereafter the Complaints made by both Pratap Teli (the Complainant) and Santosh Daundkar were considered and concluded by the MCZMA by its order dated 15-16 September, 2017 in its 121st Meeting. This is apparent from the fact that the MCZMA marked copies of its letter dated 11th January 2018 (addressed to the MMRDA) to both, Pratap Teli and Santosh

Daundkar. The MCZMA order was passed within the 60 day period provided by Section 19(b) of the Environment Protection Act.

12. The MCZMA has been constituted as a statutory authority by the MoEF (Central Government) under section 3(1) and (3) of the Environment Protection Act, 1986 and thereafter reconstituted from time to time by notifications issued by the MoEF. The relevant notification that was in force at the time when the Complainant and the said Santosh Daundkar filed their complaints with the MCZMA was Notification No.S.O. 1054(E) dated 13th April, 2015, a copy whereof has been annexed at Ex. F hereto (the "**MCZMA Notification**"). Amongst the measures that the MCZMA is expressly empowered (and charged with a duty to take) is set out in para V of the MCZMA Notification, the relevant clauses whereof read as follows:

> *"V The Authority, for the purposes of protecting and improving the quality of the coastal environment and preventing, abating and controlling environment pollution in Coastal Regulation Zone areas in the State of Maharashtra, shall take the following measures, namely:*
>
> *(i)* ...
> *(ii)* ....
> *(iii)* ....
> *(iv)* ....
> *(v)* *The Authority shall-.*
>
> *(a) inquire into cases of alleged violations of the provisions of the said Act and the rules made thereunder or under any other law for the time being in force which is relatable to the objects of the said Act, and if found necessary in a specific case, issue such direction under section 5 of the said Act as are not inconsistent with any directions issued in that specific case by the National Coastal Zone Management Authority or by the Central Government;*
>
> *(b) hold review of cases involving violations of the provisions of the said Act and the rules made thereunder, or under any other law which is relatable to the objects of the said Act, and if found necessary, refer such cases, along with its comments, for*

review by the National Coastal Zone Management Authority or by the Central Government;

Provided that such inquiry or review of cases of violations may be taken up by the Authority suomoto, or on the basis of a complaint made by any individual, or representative body or organisation.

(vi) the Authority may file complaints, under section 19 of the said Act, against any person for non-compliance of directions issued by it;

(vii) the Authority shall take such action as may be required under section 10 of the said Act to verify the facts before it in any case."

13. The MCZMA, not having found any violations, did not issue any directions under the aforesaid MCZMA Notification and cleared the project. Where in discharge of its duties in law, the MCZMA had granted clearance to a project and not found any violation of the Environment Protection Act, no question of any offence thereunder would arise.

14. The MCZMA being the Competent Authority found no violation of the CRZ Notification 2011 nor of this Hon'ble Court's order dated 6th October, 2005 nor consequently of the Environment Protection Act. It is submitted that once the Competent Authority has so determined the matter (the very purpose of a notice under Section 19(b)) and concluded that there is no violation, it is no longer open in law to nevertheless file a complaint and for a Court to take cognizance of an alleged offence under the Environment Protection Act. Indeed, a court would lack the jurisdiction to do so. If section 19 is not so interpreted it would render the provisions of section 19(a) and (b) otiose. Section 19(b) is a remedy provided to a complainant where the Competent Authority fails to act in the case of an offence and not in respect of a case where the Competent Authority has, upon receiving the Complaint,

determined that there is no offence and that the project can proceed.

15. It is therefore submitted that once the MCZMA has not upheld the Complaint made to it, cleared the Project and has charged the MMRDA with the duty of ensuring compliance by Petitioner No.4 of the conditions of the clearance for the Project and to ensure that the provisions of the CRZ notification 2011 were not breached, no question can arise of an independent complaint being taken cognizance of.

16. In any event once the MCZMA had granted clearance for the project no question of any offence under the Environment Protection Act arose.

C. **Suppression of Material Facts and Documents**

Suppression of MCZMA Clearance

17. The Impugned Order has been obtained by the Complainant by suppression of:

a) The Complaint dated 27th July 2016 filed by the Complainant with the MCZMA, which is a statutory body mandated to review cases of alleged violations of the Environment Protection Act, the Rules made thereunder and the CRZ Notifications;

b) The Minutes of the 119th Meeting (28th 30th June 2017), 121st Meeting (15-16th September, 2017) and 122nd (30th October, 2017) Meetings of the MCZMA (Minutes of which were duly published on the website of MCZMA), at which meetings the very allegation made by the Complainant in

the Criminal Complaint was inquired into, deliberated upon and cleared by the MCZMA;

c) The letter dated 11th January 2018 by which MCZMA communicated the fact that it had inquired into, deliberated upon the complaint inter alia with regard to the alleged construction within the 50 metre mangrove buffer zone and given its clearance to the Project. A copy of which was inter alia also marked to the Complainant by MCZMA.

18. It is therefore clear the said order for issuance of process has been obtained by suppression of material information and documents that would have debunked the Complainant's case and the Complainant has, by suppressing this material information and documents, fraudulently obtained the said Order. It is settled law that an order that has been obtained by fraud on a Court or authority is a complete nullity and ought to be set aside at the very threshold on that very ground alone.

D. <u>Non-Application of Judicial Mind</u>

19. That the verification statement on oath recorded by the Ld. Metropolitan Magistrate does not disclose any offence against the Petitioners as alleged. It is a settled position of law that a conjoint reading of S.203/204 of the CrPC reveals that process is to be issued after considering the statement made on oath by the complainant, popularly called as Verification Statement. The recording of statement U/s. 200 of CrPC is thus not an empty formality. Verification is done to ascertain as to whether whatever is pleaded by the complainant is true or not. It is therefore incumbent on the complainant to state on oath as to how the

offence was committed and in what manner the accused persons are responsible therefor. After the statement on oath is recorded, the Ld. Magistrate is required to apply his judicial mind to facts of the case and the law applicable thereto and to find out whether and which offence/s are made out. Summoning of an accused in a criminal case is a serious matter and criminal law cannot be set into motion as a matter of course. A Magistrate is required to examine the nature of the allegations made in the complaint and the evidence both oral and documentary to see if it is sufficient for the complainant to succeed in bringing charge home to the accused. In other words, the examination of the complainant on oath is for the purpose of ascertaining whether a prima facie case is made out against the accused to issue process so that the issue of process is prevented on a complaint which is either false or vexatious or intended only to harass. Applying the aforesaid principles of law to the verification statement in the present case, it is evident that it suffers from a lack of application of judicial mind and hence is bad in law.

20. Moreover, the Ld. Magistrate has committed a patent error in holding that the requirement under Section 19 of the Environment Protection Act has been fulfilled by the Complainant. Such an observation clearly demonstrates the non-application of mind and mechanical approach adopted by the Ld. Magistrate. It is trite law that the order issuing process is a serious matter and that the Ld. Magistrate must apply his judicial mind in determining whether or not grounds for summoning a person exist in each case.

E. Not a Reasoned Order

21. The Impugned Order is not a reasoned order and does not evidence application of mind. The Ld. Magistrate has mechanically stated that *prima face,* the ingredients of Section 15 of the Act are attracted against the Petitioners and therefore, process should be issued against them. However, there are no reasons accorded to this finding and the passing of such a non-reasoned order has caused severe prejudice to the Petitioners.

F. Issuance of Process against some of the Accused only despite allegation of Criminal Conspiracy between all the Accused being the basis of the alleged Offence

22. The Criminal Complaint was made under Sections 409 read with 120-B of the IPC as well as Section 15 of the Environment Protection Act. The alleged conspiracy between the Petitioners and the government officials of MMRDA was the crucial element of the entire case of the Complainant. As per the Complainant's own case, the offence alleged is of a conspiracy by the Petitioners and the MMRDA officials to flout the provisions of the Environment Protection Act and the various rules framed thereunder. In other words, the alleged offence is composite in nature and tied together by the element of alleged criminal conspiracy. In these circumstances, the Ld. Magistrate has chosen only to issue process against the Petitioners while not issuing process against the officials of the MMRDA. It is humbly submitted that there is no separate or distinct offence that has been alleged against any or all of the Petitioners which can be dealt with without implicating the MMRDA officials. Therefore, on this ground too, the Impugned Order suffers from an incurable infirmity as it cannot, on the one

hand issue process against some of the alleged conspirators while, on the other, exonerate the other alleged conspirators.

G. Other Grounds

23. The Ld. Magistrate failed to appreciate that the Criminal Complaint, even if taken at face value, did not disclose the commission of any offence. Mere assertions regarding violations of the 'Mangrove Buffer Zone' and purported lapses in decision making to grant clearances to projects, relying on images purportedly obtained from 'Google Maps' ought not to have lent any credence to the wild and baseless allegations made by the Complainant. The Complainant has not provided even a shred of evidence in support of his claims and the Ld. Magistrate ought to have rejected the Criminal Complaint outright on this ground alone.

24. The Criminal Complaint filed by the Complainant is clearly devoid of any bonafides. The Complainant has been attacking the said Project in diverse ways by filing complaints and proceedings before diverse forums with the sole objective of sabotaging / thwarting / having the implementation of the Project stopped by making wild and baseless allegations against the Petitioners and diverse officers of the concerned sanctioning authorities with a view to intimidate them and abusing the process of law, and has been unsuccessful before this Hon'ble Court and other fora in multiple matters including but not limited to the following matters:

a) Criminal Application No.1311 of 2018; and

b) Complaint before MCZMA alleging various breaches including of the Environment Act

The Petitioners crave leave to refer to the proceedings and orders passed in the above proceedings.

25. The Petitioners state and submit that they have no alternative and efficacious remedy but to invoke the inherent jurisdiction of this Hon'ble Court by way of the present Petition.

26. The prayers and reliefs sought for herein if granted are complete and will be in the interest of justice.

27. The Petitioners state and submit that the cause of action giving rise to filing of this Petition has arisen within the territorial jurisdiction of this Hon'ble Court and hence this Hon'ble Court has the power to try, entertain and dispose of the present Petition in its supervisory, constitutional and inherent jurisdiction.

28. The Petitioners state and submit that they have not filed any other proceedings of a similar nature before any other Court of law in India.

29. The Petitioners crave leave to add, amend, modify or delete any of the aforesaid submissions or grounds. The Petitioners crave leave to refer to the documents referred to herein when produced.

30. The Petition is duly signed and verified by Mr.Puneet Gupta, Petitioner No.3 and Director of Petitioner No.4 and is aware of the facts and circumstances of the present case.

The Petitioners therefore pray that:

(a) This Hon'ble Court be pleased to set aside and quash the Impugned Order issuing process dated 06/06/2019 under

Section 15 of the Environment (Protection) Act, 1986 in Case No. 182 / SW / 2017 passed by the Ld. Metropolitan Magistrate, 71st Court at Bandra, Mumbai;

(b) Pending the hearing and final disposal of the Petition, the Impugned Order issuing process dated 06/06/2019 under Section 15 of the Environment (Protection) Act, 1986 in Case No. 182 / SW / 2017 by the Ld. Metropolitan Magistrate, 71st Court at Bandra, Mumbai, be stayed;

(c) for ad-interim reliefs in terms of prayer clause (b) above;

(d) for such further and other reliefs as may be deemed appropriate by this Hon'ble Court.

Dated this 11th day of March 2020

(1) Dr. Ranbir Appar Maker
(Petitioner No.1)

(2) Manish Ranbir Maker
(Petitioner No. 2)

(3) Puneet Rajkumar Gupta
(Petitioner No. 3)

(4) The Indian Film Combine Pvt. Ltd.
(Petitioner No.4)

Mr. Puneet Gupta
(Director)

THE INDIAN FILM COMBINE PVT. LTD. * MUMBAI

Mahernosh Humranwala
Advocate for the Petitioners

VERIFICATION

I, Puneet Gupta, aged 48 years, Mumbai Indian inhabitant, Petitioner No.3 and Director of Petitioner No.4 abovenamed, having my office address at Maker Tower, 'F', 1st Floor, 85, Cuffe Parade, Mumbai 400

005 do hereby solemnly declare that what is stated in paragraph Nos.1 to 5 and 30 is true to the best of my knowledge and remaining paragraph Nos.6 to 29 is stated on legal advice, information and belief and I believe the same to be true and correct.

Solemnly declared at Mumbai,)
on this 11th day of March, 2020)

Deponent

Before me,

BEFORE ME

BIDHU PANICKER
B.Com., LL.B.
ADVOCATE HIGH COURT
NOTARY (Govt. of India)
Res: 303, Sandeep Apt., Plot No. A/197,
Sector-20, Near Balaji Temple,
Nerul (W), Navi Mumbai, Maharashtra.

Mahernosh Humranwala

Advocate for the Petitioners

Notary Reg. Sr. No. 2021/2020
In Book No. II

11 MAR 2020

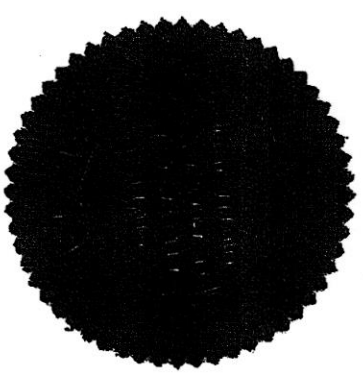

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Exhibit - E

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1386 OF 2020

Ranbir Appar Maker and Ors. ...Petitioners
Versus
State of Maharashtra and Anr. ...Respondents

Mr. Sharan Jagtiani, Senior Advocate a/w Mr. Ashish Chavan, Mr. Mutahaar Khan, Mr. M. J. Humranwala, Ms. Kirtida Chandarana and Ms. Henna Shah i/b Mahemosh Humranwala, for the Petitioners.

Mr. A. R. Patil, A.P.P for the Respondent No.1– State.

Mr. Aditya Pratap, for the Respondent No.2.

CORAM : REVATI MOHITE DERE, J.

DATE : 23rd MARCH 2022

P.C. :

1. Heard.

2. Arguable questions are raised. Rule. Learned APP waives notice on behalf of the respondent No.1–State. Mr. Pratap waives notice on behalf of the respondent No.2. Hearing expedited.

3. Accordingly, registry to add the aforesaid petition to the Final Hearing Board, at its appropriate place, in the week commencing from 11th July 2022.

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4. Interim relief granted earlier, to continue till then.

REVATI MOHITE DERE, J.

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MINISTRYOF ENVIORONMENT & FORESTS

ORDER

New Delhi, the 26th November, 1998

S.O. 1003 (E) - In exercise of the powers conferred by sub-sections (1) and (3) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986) (hereinafter referred to as the said Act), the Central Government hereby constitutes an authority to be known as the Maharashtra Coastal Zone Management Authority (hereinafter referred to as the Authority) consisting of the following persons, for a period of two years with effect from the date of publication of this Order in the Official Gazette, namely :

1.	Secretary Department of Environment Government of Maharashtra	Chairman
2.	Secretary Department of Revenue and Forests, Mumbai Government of Maharashtra	Member
3.	Secretary Urban Department Government of Maharashtra	Member
4.	Dr. Leela Bhosele Department of Botany Kolhapur University Kolhapur	Member
5.	Dr. A.D. Diwan Central Institute of Fisheries Education Versoa, Mumbai	Member
6.	Dr. R.P. Gupta Indian Institute of Technology Mumbal	Member
7.	Member Secretary Maharashtra State Pollution Control Board Mumbai	Member Secretary

II. The Authority shall have the power to take the following measures for protecting and improving the quality of the coastal environment and preventing, abating and controlling environmental pollution in coastal areas of the State of Maharashtra, namely :

(i) Examination of proposals for changes/ modifications in classification of Coastal Regulation Zone areas and in the Coastal Zone Management Plan (CZMP),received from the Maharashtra State Government and making specific

recommendations to the National Coastal Zone Management Authority therefor.

(ii) (a) Inquiry into cases of alleged violations of the provisions of the said Act and the rules made thereunder, or under any other law for the time being in force which is relatable to the objects of the said Act and, if found necessary in a specific case, issuing directions under section 5 of the said Act insofar as such directions are not inconsistent with any direction issued in that specific case by the National Coastal Zone Management Authority or by the Central Government;

(b) Review of cases involving violations of the provisions of the said act and the rules made thereunder, or under any other law which is relatable to the objects of the said Act, and, if found necessary referring such cases, with comments, for review to the National Coastal Zone Management Authority;

Provided that the cases under sub-paragraphs (ii) (a) and (it) (b) of paragraph II may be taken up suo-moto, or on the basis of complaint made by an individual, or a representative body, or an organisation.

(iii) Filing complaints, under section, 19 of the said Act in cases of non-compliance of the directions issued by it under sub-paragraph (ii) (a) of paragraph II of this Order.

(iv) To take action under section 10 of the said Act to verify the facts concerning the issues arising from sub-paragraphs (i) and (ii) of paragraph II of this Order.

III. The Authority shall deal with environmental issues relating to Coastal Regulation Zone which may be referred to it by the Maharashtra State Government, the National Coastal Zone Management Authority or the Central Government.

IV. The Authority shall identify ecologically sensitive areas in the Coastal Regulation Zone, and formulate area - specific management plans for such identified areas.

V. The Authority shall identify coastal areas highly vulnerable to erosion/degradation, and formulate area-specific management plans for such identified areas.

VI. The Authority shall identify ec6nomically important stretches in the Coastal Regulation Zone and prepare Integrated Coastal Zone Management Plans for the same.

VII. The Authority shall submit the plans prepared by it under paragraphs IV, V, VI above and modifications thereof to the National Coastal Zone Management Authority for examination and its approval.

VIII. The Authority shall ensure compliance of all specific conditions that are laid down in the approved Coastal Zone Management Plan of Maharashtra.

IX. The Authority shall furnish report of its activities at least once in six months to the National Coastal Zone Management Authority.

X. The foregoing powers and functions of the Authority shall be subject to the supervision and control of the Central Government.

XI. The Authority shall have its headquarters at Mumbai.

XII. Any matter specifically not failing within the scope and jurisdiction of the Authority as so constituted shall be dealt with by the statutory authorities concerned.

[F.No. 17011/18/96-IA-III],

K.ROY PAUL, Addl. Secy.

Ministry of Environment and Forests

Order

New Delhi, the 4th January, 2002

S.O.18(E):- In exercise of the powers conferred by sub-sections (1) and (3) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986) (hereinafter referred to as the said Act), and in supersession of the Notification of the Government of India in the Ministry of Environment and Forests Number 1003 (E) dated, the 26th November, 1998, expect as respects things done or omitted to be done before such supersession, the Central Government hereby constitutes an authority to be known as the Maharashtra State Coastal Zone Management Authority (hereinafter referred to as the Authority) consisting of the following persons, for a period of three years, with effect from the date of publication of this Order in the Official Gazette, namely:-

1	Principal Secretary, Department of Environment, Government of Maharashtra, Mumbai.	Chairman
2	Principal Secretary, Department of Revenue and Forests, Government of Maharashtra, Mumbai.	Member
3	Principal Secretary, Urban Development, Government of Maharashtra, Mumbai.	Member
4	Dr. Leela Bhosle, Department of Botany, Kolhapur University, Kolhapur.	Member
5	Mr. S. Ayyappan, Director, Central Institute of Fisheries Education Mumbai	Member
6	Mr. S.K. Gupta, Head of the Department, C.E.S.E., Indian Institute of Technology, Mumbai.	Member
7	Dr. Hrishikesh Samant, Lecturer, Department of Zoology, St. Xavier's College, Mumbai.	Member
8	Member-Secretary, Mharashtra Pollution Control Board, Mumbai.	Member-Secretary

II. The Authority shall have the power to take the following measures for protecting and improving the quality of the coastal environment and preventing, abating and controlling environmental pollution in the -coastal areas of the State of Maharashtra, namely:-

(i) Examination of proposals for changes or modifications in classification of Coastal Regulation Zone areas and in the Coastal Zone Management Plan (CZMP) received from the Maharashtra State Government and making specific recommendations to the National Coastal Zone Management Authority therefor.

(ii) (a) Inquire into cases of alleged violations of the provisions of the said Act or the rules made thereunder, or under any other law which is related to the objects of the said Act and, if found necessary in a specific case, issuing directions under section 5 of the said Act, insofar as such directions are not

inconsistent with any direction issued in that specific case by the National Coastal Zone Management Authority or by the Central Government;

(b) Review of cases involving violations of the provisions of the said Act, and the rules made thereunder, or under any other law which is related to the objects of the said Act, and if found necessary referring such cases, with comments, for review to the National Coastal Zone Management Authority:

Provided that the cases under sub-clauses (a) and (b) of this Sub-paragraph may either be taken up suo-moto or on the basis of complaint made by an individual or a representative body or an organisation.

(iii) Filing complaints under section 19 of the said Act in cases of non-compliance of the directions issued by it under sub-clause (a) of sub-paragraph (ii) of paragraph II of the Order.

(iv) To take action under section 10 of the said Act to verify the facts concerning the issues arising from sub-paragraphs (i) and (ii) of paragraph II of this Order.

III The Authority shall deal with environmental issues relating to Coastal Regulation Zone which may be referred to it by the Maharashtra State Government the National Coastal Zone Management Authority or the Central Government.

IV The Authority shall identify ecologically sensitive areas in the Coastal Regulation Zone and formulate area-specific management plans for such identified areas.

V The Authority shall identify coastal areas highly vulnerable to erosion or degradation and formulate area specific management plans for such identified areas.

VI The Authority shall identify economically important stretches in Coastal Regulation Zone and prepare -Integrated Coastal Zone Management Plans for the same.

VII The Authority shall submit the plans prepared by it under paragraphs IV, V and VI above and modifications thereof to the National Coastal Zone Management Authority for examination and its approval.

VIII The Authority shall examine all projects proposed in Coastal Regulation Zone areas and give their recommendations before the project proposals are referred to the Central Government or the agencies who have been entrusted to clear such projects under the notification, of the Government of India in the Ministry of Environment and Forests vide number S.O. 144 (E) dated 19th February, 1991.

IX The Authority shall ensure compliance of all specific conditions that are stipulated and laid down in the approved Coastal Zone Management Plan of Maharashtra.

X The Authority shall ensure that atleast two third members of the Authority are present during the meetings.

XI The Authority shall furnish report of its activities at least once in six months to the National Coastal Zone Management Authority.

XII The foregoing powers and functions of the Authority shall be subject to the supervision and control of the Central Government.

XIII The Authority shall have its headquarters at Mumbai.

XIV The Authority shall open an account in any of the nationalized banks in the name of the Authority for the purpose of receiving funds provided for undertaking the activities and functions listed in this order.

XV Any matter specifically not falling within the scope and jurisdiction of the Authority so constituted shall be dealt with by the statutory authorities concerned.

[F. No. 17011/18/96-IA-III]
Dr. V RAJAGOPALAN, Jt. Secy.

MINISTRY OF ENVIRONMENT AND FORESTS

NOTIFICATION

New Delhi, the 22nd April, 2003

S. O. 460(E).— Whereas by notification of the Government of India in the Ministry of Environment and Forests number S.O.114(E), dated the 19th February, 1991 (hereinafter referred to as the said notification), the Central Government declared Coastal Stretches as Coastal Regulation Zone and restrictions were imposed on setting up and expansion of industries, operations and processes in the said zone;

And whereas it has been brought to the notice of the Central Government that destruction of mangroves, depletion of ground water and certain other activities involving severe ecological damages have been caused as a result of large sized projects being implemented without clearance from the Government of India in the Ministry of Environment and Forests;

And whereas the issue has been examined by the Government of India in the Ministry of Environment and Forests;

And whereas the Central Government is of the opinion that the said notification should be amended with a view to preventing further ecological damages;

And whereas sub-rule (4) of rule 5 of the Environment (Protection) Rules, 1986 provides that notwithstanding anything contained in sub-rule (3), whenever it appears to the Central Government that it is in public interest to do so, it may dispense with the requirement of notice under clause (a) of sub-rule (3) of rule 5 of the said rules;

And whereas the Central Government is of the opinion that it is in public interest to dispense with the said requirement of notice under clause (a) of sub-rule (3) of rule 5 of the said rules for amending the said notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986) read with sub-rules (3) and (4) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government hereby makes the following amendments in the said notification, namely:-

In the said notification, in paragraph 3, in sub-paragraph (2), for clause (iv), the following clauses shall be substituted, namely:-

"(iv) Demolition or reconstruction of –'

(i) buildings of archaeological or historical importance;
(ii) heritage buildings; and
(iii) buildings under public use.

Explanation :- For the purpose of this clause iv, 'public use' shall include use for purposes of worship, education, medical care and cultural activities.

(v) All other activities with investment of five crore rupees or more:

Provided that activities involving investment of less than five crore rupees shall be regulated by the concerned authorities at the State or Union territory level in accordance with the provisions of sub-paragraph (2) of paragraph 6 of Annexure-I of this notification.".

[F. No. J-17011/16/93-IAIII-Part-II]

V. RAJAGOPALAN, Jt. Secy.

Note: The principal notification was published in the Gazette of India *vide* number S.O.114(E) dated the 19th February, 1991 and subsequently amended vide notification-

(i) S.O.595(E) dated 18th August, 1994
(ii) S.O.73(E) dated 31st January, 1997
(iii) S.O.494(E) dated 9th July, 1997
(iv) S.O.334(E) dated 20th April, 1998
(v) S.O.873(E) dated 30th September, 1998
(vi) S.O.1122(E) dated 29th December, 1998
(vii) S.O.988(E) dated 29th September, 1999
(viii) S.O.730(E) dated 4th August, 2000
(ix) S.O.900(E) dated 29th September, 2000
(x) S.O.329(E) dated 12th April, 2001
(xi) S.O.988(E) dated 3rd October, 2001
(xii) S.O.550(E), dated 21st May, 2002
(xiii) S.O.52(E), dated 16th January, 2003

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and Published by the Controller of Publications, Delhi-110054.

Exhibit - G

THE INDIAN FILM COMBINE PVT. LTD.

REGD. OFFICE: MAKER TOWER 'F', 1ST FLOOR, CUFFE PARADE, MUMBAI-400 005. TEL.: 2185291-97 FAX: 2182495

14th June, 1999

The Principal Secretary,
Urban Development Department,
Government of Maharashtra,
Mantralaya, Mumbai 400 032.

Dear Sir,

Sub: **Clearance under the provisions of Coastal Regulation Zone Regulations (CRZ Regulations) for implementing a project costing Rs.5 Crores.**
-Development of land bearing Survey No. 341(Pt) of Bandra and Survey No. 4 (Pt) of Parighkhar.-

We are the Lessees of Government land admeasuring about 80,800 sq.mtrs. or thereabouts bearing Survey No.341(Pt) of Bandra and Survey No.4(Pt) of Parighkhar for a period of 99 years with effect from 28.4.71 renewable for a further period of 99 years. A copy of the Deed of Lease in respect of the said land is enclosed hereto as ANNEXURE "A" hereto.

After possession of the land was given to us , plans in respect of the project were duly approved by the Municipal Corporation of Greater Mumbai for construction of the Drive-in-Cinema known as the Drive-in-Theatre. A copy of the sanctioned layout plan is enclosed herewith at ANNEXURE "B" hereto.

Pursuant thereto the construction was completed on 23.12.77 . The Municipal Corporation of Greater Mumbai issued the Occupation Certificate in respect of the project on 23.12.77, a copy of which is enclosed at ANNEXURE "C" hereto. The Cinema Theatre is in use since 1977 and continues to be in use till today as a Cinema Theatre.

The land is included in the Mumbai Metropolitan Regional Development Authority (MMRDA) jurisdiction as Special Planning Authority (SPA) for the Bandra-Kurla Complex and the same is designated as "Drive-in-Theatre" as per the planning proposals in respect of the Bandra-Kurla Complex sanctioned by the Government of Maharashtra vide its Notification UD 8 PHD No. BKR-1177/262-UD-5 dated 9th April 1979, and gazetted on 3rd May 1979 . A copy of the "Land Use Plan" showing the planning proposals showing the location of the said land is enclosed at **ANNEXURE "D"** hereto .

We now wish to develop the land so as to construct new Cinema Theatre facilities of a reduced capacity along with construction of new buildings for users such as hotel user, office user, shopping user, restaurant, bowling alley, bar, candy shopping, etc. as shown in the copy of the layout plan enclosed herewith at **ANNEXURE "E"** hereto. The said plan also shows the adjoining creek, with its width, in relationship to the land.

The estimated cost of construction of the development will be about Rs.293,90,00,000/- (Rupees Two hundred ninety three crores and ninety lacs only). A certificate of cost of redeveloped project is enclosed at **ANNEXURE "F".**

We therefore, request the Government to kindly issue the requisite No Objection Certificate for the proposed development of the said property in view of the fact that the cost of the project would exceed Rs.5 Crores.

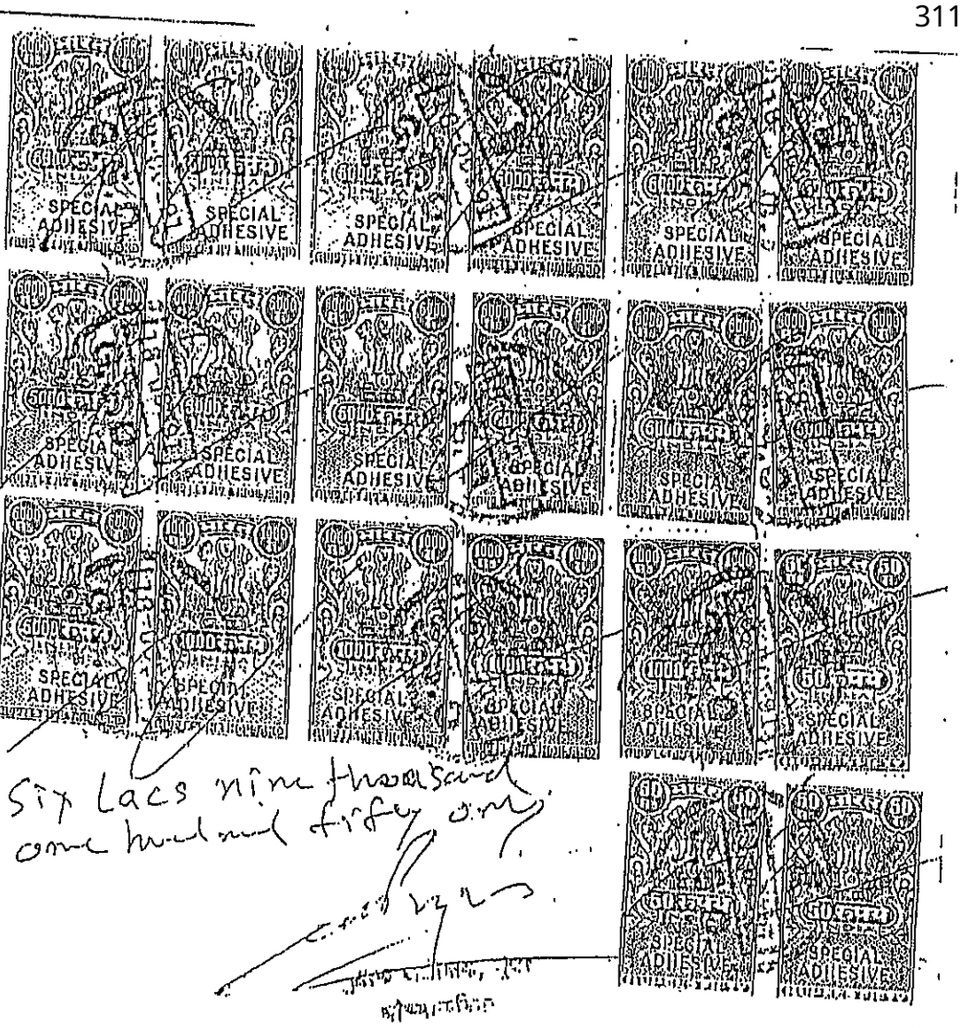
Thanking you,

Yours faithfully,

For THE INDIAN FILM COMBINE PVT.LTD.

DIRECTOR

Encl: As above.



My Adjournment
Page 1 2 4 1=3
Rs.(6.09.150/-) Six Lacs nine thousand one hundred fifty only

THIS LEASE made at Bombay the 19th day of OCTOBER in the year One Thousand Nine Hundred and Ninety One Between THE GOVERNOR OF MAHARASHTRA hereinafter referred to as "the Lessor"(which expression shall unless the context does not so admit include his successors and assigns) of the One Part AND THE INDIAN FILM COMBINE PVT.LTD., a Company incorporated under the Indian Companies Act No.VII of 1913 and having its Registered Office at Maker Tower 'F', 1st Floor, Cuffe Parade, Bombay 400 005, hereinafter referred to as "the Lessees" (which expression shall unless the context does not so admit include them, their successors and their permitted assigns) of the Other Part.

WHEREAS the Lessees requested the Lessor to grant to the Lessees a Lease of pieces and parcels of vacant land situate at Bandra and Parighkhar and more particularly hereinafter described which the Lessor has agreed to do on the terms and conditions hereinafter contained.

AND WHEREAS pursuant to one of the said terms and conditions the Lessees have furnished a Guarantee Bond for the sum of Rs.6,07,027.50 (Rupees Six Lakhs seven thousand twenty seven and paise fifty only) being one year's ground rent as a security for the due observance and performance by the Lessees of the covenant terms and conditions of this lease. In addition to this the Lessees have deposited an amount of Rs.20,000/- in cash to be kept by the Collector, B.S.D. throughout the term of lease without payment of interest. This deposit or such portion of it as Government may finally determine will be liable to be forfeited by the Collector, B.S.D. if there is any breach of the lease conditions. In case of such forfeiture the Lessees will reinstate the deposit to the extent of amount forfeited within 15 days of their being called upon to do so. This right of forfeiture will be in addition to and without prejudice to Government's other rights and remedies against the Lessees under the lease.

AND WHEREAS the said land being Government land no part of the Government revenue cesses or the Municipal rates or taxes hereinafter agreed to be paid by the Lessees is by law recoverable from the Lessor.

NOW THIS INDENTURE WITNESSETH AS FOLLOWS:

1. In consideration of the said sum of Rs.20,000/- only paid

to the Lessors by the Lessees as aforesaid as security deposit and of the rent hereby reserved and of the covenants conditions and agreements on the part of the Lessees hereinafter contained the Lessor doth hereby demise unto the Lessees, as tenants in common, all the pieces and parcels of Government vacant land being a portion of land bearing S.No.341 pt.of Bandra and S.No.4 pt. of Parighkhar Tahsil Andheri, Bombay Suburban District and containing by admeasurement 20A-0Gs-00As equal to 80,800 sq.metres or thereabouts and bounded as follows that is as shown in the enclosed plan and which said pieces and parcels of land is registered in Record of Rights as forming a part of S.No.341 pt.Bandra and S.No.4 pt.of Parighkhar and is delineated on the plan annexed to these presents being thereon verged Red TOGEIHER WITH ALL rights easements appurtenances thereto belonging(hereinafter referred to as "the demised premises) EXCEPT AND RESERVING UNTO The Lessor all mines and minerals in and under the said premises or any part thereof TO HAVE AND HOLD the premises hereinbefore expressed to be hereby demised unto the Lessees as tenants in common for the term of 99 years computed from the 28th day of APRIL 1971, renewable for another 99 years on the same terms but on revised rent paying THEREFOR yearly and every year during the said term unto the Lessor at the office of the Collector, Bombay Suburban District (hereinafter referred to as "the Collector") or as otherwise required the rent at 5% per annum on the basis of full market value of the land to be calculated at Rs.150/- per Sq.Metre as market value payable in advance without any deductions whatsoever on or before the 10th day of January in each and every year. The rent of plot would be a ~~permanent~~ paramount charge on the land and failure to pay the rent regularly by the Lessees would entail in termination of lease without payment of any compensation for the land or building constructed thereon.

2) The Lessees with intent to bind all persons into

whosoever hands the demised premises may come do hereby for themselves their successors, respective heirs, executors, administrators and permitted assigns covenant with the Lessor as follows:

a) During the said term hereby granted to duly pay to the Lessor the said rent at the time and on the day and in manner hereinbefore appointed for payment thereof clear of all deduction and not to allow the same to fall into arrears.

b) To duly pay all existing and future taxes, rates, charges, assessments and outgoing of every description for the time being payable either by the Landlord or the Lessees or by the occupier in respect of the demised premises and anything for the time being thereon.

c) That the Lessees will not directly or indirectly transfer assign, encumber, mortgage or part with their interest under or benefit of this lease or any part thereof in any manner, without the previous consent in writing of the Government. Government will be free to refuse such consent or grant it subject to such conditions including a condition regarding the payment of premium as Government may in its absolute discretion think fit.

d) that the building plans and specifications will be got approved by the Architect to Government, Building & Communications Department within six months from the date of possession of the plot.

e) that no construction will be commenced unless the plans, elevations and sections have been approved by the Architect to Government. No additions and alterations to the buildings, the plans of which have been approved will have any time be made except with the similar previous approval of the Architect to the Government.

f) that the Lessees will have to obtain the required licences and approval from the Municipal Corporation of Greater Bombay,

Commissioner of Police and other appropriate authorities concerned, if any, before starting the construction work.

g) that the Lessees shall get the building plans sanctioned from the Collector, B.S.D. before starting construction work.

h) that the rent free period is allowed upto 12.3.1975 which will be followed by rebate of 50% in the ground rent for the succeeding two years.

i) the Lessees shall accept possesion of the plot in whatever condition the same may be existing at the time of handing over possession.

j) that the Lessees shall reclaim and develop the plot, if so required, at their own cost within a period of 18 months from the date of taking over possession to the satisfaction of the Collector, B.S.D.

k) that the necessary N.A. permission shall be obtained from the Sub Divisional Officer, B.S.D..

l) to fence the demised land during construction by the Lessees at their expense in every respect with such description of wall or fence as shall be approved by the Collector and provide at their expense with all requisite hoarding, lighting and watching to the satisfaction of the Collector.

m) that no work shall be commenced on the demised land until the said plans, elevations, details and specifications shall have been so approved as aforesaid and thereafter they shall not make any alteration in or additions thereto unless such alterations and additions shall have been previously in like manner approved.

n) that the Lessees shall within a period of four years from the date of sanction of building plans by the Municipal Corporation of Greater Bombay and the Collector, B.S.D. at their own expense and in all respect in substantial and workman like manner and with new and sound materials of the best

description of their several kinds and in due compliance with all Municipal Rules and Bye-Laws and Regulations applicable thereto and in strict accordance with the plans approved as aforesaid build and completely finish fit for occupation on the said plot of land hereinbefore described the buildings with all proper drains and other conveniences thereto and in the like manner will erect compound walls or fence on all the boundaries of the said plot on which such walls do not already exist.

o) not to make any excavation upon any part of the said land hereby demised nor remove any stone, sand, gravel, clay or earth therefrom except for the purpose of forming foundations of the buildings or for the purpose of executing any work on the said land pursuant to the terms of this lease.

p) the user for the demised premises shall be for a Drive-In-Theatre and amenities only and for no other purpose whatsoever. The permissible amenities include a first class Restaurant - Bar - Candy Shop, petrol pump with all facilities - a garage shop for repairs and break down services - a Bowling alley - a children's Park with nursery and a motel at a later stage.

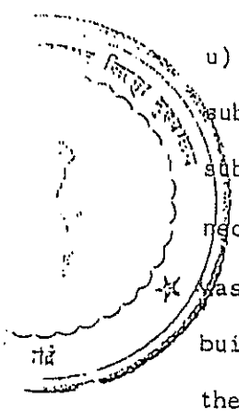
q) that no additions or alterations shall at any time be made to the facade or elevation of any buildings or erections erected and standing on the demised premises or architectural features thereof except with the prior approval in writing of the Municipal Corporation of Greater Bombay and the Collector.

r) to obtain from the Municipal Corporation of Greater Bombay and other appropriate authorities concerned if any the required licences, permissions for running on the demised premises a hotel.

s) that the highest standards in respect of the equipment,

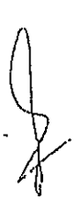
amenities and facilities to be provided at the said hotel shall be ensured to the satisfaction of the Lessor.

t) that they will not at any time do cause or permit any nuisance in or upon the demised premises or anything which shall cause unnecessary annoyance inconvenience or disturbance to the occupiers of any other property in the neighbourhood and they will not erect or permit to be erected on any part of the demised premises any stable shed or other structures of any descriptions whatsoever for keeping horse, cattle, dogs or other animals.



u) Throughout the said term at the Lessees expenses well and substantially to repair pave cleanse and keep in good and substantial repairs and condition (including all usual and necessary internal and external painting colour and white washing) to the satisfaction of the Collector, the said buildings and premises and the drains, compound walls and fence thereunto belonging and all fixtures and additions thereto.

v) To permit the Lessor or the Collector and the officers, surveyors, workmen or others employed by them from time to time and at all reasonable times of the day during the term hereby granted after a week's previous notice to enter into and upon the demised premises and to inspect the state of repairs thereof and if upon such inspection it shall appear that any repairs are necessary, they or any of them may by notice to the Lessees call upon them to execute the repairs and upon their failure to do so within a reasonable time the Lessor may execute them at the expense in all respects of the Lessees.



w) Not to affix or display or permit to be affixed or

displayed on any buildings or erection built or erected or to be built or erected on the demised land any skysign, signboard, advertisement or any permanent or temporary attachment whatever of the nature of an advertisement without the previous consent in writing of the Lessor. The Lessor will be at liberty to refuse such consent or grant it subject to such terms and conditions, as the Lessor may in his absolute discretion think fit, including a condition requiring payment of such licence fees as may be prescribed by the Lessor from time to time. Provided however, such permission will not be necessary in respect of the Lessees own business at the demised premises.

x) at the expiration or sooner determination of the said terms quietly deliver upto the Lessor the demised premises and all erections and buildings then standing or being thereon provided always that the Lessees shall be at liberty if they shall have paid the rent then due and in addition thereto a sum equal to the rent for the then unexpired period of the said term and all Municipal and other taxes, rates and assessments then due and shall have duly performed and observed the covenants and conditions herein contained prior to the expiration of the said term to remove and appropriate to themselves buildings, erections and structures and material from the said land but so nevertheless that the Lessees shall deliver up as aforesaid to the Lessor levelled and put in good order and condition to the satisfaction of the Lessor all land from which such buildings, erections or structures may have been removed.

y) Not to assign or transfer the demised premises or any part thereof to a foreigner, except a foreigner domiciled in India or a foreign firm established or trading in India, without the

prior consent in writing of the Lessor who shall have full discretion to refuse such consent without assigning any reasons therefor.

z) to abide by all other relevant provisions of Maharashtra Land Revenue Code, 1966 (Mah.Act No.XLI of 1966) and the Rules made thereunder and any amendments thereof.

z.1) in the event of dissolution of the Lessee Company, the person to whom the title shall be transferred as successors or otherwise shall cause notice thereof to be given to the Lessor within three months from such dissolution.

z.2) to bear and pay all costs, charges and expenses of and incidental to drawing, engrossing and completing this lease and its duplicate and matters arising thereout including stamp duty, registration charges and costs of all correspondence with the Collector or otherwise and also the cost of one additional copy of the lease, such cost shall be paid by the Lessees according to the scale of fees for attorneys prescribed by the High Court of Judicature of Bombay.

3. If and whenever any part of the rent hereby reserved shall be in arrears the same may be recovered from the Lessees as arrears of land revenue under the provisions of the Maharashtra Land Revenue Code 1966 (Mah.Act XLI of 1966) and any amendments thereof.

4. If the said rent hereby reserved shall be in arrears for the space of thirty days whether the same shall have been legally demanded or not or if and whenever there shall be a breach by the Lessees of any of the covenants and conditions

hereinbefore contained the Lessor may re-enter upon any part of the demised premises in the name of whole and thereupon the said term hereby granted and right to renewal thereof shall absolutely cease and determine and in that event no compensation shall be payable to the Lessees on account of the building or improvement built or made. Provided always that except for non-payment of rent as aforesaid the power of re-entry hereinbefore contained shall not be exercised unless and until the Lessor or the Collector on behalf of the Lessor shall have given to the Lessees or left on some part of the demised premises a notice in writing of his intention to enter and of the specific breach of covenant in respect of which the re-entry is intended to be made and default shall have been made by the Lessees in remedying such breach or breaches within a reasonable time after giving or leaving of such notice.

5. The Lessor doth hereby covenant with the Lessees that the Lessees duly paying the rent hereby reserved and duly observing and performing the covenants and conditions hereinbefore on the Lessees part contained shall and may peacebly enjoy the demised premises for the said term hereby granted without any interruption or disturbance from or by the Lessor or any person or persons lawfully claiming by from or under the Lessor.

6. The Collector on behalf of the Lessor may at his option appropriate the said deposit of Rs.20,000/- or any part thereof in or towards satisfaction of any sum due under this lease and for any claims or demands whatsoever (whether liquidated or not) which may at any time be made or have been made on behalf of the Lessor from or against the Lessees under this lease or against the Lessor in respect thereof. The Lessees shall always maintain the said original amount of deposit and shall

within 15 days of their being called upon to do so deposit further cash or Government securities to make up the original amount of deposit as and when required by the Collector to do so. Upon due compliance by the Lessees with all their obligations under this lease the said deposit or such part thereof as shall not have been appropriated as aforesaid shall be paid or transferred to the Lessees. The right of forfeiture of deposit will be in addition to and without prejudice to any other rights and remedies of the Lessor against the Lessees.

7. If the Lessees shall have duly performed and observed the covenants and conditions on the part of the Lessees hereinbefore contained and shall at the end of the said term hereby granted be desirous of receiving a new lease of the demised premises and of such desire shall give notice in writing to the Lessor six months before the expiration of the term hereby granted then the Lessor shall and will at the cost and expense in every respect of the Lessees, grant to the Lessees a new lease of the demised premises for a further term of ninety nine years with the covenants, provisos and stipulations as are hereinbefore contained save and except this covenant for renewal and further that on such renewal such yearly rent shall be reserved whether the same be decreased or increased as the Lessor shall then determine.

8. That the land will be liable to be resumed to Government without payment of any compensation for breach of the above conditions.

IN WITNESS WHEREOF the Governor of Maharashtra hath caused the Collector, Bombay Suburban District, to set his hand and affix his official seal hereto for and on his behalf and the Lessees

have hereto set their respective hands and seals the day and year first hereinabove written.

SIGNED, SEALED AND DELIVERED
by Suresh Salvi
Collector, Bombay Suburban
District in the presence of
1) B R Mhatre
2) M. A. Dhotkar

Collector
Bombay Suburban District.

THE COMMON SEAL OF THE INDIAN FILM COMBINE PVT.LTD.has been, pursuant to the Resolution of the Board of Directors of the Company, passed at its meeting duly convened and held on the 7th day of October 1991,hereto affixed in the presence of MR.ROOPESH M.KAUL a Director of the Company and MR.A.R.VYAS Company Secretary of the Company who in token thereof have hereto set their respective hands in the presence of -
1) Anil B. Kanthanis
2) Puneet R. Gupta

DIRECTOR

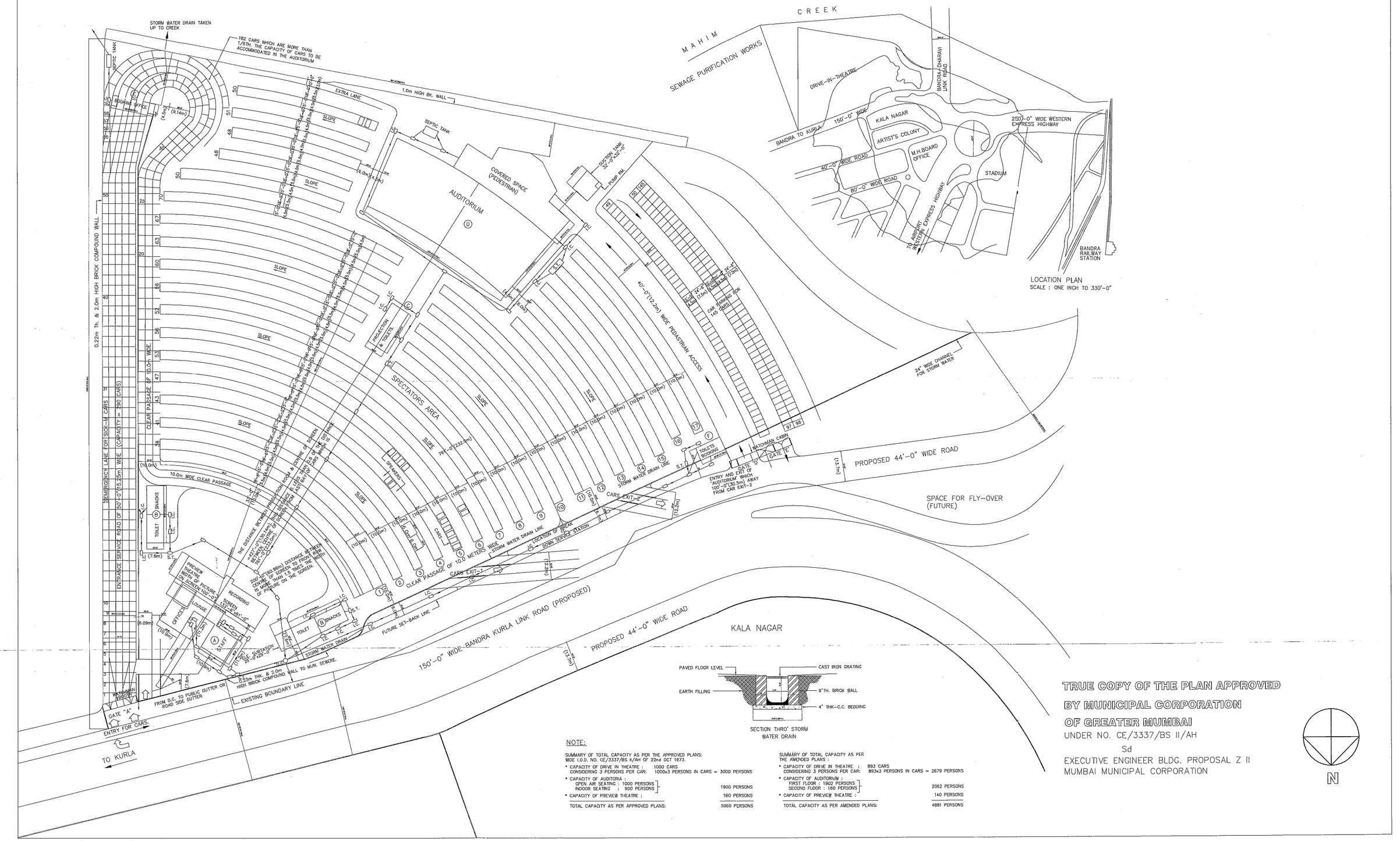
DATED THE DAY OF 1991

THE GOVERNOR OF MAHARASHTRA

TO

THE INDIAN FILM COMBINE PVT.LTD.

L E A S E



NOTE:

SUMMARY OF TOTAL CAPACITY AS PER THE APPROVED PLANS:
WDE I.O.D. NO. CE/3337/BS II/AH OF 22nd OCT 1973.

* CAPACITY OF DRIVE IN THEATRE : CONSIDERING 3 PERSONS PER CAR:	1000 CARS 1000x3 PERSONS IN CARS = 3000 PERSONS	
* CAPACITY OF AUDITORIA : OPEN AIR SEATING : 1000 PERSONS; INDOOR SEATING : 900 PERSONS		1900 PERSONS
* CAPACITY OF PREVIEW THEATRE ;		160 PERSONS
TOTAL CAPACITY AS PER APPROVED PLANS:		5060 PERSONS

SUMMARY OF TOTAL CAPACITY AS PER THE AMENDED PLANS :

* CAPACITY OF DRIVE IN THEATRE : CONSIDERING 3 PERSONS PER CAR:	893 CARS 893x3 PERSONS IN CARS = 2679 PERSONS	
* CAPACITY OF AUDITORIUM : FIRST FLOOR : 1902 PERSONS; SECOND FLOOR : 160 PERSONS		2062 PERSONS
* CAPACITY OF PREVIEW THEATRE :		140 PERSONS
TOTAL CAPACITY AS PER AMENDED PLANS:		4881 PERSONS

TRUE COPY OF THE PLAN APPROVED
BY MUNICIPAL CORPORATION
OF GREATER MUMBAI
UNDER NO. CE/3337/BS II/AH
Sd
EXECUTIVE ENGINEER BLDG. PROPOSAL Z II
MUMBAI MUNICIPAL CORPORATION

GEN-162 / 81 1-1

Municipal Corporation of Greater Bombay

बृहन्मुंबई महानगरपालिका

No. CE/3337/BSII/AH

To
Shri Atul Desai.

23 DEC 1977

Sub:- Proposed Drive-in-theatre at P.No.341(Pt.) at Bandra (East).

Sir,

With reference to the above by the directions I have to inform you that there is no objection to your client occupying the premises as shown by you in the completion plans submitted by you after obtaining water connection and subject to following conditions which should be complied with within three months from the date of receipt hereof.

1: That the certificate under section 270-A of the Bombay Municipal Corporation Act for adequate water supply should be obtained from Hydraulic Engineer.
2: Demarcation of Development Plan road shall be carried out before Building Completion Certificate.
3:- All remaining minor finishing work shall be carried out before Building Completion Certificate.
4: Registered undertaking for handing over set back free of cost to Bombay Municipal Corporation is submitted.
5: Garden is developed.
6:- Certificate from Bombay Suburban Electric Supply and Exe.Engr. (R & C) Roads shall be submitted.
7: Construction shed shall be removed.

Please also note that if any of the user mentioned in the approved plans is found changed without prior permission from the Municipal Corporation, this occupation certificate granted to your client will be treated as cancelled and steps will be taken to cut off the water connection granted to your client.

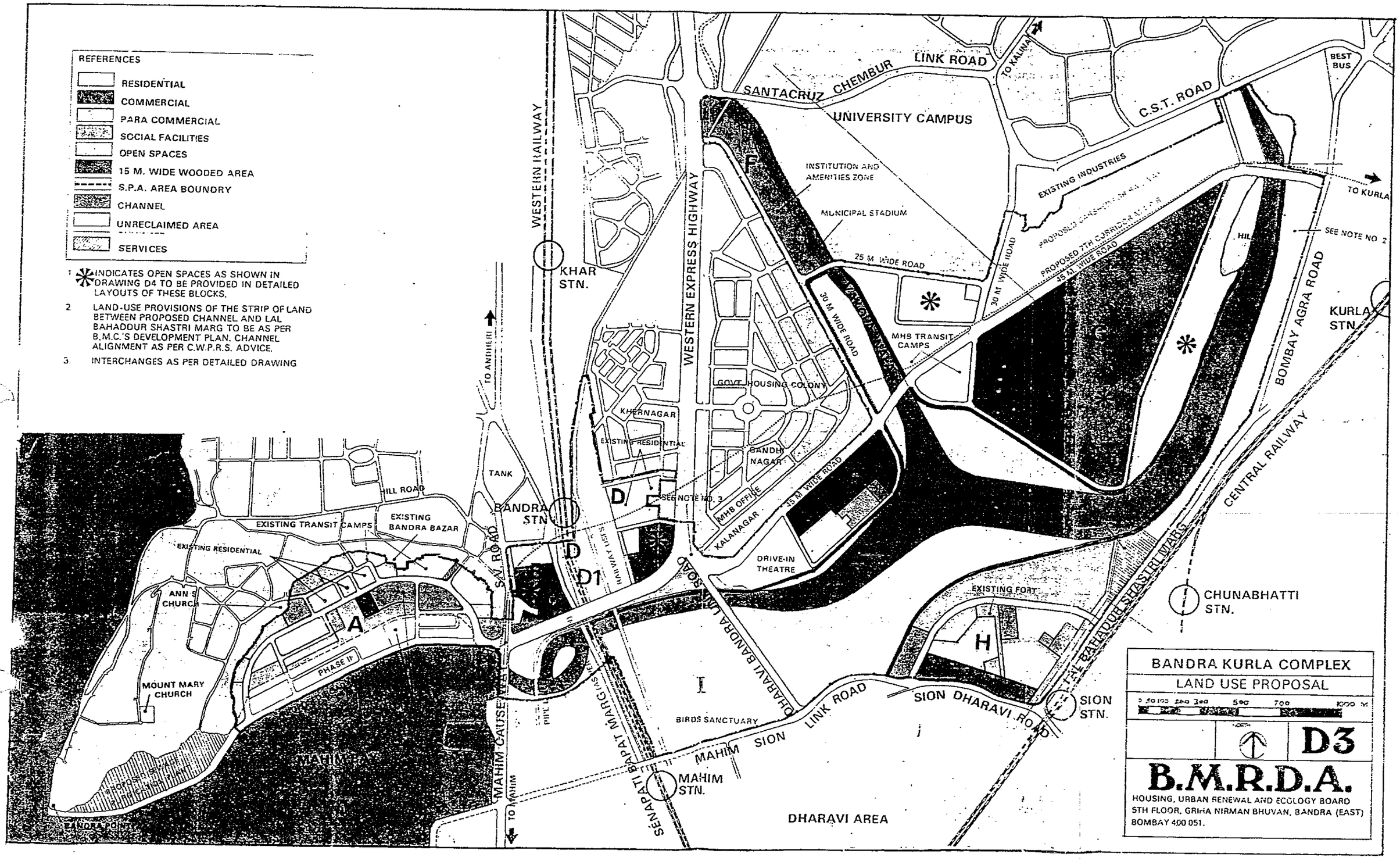
Yours faithfully,

Asstt.Engr.Bldg.Proposal
H-Ward.

REFERENCES

- RESIDENTIAL
- COMMERCIAL
- PARA COMMERCIAL
- SOCIAL FACILITIES
- OPEN SPACES
- 15 M. WIDE WOODED AREA
- S.P.A. AREA BOUNDRY
- CHANNEL
- UNRECLAIMED AREA
- SERVICES

1. * INDICATES OPEN SPACES AS SHOWN IN DRAWING D4 TO BE PROVIDED IN DETAILED LAYOUTS OF THESE BLOCKS.
2. LAND-USE PROVISIONS OF THE STRIP OF LAND BETWEEN PROPOSED CHANNEL AND LAL BAHADDUR SHASTRI MARG TO BE AS PER B.M.C.'S DEVELOPMENT PLAN. CHANNEL ALIGNMENT AS PER C.W.P.R.S. ADVICE.
3. INTERCHANGES AS PER DETAILED DRAWING



BANDRA KURLA COMPLEX

LAND USE PROPOSAL

0 50 100 200 300 500 700 1000 M

NORTH

D3

B.M.R.D.A.

HOUSING, URBAN RENEWAL AND ECOLOGY BOARD
5TH FLOOR, GRIHA NIRMAN BHUVAN, BANDRA (EAST)
BOMBAY 400 051.

LOCATION PLAN

PROPOSED LAYOUT PLAN AT +6' LVL.

SCALE 1"= 80'0" (1:1000)

PRAKASH M. APTE
B.Arch.,M.Tech.,F.I.I.A.,F.I.T.P.,D.B.M.
Council of Architecture Reg.No.CA/83/07794

301-E, 'Gurudarshan'
7, Samartha Nagar,
Andheri (West),
MUMBAI 400 053.

11th June 1999

PROJECT COST ESTIMATE

REPORT ON PROPOSED DEVELOPMENT OF BUILDINGS ON SURVEY NO.341 (Part) OF BANDRA & 4 (Part) OF PARIGHARWADI VILLAGE, TALUKA ANDHERI, FOR M/S. INDIAN FILM COMBINE PVT.LTD.

Under instructions from The Director, The Indian Film Combine Pvt.Ltd., I inspected the property on 26.5.1999 with a view to ascertain the Investment involved for the development of property falling partly under Coastal Regulation Zone.

The said report is prepared as required by The Ministry of Environment as per their Notification and also Orders of the Supreme Court dated 9.3.1995 as the said property falls partly in the CRZ.

The proposed development on the property consists of buildings for diverse users/facilities such as, office user, building complex for hotel, shopping and restaurant facilities, cinema theatre facilities, bar, bowling alley, candy shop users, Drive-in cinema and diverse commercial facilities along with basements for car parking, mechanical equipment, air-conditioning etc. based on plans to be approved by Mumbai Metropolitan Development Authority, Municipal Corporation of Greater Mumbai, Architect to Government of Maharashtra and Collector Mumbai Suburban District.

The area of the plot is 80,800 Sq.mtrs. The permissible area is 1,61,600.00 Sq.mtrs. The land is leased land from Collector of Mumbai (MSD) from 28th April 1971 for a period of 99 years renewable for a further period of 99 years thereafter. The lease rent is Rs.6,07,028.00 per annum.

COST OF DEVELOPMENTS ARE GIVEN BELOW:

(1)	Buildings for offices having ground and nine floors above with an area of 49,444 Sq.mtrs.	:	Rs.	66.52	Crores
(2)	Building complex for Hotel, shopping and restaurant facilities with total area of 86,467 Sq.mtrs.	:	Rs.	139.61	Crores
(3)	Building for restaurant, bar, candy shop, bowling alley and cinema theatre facilities with ground and 9 floors and Drive-in cinema with total area of 17,808 Sq.mtrs.	:	Rs.	31.75	Crores
(4)	Building for diverse facilities having Ground and 10 floors with a built up area of 7,874 Sq.mtrs.	:	Rs.	12.71	Crores
(5)	Basements	:	Rs.	40.16	Crores
(6)	Misc. Expenses (landscaping etc.)	:	Rs.	3.15	Crores
			Rs.	**293.90**	Crores

In our opinion Cost of Development will be Rs.293.90 Crores which is more than Rs.5 crores.

(P.M. APTE)
Architect
Reg.No.CA/83/07794

Exhibit - H

GOVERNMENT OF MAHARASHTRA

No.TPS 2099/917/CR-120/99/UD-12
Urban Development Department
Mantralaya, Mumbai - 400 032
Dated : 6th August 1999.

To
The Director,
The Indian Film Combine Pvt.Ltd.
Maker Tower, 'F' 1st floor,
Cuffe Parade, Mumbai - 400 005

Sub :- Clearance under the provisions of Coastal Regulation Zone for development of plot bearing S.No.341(pt) of Bandra and Survey No.4(pt) of Parighkhar.

Sir,

Please refer to your letter dated 14th June 1999 under which you have requested to give clearance for development of plot bearing S.No. 341(pt) of Bandra and 4 (pt) of village Parighkhar.

2. It is seen from the casepapers that land under reference admeasuring about 80,800 sq.mt. The Municipal Corporation of Greater Mumbai issued Occupation Certificate on 23/12/1977 for Cinema Theatre and this Cinema theatre is in use till today.

3. As per Ministry of Environment and Forests Department, Government of India Notification dt. 19th February, 1991, the State Government prepared the Coastal Zone Management Plan for the coastal area of Maharashtra State and submited to MOEF for approval which is approved by MOEFvide letter dt. 27/9/1996 with some conditions and modifications. As per these conditions C Z M P of the State Coastal area is revised in which plot under reference is included in CRZ-II. In CRZ-II area development is permitted as per Development Control Rules prevailing as on 19/2/1991.

4. It is observed that the plot under reference is partly affected by Coastal Regulation Zone. In the circumstances, there is no objection to develop the unaffected portion of the plot as per prevailing regulations. However in respect of portion of plot coming within C.R.Z. the same may be allowed to be

developed subject to conditions that proposed construction shall be on the land ward side of existing authorised structure and imaginary line drawn from the creek ward side of existing authorised structures and as per relevant rules and regulations.

Yours faithfully,

(A. M. Abhyankar)
Desk Officer

Copy for information to :-

(1) The Chief Engineer (Development Plan)
Mumbai Municipal Corporation , Mumbai - 400 001

(2) The Metropolitan Commissioner,
Mumbai Metropolitan Regional Developement Authority
Bandra-Kurla Complex
Bandra (E), Mumbai - 400 051.

Exhibit - I

मुंबई महानगरपालिका
पथ. विभाग
दिनांक
कार्यकारी अभियंता इमारती

मुंबई महानगर प्रदेश विकास प्राधिकरण
MUMBAI METROPOLITAN REGION DEVELOPMENT AUTHORITY

No. TCP(R-NZ)/BK(E)/[illegible]/NT/ 772 /2001. Date : 5 DEC 2001

COMMENCEMENT CERTIFICATE

Permission is hereby granted, under Section 45 of the Maharashtra Regional & Town Planning Act 1966 (Maharashtra Act No. XXXVII of 1966) to the Applicant M/s. Indian Film Combines Pvt. Ltd. for the proposed redevelopment of Drive-in-Theatre on land bearing S.No. 341(pt) CTS No. 629 (pt) of village Bandra and S. No. 4(pt) and CTS 8(pt) of village Parighkhar in Bandra Kurla Complex for development of layout as depicted on drg. no. DRV 1/10 on following conditions.

1. This Certificate is liable to be revoked by the Metropolitan Commissioner, MMRDA if -
   (a) the development works in respect of which permission is granted under this certificate is not carried out or the user thereof is not in accordance with the sanctioned plans;
   (b) any of the conditions subject to which the same is granted or any of the restrictions imposed by the Metropolitan Commissioner for MMRDA is contravened or is not complied with ;
   (c) the Metropolitan Commissioner for MMRDA is satisfied that the same is obtained through fraud or misrepresentation; and in such an event the applicant and every person deriving title through or under him shall be deemed to have carried out the development work in contravention of Section 43 or 45 of the Maharashtra Regional & Town Planning Act, 1966 ;

2. This Commencement Certificate is valid for a period of one year from the date hereof and will have to be renewed thereafter;

3. This Commencement Certificate is renewable every year but such extended period shall in no case exceed three years. Provided further that such lapse shall not bar any subsequent application for fresh permission under Section 44 of the Maharashtra Regional & Town Planning Act, 1966;

4. The conditions of this certificate shall be binding not only on the applicant but also his /her heirs , successors, executors, administrators and assignees and every person deriving title through or under him ;

5. Any development carried out in contravention of the Commencement Certificate is liable to be treated as un-authorised and may be proceeded against under sections 53 or, as the case may be, section 54 of the M.R.&T.P. Act, 1966. The Applicant and/or his agents in such cases may be proceeded against under Section 52 of the said Act. To carry out an un-authorised development is treated as a cognisable offense and is punishable with imprisonment apart from fine.

6. The applicant shall obtain development permission under Section 44 of the Maharashtra Regional & Town Planning Act, 1966 prior to erection of building in the layout approved vide this Commencement Certificate.

7. The applicant shall comply with the conditions of the letter of intent dated 23/5/2000 issued by the Additional Collector & Competent Authority, ULC, Brihanmumbai.

8. The extent of built up area of commercial user shall be restricted to near about 50% of the total permissible built up area as per Collector's Order dated 15.7.1999.

9. The FSI in lieu of road set back area admeasuring 7769.50 sq.m. shall be available after necessary corrections as to the transfer of the said land to MMRDA are made in the Land Records and reflected in the PR Cards of the lands under reference.

10. The total permissible built up area shall be restricted to 1,31,190.85 sq.m. The built up area in lieu of area admeasuring 5000 sq.m. reserved for traction sub station will be available under section 126 of MR&TP Act, 1966 after handing over the land free of cost and free from encumbrances to the appropriate authority i.e. Indian Railways as and when required in future.

11. The NOC from Chief Fire Officer, MCGM and Police Commissioner will have to be submitted at the time of submission of plans for approval of buildings in the layout.

C:VsP:CC

12. The MCGM shall ensure the necessary compliance's under the BMC Act, 1888 before issuing its approval for the proposed layout.

13. As soon as the development permission for new construction is obtained, the owner/ developer shall install a "Display Board" at a conspicuous place on the site indicating following details :-

(a) Name and address of the owner/developer, architect and contractor;
(b) Survey No./City Survey No./Ward No. of land under reference alongwith description of its boundaries ;
(c) Order No. and date of grant of development permission/redevelopment permission issued by MMRDA and BMC;
(d) F.S.I. permitted;
(e) Address where copies of detailed approved plans shall be available for inspection ;

14. A notice in the form of advertisement giving all the details mentioned in 13 above shall also be published in two widely circulated newspapers, one of which should be in Marathi language.

METROPOLITAN COMMISSIONER
M. M. R. D. A.

To:
The Executive Engineer (Bldg. Proposals)
Western Suburbs, BMC Office, H&K Wards,
R.K.Patkar Marg,
Bandra (West),
Mumbai-400 050.

P.S. :*The Commencement Certificate is to be issued subject to the conditions in the forwarding letter No. No.TCP(P-2)/BKC-27/(CC)/E/DRINTY/772/2001, dated* 5 DEC 2001

Copy to :
The Collector,
Mumbai Suburban District,
Administration Building 10th floor,
Bandra (E), MUMBAI 400 051 with reference to his order no. 26/Desk-3D/L-75, dated 15.7.1999.

Exhibit - J

GOVERNMENT OF MAHARASHTRA

No.TPS 2099/917/CR-120/99/
UD-12
Urban Development Department
4th floor, Mantralaya,
Mumbai 400 032.
Date: 17th October, 2003.

To

The Director,
The Indian Film Combine Pvt. Ltd.,
Maker Tower, 'F', 1st floor,
Cuffe Parade, Mumbai 400 005.

Sub:- **Clarification under the provision of Coastal Zone Regulation in respect of development of land bearing Survey No. 341(pt) of Bandra & Survey No.4(pt) of Parighkhar.**

Ref:- 1)Your letter dated 4th July, 2003.
2)Govt. letter No.TPS 2009/917/CR-120/99 UD-12 dated 6th August, 1999.

Sir,

Please refer to the letter under reference cited above, under which you have requested Govt. to clarify the view in respect of land bearing S.No. 341(pt) Bandra and S.No. 4(pt) of village Parighkhar.

As per the Coastal Zone Management Plan for Brihan Mumbai Municipal Corporation area sanctioned by MOEF vide letter dated 19/1/2000, the land under reference is partly falling in CRZ-II category and it is abutting to the High Tide line and is on land ward side of HTL. As per the provision of CRZ Notification dated 19/2/1991 and change made from time to time the development is permissible on the landward of an imaginary line as stated in clearance letter dt.6/9/1999 .

It is observed that the plot under reference is partly affected by Coastal Regulation Zone. As per the letter dated 16th April, 2002 (copy enclosed) issued by MOEF for the review of CZMP, the land under reference is also in one location shown on CZMP to be re-examined. In this case as per MOEF approved letter dated 27/9/96 and as stated in above letter that desirable width of the creek measured from the HTL of one bank to opposite bank the CRZ restriction may be 150 mt. instead of 60 mt. shown on approved CZMP.

In this matter Govt. has already informed to MOEF to allow us to prepare revised CZMP for Brihan Mumbai Municipal area to the scale 1:4000 as per approved Development Plan to avoid any further ambiguity while issuing development permission. The same is awaiting from MOEF.

However, as per the instruction issued by MOEF from time to time has already being communicated to MMRDA and as stated in your letter under reference all development proposed is on the landward side of existing authorised structure / imaginary line. Therefore, there is no objection to development of buildings subject to the conditions stated in the clearance letter dated 6th August, 1999 issued by the Government.

Yours faithfully,

(P.V. Deshmukh)
Deputy Secretary to Government.

Copy for information and necessary action to –

The Metropolitan Commissioner, MMRDA, Bandra-Kurla Complex, Bandra (E), Mumbai 400 051.

True Copy

(R. R. Sawant)
Section Officer
Government of Maharashtra (G.A.D.)
Mantralaya, Mumbai 400 032.

GOVERNMENT OF MAHARASHTRA
GENERAL ADMINISTRATION DEPARTMENT
BOMBAY

Exhibit - K

GOVERNMENT OF MAHARASHTRA

No. TPB-4305/207/C.NO.78/05/UD-11
Urban Development Department,
Manatralaya, Mumbai 400 032

Dated 17th January, 2007

To,

1) Metropolitan Commissioner,
MMRDA,
Bandra-Kurla Complex, Mumbai 400 051

2) Commissioner,
BMC, Mumbai

3) Chief Engineer (Development &Planning)
BMC, Mahanagarpalika Marg, Mumbai

4) Dy. Director, Town Planning,
Ensa Hutment, Azad Maidan, Mumbai 400 001

5) The Indian Film Combine Pvt. Ltd.
Maker Tower 'F', First Floor,
85, Cuffe parade, Mumbai 400 005

Sub: Appeal under Sec. 47 of the Maharashtra Regional & Town Planning Act, 1966.

S. No. 341 (pt.) CTS No. 629 (pt.) of Bandra
S. No. 4 (pt.) CTS No. 8 (pt.) of Parighkhar, Badra-Kurla Complex

Sirs,

A hearing was conducted before Hon. Chief Minister on 14.06.2005 regarding the said matter. Accordingly, we are enclosing herewith a true copy of the order passed by Hon. Chief Minister, for necessary action.

Yours,

Sd/-
(Abhiraj Girkar)
Under Secretary, Government of Maharashtra

महाराष्ट्र शासन

क्रमांक: टिपीबी-४३०५/२०७/प्र.क्र.७८/०५/
नवि-११
नगर विकास विभाग,
मंत्रालय, मुंबई ४०० ०३२.
दिनांक: १७ जानेवारी,२००७

प्रति,

१) **महानगर आयुक्त,**
मुंबई महानगर प्रदेश विकास प्राधिकरण,
बांद्रा-कुर्ला संकुल, मुंबई ४०० ०५१

२) **आयुक्त,**
बृहन्मुंबई महानगरपालिका, मुंबई.

३) **प्रमुख अभियंता (वि.नि.),**
बृहन्मुंबई महानगरपालिका,
महानगरपालिका मार्ग, फोर्ट, मुंबई-१.

४) **उप संचालक, नगर रचना,**
इन्साहटमेंट, आझाद मैदान,
मुंबई ४०० ००१.

५) **मे.इंडियन फिल्म कंबाईन प्रा.लिमिटेड,**
मेकर टॉवर, "एफ", पहिला मजला,
८५, कफ परेड, मुंबई ४०० ००५.

विषय: महाराष्ट्र प्रादेशिक व नगर रचना अधिनियम,१९६६ चे
कलम ४७ अन्वये अपील.
स.नं.३४१ (पै),सि.टी.एस.क्र.६२९ (पै), मौ.बांद्रा
स.नं.४(पै), सि.टी.एस.८(पै) मौ.परिघखार, बांद्रा-कुर्ला संकुल.

महोदय,

प्रस्तुत प्रकरणी मा.मुख्यमंत्री यांचेकडे दिनांक १४.६.२००५ रोजी सुनावणी आयोजित केलेली होती. या अनुषंगाने मा.मुख्यमंत्री यांनी पारीत केलेल्या आदेशाची सत्यप्रत योग्य त्या कार्यवाहीसाठी सोबत जोडली आहे.

आपला,

(अंभिराज गिरकर)
अवर सचिव, महाराष्ट्र शासन.

BEFORE THE HON. CHIEF MINISTER,
GOVERNMENT OF MAHARASHTRA
MANTRALAYA, MUMBAI 400 032.

In the matter of Appeal under section 47 of the Maharashtra Regional and Town Planning Act, 1966 (hereinafter referred to as "the said Act") filed by The Indian Film Combine Pvt. Ltd., against the Mumbai Metropolitan Region Development Authority.

APPEAL NO. TPB 4305/207/CR-78/05/UD-11:

THE INDIAN FILM COMBINE PVT. LTD.,
Maker Tower, "F", lst floor,
85, Cuffe Parade,
Mumbai 400 005.

... Appellant.

Versus

MUMBAI METROPOLITAN REGION
DEVELOPMENT AUTHORITY (MMRDA)
AND OTHERS.

... Respondents.

Hearing to the concerned parties was granted on 14th June, 2005 when the following were present :

Sr.No.	Name/Designation	Representing
1.	Dr. R.A. Maker For The Indian Film Combine Pvt. Ltd.	Appellant.
2.	Mr. S.V. Joshi, Commissioner	MMRDA
3.	Mr. Kurve, Dy. Director of Town Planning	Office of DDTP, Brihanmumbai.

02. The Indian Film Combine Pvt. Ltd., has filed this appeal under section 47 of the said Act against the order bearing No.TCP(P-2)/BKC-27 (CC) (E)/DRINT II/604/04 dated 14/16th December, 2004, passed by the Chief, T & CP Division of MMRDA thereby refusing to grant approval to the Appellant's amended layout plan for redevelopment of the property on the land bearing Survey No.341 (Pt.), C.T.S.No.629 (Part) of Village Bandra and S.No.4 (Pt), C.T.S.No.8 (Pt) of Village Parighkar (hereinafter referred to as "the said lands") in the Bandra-Kurla Complex (BKC). The respondents have refused to grant approval stating some deficiencies relating to provisions like Road set back area, provision of Recreational Ground (RG), Building Projection, CRZ stipulations, EIA clearance, Traffic / Transportation requirements to meet vehicular traffic. Being aggrieved by the refusal and claiming that the said refusal is bad in law, the instant appeal has been filed.

03. The matter pertains to redevelopment of existing Drive-in-Theatre situated on the said land within the planning jurisdiction of the Respondents in the capacity of Special Planning Authority for which area the Development Control Regulations for Greater Mumbai 1991 (hereinafter referred to as the

अवर सचिव,
नगर विकास विभाग,
मंत्रालय, मुंबई.

"said regulations") as amended from time to time, are applicable. Provisions of regulation 52(8)(i) of the said regulations permit redevelopment of Drive-in theatre along with commercial users subject to certain conditions. It is revealed from the available papers that initially the respondent have granted redevelopment permission to the appellant by issuing Commencement Certificate No. TCP(P-2)/BKC-27/CC/E/DRINT/427/200 dated 5/12/2001, however subsequent revision to this approved plan was refused by the respondents stating some grounds. Hereunder are the admitted facts in a nutshell.

(i) Pursuant to the Appellant's application for the redevelopment of the said property, the Respondents granted development permission under section 45 of the said Act, by the issue of the Commencement Certificate dated 5th December, 2001, bearing No.TCP(P-2)/BKC-27/(CC)/E/DRINT/472/2001.

(ii) Subsequently, responding to the application of the Appellant, the Respondents permitted an amendment to the said lay-out plan by the issue of the Commencement Certificate dated 25th November, 2002 bearing No.TCP(P-2)/BKC-27/(CC)/E/DRINT/II/452/2002.

(iii) On 6th February, 2004, the appellant applied for certain amendments to the approved lay-out plan, in response to which; the Respondents raised some querries in the lay-out plan. In compliance therewith, the appellants re-submitted the amended lay-out plan under his letter dated 15th March, 2004, after complying all the querries of the Respondents and requested for the approval of the amendment to the lay-out plan which was refused by the Respondents by its letter dated 14th/16th December, 2004, for the reasons stated herein below:-

(a) ROAD SET BACK AREA :
FSI equivalent to 7769.50 sq.mtr. in lieu of road set back, would not be available unless necessary correction in ownership document (PR Card) is carried out and the transfer of the said land to the respondent is established.

(b) PROVISION OF RG :
Proposed fragmentation of RG, though approved earlier is not admissible in the light of spirit of regulation 23 and similarly fire escape staircases and basement projection in RG is not permissible.

(c) BUILDING PROJECTION
There should be minimum distance of 3.0 mtr. between the projected building line on the upper floors and internal roads/RG.

(d) CRZ STIPULATIONS
In view of instructions from MOEF received on 16th April, 2002, fresh clearance from MOEF is required for development within 150 mtr.

(e) EIA CLEARANCE
In the light of provisions contained in MOEF's notification No.SO-801(E) dated 7th July, 2004, Environment Impact Assessment Clearance for revised layout proposal is necessary.

(f) TRAFFIC VIEW POINT
The revised layout appears deficient in as much as following Traffic related factors : U turn facility at Family Court Junction, provision of 2 way traffic movement on layout road,

provision of Pedestrian sub-way across BKLR, provision of mechanical car park, parking spaces for autos/taxis within layout, opening of gates on 45mtr. wide road.
Provision of multiplex theatres would generate large volume of vehicular/ pedestrian traffic, which needs to be taken into account and as such this will have to be studied by the T & C Division of MMRDA.

04. During the course of hearing the appellant strongly objected to all the aforesaid reasoning put forth by the respondents while refusing approval to the revised layout. In addition to this, in his appeal memo, the appellant has also claimed deemed permission by virtue of a lapse of period of more than 60 days in communicating the decision by the respondent, however during the arguments the appellant has withdrawn this claim and therefore all the arguments primarily focussed on the six items referred to in clauses (a) to (f) of Para 03 above.

05. Against the contents of the appeal memo, the respondents have also submitted a written statement of defence vide letter No.TCP/(P-2) BKC-27 (CC)/E/ DRINI/II-A/267/2005 dated 3rd May, 2005, while the appellant has not submitted any such written statement but argued the matter in detail and handed over his written submission. Hereunder is the gist of arguments put forth by the appellant, stand taken by the respondents in defence.

6.1 A) **Regarding Road Set back Area :**

In regard to the Respondent's contention that F.S.I. in lieu of Road Set Back would not be available unless corresponding entry in PR. Card is made and actual transfer of subject area to the respondent is effected, the appellants stated that provisions of regulation 33(1) of the said regulations to the effect that transfer of the subject land in City Survey Records is required to take place only after grant of FSI. This provision do not permit the respondents to withhold FSI, for set back area. As regards the contention of the respondent in relation to "evidence of transfer", the appellant contended that the respondents have already sanctioned the FSI for set back area and in support of his claim the appellant also produced photographs of the 45 mtr. Bandra Kurla Link Road, showing that the subject land was, in fact, already in use and possession of Respondent partly for road widening and partly for garden abutting the road. On the other hand, the Respondents argued that the appellant has failed to tender document in proof of surrender of road set back area. Upon consideration of contentions of the both parties, I find that FSI in lieu of the road set back area would be available to the appellant only after the submission of documentary proof of surrender of road set back area, to the respondent. However in the present case it is seen that respondents have already sanctioned FSI for road set back area and the said area is being used partly for road and partly for garden as seen in the photographs produced by the appellant. The appellants are directed to complete the formality of mutation entry regarding the set back area and complete the process of giving formal possession of the subject land for being used for the designated purpose and the respondents shall execute such papers and formalities as may be required in this regard.

अवर सचिव
नगर विकास विभाग

6.2 B) **Regarding Provision of RG.**

With regard to the provision of RG, the Respondents stated that the earlier plan provided a large portion of RG in a central location, whilst the amended layout plan proposes 20 locations as against the earlier 15 locations. This RG fragmentation, even though fulfills the criteria of dimensions and areas required in DCR 23, defeats the purpose of such RG. The Respondents also stated that it is desirable to arrange these pockets with the remaining 15% RG at the North boundary of the plot and that the number of fire escapes opening in RG has increased from 4 to 9, which is not desirable, since it will reduce the usable RG area. Whilst conceding that there was no prohibition in DCR 23 against fire escapes opening in the RG, the Respondents submitted that the regulation did not expressly permit such fire escapes. Respondents also stated that the basement below 15% RG as compared with the basement line in the earlier approved layout plan satisfies only the mathematical calculations but defeats the spirit behind the regulations.

6.2.1 In this context the appellant argued that the dimensions and extent of parcels of land provided for RG in the amended layout is perfectly matching with what has been prescribed in regulation 23 of the said regulations, further the regulation also permits fragmentation of RG. It would therefore be not permissible on the part of the Planning Authority to specifically direct for provision of RG to be located at North end of plot. As regards provision of fire escape, it was stated by the appellant that the same has been provided as per express requirements of the CFO as per his certification on plan dated 21st January, 2004 and regulations 23 does not ban providing Fire Exists opening in RG areas. Similarly, said regulations does not prohibit basement under RG. It was also argued by the Appellant that there is no provision in said regulations to provide basement below RG and that in the earlier layout, too, the Respondents have approved similar basement under 10% RG.

6.2.2 Contentions of both parties heard vis-a-vis the relevant provisions of said regulation and what has been sanctioned by the Respondent in past. It is, therefore, not permissible for the Respondents to impose any such conditions outside the scope of the said regulations. Respondents objections in this connections therefore overruled.

6.3 C) **Reg. Building Projection**

The respondents argued that as the projected portion of building on floors is in FSI, building line will be treated as outer most edge of projection, which should be deleted to provide clear open space of 3 mt. between building line and layout road/RG.

The Appellants submitted that DCR 2(12) clearly defines "Building Line" as the line upto which the plinth of a building adjoining a street or extension of a street or future street may lawfully extend. Regulation 2(71) clearly defines "Plinth" as the portion of a structure between the surface of the surrounding ground and surface of the floor immediately above the ground. Thus the outer most edge at first floor level and above cannot be artificially treated as the "Building Line". The Building Line has already been restricted to 3 mt. from internal roads and RG areas, and the existing sanctioned layout plan has already been duly approved by MMRDA on the same basis by both the CCs dated 5th December, 2001 and 25th November, 2002.

It is seen that under the DCRs, the building line is the line of the plinth of a building, from which requisite distance of 3 mt. from the RG has been provided by the Appellant. Further, it has been confirmed by the Municipal Corporation of Gr. Mumbai that such projections on the upper floors are permissible in accordance with the DCRs and have been sanctioned in other cases based on these norms. Since the plans have already been approved by MMRDA earlier there is no substance to raise the objection now, which is hereby a rejected and the MMRDA is directed to follow MCGM norms and practices in sanctioning plans.

6.4 D) **Reg. Coastal Regulation Zone (CRZ)**

The Respondents urged that as development in Phase II will be within 150mtr, and as cost of the project exceeds Rs.5.00 Cr. under 3(2) (iv) of CRZ notification, clearance is required from Ministry of Environment & Forests (MOEF) as per letter dated 16.04.2002. Although respondents have granted earlier approval on basis of CRZ clearance dated 6th August, 1999, UDD's letter dated 03.05.2002 stated that vide MOEF letter dated 16.04.2002, width of Mithi River was likely to be more than 350 mtr. and hence CRZ II in this area should have a width of 150 mtr. from the High Tide Line. Since the Appellant's plot is within 150m distance, thus clearance from MOEF under amended Para 3(2)(iv) of CRZ notification will be required.

6.4.1 The Appellants submitted that the project has already been granted necessary CRZ clearance by Govt. order dated 06.08.1999, thereby permitting development of the whole project comprising interalia of construction of all the buildings. On the basis of this CRZ clearance, vide CC for layout issued by MMRDA dated 5.12.2001, issued after the CRZ clearance referred to above, the project has already been approved by the Respondents by grant of the development permissions in the form the CCs dated 5/12/2001 already issued. The CRZ clearance and the said CC dtd. 5/12/01 were granted prior to MOEF's letter dated 16.4.2002 and the question of obtaining fresh CRZ clearance does not arise. Even after letter dated 16.4.2002 from MOEF, cited by the Respondents as the basis for requiring fresh CRZ clearance, MMRDA has sanctioned amended layout plans vide CC dated 25.11.2002. In any event, Appellants have obtained and provided clarification dated 17.10.2003 from the Government, which after considering the said letter dated 16.04.2002, clarified that there is no objection to development of buildings subject to the conditions stated in the letter dated 6.8.1999 issued by the Government. Thus, the requirement of fresh CRZ clearance from MOEF is neither necessary nor justified. Further, this CRZ clearance and clarification have both been issued for the project as a whole and not for a part of "Phase" of the redevelopment. Therefore, it is not necessary to obtain fresh or separate "No Objection Certificate" for any further development, or in respect of any building which constitutes part of the whole project.

6.4.2 Having carefully considered the submissions of the Respondents and the Appellants and on verification of the facts of the matter from the Urban Development Department, I am of the opinion that the Respondents have erred in requiring the Appellant to obtain de novo permission from the Ministry of Environment and Forest (MOEF), Government of India. Their reliance on the letter dated 16.4.2002 of MOEF is misplaced. In the instant case, permission was granted as far back as 6th August 1999 by the State Government under delegated

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महाराष्ट्र शासन

powers of the Central Government under the Environment Protection Act 1986, for the said Project consisting of the total redevelopment including all the buildings comprising the project. The Respondents have failed to appreciate that this CRZ NOC and clarification has been issued for the whole project and not for a part or phase of the redevelopment. Therefore, it is not necessary to obtain fresh or separate "No Objection Certificate" for any part of the project. Accordingly the objection of the respondent in this regard is hereby rejected.

6.5 E) **Reg. Environmental Impact Assessment (EIA) Clearance**

The Respondents have taken a stand that the appellant is required to obtain the EIA Clearance under the provisions of Notification No. S.O. No.801 (E), dated 7th July, 2004 issued by MOEF, GOI.

6.5.1 With regards to respondents objection, the Appellant stated that the said Notification No. 801(E) dated 7th July, 2004 is, in fact, amended version of earlier Notification No. SO 60(E) dated 27th January, 1994, consequent to which paragraph 3 thereof clearly spells out exception in respect of certain projects to which this Notification does not apply. This exceptions clearly include projects covered by CRZ Notification No.SO 114 (E) dated 20.02.1991, more over the respondents themselves have stated that any redevelopment affected by CRZ will not require EIA clearance. It was therefore emphasized by the Appellant that Respondent's requirement with regard to EIA is unwarranted as the instant project falls within scope of CRZ Notification and EIA Notification does not apply here as CRZ clearance pertains to whole project and not part of it.

6.5.2 On consideration of the submissions of the parties, I am of the view that this contention of the Respondents is misplaced. The Appellant's entire project has been approved under CRZ provisions and is accordingly excluded from the scope of Notification No.SO-60(E) dated 27.1.1994 as amended by Notification No.S.O.801(E) dated 7.7.2004. Accordingly, the objection of the respondent in this regard is rejected.

6.6 F) **Reg. Objections from the Traffic Point of View.**

The main thrust of the Respondents in this connection was that, the present project forms part and parcel of Bandra-Kurla Complex (BKC) & as such it is necessary to carry out study regarding impact of traffic that would be generated by this project vis-a-vis the over all transportation system of BKC area. As a result of this, the Appellants have been asked to comply with the traffic and transportation conditions such as U-turn facilities at the Family Court Junction, two way traffic movement, provision of a sub-way across the BKLR, provision of mechanical car parks, auto and taxi stands, elimination of fire gates from the compound wall and a connection access from Bandra Dharavi link Road.

6.6.1 The Appellants stated that the objections from the traffic view point are not based on any requirement in law, under the said regulations or otherwise. Plans can be rejected only for non-compliance with the said regulations and other relevant regulations, none of which give the Respondents the power to reject this proposal on these grounds. In addition, the built-up area of the layout for approval are the same as

those of the previously approved layout, and the traffic likely to be generated by the project is no more than that of the layout already approved by MMRDA on 25.11.2002. The Respondents cannot direct the Appellant to undertake work in the nature of a public utility, which the Respondents themselves ought to carry out if required. MMRDA has collected development charges from lessees in the Bandra-Kurla Complex, including from the Appellant. Section 124J of the MRTP Act states that the development fund, consisting of such development charges so collected, must be applied for providing public amenities for the area under the jurisdiction of MMRDA. The Respondents cannot seek to cast this responsibility upon the Appellant. Further, the 6m fire gates on the compound facing 45m road are the requirement of the CFO in the interest of safety, and have been provided as per requirements and approvals of the CFO. Also, a request to examine a direct access from Bandra-Dharavi Link Road cannot constitute a deficiency, and thus cannot be a ground for rejection of plans.

6.6.2 On Considering the submissions of the parties, although I appreciate the concerns of the Respondents in regard to the potential traffic congestion, it is seen that the Respondents have insisted that the Appellant comply with requirements not set forth by the law. There is no authority in the MR&TP Act, or any related law permitting the Respondents to make approval of the said plans contingent on such conditions. Any demand without authority of law is invalid and unenforceable. However, it would be appropriate that the Appellant works with the traffic department of the Respondents to find possible solutions, to the extent possible, to mitigate the potential traffic congestion.

6.7 The Appellant submitted that there has been an inordinate delay of 16 months in consideration and approval of the amended layout of the appellants from the date of their application made as far back as 15th March, 2004. In view of such delay to the project by the Respondents themselves, condition 11 of the existing CC for the project to the effect that the Drive-In Theatre has to be redeveloped prior to obtaining Occupation Certificate for the office blocks/commercial development has become impossible to perform. Accordingly, the appellants submitted that this condition needs to be deleted. On considering the matter I direct that the aforesaid condition 11 of the existing CC dated 25/11/2002 be amended to the effect that the Drive-In-Theatre has to be redeveloped prior to obtaining Occupation Certificate for the Hotel Blocks & commercial development.

6.8 In connection with the instant appeal, I further find it extremely essential to take cognizance of the flooding phenomenon of the Mithi River, as a consequence of the high flooding occurred in Mumbai in July 2005. In this context government has appointed a Fact Finding Committee & other study groups. The reports of this committee/group together with views of the MMRDA thereupon have been looked into.

Accordingly, the Chief, T&CPO, MMRDA's report dated 5/9/2006 has been received. The most concerned fact as is revealed from the report is that as per the report by the Project Director & Member Secretary, Mithi River Development & Protection Authority and the demarcation line of river course and the buffer zone as suggested by the IIT, the proposed development is outside the demarcated river course including the buffer zone.

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मंत्रालय

In view of this fact and circumstance, I find no hesitation in clearing up the matter. However, the Mumbai Metropolitan Regional Development Authority (MMRDA) has opined that a 15.0 mt. wide road along the southern boundary of Appellant's plot, within the holding of the appellant is essential in order to facilitate the periodical maintenance work like dredging, desilting and removing sludge etc. of the Mithi River water course. As such the Appellant shall realign an internal layout road on the lines of the suggested alignment indicated by the MMRDA on the map attached at Annexure "A" hereto. Therefore, I pass the following order.

ORDER

(i) The impugned order dated 14/16th December, 2004 of the Respondents is hereby quashed and set aside.

(ii) The appeal of the Appellant is hereby allowed and permission is hereby granted to the Appellant to carry out the redevelopment of his land in terms of the amended plan submitted by the appellant under the cover of his letter dated 15th March, 2004.

(iii) Condition 11 of the existing Commencement Certificate to the effect that the Drive-In-Theatre has to be redeveloped prior to obtaining Occupation Certificate for the office blocks/commercial development stands amended to the effect that the Drive-In-Theatre has to be redeveloped prior to obtaining Occupation Certificate for the Hotel Blocks & commercial development.

(iv) The appellant shall realign an internal 15.0 mt. wide layout road so as to run along the Southern boundary of the plot and within the plot. This internal layout road shall be planned in such a way that it shall become aligned to the existing peripheral road of "E" block and get suitably connected to the Sion-Dharavi Road near its existing junction with the 45 mt. wide Bandra-Kurla Link Road, to enable easy access for the service vehicles for their maintenance works of the Mithi River water course, on the lines of the suggested alignment on the map by MMRDA attached at Annexure "A" hereto.

Place: Mumbai.

Dated: 15/1/2007.

Sd/-
(VILASRAO DESHMUKH)
Chief Minister

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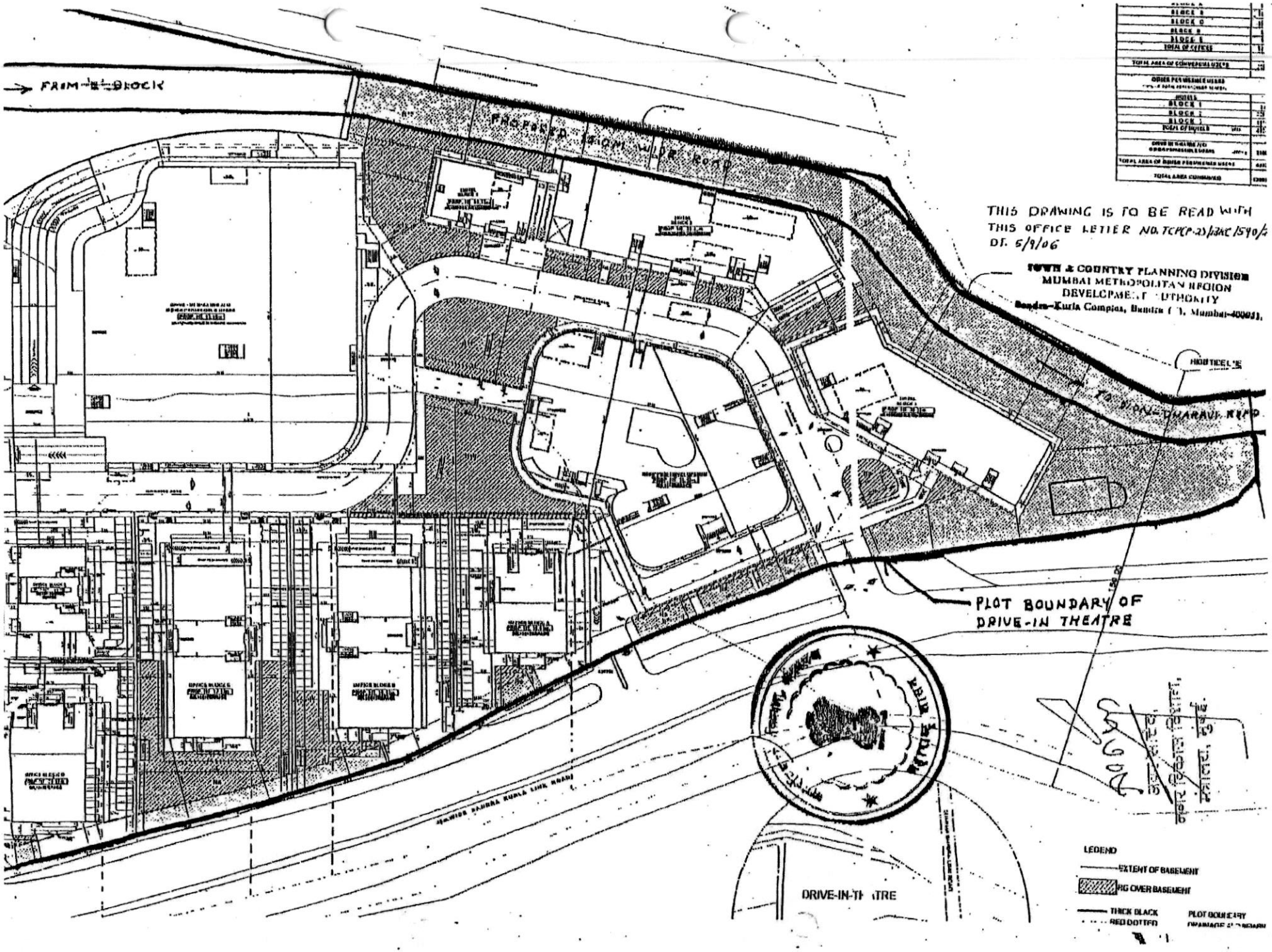
FROM 'B' BLOCK
PROPOSED 12.0M WIDE ROAD
THIS DRAWING IS TO BE READ WITH
THIS OFFICE LETTER NO. TCP(P-2)/BKC/1540/
DT. 5/9/06
TOWN & COUNTRY PLANNING DIVISION
MUMBAI METROPOLITAN REGION
DEVELOPMENT AUTHORITY
Bandra-Kurla Complex, Bandra (E), Mumbai-400051.
HIGH TIDE LINE
TO DHARAVI
PLOT BOUNDARY OF
DRIVE-IN THEATRE
DRIVE-IN-THEATRE
LEGEND
EXTENT OF BASEMENT
RG OVER BASEMENT
THICK BLACK
RED DOTTED
PLOT BOUNDARY

Exhibit - L

MAHARASHTRA POLLUTION CONTROL BOARD

Phone : 4010437 / 4014701 / 4020781
Fax : 4024068 / 4023516
Website : http://mpcb.gov.in
E-Mail : ta@ mpcb.gov.in

KALPATARU POINT, 3rd Floor,
Sion-Matunga Scheme Road No.8,
Opp. Sion Circle, Sion (East)
Mumbai-400 022.

No.BO/CAC-Cell/TB/B-778

Date : 23/02/2016

To,
The Director,
Environment Department, Government of Maharashtra,
15th Floor, New Administrative Building, Mantralaya, Mumbai-400032.

Sub: Application of M/s. The Indian Film Combine Pvt. Ltd., Maker Maxit S.No. 341(Pt.) of village Bandra, S.No. 4(Pt.) of Village Parighkhar,Tal. Andheri, Mumbai

Ref : (1)Consent to Establish granted vide no BO/RO(P&P)/EIC No. MU-1130-09/E/CC-345 dt 24.09.2009
(2)Letter of Urban Development Department dtd. 17.01.2007 enclosing order passed by Govt. of Maharashtra u/s 47 of Town Planning Act 1966 (quasi-judicial order passed by Hon'ble the then Chief Minister of Maharashtra dated 15th January 2007) in the matter of Appeal No. TPE 4305/207/CR-78/05/UD-11 (The Indian Film Combine Pvt. Ltd. V/s. MMRDA)

.....

This office is in receipt of the application from M/s. The Indian Film Combine Pvt. Ltd., Maker Maxit S.No. 341(Pt.) of village Bandra, S.No. 4(Pt.) of Village Parighkhar, Tal. Andheri, Mumbai for grant of Revalidation of consent to establish. Board had granted consent to establish to the PP vide dated 24.09.2009 for construction of Cinema Theatre & commercial complex on Total plot area 80,800 sq.mtrs and having Total construction BUA (FSI+Non FSI) 1,41,100.84 sq. mtrs. Since it is infrastructure /Building project, it falls under schedule 8(a) category B2 and attracts Environmental clearance (EC) as per provisions of EIA notification 2006; hence Board has stipulated the condition at Sr. No. 12 in the Consent to Establish dtd. 24.09.2009 regarding " Applicant should not take any effective steps for implementation of the project before obtaining EC as per EIA Notification 2006 and amendments thereto and CRZ Clearance from MCZMA/MoEF".

However in this context it is noted that PP has submitted reply by attaching the previous correspondence dtd. 25.11.2009 made with this Board along with a copy of letter dtd. 17.01.2007 from Urban Development Department and an order passed by Govt. of Maharashtra dtd. 15.01.2007, u/s 47 of Town Planning Act 1966 and claims that they have complied with as evident from the quasi-judicial order passed by Hon'ble the then Chief Minister of Maharashtra.

Board has obtained the legal opinion from Legal Section of the Board, which is as: "Since the EIA Notification, 2006 and the CRZ Notification 2011 are self-explanatory, according to which Statutory compliances in respect of obtaining clearances are required to be obtained, the Quasi-Judicial Order passed by the then Hon'ble Chief Minister cannot be having overriding effect on the mandatory compliance of those provisions. The matter may be put up before CAC for taking final decision as per the delegation of the powers for Consent Management"

It is therefore, requested to provide us guidance on whether PP needs to obtain prior EC and CRZ clearance or not.

(Dr. P. Anbalagan, IAS)
Member Secretary

DA:- as above
Copy to:- CAC Cell, MPCB, Mumbai.- For information and follow-up action.

Exhibit - M

noted that proposal has also been submitted to MoEF for the same. Authority after deliberation decided to follow up with the MoEFCC.

Item No.3: Regarding Construction of building namely, J K House at Sophia College Lane, Breach Candy, Mumbai

The Authority noted that the Ministry of Environment, Forest and Climate Change, New Delhi vide letter dated 23.8.2016, 15.11.2016 has requested a report from the MCZMA regarding construction of building J K House at Sophia College Lane, Breach Candy, Mumbai.

In response to MoEF letters, the MS, MCZMA during the visit at New Delhi on 31.8.2016 has handed over the xerox copies of the proposal to the then Joint Secretary, MoEF .

The MoEF sent a reminder letter dated 21.2.2017 requesting a report whether there is violation of CRZ norms in the construction of the said building.

The Authority noted that the MCZMA vide letter dated 29.9.2016 was requested to MCGM to take necessary action in matter, if any violation of provisions of CRZ Notification 1991 as well as 2011. MCGM was requested to send the factual & detail action taken report to the Authority at the earliest.

The Authority noted and took on record the reply dated 23.11.2016 of the MCGM. Authority also noted the CRZ recommendation of MCZMA dated 13.6.2008 and CRZ Clearance issued by MoEF dated 23.9.2008 which stipulates construction as per DCR existing as on 19.2.1991 i.e. as per DCR of 1967. However, there are subsequent modifications in the plan, wherein construction is undertaken as per current DCR, on which corporation opines that it is in accordance with provisions of CRZ Notification, 2011.

After detail discussion and deliberation, the Authority decided to send the above stated factual report of the MCGM to the MoEF, New Delhi for further appropriate action in the matter as per rules.

Item No.4: Regarding construction of Shopping Malls, office complex and hotel on plot bearing S. No. 341 (pt) of Bandra & S. No. 4 (pt) of Parighkhar, Bandra Kurla Complex, Mumbai

Minutes of the 119th meeting of the Maharashtra Coastal Zone Management Authority (MCZMA) held on 28th to 30th June, 2017

The Authority noted that a complaint dated 25.07.2016 is received before the MCZMA alleging illegal construction of Shopping Malls, office complex and hotel on plot bearing survey no. 341(pt) of Bandra and Survey no.4 (pt) of Parighkhar, Mumbai Suburban which falls in CRZ area.

The complainant has alleged FSI violation, change of use, alteration of DP reservation, substantial portion of plot falls in CRZ-III where no construction is permitted, construction on seaward side and in the mangrove buffer zone, Mangrove destruction, No MCZMA permission, No Environment Clearance etc.

The MCZMA vide letter dated 27.9.2016 requested Divisional Commissioner, Konkan Division, MCGM, Collector & Chairman (DCZMC) Mumbai Suburban and Mangroves Cell & MMRDA for appropriate action.

The Authority noted the replies dated 1.12.2016, 24.1.2017 and 18.12.2016 & 15.12.2016 received from the offices of MCGM, district collector and MMRDA respectively.

After deliberation, the Authority decided to seek following details from the Project proponent:

1. When was the permission granted for on-going construction on site under reference and date of commencement of the work?
2. Whether the construction on the site is as per the CRZ NoC granted by the UDD, GoM.
3. Submit chronology of subsequent changes made in the approved plan in detail.
4. Submit copies of the CRZ Clearance and EC obtained, if any.
5. Whether the construction is on landward or seaward side of the road fronting the Creek.
6. Distance of the construction under consideration from the HTL of the creek and mangroves / Mangroves buffer zone.

The Authority further decided to direct MMRDA to stop the work till the time matter is decided on the basis of above said information to be submitted to Authority.

Member Secretary

Chairman

Exhibit - N

IN THE COURT OF METROPOLITAN MAGISTRATE

BANDRA, MUMBAI

CRIMINAL COMPLAINT NO. 182 OF 2017

NOTARY B. P. SHARMA Kandivali (E), Dr. Mumbai Maharashtra Regd. No. 19471 Exp. Dt. 24/02/2019 GOVT. OF INDIA

Pratap Lal Teli ... **COMPLAINANT**

VERSUS

Ranbir Appar Maker and others ... **ACCUSED**

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IN THE COURT OF METROPOLITAN MAGISTRATE

BANDRA, MUMBAI

CRIMINAL COMPLAINT NO. OF 2017

Pratap Lal Teli
Chawl No. 10, Room No. 203,
Punjabi Colony, GTB Nagar,
Sion Koliwada, Mumbai–400037.
TELEPHONE: 9869818906. ... **COMPLAINANT**

VERSUS

1. Ranbir Appar Maker, Managing Director,
The Indian Film Combine Pvt. Ltd.,
Maker Tower, 'F' 1st Floor,
Cuffe Parade, Mumbai - 400005

2. Manish Ranbir Maker,
Director, The Indian Film Combine Pvt. Ltd.,
Maker Tower, 'F' 1st Floor,
Cuffe Parade, Mumbai - 400005

3. Puneet Rajkumar Gupta,
Director, The Indian Film Combine Pvt. Ltd.,
Maker Tower, 'F' 1st Floor, Cuffe Parade,
Mumbai - 400005

4. D. Sampat Kumar, Chief,
Town & Country Planning Division,
Mumbai Metropolitan Region Development Authority,
Bandra Kurla Complex, Mumbai - 400051 .

5. C.Y. Khandare,
Sr. Planner, Town & Country Planning Division,
Mumbai Metropolitan Region Development Authority,

Bandra Kurla Complex, Mumbai - 400051 .

6. The Indian Film Combine Pvt. Ltd.,
Maker Tower, 'F' 1st Floor,
Cuffe Parade, Mumbai – 400005.

AND

Other unknown persons whose names shall become apparent Department, Municipal Corporation of Greater Mumbai, during the course of police investigation.

... **ACCUSED**

COMPLAINT FOR POLICE INVESTIGATION UNDER SECTION 156(3) OF THE CODE OF CRIMINAL PROCEDURE, 1973

MOST RESPECTFULLY SUBMITTED:

1.0 INTRODUCTION:

1.1 The Complainant, is an Indian Citizen, residing at the address mentioned above. He is making this Criminal Complaint under the provisions of section 39 and under section 156(3) of the Code of Criminal Procedure, 1973 for a police investigation related to commission of a cognisable offence and where in complete defiance to rulings given by Constitutional Courts yet, the officer in-charge of Bandra Kurla Complex Police Station has not registered the First Information Report.

1.2 The Allegations, brief facts and the provisions of laws related thereto are detailed hereunder.

2.0 BRIEF FACTS AND ALLEGATIONS:

2.1 The Complainant humbly submits that this complaint is being filed related to the Commission of a Cognisable offence, by the Accused Persons mentioned above, where despite there being a total ban on construction within 50 m of the mangroves, yet Accused Persons in conspiracy with one another, constructed a large building within such 50 metres of the notified mangroves area. In this way, an offence under section 120-B read with section 409 and section 15 of the Environment Protection Act, 1986 took place.

2.2 the Complainant further submits that vide orders of the Hon'ble High Court on mangroves dated 6th October, 2005, a copy of which is annexed as **EXHIBIT-'A'**, inter alia, the following order was made:

> **"(iii) Regardless of ownership of the land, all construction taking place within 50 metres on all sides of all mangroves shall be forthwith stopped."**

2.3 Pursuant to the aforesaid orders of the Hon'ble High Court, the mangroves areas, were demarcated and a mangroves map was prepared by the Maharashtra Remote Sensing Application Centre, Nagpur. In particular, this map was prepared based on the following Order of the Hon'ble High Court:

"7. The Maharashtra State using Satellite Remote Sensing directed to prepare Phase-II of the mapping for carrying out mangroves study using high resolution satellite data of 65 cms. spatial resolution/one-meter spatial resolution for detailed mapping of mangroves with a view to identify more precisely mangrove areas."

2.4 A copy of the map prepared by the Maharashtra Remote Sensing Application Centre, Nagpur, based on the aforesaid orders of the Hon'ble High Court is annexed and is marked as **EXHIBIT-'B'.**

2.5 The aforesaid map prepared by the Maharashtra Remote Sensing Application Centre, Nagpur, matches with the Google Earth Satellite Photograph of 11th November, 2000, a copy of which is annexed (with supplied illustrations) and marked as **EXHIBIT-'C'.**

2.6 It is further seen that Accused No. 1 to are the functional directors of the Company named as Accused No. 6. The latter holds a long-term lease on the land bearing S. No. 341 Part of Bandra and S. No. 4 (Part) of Parighar, Taluka Andheri, Bandra East being done by The Indian Film Combine Pvt. Ltd. This land admeasures about 20 acres and a substantial part of it is within 50 m of the mangroves. I.e. a substantial part of the land is in the Mangrove Buffer Zone.

2.7 Further, Accused No. 4 and 5 are the statutory officials of Town Planning Department of the Mumbai Metropolitan Region Development Authority. They have got a 'dominion' i.e.

authority and control over the said land for the reason that they hold statutory authority to grant building permissions under the local laws. Unless Accused No. 4 and 5 invoke their 'dominion' over this property, and grant building permission, it would not be possible for the accused Company i.e. Accused No. 6 to have indulged in any sort of construction on the land under reference.

2.8 Notwithstanding the Order of the Hon'ble High Court that **'all construction taking place within 50 metres on all sides of all mangroves shall be forthwith stopped'**, and notwithstanding the similar stipulations set in the Coastal Regulation Zone Notification, 2011, Accused No. 1 to 3 with the active help and with full knowledge of Accused No. 4 and 5 are carrying out construction at a rapid speed within 50 m of the mangroves, at the site referred to above.

2.9 The actual details of construction done within 50 m of the mangroves can be seen from the measurement map on Google Earth Satellite Photographs, as under:

(A) Construction done within 50 of mangroves boundary on the East Side (**EXHIBIT-'D'**).

(B) Construction done within 50 of mangroves boundary on the South Side (**EXHIBIT-'E'**).

(C) Construction done within 50 of mangroves boundary on the West Side (**EXHIBIT-'F'**).

2.10 Since Accused No. 1 to 3 are the functional Directors of India Film Combine Ltd. They are directly responsible for the construction being done in violation of the law under the provisions of section 16 of the Environment Protection Act, 1986. Accused No. 6 is the said Company, i.e. The Indian Film Combine Pvt. Ltd. and is a juristic entity having been registered under the Companies Act. The construction as aforesaid is being done with full knowledge of Accused No. 1 to 3.

2.11 Accused No. 4 and 5 are officers of the Mumbai Metropolitan Region Development Authority. These officers, with their full knowledge and with their full support, have been permitting Accused No. 1 to 3 to carry on this construction within 50 m of the mangroves.

3.0 SECTIONS OF LAW VIOLATED:

3.1 Section 120-B of the Indian Penal Code, 1860 – Criminal conspiracy to commit the offence:

In this case, it is seen that several persons came together at various times to agree to knowingly commit the offence. It is a settled position in law, where different persons come at different times to agree to commit an offence, then it becomes a case of criminal conspiracy against each of such persons.

3.2 Section 409 of the Indian Penal Code, 1860:

In this case, the Accused No. 4 and 5 had a dominion i.e. authority and control on the land of Accused No. 6. Without the permission of the former, no construction could take place. Accused No. 4 and 5, betrayed the trust and permitted Accused No. 1 to 3 to 'dishonestly use' that land for construction of shopping malls etc. which was a Mangrove Buffer Zone. In this way, the following 2 ingredients of the criminal breach of trust as defined in section 405 of the Indian Penal Code, 1860 has been satisfied:

(a) Accused No. 4 and 5 had a 'dominion' i.e. control and authority on the land of Accused No. 6.

(b) The Accused Persons entered into a criminal conspiracy to 'dishonestly use' the said land for construction on the Mangrove Buffer Zone.

In this reference, the Hon'ble Supreme Court in the case of Dr. E. Syed Ali v. The Union of India, decided on 24th October, 2008, has observed as under:

> "It would thus be clear that the petitioner was under constitutional duty coupled with power. **Every public servant is a trustee of the society and in all facets of public administration, every public servant has to exhibit honesty, integrity, sincerity and faithfulness in implementation of the political, social, economic and constitutional policies to integrate the nation, to achieve excellence and efficiency in the public administration.** A public servant entrusted with duty and power to implement constitutional policy under Articles 16(4), 16(4-A), 15(4) 335

and all inter-related directive principles, should exhibit transparency in implementation and of accountable for due effectuation of constitutional goals. Maintenance of the roster and strict adherence to it in accordance with the brochure issued by the Government of India in that behalf to implement the rule of reservation in promotion is the charge and trust put on public servants. The Constitution has trusted the public servant as honest administrator to effectuate public policy and constitutional goals. The petitioner herein, has betrayed that trust and tended to frustrate the public policy."

3.3 Section 15 of the Environment Protection Act, 1986:

In this case, the Accused Persons entered into a criminal conspiracy and thereby got construction done in the Mangrove Buffer Zone, which is banned under the Coastal Regulation Zone Notification, 2011 (Copy of this Notification is annexed and marked as **EXHIBIT-'G'**, as also by the Hon'ble High Court vide its Order dated 6th October, 2005, (annexed above as **EXHIBIT-'A'**) which has been annexed above. This was also an offence under Coastal Regulation Zone Notification, 1991, read with Coastal Zone Management Plan of 1996. In this way, the Accused Persons committed an offence under section 15 of the Environment Protection Act, 1986. Since the punishment provided for this offence is of more than 3 years, hence this is a cognisable offence in view of Schedule I(II) of the Code of Criminal Procedure, 1973.

4.0 NO NEED FOR SANCTION TO PROSECUTE:

It is seen that Accused No. 4 and 5 have been appointed by the Mumbai Metropolitan Region Development Authority, which is an autonomous organisation. Hence, these Accused Persons are not eligible for protection under section 197 of Code of Criminal Procedure, 1973. This protection under section 197 of the Code is only for those persons who have been either appointment by the State Government or the Central Government.

Since Accused No. 4 and 5 have been appointed by the Mumbai Metropolitan Region Development Authority, hence, they are not covered under section 197 of the Code of Criminal Procedure, 1973. Therefore, there is no prior sanction required to file First Information Report against these officers.

5.0 DETAILS OF COMPLAINTS MADE TO BANDRA KURLA COMPLEX POLICE STATION:

5.1 On the facts as aforesaid, a complaint was lodged with the Bandra Kurla Complex Police Station dated 10th July, 2017 a copy of which is annexed herewith and marked as **EXHIBIT–'H' (without annexures)**.

5.2 It is submitted that despite the fact that a clear-cut cognisable offence was made out, yet the Officer in-charge of

the Bandra Kurla Complex Police Station did not take any action. Hence, the Complainant vide letter dated 24th July, 2017, submitted a Notice under section 154(3) of the Code of Criminal Procedure, 1973 **(EXHIBIT–'I')**. Notwithstanding the same, yet there has been no action from the side of the police.

5.3 In short, it has become apparent that the police is resolute in violating the provisions of section 154 of the Code of Criminal Procedure, 1973 and does not want to file an First Information Report in a matter where clearly a cognisable offence has been disclosed.

5.4 The Complainant submits that since the police has abdicated to comply with its statutory duty, hence the Complainant is left with no other remedy but to file this criminal complaint under the provisions of section 156(3) of the Code of Criminal Procedure, 1973.

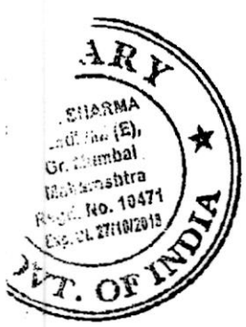
6.0 REASONS WHY A POLICE INVESTIGATION IS NECESSARY:

(i) THAT there are many critical documents linked to the case which have to be recovered. This can be done only by invocation of powers of Investigation by the police, which would include, conducting search and seizures and interrogating the Accused Persons.

(ii) THAT there are many unknown Accused Persons who could be involved with the offence. A detailed investigation would crystallise evidence linked to these unknown Accused Persons.

(iii) THAT several facts, relevant to the case, would come to light once the police issues summons for examination under the provisions of section 160 of the Code of Criminal Procedure, 1973.

(iv) THAT such a huge favour of permitting construct within the Mangrove Buffer Zone could not have been given except by some extraneous arrangements. A detailed investigation by the police can gather evidence on this.



7.0 PRAYERS:

In view of the submissions made above and in view of the fact that a cognisable offence has taken place for which the police was duty bound to have registered FIR, hence the following prayers are being made:

(a) THAT orders may be issued under section 156(3) of the Code of Criminal Procedure, 1973, directing the officer in charge of the Bandra Kurla Complex Police Station to register a First Information Report under section 120-B of the Indian Penal Code, 1860 read with section 409 of the Indian Penal Code, 1860 and section 15 of the Environment

Protection Act, 1986 read with Coastal Regulation Zone Notification, 1991 and Coastal Regulation Zone Notification, 2011.

(b) Any other order which this Hon'ble Court may deem fit to pass in the interest of justice and equity.

And for which act of kindness the Complainant shall remain duty bound and ever pray.

COMPLAINANT

VERIFICATION

I, Pratap Lal Teli, having his address as Chawl No. 10, Room No. 203, Punjabi Colony, GTB Nagar, Sion Koliwada, Mumbai–400037, solemnly declare that what is stated in this Complaint is true to the best of my knowledge and belief.

Solemnly affirmed on This 10 AUG 2017 day of August 2017 at Mumbai.

COMPLAINANT

BEFORE ME

B. P. SHARMA
B.Sc LL.B.
NOTARY
MAHARASHTRA
(Govt of India)

Register Sr. No.- 3965/17
Dated - 10 AUG 2017

Exhibit - O

THE INDIAN FILM COMBINE PVT. LTD.

REGD. OFFICE : MAKER TOWER 'F', 1ST FLOOR, 85, CUFFE PARADE, MUMBAI - 400 005. TEL.: +91 (22) 22185291 / 40402020 FAX :+91 (22) 66345042
CIN : U92100MH1942PTC003702

28th August, 2017

To,
The Chairman,
Maharashtra Coastal Zone Management Authority,
And
The Additional Chief Secretary,
Environment Department,
Room No 217 (Annex),
Mantralaya,
Mumbai – 400 032

Respected Sir,

Sub: **Item No. 4 of the Minutes of the 119th Meeting of the Maharashtra Coastal Zone Management Authority (MCZMA) held on 28th to 30th June, 2017.**

Entitled:-
-"Regarding construction of Shopping Malls, office complex and hotel on Plot bearing S. No. 341 (pt) of Bandra and S. No. 4 (pt) of Parighkhar, Bandra Kurla Complex, Mumbai".

Re: **Information which the MCZMA decided to seek from us in the above cited meeting.**

We are the Project Proponents for the above cited Project.

On perusal of the Minutes of the Meeting of the above cited meeting, we observe that the Authority decided to seek certain information from the Project Proponent as set out below:

1. When was the permission granted for on-going construction on site under reference and date of commencement of the work?
2. Whether the construction on the site is as per the CRZ NoC granted by the UDD, GoM.
3. Submit chronology of subsequent changes made in the approved plan in detail.
4. Submit copies of the CRZ clearance and EC obtained, if any.
5. Whether the construction is on landward or seaward side of the road fronting the Creek.
6. Distance of the construction under consideration from the HTL of the creek and mangroves / Mangroves buffer zone.

The requisite information is attached herewith.

We hope the Authority will find the information satisfactory and this would set the matter at rest.

Thanking you.

Yours faithfully,
For **The Indian Film Combine Private Limited**

Director

Encl: as above

Information in regard to our Project which the MCZMA decided to seek from the Project Proponent in its 119th Meeting held on 28th to 30th June 2017

Sub: Regarding construction of Shopping Malls, Office Complex and Hotel on Plot bearing S. NO. 341 (pt) of Bandra & S. No. 4 (pt) of Parighkar, Bandra Kurla Complex, Mumbai.

Ref: Item No. 4 of Minutes of the 119th Meeting of the Maharashtra Coastal Zone Management Authority (MCZMA) held on 28th to 30th June, 2017.

1) (i) Pursuant to the CRZ clearance for the Project from the Government of Maharashtra by its letter dated 6th August 1999, Development Permission for the Project was granted on 5th December 2001, by the Mumbai Metropolitan Region Development Authority (**MMRDA**) being the Special Planning Authority (**SPA**) for the Bandra Kurla Complex (**BKC**), by way of the "Commencement Certificate" (as defined in The Maharashtra Regional and Town Planning Act (**MRTP Act), 1966**).

(ii) The work on the Project was commenced on 27th June 2003.

2) Yes, the construction on the site is as per the CRZ clearance dated 6th August 1999 granted by the Government of Maharashtra ("**GOM**") in the Urban Development Department.

In accordance with the above cited CRZ Clearance, the construction is being carried out only on the landward side of existing authorized structures and imaginary line drawn from the creek ward side of existing authorized structures and as per relevant rules and regulations.

3) The Chronology of changes made in Approved Plan is enclosed herewith at "**Annexure A**".

On perusal of the chronology it will be apparent that the total Built Up Area of the Project has been consistently reducing in each subsequent amended plan.

4) A copy of the CRZ clearance dated 6th August 1999 from the GOM is attached herewith at **"Annexure B"**.

Since our entire Project was approved by the above cited CRZ Clearance dated 6th August 1999 (under the CRZ notification of 1991) as one integrated Project as a whole, no further Environmental Clearance was required to be obtained under any of the further Environmental Notifications.

5) The construction is on the landward side of the road fronting the Creek.

6) As regards your query regarding distance of the construction from the HTL of the Creek and Mangroves, we wish to clarify as follows:-

As per the Coastal Zonal Management Plan (CZMP) of 2000, the portion of our Project falling within 150 mtrs. from the HTL is in CRZ II Zone and since there were no mangroves, no mangrove buffer zone was required. Based on this, the SPA approved our plans and issued the necessary approvals and Commencement Certificates, based on which our construction work has reached a highly advanced stage.

"ANNEXURE A"

Continuation Sheet

CHRONOLOGY OF CHANGES IN THE APPROVED PLANS

I. The **Total FSI Area of the Project** for which CRZ clearance was granted by the Government of Maharashtra, in the Urban Development Department on 6th August 1999 was the FSI Area of **1,61, 593 sq. mtrs.**, as against the total permissible FSI Area of 1,61, 600 sq. mtrs. as per the then prevailing rules and regulations.

In addition, the **Total Built Up Area of the basement was 1,21,200 sq. mtrs.**, being the maximum permissible basement area as per the then prevailing rules and regulations.

The **corresponding Total Built Up Area of the project** as defined in MoEF Notification dated 4th April 2011 **including the basement** would be **3,49,242 sq mtrs.**

II. The Built Up Area as per the permissible FSI (**"FSI" Built Up Area**) approved by the Special Planning Authority (**SPA**) by Commencement Certificate dated 5th December 2001, alongwith the corresponding Built Up Areas as defined by MoEF Notification dated 4th April 2011 were as follows: -

1) Office Buildings:-		
(i) "FSI" Built Up Area	56,858.17 sq. mtrs.	
(ii) Corresponding Total Built Up Area as defined in MoEF Notification dated 4th April 2011		71,072.71 sq. mtrs.
2) Hotel Shopping Building:-		
(i) "FSI" Built Up Area	20,377.53 sq. mtrs.	
(ii) Corresponding Total Built Up Area as defined in MoEF Notification dated 4th April 2011		30,362.52 sq. mtrs.
3) DIT and other permissible commercial users Building:-		
(i) "FSI" Built Up Area	19,123.28 sq. mtrs.	
(ii) Corresponding Total Built Up Area as defined in MoEF Notification dated 4th April 2011		28,493.69 sq. mtrs.
4) Hotel Building:-		
(i) "FSI" Built Up Area	43,564.13 sq. mtrs.	
(ii) Corresponding Total Built Up Area as defined in MoEF Notification dated 4th April 2011		63,603.63 sq. mtrs.
5) Basement:-		
Total Built Up Area		1,21,200.00 sq. mtrs.
Total Project "FSI" Built Up Area	**1,39,923.11 sq. mtrs.**	
Corresponding Total Built Up Area as defined in MoEF Notification dated 4th April 2011		**3,14,732.55 sq. mtrs.**

III. The areas as per the approved plans of 25th November 2002 were as follows: -

1) Office Buildings:-		
(i) "FSI" Built Up Area	54,174.04 sq. mtrs.	
(ii) Corresponding Total Built Up Area as defined in MoEF Notification dated 4th April 2011		65,008.85 sq. mtrs.
2) Hotel Shopping Building:-		
(i) "FSI" Built Up Area	16,421.29 sq. mtrs.	
(ii) Corresponding Total Built Up Area as defined in MoEF Notification dated 4th April 2011		24,467.72 sq. mtrs.
3) DIT and other permissible commercial users Building:-		
(i) "FSI" Built Up Area	21,083.48 sq. mtrs.	
(ii) Corresponding Total Built Up Area as defined in MoEF Notification dated 4th April 2011		31,414.39 sq. mtrs.
4) Hotel Building:-		
(i) "FSI" Built Up Area	48,244.30 sq. mtrs.	
(ii) Corresponding Total Built Up Area as defined in MoEF Notification dated 4th April 2011		70,436.68 sq. mtrs.
5) Basement:-		
Total Built Up Area		1,21,200.00 sq. mtrs.
Total Project "FSI" Built Up Area	**1,39,923.11 sq. mtrs.**	
Corresponding Total Built Up Area as defined in MoEF Notification dated 4th April 2011		**3,12,527.63 sq. mtrs.**

IV. The areas as per the approved plans of 29th October 2007 were as follows: -

1) Office Buildings:-		
(i) "FSI" Built Up Area	53,507.46 sq. mtrs.	
(ii) Corresponding Total Built Up Area as defined in MoEF Notification dated 4th April 2011		61,883.15 sq. mtrs.
2) Hotel Shopping Building:-		
(i) "FSI" Built Up Area	17,059.72 sq. mtrs.	
(ii) Corresponding Total Built Up Area as defined in MoEF Notification dated 4th April 2011		25,418.98 sq. mtrs.

3) DIT and other permissible commercial users Building:-

(i) "FSI" Built Up Area	14,313.65 sq. mtrs.	
(ii) Corresponding Total Built Up Area as defined in MoEF Notification dated 4th April 2011		21,327.34 sq. mtrs.

4) Hotel Building:-

(i) "FSI" Built Up Area	56,220.01 sq. mtrs.	
(ii) Corresponding Total Built Up Area as defined in MoEF Notification dated 4th April 2011		82,081.21 sq. mtrs.

5) Basement:-

Total Built Up Area		1,21,200.00 sq. mtrs.

Total Project "FSI" Built Up Area	**1,41,100.84 sq. mtrs.**	
Corresponding Total Built Up Area as defined in MoEF Notification dated 4th April 2011		**3,11,910.69 sq. mtrs.**

V. The areas as per the approved plans of 9th September 2015 were as follows: -

1) Office Buildings:-

(i) "FSI" Built Up Area	51,866.57 sq. mtrs.	
(ii) Corresponding Total Built Up Area as defined in MoEF Notification dated 4th April 2011		61,908.57 sq. mtrs.

2) Hotel Shopping Building:-

(i) "FSI" Built Up Area	18,656.69 sq. mtrs.	
(ii) Corresponding Total Built Up Area as defined in MoEF Notification dated 4th April 2011		27,798.47 sq. mtrs.

3) DIT and other permissible commercial users Building:-

(i) "FSI" Built Up Area	15,629.40 sq. mtrs.	
(ii) Corresponding Total Built Up Area as defined in MoEF Notification dated 4th April 2011		23,287.81 sq. mtrs.

4) Hotel Building:-

(i) "FSI" Built Up Area	54,722.25 sq. mtrs.	
(ii) Corresponding Total Built Up Area as defined in MoEF Notification dated 4th April 2011		79,698.35 sq. mtrs.

Continuation Sheet

5) Basement:-

Total Built Up Area		1,17,372.61 sq. mtrs.
Total Project "FSI" Built Up Area	**1,40,874.91 sq. mtrs.**	
Corresponding Total Built Up Area as defined in MoEF Notification dated 4th April 2011		**3,10,121.44 sq. mtrs.**

"ANNEXURE B"

GOVERNMENT OF MAHARASHTRA

No.TPS 2099/917/CR-120/99/UD-12
Urban Development Department
Mantralaya, Mumbai - 400 032
Dated : 6th August 1999.

To
The Director,
The Indian Film Combine Pvt.Ltd.
Maker Tower, 'F' 1st floor,
Cuffe Parade, Mumbai - 400 005

Sub :- Clearance under the provisions of Coastal Regulation Zone for development of plot bearing S.No.341(pt) of Bandra and Survey No.4(pt) of Parighkhar.

Sir,

Please refer to your letter dated 14th June 1999 under which you have requested to give clearance for development of plot bearing S.No. 341(pt) of Bandra and 4 (pt) of village Parighkhar.

2. It is seen from the casepapers that land under reference admeasuring about 80,800 sq.mt. The Municipal Corporation of Greater Mumbai issued Occupation Certificate on 23/12/1977 for Cinema Theatre and this Cinema theatre is in use till today.

3. As per Ministry of Environment and Forests Department, Government of India Notification dt. 19th February, 1991, the State Government prepared the Coastal Zone Management Plan for the coastal area of Maharashtra State and submited to MOEF for approval which is approved by MOEFvide letter dt. 27/9/1996 with some conditions and modifications. As per these conditions C Z M P of the State Coastal area is revised in which plot under reference is included in CRZ-II. In CRZ-II area development is permitted as per Development Control Rules prevailing as on 19/2/1991.

4. It is observed that the plot under reference is partly affected by Coastal Regulation Zone. In the circumstances, there is no objection to develop the unaffected portion of the plot as per prevailing regulations. However in respect of portion of plot coming within C.R.Z. the same may be allowed to be

developed subject to conditions that proposed construction shall be on the land ward side of existing authorised structure and imaginary line drawn from the creek ward side of existing authorised structures and as per relevant rules and regulations.

Yours faithfully,

(A. M. Abhyankar)
Desk Officer

Copy for information to :-

(1) The Chief Engineer (Development Plan)
Mumbai Municipal Corporation , Mumbai - 400 001

(2) The Metropolitan Commissioner,
Mumbai Metropolitan Regional Development Authority
Bandra-Kurla Complex
Bandra (E), Mumbai - 400 051.

CRZ point of view, Hon'ble High Court ordered to comply with that condition. The MMRCL officials requested to amend the condition and replace it with to follow the rules stipulated in the Noise pollution Rules, 2000, which they submitted it would be complied with during the work of Metro line 3.

In view of above, the Authority decided to replace the conditions mentioned in Metro projects discussed in 113th and 114th meeting regarding nights hour construction. The said conditions are replaced as follows:

"MMRCL to follow the stipulations and provisions of the Noise Rules, 2000 (amended from time to time) while implementing the work of the Metro line 3 under reference"

However, in view of directions of the Hon'ble High Court, the MMRCL may approach Hon'ble High Court to modify the order dated 11st August, 2017 in WP No. (L) 2107/2017 which is in force to avoid the contempt of the Hon'ble Court. Further, the MMRCL to get amendment in Environment Clearance appropriately, in view of above from competent Authority.

Item No.6: Complainantregarding construction of Shopping Malls, office complex and hotel on plot bearing S. No. 341 (pt) of Bandra & S. No. 4 (pt) of Parighkhar, Bandra Kurla Complex, Mumbai

The Authority noted that the MCZMA was in receipt of complaint alleging CRZ violations regarding construction on plot bearing S. No. 341 (pt) of Bandra & S. No. 4 (pt) of Parighkhar, Bandra Kurla Complex, Mumbai.

The matter was discussed in 119th meeting of the MCZMA held on 28th to 30th June, 2017 and accordingly, as per the decision taken in the meeting, the MCZMA vide letter dated 11.8.2017 issued directions under section 5 to stop the work on site. Further, the MCZMA vide letter dated 22.8.2017 sought certain information from the PP. The PP has submitted its reply to MCZMA.

The Authority further noted that hearing was conducted on 6th September, 2017 under the chairmanship of the ACS, Environment and Chairman, MCZMA wherein project proponent, complainant and MMRDA were called to present their say. During the hearing PP and complainant presented their say. Complainant alleged that revised CRZ clearance from the MCZMA was

necessary as work was started in the year 2010 and hence, CRZ clearance of the UDD is invalid. It was further alleged that mangroves are present on the site. During the hearing, Complainant and MMRDA were directed to submit the written submission in the matter. The complainant has not submitted its written submission to the Authority, till the date of meeting. The MMRDA submitted their reply vide letter dated 07.09.2017. The reply of the MMRDA is as follows:

1. The permission for the ongoing construction i.e. the first CC for the layout was issued on 05.12.2001. The copy of the Work Start Notice dt. 04.07.2003 submitted by M/s The Indian Film Combine Pvt. Ltd. is available with MMRDA by which applicant has informed that the work has been commenced on 27.06.2003
2. The construction on site under reference is as per the CRZ NoC granted by Govt. in UDD on 06.08.1999.
3. The list of approvals issued till date by MMRDA for the redevelopment on land under reference is submitted.
4. As regards the Appeal filed by M/s The Indian Film Combine Pvt. Ltd., The competent authority, Govt. of Maharashtra has passed an order under section 47 of MR & TP Act on 15.01.2007 in which it is stated that the entire project has been approved under CRZ provision and it is accordingly excluded from the scope of EIA Notification 1994 as amended by Notification 2004.
5. Yes, construction is on the landward side of the 15m wide road (which is between the site u/r and the creek) as per Govt. Notification 2000 and it is also on landward side of imaginary line parallel to HTL drawn from the existing authorised structure on plot under reference.
6. MMRDA has issued the initial approval for the layout on 05.12.2001 based on the CZMP 2000 and within the existing compound wall approved by MCGM in 1977 and it is on landward side of the imaginary line parallel to HTL drawn from the existing authorised structure on plot under reference.

During the meeting, the Project proponent and MMRDA were presented the matter. Complainant was absent during the meeting and informed that he would be late as he is busy with other important work. Therefore, the mater was considered at the end of the meeting, however, the complainant could not remain present during the meeting, when the matter was discussed.

The MMRDA official and PP submitted that the project is ongoing and construction in CRZ area is in accordance with the CRZ approval granted by the UDD, GoM in the year 1991. It was further presented that there are no significant changes in the proposed plans in CRZ area and plans remained same as approved in the year 2001. In fact, the construction area is reduced in the CRZ area and there is no increase in FSI. The MMRDA officials further submitted that the mangroves are not present on the plot under reference, however, at present, the plot boundary may be situated between 50 m mangroves buffer zone, which is subject to verification as it is dynamic matter.

During the meeting, the Authority observed the followings:

1. The Urban Development Department, GoM vide letter dated 06.08.1999 granted the CRZ clearance.
2. As per the submission of the MMRDA and project proponent, the plans were approved in accordance with CRZ NoC granted by the UDD, GoM. MMRDA further submits that there are no significant changes in the proposed plans in CRZ area after 5.12.2001 i.e. the year of approval of plans. Further, there is reduction in FSI due to minor changes. Further, the MMRDA states that it is ongoing project since 5.12.2001.
3. The PP to strictly follow the conditions mentioned in the CRZ Noc granted by the UDD, GoM and no construction is allowed in Mangrove area.

The Authority also noted the opinion of the Law and Judiciary Department Opinion received in the matter, which states that it is for the concern Authority to examine those factual aspect and see no condition of clearance is violated and take appropriate decision. It was further stated that the condition of each initial clearance and subsequent clearance have to be kept in mind and scrupulously followed by the project proponent while executing the project.

Considering the above, including opinion of Law and Judiciary Department, and information furnished by the MMRDA and PP, the Authority after deliberation decided to withdraw the stop work order dated 11.8.2017 of the MCZMA subject to compliance of following:

1. MMRDA to ensure that it was ongoing project as mentioned in its reply and approved on 5.12.2001 to which commencement certificate was issued in the year 2003.
2. MMRDA to ensure that there are no subsequent changes in the original approved plans for the project undertaken in CRZ area.
3. MMRDA to ensure that ongoing work is as per the provisions of the CRZ Notification and beyond mangroves buffer zone as applicable.
4. As per the opinion of the Law and Judiciary department, the MMRDA and PP to ensure that no condition of the clearances including CRZ NoC is violated. And, no construction should be undertaken in mangroves or its mangroves 50 buffer zone.
5. In the event, conditions no. 1 to 4 as above, are not complied with, the MMRDA shall stop the work and report the violation of the CRZ Notification to the Authority at the earliest.

Item no. 7: Proposed construction of Model Rural Health Research Institute Unit (MRHRU) for cottage hospital on land bearing S. No. 167 at village Dahanu, Tal. Dahanu, Dist. Palghar by NIRRH.

The Authority presented the proposal before the Authority. The Authority noted that the proposal is for construction of Model Rural Health Research Institute Unit (MRHRU) for cottage hospital on land bearing S. No. 167 at village Dahanu, Tal. Dahanu, Dist. Palghar

The Authority noted that the proposal was earlier discussed in 116th meeting, wherein the proposal was rejected, since, the construction is proposed on seaward side.

The Authority noted that the National Institute for Research in Reproductive Health vide letter dated 27.7.2017 submitted that, they have the shifted the location of proposed Model Rural Health Research Institute Unit (MRHRU) for cottage hospital which is landward side the of existing quarters. Revised layout plan is submitted as per which, area of plot is 33000.00 sqm. Existing BUA is 5799.66 sqm. Proposed BUA (MRHRU of Gr. + 1 floor) is 558.88 sqm. Total BUA is 6358.54 sqm.

The PP presented that proposed construction is relocated on landward side of the existing structure.

Minutes of 122nd meeting of the Maharashtra Coastal Zone Management Authority held on 30th October, 2017

Minutes of the 122nd meeting of the Maharashtra Coastal Zone Management Authority (MCZMA) held under the Chairmanship of Additional Chief Secretary, Environment on 30th October, 2017 in Conference Hall, 4th Floor, Maharashtra Pollution Control Board, Kalpataru Point, Opp. Cinemax, Sion (E), Mumbai. List of the member present in the meeting is enclosed as **Annexure-I**.

Confirmation of 121st minutes:

The minutes of the 121st meeting of the MCZMA held on 15th and 16th September, 2017 were confirmed without any changes:

- At Item no. 6, on page 8, in line no. 3 from the top, 'year 1991' shall be read as 'year 1999'
- At item no. 6, on page 9, condition no. 2, 3 and 4 shall be read as:

2. MMRDA to ensure that there are no significant subsequent changes in the original approved plans for the project undertaken in CRZ area.
3. MMRDA to ensure that ongoing work is as per the provisions of the CRZ Notification and beyond mangroves buffer zone as applicable, as per approved CZMP of 2000.
4. As per the opinion of the Law and Judiciary department, the MMRDA and PP to ensure that no condition of the clearances including CRZ NoC is violated. And, no construction should be undertaken in mangroves or its mangroves 50 buffer zone, as per approved CZMP of 2000.

- At item no 112, on page no. 88, the plot area '650790 sqm' shall be read as '65790 Sqm'

- At item no. 58, page no. 54, the last para shall be read as
"(b) The FSI potential of the total permissible area of the CRZ portion of the plots under reference can be allowed to utilize on the basis of 1991 norms as amended from time to time, on Non CRZ contiguous portion of land. Local body to ensure that No construction is allowed in CRZ area, considering approved CZMP.

However, local body to ensure that RG area is deducted while calculating total permissible area for FSI computation from the portion of the plot falling in CRZ II areas under reference, as stated above. Accordingly, the PP to submit the revised statement for FSI calculations for the land under reference to local body as per above said decision. Further, the MCGM to ensure that total permissible area from the CRZ portion of the land under reference should not exceed limit of 1991 norms as amended from time to time as stated in above said MoEF letters & same shall be utilized for development in Non CRZ area only"

Item No. 1: **Application No. 33(THC)/2013 (WZ) in the matter of Janardan Chandar Patil V/s Union of India and Ors before Hon'ble NGT**

The Authority noted the Judgment dated 17.08.2015 passed by Hon'ble NGT in the Application No. 33(THC)/2013 (WZ) in the matter of Janardan Chandar Patil V/s Union of India and Ors. The Authority took note of the site visit report and decided to file an affidavit and M.A. Application.

Item No. 2: **PIL No. 109/2006 in the matter of Malabar Hill Association V/s MCGM and Ors before Hon'ble High Court**

The Authority noted the Order dated 11.10.2017 passed by Hon'ble High Court in the PIL No. 109/2006 in the matter of Malabar Hill Association V/s MCGM and Ors. It was decided that Affidavit be filed in the matter stating the status of the land under reference i.e. Priydarshani Park and reservations of Fire 'Brigade station' and 'Post office', as per the approved CZMP and provisions of CRZ Notification, 2011.

Item No. 3: **SLP No. 30684/2014 MCZMA V/s. Sea Green CHSL before Hon'ble Supreme Court**

The representatives from the M/s Sea Green Society presented the matter before the Authority. The Authority noted the background of the matter. Based on the complaint received regarding alleged CRZ violation in matter of construction of M/s Sea Green housing Society on plot No. 7/15, Scheme No. 58, C.S. No. 15/806, Worli, Mumbai. The MCZMA vide letter dated 1.2.2011 issued stop work notice to M/s Sea Green CHS under section 5 of the E(P) Act, 1986. Against the said Notice, Society had filed a writ petition No. 1245 of 2013 Vs

Exhibit - Q

मुंबई महानगर प्रदेश विकास प्राधिकरण
मुंबई
आवक क्र 504
दिनांक 25-01-18.

MAHARASHTRA COASTAL ZONE MANAGEMENT AUTHORITY

Tel. No. : 22029388
E-mail : dir1.mev-mh@nic.in
Website: https://mczma.maharashtra.gov.in/

No. Complaint – 2016 / CR – 44 / TC - 4
Office of the -
Maharashtra Coastal Zone Management Authority,
Environment Department, 15th floor,
New Administrative Building, Mantralaya,
Mumbai- 400 032.
Date: 11.01.2018

To,
Metropolitan Commissioner,
Mumbai Metropolitan Region Development Authority,
MMRDA Building, Bandra Kurla Complex, Bandra (E),
Mumbai -400051

Subject: Regarding construction of Shopping Malls, office complex and hotel on plot bearing S. No. 341 (pt) of Bandra & S. No. 4 (pt) of Parighkhar, Bandra Kurla Complex, Mumbai

M.C. OFFICE, 319 Date: 30/1/2018

The Maharashtra Coastal Zone Management Authority in its 119th & 121st meetings held on 28th to 29th June, 2017 and 15th to 16th September 2017 respectively deliberated the matter of construction of Shopping Malls, office complex and hotel on plot bearing S. No. 341 (pt) of Bandra & S. No. 4 (pt) of Parighkhar, Bandra Kurla Complex, Mumbai.

T&CPD INWARD NO. 654 DATE: 01-02-2018 TIME: 12:30 pm

2. The MCZMA noted that there was a complaint alleging CRZ violations regarding construction on plot under reference. As per the decision taken in 119th meeting, the MCZMA vide letter dated 11.8.2017 issued directions under section 5 to stop the work on site and certain information from the PP was also sought. The PP has submitted its reply to MCZMA.

3. The Authority further noted that hearing was conducted on 6th September, 2017 under the chairmanship of the ACS, Environment and Chairman, MCZMA wherein say of project proponent, complainant and MMRDA was heard.

4. The MCZMA noted the reply of the MMRDA in the matter, as per which:

a) The permission for the ongoing construction i.e. the first CC for the layout was issued on 05.12.2001. The copy of the Work Start Notice dt. 04.07.2003 submitted by M/s The Indian Film Combine Pvt. Ltd. is available with MMRDA by which applicant has informed that the work has been commenced on 27.06.2003
b) The construction on site under reference is as per the CRZ No[illegible]anted by Govt. in UDD on 06.08.1999.
c) The list of approvals issued till date by MMRDA for the redevelopment on land under reference is submitted.
d) As regards the Appeal filed by M/s The Indian Film Combine Pvt. Ltd., The competent authority, Govt. of Maharashtra has passed an order under section 47 of MR & TP Act on 15.01.2007 in which it is stated that the entire project has been approved under CRZ provision and it is accordingly excluded from the scope of EIA Notification 1994 as amended by Notification 2004.

माहितीचा अधिकार

e) Yes, construction is on the landward side of the 15m wide road (which is between the site u/r and the creek) as per Govt. Notification 2000 and it is also on landward side of imaginary line parallel to HTL drawn from the existing authorised structure on plot under reference.
f) MMRDA has issued the initial approval for the layout on 05.12.2001 based on the CZMP 2000 and within the existing compound wall approved by MCGM in 1977 and it is on landward side of the imaginary line parallel to HTL drawn from the existing authorised structure on plot under reference.

5. The MMRDA official and PP submitted that the project is ongoing and construction in CRZ area is in accordance with the CRZ approval granted by the UDD, GoM in the year 1999. It was further presented that there are no significant changes in the proposed plans in CRZ area and plans remained same as approved in the year 2001. In fact, the construction area is reduced in the CRZ area and there is no increase in FSI. The MMRDA officials further submitted that the mangroves are not present on the plot under reference, however, at present, the plot boundary may be situated between 50 m mangroves buffer zone, which is subject to verification as it is dynamic matter.

6. The MCZMA, during the meeting, observed the followings:
a) The Urban Development Department, GoM vide letter dated 06.08.1999 granted the CRZ clearance.
b) As per the submission of the MMRDA and project proponent, the plans were approved in accordance with CRZ NoC granted by the UDD, GoM. MMRDA further submits that there are no significant changes in the proposed plans in CRZ area after 5.12.2001 i.e. the year of approval of plans. Further, there is reduction in FSI due to minor changes. Further, the MMRDA states that it is ongoing project since 5.12.2001.
c) The PP to strictly follow the conditions mentioned in the CRZ Noc granted by the UDD, GoM and no construction is allowed in Mangrove area.

7. The Authority also noted the opinion of the Law and Judiciary Department Opinion received in the matter, which states that it is for the concern Authority to examine that factual aspect and see no condition of clearance is violated and take appropriate decision. It was further stated that the condition of each initial clearance and subsequent clearance have to be kept in mind and scrupulously followed by the project proponent while executing the project.

8. Considering the above, including opinion of Law and Judiciary Department, and information furnished by the MMRDA and PP, the Authority after deliberation decided to withdraw the stop work order dated 11.8.2017 of the MCZMA subject to compliance of following:

i. MMRDA to ensure that it was ongoing project as mentioned in its reply and approved on 5.12.2001 to which commencement certificate was issued in the year 2003.
ii. MMRDA to ensure that there are no significant subsequent changes in the original approved plans for the project undertaken in CRZ area.
iii. MMRDA to ensure that ongoing work is as per the provisions of the CRZ Notification and beyond mangroves buffer zone as applicable, as per approved CZMP of 2000.

iv. As per the opinion of the Law and Judiciary department, the MMRDA and PP to ensure that no condition of the clearances including CRZ NoC is violated. And, no construction should be undertaken in mangroves or its mangroves 50 m. buffer zone, as per approved CZMP of 2000.

v. In the event, conditions no. 1 to 4 as above, are not complied with, the MMRDA shall stop the work and report the violation of the CRZ Notification to the Authority at the earliest.

9. Copy of the minutes of the MCZMA meeting is attached herewith.

Member Secretary, MCZMA

Copy for information to:

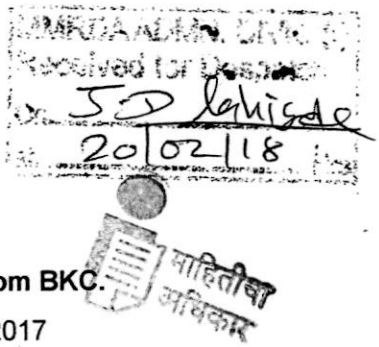
1. **Chairman, MCZMA & Additional Chief Secretary,** Environment Dept, Room No. 217, Annex Building, Mantralaya, Mumbai.
2. **Director (IA-III),** Coastal Zone Regulation, Government of India, Ministry of Environment, Forests & Climate Change, Indira Paryavaran Bhavan, Jor Bagh Road, New Delhi - 110 003.
3. **Member Secretary,** Maharashtra Pollution Control Board (MPCB), 3rd and 4th Floor, Kalpataru Point, Sion, Mumbai
4. **District Collector Mumbai Suburban,** 10th Floor, Administrative Building, Near Chetna College, Government Colony, Bandra (East), Mumbai - 400 051
5. **Municipal Commissioner,** Municipal Corporation of Greater Mumbai, Mahapalika Marg, Mumbai.
6. **Mr. Pratap Lal Teli,** Chawl No. 10, Rom No. 203, Punjabi Colony, GTB Nagar, Sion Koliwada, Mumbai – 400 037
7. **Mr. Santosh Daundkar,** 10/37, BIT Chawl, KK Mark, Mumbai Central, Mumbai – 400 008
8. **M/s. Indian Film Combine Pvt Ltd,** Maker Tower 'F', 1st Floor, 85, Cuffe Parade, Mumbai – 400 005
9. **Select File- TC 4**

Exhibit - R

TCP (P-2)/BKC/Misc/ 1036/352/2018 Date: 16 FEB 2018

To,

Addl. Chief Secretary, Environment & Chairman, MCZMA,
Maharashtra Costal Zone Management Authority,
Environment Department, 15th Floor,
New Administrative Building,
Madam Kama Road, Hutatma Rajguru Chowk,
Mantralaya, Mumbai- 400 032.



Sub: Proposed redevelopment of Drive-In-Theatre Plot from BKC.

Ref: (i) Your letter no. Complaint 2016/CR44/TC4 dt. 11/08/2017
(ii) Your letter no. Complaint 2016/CR44/TC4 dt. 11/01/2018

Sir,

With reference to your above letters dt. 11/08/2017, 11/01/2018 and Minutes of 121st & 122nd Meeting of MCZMA, regarding the subject matter, the following is for your information:

No.	MMRDA's reply
Condition 1. *of 121st Authority meeting of MCZMA*	MMRDA vide its letter dt.07/09/2017 has already informed that it is a ongoing project with CC for lay-out on 5/12/2001.
Modified Condition 2. *of 122nd Authority meeting of MCZMA*	Although minor changes are approved by MMRDA; no significant changes in the original approved plans for the project are approved by MMRDA for redevelopment on plot under reference (in CRZ area).
Modified Condition 3. *of 122nd Authority meeting of MCZMA*	As per the approved CZMP of 2000, there is no 50 m. mangrove buffer zone.
Modified Condition 4. *of 122nd Authority meeting of MCZMA*	As per the approved CZMP of 2000, there is no 50 m. mangrove buffer zone.
Condition 5. *of 121st Authority meeting of MCZMA*	In view of the compliance to conditions 1 to 4 above, there is no need to take any action on the redevelopment of Drive-In-Theatre on site under reference.

Thanking you,

Yours faithfully,

(U.P.S. Madan)
Metropolitan Commissioner,
MMRDA

Exhibit - S

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CONTEMPT PETITION NO. 20 OF 2018

IN

PIL NO. 87 of 2006

~~WRIT PETITION (Lodg) NO. 3246 OF 2004~~

Santosh Daundkar ... PETITIONER

V/s

UPS Madan, Metropolitan Commissioner, Mumbai Metropolitan Region Development Authority and Another

... RESPONDENTS

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PROFORMA

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CONTEMPT PETITION NO. 20 OF 2018

IN

WRIT PETITION (Lodg) NO. 3246 OF 2004

Santosh Daundkar ... **PETITIONER**

V/s

UPS Madan, Metropolitan Commissioner, Mumbai Metropolitan Region Development Authority and Another

... **RESPONDENTS**

Office Notes, Office Memorandum of Coram, Appearances, Court's Orders or Directions and Prothonotary's Orders	Court's or Judges Orders

Office Notes, Office Memorandum of Coram, Appearances, Court's Orders or Directions and Prothonotary's Orders	Court's or Judges Orders
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Office Notes, Office Memorandum of Coram, Appearances, Court's Orders or Directions and Prothonotary's Orders	Court's or Judges Orders
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SYNOPSIS

A

IN THE HIGH COURT OF JUDICATURE AT

BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CONTEMPT PETITION NO. 20 OF 2018

IN

WRIT PETITION (Lodg) NO. 3246 OF 2004

Santosh Daundkar ... **PETITIONER**

V/s

UPS Madan, Metropolitan Commissioner, Mumbai Metropolitan Region Development Authority and Another

... **RESPONDENTS**

On Challenge in brief

SYNOPSIS

Vide Orders of this Hon'ble Court dated 6th October, 2005 in Writ Petition (Lodging) No. 3246 of 2004, *inter alia,* the following was stipulated:

"**(iii)** Regardless of ownership of the land, **all construction taking place within 50 metres on all sides of all mangroves shall be forthwith stopped;**" (Emphasis supplied).

The Respondents have consciously, deliberately, intentionally, contemptuously and in a blatantly corrupt manner, defied these directives.

Date	EVENTS
6th October, 2005	Bombay High Court issued a landmark judgment for protection of Mangroves stopping construction **within 50 metres on all sides of all mangroves.**
2006 – 08	Maharashtra Remote Sensing Application Centre, Nagpur, detailed mapping of mangroves and prepared precise maps.
Around 2008	Remote sensing maps were superimposed on the Development Plan sheet of Mumbai Municipal Corporation.
Around the year 2012	A massive construction of a shopping mall, multiplex, etc. started within 50 m of the mangroves belt.
11th August, 2017	Maharashtra Coastal Zone Management Authority (MCZMA) issued 'Stop Work Order' since land under reference was within 50 m of the mangroves belt.
7/8 September, 2017	On unauthorised oral communication, with officer of MCZMA, MMRDA Commissioner refused to issue 'Stop Work Order'.
15-16 September, 2017.	'Stop Work Order' was revoked by MCZMA by supressing the known fact that the land was within 50 m of the mangroves.

24th October, 2017	The Petitioner gives Contempt Notice calling upon the Respondents to abide by the specific and clear directive of the Hon'ble High Court.
October – November 2017	The Respondents gave no reply and continued with their undesirable act of taking law in their own hands by supressing the High Court Order on mangroves.
November 2017	Since the Respondents took law in their own hands, hence this Contempt Petition under section 12 the Contempt of Courts Act, 1971, against the Respondents.

POINTS TO BE URGED

1. GROUND NO. 1:

Clinching evidence shows that the construction is on the 50 m wide Mangrove Buffer Zone – Respondents/contemnors took law in their own hands and openly defied the Orders of the Hon'ble High Court.

2. GROUND NO. 2:

Contemnors could not have taken law in their own hands by self-devising arguments to defy the specific High Court Directive.

3. GROUND NO. 3:

Dishonest action by Respondents/Contemnors – After issuance of the 'Stop Work Order' action dropped by ignoring the relevant maps:

4. GROUND NO. 4:

Minutes of the MCZMA meeting based on which 'Stop Work Order' was issued referred to 'Mangroves' several times – the MCZMA Minutes which dropped action did not use the word 'Mangroves' even once .

5. GROUND NO. 5:

Guilty mind to commit contempt apparent from unauthorised oral communications, prevented giving effect to the MCZMA 'Stop Work Order'.

ACTS AND RULES TO BE REFERRED

1. Contempt of Courts Act, 1971
2. Judgment of the Hon'ble High Court on mangroves dated 6th October, 2005.

AUTHORITIES TO BE CITED:

Authorities shall be cited at the time of hearing of the case.

Petitioner in Person

1

CONTEMPT

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CONTEMPT PETITION NO. 20 OF 2018

IN

WRIT PETITION (Lodg) NO. 3246 OF 2004

In the matter of Contempt of Courts Act 1971

AND

In the matter of Article 48A and Article 51A (g) of the Constitution

of India of the Constitution of India

AND

In the matter of conscious, intentional and blatant action of the Respondents/Contemnors to defy the directive of the Hon'ble High Court to forthwith stop all construction within 50 m of the mangroves.

AND

In the matter of the Respondents/Contemnors first stopping construction within 50 m of the mangroves and then permitting the same.

AND

In the matter of a mammoth construction worth about Rs. 5,000 crore in Bandra East, Mumbai, whose substantial part is within 50 m of the mangroves duly mapped by the Maharashtra Remote Sensing Application Centre,

Nagpur on Orders of the Hon'ble High Court.

Santosh Daundkar,
10/37 BIT Chawl, KK Marg,
Mumbai Central, Mumbai 400 008.
TEL: (9821943920) ... **PETITIONER**

VERSUS

1. UPS Madan
Metropolitan Commissioner
Mumbai Metropolitan Region Development Authority
Bandra Kurla Complex
Mumbai - 400051,

2. Satish Gavai
Additional Chief Secretary
Environment Department
Government of Maharashtra
Mantralaya, Mumbai - 400032

... **RESPONDENTS/CONTEMNORS**

TO

THE HONOURABLE THE CHIEF JUSTICE

AND THE OTHER HONOURABLE PUISNE

JUDGES OF THIS HON'BLE COURT.

THE HUMBLE PETITION OF THE PETITIONER ABOVE NAMED

MOST RESPECTFULLY SHEWETH:

1. INTRODUCTION OF THE PETITIONER:

The Petitioner is a social worker and has in the past taken up several matters related to probity in public life and accountability of the public servants in the realm of governance.

2. REASONS FOR FILING THIS CONTEMPT PETITION:

Exh. "A"

2.1 Vide Orders of this Hon'ble Court dated 6th October, 2005 **(EXHIBIT-'A')** in Writ Petition (Lodging) No. 3246 of 2004, *inter alia,* the following was stipulated:

> **"(iii)** Regardless of ownership of the land, **all construction taking place within 50 metres on all sides of all mangroves shall be forthwith stopped;"** (Emphasis supplied).

"7. The **Maharashtra State using Satellite Remote Sensing directed to prepare Phase-II of the mapping for carrying out mangroves study using high resolution satellite data** of 65 cms. spatial resolution/one meter spatial resolution for detailed mapping of mangroves with a view to identify more precisely mangrove areas." (Emphasis supplied).

2.2 The Respondents/Contemnors have consciously, deliberately, intentionally, openly, contemptuously and in a blatantly corrupt manner, defied the aforesaid specific and pointed order of this Hon'ble Court by permitting a massive construction of a shopping mall, five star hotel in the posh area of the Bandra Kurla Complex, within 50 m of the mangroves map prepared by the Maharashtra Remote Sensing Application Centre, Nagpur on directions of the Hon'ble High Court as stated above.

2.3 The gravity of contempt gets aggravated by the following facts:

(A) Respondent No. 1/Contemnor No. 1, being the Competent Authority, refused to issue 'Stop Work Order' when the fact was brought to notice that construction was within 50 m of mangroves as shown in the mangroves map prepared by the Maharashtra Remote Sensing Application Centre, Nagpur.

(B) Since Respondent No. 1/Contemnor No. 1, refused to act, the Maharashtra Coastal Zone Management Authority, ordered that the work be stopped, *inter alia,* because the construction was within 50 m of mangroves. However, Respondent No. 1/Contemnor No. 1, defied the orders of the said Authority, and overruled the unanimous recommendations of the town planning department of the Mumbai Metropolitan Region Development Authority, to stop the work. Respondent No. 1/Contemnor No. 1, established unauthorised oral communication with Respondent No. 2/Contemnor No. 2, who is the Chairman of the Maharashtra Coastal Zone Management Authority, and on the oral assurance of the latter, did not issue 'Stop Work Order' so as to prevent "hardship to the Developer".

(C) After the unauthorised oral communications, Respondent No. 2/Contemnor No. 2, suppressed vital facts before the said Authority and also presented false facts. Thereafter, the 'Stop Work Order' was withdrawn. By such illegal acts, Respondent No. 1/Contemnor No. 1, and Respondent No. 2/Contemnor No. 2, ensured that the Order of High Court was defied and now the construction is going on at the rapid pace within 50 metres of the demarcated mangroves.

2.4 Hence, this Contempt Petition.

3. PARTIES:

3.1 *Respondent No.1* is Shri UPS Madan, Metropolitan Commissioner, Mumbai Metropolitan Region Development Authority. He is the authority to grant construction permissions. Knowing fully well that the construction is within 50 m of the mangroves i.e. the Mangrove Buffer Zone, yet he defied the Order of the Hon'ble High Court to stop such construction. Further, after the impugned construction was stopped by the Maharashtra Coastal Zone Management Authority, he establsiehd unauthorised oral communication with Respondent No. 2/Contemnor No. 2, and on highly suspicious, illegal oral communication, did not issue the 'Stop Work Order' so as to prevent any "hardship to the Developer".

3.2 *Respondent No.2* is Shri Satish Gawai, Chairman of the Expert 12-Member Maharashtra Coastal Zone Management Authority. When the said Authority got to know that the construction was within 50 of the mangroves, a 'Stop Work Order' was issued on orders of the said Authority. However, on oral Orders this Respondent stopped the implementation of the Order of this 12-Member coastal body. Thereafter, he dishonestly suppressed the fact that the construction was on the Mangrove Buffer Zone, and got the 'Stop Work Order' revoked by such dishonest acts. Ironically, when the Stop Work Order was issued, *inter alia,* it was on the grounds that

it was within 50 m of the mangroves. However, when this Order was lifted, the word 'Mangroves' was not even used once.

4.0 BRIEF FACTS:

4.1 Considering the fragile nature of the environment related to mangroves, the Hon'ble High Court in Writ Petition (Lodging) No. 3246 of 2004, had issued an order dated 6th October, 2005 **(EXHIBIT-'A'** as annexed above**)**, related to preservation of mangroves. In particular, the following stipulations were laid down:

Exh "A"

> "(iii) Regardless of ownership of the land, **all construction taking place within 50 metres on all sides of all mangroves shall be forthwith stopped."**

> "7. The **Maharashtra State using Satellite Remote Sensing directed to prepare Phase-II of the mapping** for carrying out mangroves study using high resolution satellite data of 65 cms. spatial resolution/one meter spatial resolution for detailed mapping of mangroves **with a view to identify more precisely mangrove areas.**"

4.2 Based on the aforesaid Order, the Maharashtra Remote Sensing Application Centre, Nagpur, by use of precise

satellite imagery, did a detailed mapping of the mangroves. As per this map, a substantial part of the construction under reference came within 50 m of the mangroves. Notwithstanding the Order as aforesaid, a huge construction started coming upon on the land at Bandra East, Mumbai, within 50 m of the mangroves. A copy of this map prepared by the Maharashtra Remote Sensing Application Centre, Nagpur is annexed and is marked as **EXHIBIT-'B'.**

Exh "B"

4.3 Such construction, consisting of a mammoth mall, cinema theatres, five-star hotel, commercial offices etc. is coming up on a huge piece of land of about 20 acres, at the entrance of the Bandra Kurla Complex and which land is reserved for a 'Drive-In-Theatre' in the statutory Development Plan. This construction is on such plot reserved for Drive-in Cinema bearing S. No. 341 Part of Bandra and S. No. 4 (Part) of Parighar, Taluka Andheri, Bandra East being done by The Indian Film Combine Pvt. Ltd. The construction on the mangroves land is currently under progress. The state of land around the time when the Mangroves Order was passed by the Hon'ble High Court on 6th October, 2005, is apparent from Google Earth Satellite Photograph dated 20th February 2006 **(EXHIBIT-'C').** Further, as per the Google Earth Satellite Photograph dated 22nd April, 2012, **(EXHIBIT-'D')** the construction on the said plot had commenced around that time. The further extent of construction can be seen from the Google Earth Satellite Photographs of the land annexed in the following paragraphs.

Exh "C"

Exh "D"

4.4 That such construction was within the said 50 m is apparent from the following:

(i) *Map prepared by Maharashtra Remote Sensing Application Centre* (with supplied illustrations), showing the location of the mangroves and the location of the site **(EXHIBIT-'B')** .

Exh "B"

(ii) *Relevant part of the Development Plan* (with supplied illustrations) prepared by the Development Plan Department of the Municipal Corporation, where the said map of the Maharashtra Remote Sensing Application Centre, Nagpur, was superimposed on the Development Plan Sheet. **(EXHIBIT-'E')**.

Exh "E"

(iii) *Historical imagery of Google Earth Satellite Photograph, dated 11th November, 2000*, (with supplied illustrations) which shows the extent of mangroves, which is similar to the Mangroves Map prepared by the Maharashtra Remote Sensing Application Centre, Nagpur and shows that this land was influenced by tidal action. **(EXHIBIT-'F').**

Exh "F"

(iii) *Distance measurement on Google Earth Satellite Photograph dated 7th February, 2017,* (with supplied illustrations) showing the actual construction within 50 m from the mangroves belt on the ***western part*** of the site **(EXHIBIT-'G').**

Exh "G"

(iv) *Distance measurement on Google Earth Satellite Photograph dated 7th February, 2017,* (with supplied illustrations) showing the actual construction within 50 m from the mangroves belt on the ***central part*** of the site. **(EXHIBIT-'H')**

Ex H 'H'

(v) *Distance measurement on Google Earth Satellite Photograph dated 7th February, 2017,* (with supplied illustrations) showing the actual construction within 50 m from the mangroves belt on the ***eastern part*** of the site. **(EXHIBIT-'I')**

Ex H "I"

4.5 In short, that the land was within the Mangrove Buffer Zone of 50 m, gets proved with mathematical certainty.

4.6 Since, on such land no construction could be permitted, hence, when this illegal activity came to the notice of the 12-Member Maharashtra Coastal Zone Management Authority, a decision was taken to stop the work vide its 119th Meeting, dated 28th to 30th June, 2017 **(EXHIBIT-'J')** . Pursuant thereto, a 'Stop Work Order' was issued on 11th August, 2017, under the provisions of section 5 of the Environment Protection Act, 1986 **(EXHIBIT-'K')**. The said Order reads as under:

Ex H 'J'

Ex H 'K'

> "2. WHEREAS, the MCZMA is in receipt of the complaint regarding alleged illegal construction of shopping malls, office complex and hotel on plot bearing S. No. 341 (pt) of Sandra & S. No. 4 (pt) of Parighkhar, Sandra Kurla Complex, Mumbai in CRZ area. AND WHEREAS, the complainant has alleged FSI

violation, change of use, alteration of DP reservation, substantial portion of plot falls in CRZ-111 where no construction is permitted, construction on seaward side and in the mangrove buffer zone, Mangrove destruction, No MCZMA permission, No Environment Clearance etc.

3. WHEREAS, the MCZMA in its 119th meeting held on 28th and 29th June, 2017 deliberated the above said complaint received in the matter. AND WHREAS, the MCZMA in its above said meeting noted the replies dated 1.12.2016, 24.1.2017 and 18.12.2016 & 15.12.2016 received in the matter from the offices of MCGM, district collector and MMRDA respectively. AND, WHEREAS, the MCZMA in its above said meeting sought certain information from the project proponent and also decided that MMRDA to stop the work. Information sought by the Authority from the project proponent is as follows:

a. When was the permission granted for on-going construction on site under reference and date of commencement of the work?

b. Whether the construction on the site is as per the CRZ NoC granted by the UDO, GoM.

c. Submit chronology of subsequent changes made in the approved plan in detail.

d. Submit copies of the CRZ Clearance and EC obtained, if any.

e. Whether the construction is on landward or seaward side of the road fronting the Creek.

f. **Distance of the construction under consideration from the HTL of the creek and mangroves / Mangroves buffer zone.**

4. THEREFORE, **you are hereby directed to stop the construction work on site** under reference till the time the Authority decides the matter on the basis of information to be submitted by the project proponent." (Emphasis supplied).

4.7 The Petitioner humbly submits that after the said 'Stop Work Order' was issued on 11th August, 2017, all the officers of the Mumbai Metropolitan Region Development Authority, except the MMRDA Commissioner, i.e. Respondent No., in unison, recommended for the issuance of the 'Stop Work Order' **(EXHIBIT-'L')**. However, Respondent No. 1/Contemnor No. 1, chose to defy the law. Accordingly, on 8th September, 2017, he made the following noting **(EXHIBIT-'L' as annexed above)**:

Exh 'L'

Exh 'L'

> "**I have spoken to Shri Satish Gavai, Additional Chief Secretary (ENV) on phone today.** He told me that he had given hearing to the Developer and the Complainant on 6th Sept. **He also said that there appears to be a prima facie case in favour of the Developer and the matter will be reconsidered in the next meeting of MCZMA to be held next**

week. He, therefore, advised to wait till the outcome of the next meeting of MCZMA **to avoid any hardship to the Developer.**

We should therefore wait till be hear from MCZMA after their next meeting." (Emphasis supplied).

4.8 This **Oral Order from 1-Member of the 12-member Maharashtra Coastal Zone Management Authority, overruling the Order of the 12-Member, Authority, was blatantly illegal.** It was just issued to help a Developer who was openly violating the law. For, Respondent No. 2/Contemnor No. 2, was just 1 of the 12 Members of the Authority. **He was simply one among equals.** A copy of the Maharashtra Coastal Zone Management Authority Notification dated 13th April, 2015, showing that it was a 12-Member Body is annexed herewith and marked as **EXHIBIT-'M'.**

Exh "M"

4.9 Shocked and appalled at such open, fearless and brazen violation of the law, the Petitioner vide his letter dated 21st September, 2017, **(EXHIBIT-'N')** requested Respondent No. 1 and Respondent No. 2 to convert the oral orders into specific ordered in the terms of the provisions of Rule 3(3)(iii) of the All India Services (Conduct) Rules, 1968 (Relevant Part of the said Rule is annexed as **EXHIBIT-'O').**

Exh "N"

Exh - "O"

In particular, in the said rule, the following has been stipulated:

> **"(ii)** The direction of the official superior shall ordinarily be in writing. Where the issue of oral direction becomes unavoidable, the official superior shall confirm it in writing immediately thereafter.
>
> **(iii)** A member of the Service who has received oral direction from his official superior **shall seek confirmation of the same in writing, as early as possible** and in such case, it shall be the duty of the official superior to confirm the direction in writing." (Emphasis supplied).

4.10 Unfortunately, both these Respondents/Contemnors chose to defy the law for the obvious reason that the Chairman of the MCZMA could not have, on paper, overturned the orders of the higher 12-Member Authority.

4.11 Inexcusably, even though the law was brought to the notice of the Respondents/Contemnors by the Petitioner vide his said letter of 21st September, 2017, **(EXHIBIT-'N')** they did not issue any written order based on the oral communications.

Exh 'N'

4.12 In particular, vide the said Letter the Petitioner sought the following:

> **(A)** MMRDA should seek confirmation of the purported oral directions issued by Shri Gavai, Additional Chief Secretary (Environment).

Likewise, Shri Gavai ought to confirm the Oral Orders given by him to Shri Madan.

(B) Based on such confirmation oral orders, formal orders be issued in this reference halting the 'Stop Work Order' of the Maharashtra Coastal Zone Management Authority so that the undersigned could invoke further legal recourse in this matter.

4.13 In the meanwhile Respondent No. 2/Contemnor No. 2, went ahead with his agenda to rescue the Developer, who was openly violating the law, from this adversity and made presentations before the MCZMA by suppressing vital facts. For such twisted and supressed facts, the 'Stop Work Order' was revoked by the said Authority vide minutes of the 121st meeting of the said Authority dated 15th and 16th September, 2017, **(EXHIBIT-'P')**. Ironically, while the 'Stop Work Order' was issued inter alia on the grounds that the construction was within 50 m of the mangroves, in this meeting where the 'Stop Work Order' was lifted, the word 'mangroves' was not even used once.

Exh "P"

4.14 It was thus a sheer fraud, where Respondent No. 2/Contemnor No. 2, dishonestly suppressed the fact that the construction was within 50 m of the mangroves. If Respondent No. 2/Contemnor No. 2 were to have been true, then he would have clearly stated that the construction was

within 50 m of the mangroves and that the High Court had ordered as under:

> "(iii) Regardless of ownership of the land, **all construction taking place within 50 metres on all sides of all mangroves shall be forthwith stopped;**" (Emphasis supplied).

4.15 It was because of this deceit practised by 1-Member of the Authority i.e. Respondent No. 2/Contemnor No. 2, that the 12-Member Authority was kept in dark about the Mangroves and the Mangroves Order of the Hon'ble High Court stated above, and accordingly, the 'Stop Work Order' was revoked. For the reason of such revocation the construction continues within the 50 m of the mangroves.

Exh "Q'

4.16 The Petitioner submits that once he got to know of the blatant illegality, he sent a Contempt notice dated 24th October, 2017, **(EXHIBIT-'Q')** to the Respondents/Contemnors stating that they ought to abide by the specific directions of the Hon'ble High Court and that they could not take law in their own hands.

4.17 Unfortunately, Respondent No. 2/Contemnor No. 2 and Respondent No. 2/Contemnor No. 2 remained defiant. They had no remorse for their utterly nepotistic and fraudulent moves to flout the Environmental laws only to ensure that there should

not be "any hardship of the developer" who was to profit by Rs. 5,000 crore by undermining the fragile environment of Mumbai.

4.18 Equally unfortunate was the disposition of the Contemnors to undermine the "Right to Life" of lakhs of Mumbai Residents, including the "Right to Life" of slum-dwellers of Dharavi – Asia's largest slum, which is very close to this eco-sensitive area. Perhaps, the Contemnors may not have appreciated the dormant reality that they were committing a ***crime against humanity*** by abusing the statutory powers which has been given to them for the good of the people and not for injuring them.

4.19 In short, the Respondents have openly defied the directive of this Hon'ble Court, that Regardless of ownership of the land, **"all construction taking place within 50 metres on all sides of all mangroves shall be forthwith stopped",** hence the Respondents have become liable for action under section 12 of the Contempt of Courts Act, 1971.

4.20 Hence, this Contempt Petition is being filed for the limited purpose for ensuring that the contemnors be punished in accordance with the law. With respect to other remedies related to this case, the Petitioner seeks to approach the Competent Court separately. Thus, the Petitioner would seek to make clear that this remedy is only specific to the Contempt of Courts Act, 1971, hence it is a distinct remedy.

4.21 The specific grounds based on which the Petitioner is filing this Petition is stated hereunder:

5.0 GROUNDS:

5.1 GROUND NO. 1:

Clinching evidence shows that the construction is on the 50 m wide Mangrove Buffer Zone – Respondents/contemnors took law in their own hands and openly defied the Orders of the Hon'ble High Court:

The Petitioner submits that the fact that the construction was within the Mangrove Buffer Zone was known to the Contemnors. However, they chose to simply place outside the record this specific fact, and instead started creating peripheral excuses and thereby took law in their own hands.

The core issue was that whether the construction was within 50 m of the mangroves or not? If so, as per the following directive, the work had to stop:

> "(iii) Regardless of ownership of the land, **all construction taking place within 50 metres on all**

sides of all mangroves shall be forthwith stopped."

This critical fact was consciously and blatantly ignored by the Contemnors.

5.2 GROUND NO. 2:

Contemnors could not have taken law in their own hands by self-devising arguments to defy the specific High Court Directive:

The Petitioner submits that if the Respondents/Contemnors thought that there was any logic which was prevailing and that it would justify the infringement of the Orders of the Hon'ble High Court, then the right course would have been to seek a waiver from the Hon'ble High Court.

In short, the Contemnors had not right to take law in their own hands.

In this reference, the Petitioner would rely on the ruling of the Hon'ble Supreme Court in the case of Krishnadevi Malchand Kamathia dated 31st January, 2011, in Interlocutory Application No. 23 of 2010 in Civil Appeal No. 4421 of 2010, where the following was observed:

> "17. It is settled legal proposition that even if an order is void, it requires to be so declared by a competent forum

and it is not permissible for any person to ignore the same merely because in his opinion the order is void.

18. In State of Kerala v. M.K. Kunhikannan Nambiar Manjeri Manikoth Naduvil (dead) & Ors., AIR 1996 SC 906; Tayabbhai M. Bagasarwalla & Anr. v. Hind Rubber Industries Pvt. Ltd. etc, AIR 1997 SC 1240; M. Meenakshi & Ors. v. Metadin Agarwal (dead) by L.Rs. & Ors. (2006) 7 SCC 470; and Sneh Gupta v. Devi Sarup & Ors., (2009) 6 SCC 194, **this Court held that whether an order is valid or void, cannot be determined by the parties. For setting aside such an order, even if void, the party has to approach the appropriate forum.**" (Emphasis supplied).

Notwithstanding the above, the Respondents/Contemnors took law in their own hands, starting crafting their own logic and thereby consciously and intentionally flouted the specific directive of the Hon'ble High Court, that ***"All construction taking place within 50 m of all mangroves shall be forthwith stopped."***

Accordingly, the Respondents/Contemnors are clearly guilty of the Contempt of Court.

5.3 GROUND NO. 3:

Dishonest action by Respondents/Contemnors – After issuance of the 'Stop Work Order' action dropped by ignoring the relevant maps:

Ex 'K'

It is seen that one of the reasons for which the 'Stop Work Order' **(EXHIBIT-'K')** was issued was the construction was within the 50 m of the mangroves i.e. on the Mangrove Buffer Zone. For this, the following information was called for:

> **"f. Distance of the construction under consideration from the HTL of the creek and mangroves / Mangroves buffer zone."**

The Petitioner submits that if this pointed question were to have been answered, in a straight and mathematical manner, then **the answer would have been one and only one – Yes the construction was within 50 m of the mangroves belt i.e. construction was inside the Mangrove Buffer Zone.** But if that were to happen, then it would have been impossible to accord a mammoth pecuniary advantage of about Rs. 5,000 crore to a private entity.

So, the Respondents/Contemnors adopted crude method of committing the Contempt – ignore the maps and intentionally turn a blind eye on the apparent facts, i.e. turn a Nelson's eye.

This was exactly done.

It was indeed an intentional well-orchestrated contempt and a fraud of enormous proportions.

5.4 GROUND NO. 4:

Minutes of the MCZMA meeting based on which 'Stop Work Order' was issued referred to 'Mangroves' several times – the MCZMA Minutes which dropped action did not use the word 'Mangroves' even once – Dishonest and Contemptuous act to help the Developer to accomplish the about Rs. 5,000/- crore pecuniary gain:

The dishonest act of Respondent No. 2/Contemnor No. 2, is apparent from the fact that in the minutes of the 119th Meeting of the Maharashtra Coastal Zone Management Authority, dated 28th to 30th June, 2017, **(EXHIBIT-'J')** based on which the 'Stop Work Order' was issued, the word mangroves was used many times. However, in the Minutes of the 121st meeting of the MCZMA dated 15th and 16th September, 2017, which dropped the 'Stop Work Order' **(EXHIBIT-'P')** did not even use the word 'mangroves' even once.

Exh "J"

Exh "P"

It was indeed a complete rigging of the meeting by Respondent No. 2, by imposing himself as the Chairman and

a Gospel of Truth. Had he mentioned the word 'Mangroves' then his entire design to connive at construction going on in the Mangrove Buffer Zone would have got defeated.

5.5 GROUND NO. 5:

Guilty mind to commit contempt apparent from unauthorised oral communications, prevented giving effect to the MCZMA 'Stop Work Order':

The Petitioner submits that the guilty minds of the Contemnors is apparent from the fact that they entered into unauthorised oral communications to subvert a statutory order issued under section 5 of the Environment Protection Act, 1986, i.e. the 'Stop Work Order' **(EXHIBIT-'L').**

Exh "L"

It is submitted that after the said 'Stop Work Order' was issued on 11th August, 2017, all the officers of the Mumbai Metropolitan Region Development Authority, except the MMRDA Commissioner, i.e. Respondent No., in unison, recommended for the issuance of the 'Stop Work Order' **(EXHIBIT-'L').** However, Respondent No. 1/Contemnor No. 1, chose to defy the law. Accordingly, on 8th September, 2017, he made the following noting **(EXHIBIT-'L' as annexed above):**

Exh 'L'

Exh 'L'

"I have spoken to Shri Satish Gavai, Additional Chief Secretary (ENV) on

phone today. He told me that he had given hearing to the Developer and the Complainant on 6th Sept. **He also said that there appears to be a prima facie case in favour of the Developer and the matter will be reconsidered in the next meeting of MCZMA to be held next week.** He, therefore, advised to wait till the outcome of the next meeting of MCZMA **to avoid any hardship to the Developer.**

We should therefore wait till be hear from MCZMA after their next meeting." (Emphasis supplied).

This unauthorised **Oral Order from 1-Member of the 12-member Maharashtra Coastal Zone Management Authority, overruling the Statutory Order of the 12-Member, Authority, was blatantly illegal.** It was just issued to help a Developer who was openly violating the law. For, Respondent No. 2/Contemnor No. 2, was just 1 of the 12 Members of the Authority. **He was simply one among equals.** A copy of the Maharashtra Coastal Zone Management Authority Notification dated 13th April, 2015, showing that it was a 12-Member Body has been annexed above and marked as **EXHIBIT-'M'.**

EXH "M

What becomes further appalling is the fact that when the Petitioner brought the rules before the Contemnors vide his letter dated 21st September, 2017 **(EXHIBIT-'N')** that an Oral Order has to be confirmed in writing as per Rule 3 of the All India Services (Conduct) Rules, 1968, the Contemnors remained defiant. They decided not to follow the law and to issue any such Order.

Obviously, such a written order was not issued because the 'Stop Work Order' issued by the Maharashtra Coastal Zone Management Authority was a Statutory Order issued under section 5 of the Environment Protection Act, 1986. The Contemnors could not have issued any Oral Order to suspend the operation of a Statutory Order.

6. The Petitioner submits that the present petition has been filed in time. Immediately after the grievance of the Petitioner surfaced, he sent a notice on 24th October, 2017, to the Contemnors. The said notice has been annexed above

LIMITATION:

The action constituting contempt took place in the month of September, 2017 and in particular on 7th, 8th and 15th to 16th September, 2017. Upon coming to know of these violations, the Petitioner issued Contempt Notice calling upon the Respondents to abide by the specific and clear directive of the Hon'ble High Court that no construction shall be within 50 metres on all sides of all mangroves.

However, Respondents ignored Contempt Notice dated 24th October, 2017. They continued their contemptuous action. Hence, this contempt petition is filed within prescribed period of one year under Section 20 of the Contempt of Courts Act, 1971.

8. The Petitioners state that the Respondents have committed contempt of the order passed by this Hon'ble Court annexed above as **EXHIBIT-'A'.**

Exh 'A'

9. This Hon'ble Court has jurisdiction to try and decide the present petition.

10. The Petitioners will rely upon documents a list hereof is annexed hereto.

PRAYERS

Considering the factual submissions made in above, the Petitioner, with due humility, makes the following prayers:

(A) THAT this Hon'ble Court may be pleased to take appropriate measures/action against the Respondents No. 1 to 2 under section 12 of the Contempt of Court Act, 1971, for their having committed deliberate and wilful contempt of the Judgment dated 6th October, 2005, given by this Hon'ble Court in Writ Petition (Lodging) No. 3246 of 2004 which is annexed as **EXHIBIT-'A'.**

Exh "A"

(B) THAT the Contemnors be directed to follow the directions given by the Hon'ble High Court on 6th October, 2005 in Writ Petition (Lodging) No. 3246 of 2004, so that the directive of the Hon'ble High Court that **"Regardless of ownership of the land, all**

construction taking place within 50 metres on all sides of all mangroves shall be forthwith stopped" could be implemented in letter and spirit.

(C) THAT the Respondents be asked to pay for the costs of this litigation.

(D) Any other order this Hon'ble Court may pass in the interest of justice and equity.

PETITIONER

Place: Mumbai

Date: November, 2017

VERIFICATION

I, Santosh Daundkar, the Petitioner above-named, having his address as 10/37 BIT Chawl, KK Marg, Mumbai Central, Mumbai 400 008, TEL: (9821943920), solemnly declare that what is stated in paragraphs Nos. 1 to 5 of this Petition is true to my own knowledge and what is stated in remaining paragraphs Nos. 6 to 10, that is stated on information and belief and I believe the same to be true.

Solemnly Declared at Mumbai on this 24th day of November, 2017.

True Copy

DEPONENT

BEFORE ME

Petition in person

CHOUDHARI D. S.
ASSOCIATE
HIGH COURT, BOMBAY

Sr. No 50
Date 29/11/17
Sign

Exhibit - T

GOVERNMENT OF MAHARASHTRA

Tel. No. : 2279 3132

No. MISC-2018/CR-10/TC-1
Environment Department,
217(Annex), Mantralaya, Mumbai - 400 032.
Date : 05/03/ 2018

By Fax/ Hand Delivery

To,

The Member Secretary,
Maharashtra Pollution Control Board,
Kalpataru Point, 3rd Floor,
Sion-Matunga Scheme Road No.8,
Opp. Sion Circle, Sion (East),
Mumbai – 400 022.

Sub.:- Regarding applicability of EC and CRZ clearance to the project of M/s The Indian Film Combine Pvt. Ltd., Maker Maxit on plot bearing S. No. 341 (Pt) of Bandra, S. No. 4 (Pt) of Parighkar, Bandra Kurla Complex, Mumbai.

Ref. :- Letter dtd. 23.2.2016 received from the MPCB .

Sir,

1. We refer to your letter dtd. 23.02.2016 wherein requested to provide guidance as to whether the project of M/s Indian Film Combine Pvt. Ltd. on plot bearing S. No. 341 (Pt) of Bandra, S. No. 4 (Pt) of Parighkar, Bandra Kurla Complex, Mumbai required to obtain prior EC and CRZ Clearance from the Competent Authority.

2. Accordingly, the Environment Department, G.o.M. has scrutinized the documents submitted by the PP to the MCZMA in the light of its decisions taken by the MCZMA in its 119th , 121st & 122nd meetings. During scrutiny, it has been observed that the Urban Development Department, G.o.M. has issued Clearance to M/s The Indian Film Combine Pvt. Ltd. vide letter dtd. 06.08.1999 wherein it is stated at para 4 that : *" It is observed that the plot under reference is partly affected by Coastal Regulation Zone. In the circumstances, there is no objection to develop the unaffected portion of the plot as per prevailing regulations. However in respect of portion of plot coming within CRZ the same may be allowed to be developed subject to conditions that proposed construction shall be on the land ward side of existing authorized structure and imaginary line drawn from the creek ward side of existing authorized structures and as per relevant rules and regulations."*

3. It is noted that the project is a composite one and has received sanction from the MMRDA as a composite project on 05.12.2001 after issuance of CRZ Clearance by the U.D.D. vide letter dtd. 6.8.1999. Hence CRZ and non-CRZ portion cannot be practically separated. In conclusion, it is found that the Notification 1994 amended on 07.07.2004 is not applicable to the project due to the exclusions at para 3 (a) thereof.

4. Further also it is seen that the project dimensions have changed negatively i.e. area under construction is less than the initial proposed area and it is an ongoing project. Therefore, EIA Notification dtd. 14.9.2006 is also not applicable to this project.

5. In the same case, after taking cognizance of complaint received by the MCZMA against the PP, opinion received from the Law & Judiciary Department and information furnished by the MMRDA and the PP, the MCZMA has discussed the above project in its 119th, 121st & 122nd meetings held on 28th – 30th June, 2017, 15th - 16th September, 2017 & 30th October, 2017 respectively. Extract of the minutes of the abovementioned meetings is as under :-

a) The Urban Development Department, G.o.M. vide letter dtd. 06.08.1999 granted the CRZ clearance.
b) As per the submission of the MMRDA and project proponent, the plans were approved in accordance with CRZ NoC granted by the UDD, G.o.M. MMRDA further submits that there are no significant changes in the proposed plans in CRZ area after 05.12.2001 i.e. the year of approval of plans. Further, there is reduction in FSI due to minor changes. Further, the MMRDA states that it is ongoing project since 05.12.2001.
c) The PP to strictly follow the conditions mentioned in the CRZ NOC granted by the UDD, G.o.M. and no construction is allowed in Mangrove area.
d) Considering the above, including opinion of Law & Judiciary Department and information furnished by the MMRDA and PP, the Authority after deliberation decided to withdraw the stop work order dtd. 11.08.2017 subject to compliance of following :-
   i) MMRDA to ensure that it was ongoing project as mentioned in its reply and approved on 5.12.2001 to which commencement certificate was issued in the year 2003.
   ii) MMRDA to ensure that there are no significant subsequent changes in the original approved plans for the project undertaken in CRZ area.
   iii) MMRDA to ensure that ongoing work is as per the provisions of the CRZ Notification and beyond mangroves buffer zone as applicable, as per approved CZMP of 2000.
   iv) As per the opinion of the Law & Judiciary department, the MMRDA and PP to ensure that no condition of the clearances including CRZ NoC is violated. And, no construction should be undertaken in mangroves or its mangroves 50 buffer zone, as per approved CZMP of 2000.
   v) In the event, conditions no. 1 to 4 as above, are not complied with, the MMRDA shall stop the work and report the violation of the CRZ Notification to the Authority at the earliest.

Also the decisions are communicated to the Project Proponent and MMRDA vide letter dtd. 11.01.2018.

Further the MMRDA has clarified vide letter dtd. 16.02.2018 w.r. to the compliance of the directives given by the MCZMA in its 121st & 122nd meetings that :

No.	MMRDA's reply.
Condition 1. Of 121st Authority meeting of MCZMA	MMRDA vide its letter dtd. 07/09/2017 has already informed that it is a ongoing project with CC for layout on 05/12/2001.

Modified Condition 2. Of 122nd *Authority meeting of MCZMA*	Although minor changes are approved by MMRDA, no significant changes in the original approved plans for the project are approved by MMRDA for redevelopment on plot under reference (in CRZ area).
Modified Condition 3. Of 122nd *Authority meeting of MCZMA*	As per the approved CZMP of 2000, there is no 50 m. mangrove buffer zone.
Modified Condition 4. Of 122nd *Authority meeting of MCZMA*	As per the approved CZMP of 2000, there is no 50 m. mangrove buffer zone.
Condition 5. Of 121st *Authority meeting of MCZMA*	In view of the compliance to conditions 1 to 4 above, there is no need to take any action on the redevelopment of Drive-In Theatre on site under reference.

In view of the forgoing, the order of the then Chief Minister would have no bearing on the clearance status of this project from the Environment (P) Act, 1986 point of view. Considering paras 3 & 4 above, as the project is ongoing and exempt from the purview of Notifications mentioned at para 3, you are directed to take appropriate decision in the above case.

(Satish M. Gavai)
Addl. Chief Secretary,
Environment Department

Copy to :

1. Director (TC-1) / Member Secretary – MCZMA – for information and necessary record.
2. M/s The Indian Film Combine Pvt. Ltd., Maker Tower 'F', 1st Floor, 85, Cuffe Parade, Mumbai – 400 005.

Exhibit - U

MAHARASHTRA POLLUTION CONTROL BOARD

Minutes of 9th Consent Appraisal Committee Meeting of 2017-2018 held on 27.03.2018 at 3.00 p.m. at Room No. 302, 3rd floor, Office of the Hon'ble Minister, Environment, Mantralaya, Mumbai, Maharashtra.

.....

The Consent Appraisal Committee meeting of the Board was held on 27.03.2018. Following members of the Consent Appraisal Committee were present:

1. Shri Milind Mhaiskar, Vice President & CEO, MHADA and Chairperson, MPCB, Mumbai. — Chairman
2. Shri. P. Anbalagan, Member Secretary, MPC Board, Mumbai — Member
3. Shri. Padmakar Nandusekar, Technical Advisor (Environment), MIDC, Mumbai — Member
4. Shri. P. K. Mirashe, Assistant Secretary (Technical), MPC Board, Mumbai — Member Conveyor

Additional Chief Secretary, Home (Transport) Dept., Mumbai could not attend the meeting. Leave of absence was granted to them.

Following Officer of MPCB were present for the meeting:

1. Shri. V. M. Motghare, JD(APC), MPCB, Special Invitee
2. Shri. Y. B. Sontakke, JD(WPC), MPCB, Special Invitee
3. Shri. N. N. Gurav, Regional Officer (HQ), Mumbai, Special Invitee

Chairman of the committee welcomed the members of the committee and allowed proceeding of the meeting to start. The minutes of 8th Consent Appraisal Committee meeting held on 09.02.2018 for 1st consent to operate, consent to establish and renewal of consent (booklet no 13, 14 & 15) circulated vide letter no. BO/CAC-Cell/TB/B-828 dtd. 03.03.2018 were confirmed.

The meeting thereafter deliberated on the fresh agenda items of 1st consent to operate [Book-let no 16] is placed before the committee and following decisions were taken.

Sr. No.	Application unique number	Name of Industry	Decision on grant of consent	Consent granted up to	Remarks/Discussion (1)
	Book-let No. 16				
	Consent to 1st Operate				
1	MPCB-CONSENT-0000020236	Embassy Property Developments Limited, Plot no. 03 A & B RGIP, Hinjewadi Mulshi, Pune.	NOT APPROVED 1st Operate with amalgamation of consents (two no. of C to E)	---	Committee noted that PP has not submitted the following requisite information viz. 1. PP failed to submit the justification regarding decrease in capital investment from 603.32 Cr to 284.04 Cr. 2. PP has obtained the EC dated 11/07/2011 which is not valid. 3. PP failed to provide OWC for the treatment of biodegradable waste. Also, quantity of non-hazardous Waste mentioned in the application is very less compared to quantity mentioned in CtoE. 4. PP failed to provide details of water budget, sewage generation and its treatment in the application. 5. PP failed to submit the BG towards compliance of consent conditions. In view of above, it was decided to issue SCN for 1st consent to operate due to above non-compliances.
2	MPCB-CONSENT-0000023901	Shri Vithalrao Joshi Charities Trust, B.K.L. Walawalkar Hospital, Diagnostic & Research Centre At Kasarwadi, Post-Sawarde, Tal. Chiplun, Dist. Ratnagiri	NOT APPROVED Combined Consent & BMW Authorization , Consent to Operate	---	Committee noted that PP has obtained the BMW authorization for 300 beds which was valid upto 31.12.2016, further obtained BNH Act certificate for 500 Beds in March 2015. However, the reply submitted by the PP stating that the existing hospital was built and made operation prior to 2004, without providing any supporting documentary proof. Hence, it was decided to refer the matter to Environment Department about EC applicability after obtaining relevant documents such as latest OC, Architect certificate about total BUA, sanction plan, commencement certificate etc. from the PP.
3	MPCB-CONSENT-0000022611	Unique Estates Development Co. Ltd., "INFINITI	NOT APPROVED	---	Committee noted that PP has obtained consent to establish on 19.01.2012 for total plot area 28,277.5 sq. mtrs. And construction BUA 52,273.76 sq. mtrs.

Sr. No.	Application unique number	Name of Industry	Decision on grant of consent	Consent granted up to	Remarks/Discussion (1)
					wet garbage. PP shall comply with the following specific conditions; 1. The PP shall obtain NOC/permission from the MCGM for carrying out construction on their sites that the construction debris generated from the particular site, shall be transported and deposited in specific site inspected and approved by the Municipal Corporation. 2. PP shall not dispose off any construction debris to the Deonar and Mulund Dumping sites. 3. This consent is issued without prejudice to the order passed or being passed by the Hon'ble Supreme Court of India in special leave petition (Civil No. D23708/2017) Consent shall be issued after submission of NOC/permission from the MCGM for carrying out construction on their sites that the construction debris generated from the particular site.
48	CE1412000129	Indian Film Combine Pvt. Ltd., Plot bearing S. No. 341 (pt) of Bandra, S. No. 4 (pt) of Parighkar, Bandra Kurla Complex, Mumbai.	APPROVED Consent to Establish (Phase-III)	Commissioning of the unit or 5 years whichever is earlier	Committee noted that Board has granted consent to establish vide consent dated 24.09.2009 by imposing following conditions 1. PP shall obtain permission from Mithi River Development Authority. 2. PP shall not take any effective steps for implementation of the project before obtaining EC and CRZ Clearance from MCZMA/MoEF. PP has applied for revalidation of consent to establish and applied for 1st consent to operate (part) was discussed in various CAC and Committee noted following points 1. PP has not obtained EC as per condition of consent to establish and started the work of construction without Environmental Clearance. 2. As per decision of the CAC dated 27.04.2016, board has issued SCN for refusal of application of revalidation of CtoE and stop work order on 02.07.2016. 3. Board has requested Environment department on 23.02.2016 to provide guidance/clarification regarding applicability of EC. 4. Considering the claim of project proponent for EC and CRZ compliance as

Sr. No.	Application unique number	Name of Industry	Decision on grant of consent	Consent granted up to	Remarks/Discussion (1)
					is evident from the Quasi-judicial order of The Hon'ble Chief Minister, Govt. of Maharashtra in an appeal under section 47 of the Maharashtra regional and town Planning Act, 1966 dated 15.01.2007, Board has sought opinion/guidance from Law and Judiciary Department, GoM vide the letter dated 04.10.2016 in the matter regarding weather PP needs to obtain prior EC and CRZ clearance or Not. Committee also noted the clarification received from Environment Department regarding applicability of EC and CRZ Clearance vide letter no. MISC-2018/CR-10/TC-1 dated 05.03.2018. The details are as below, 3. It is note that the project is a composite one and has received sanction from the MMRDA as a composite project on 05.12.2001 after issuance of CRZ Clearance by the UDD vide letter dated 06.08.1999. Hence, CRZ and Non-CRZ portion cannot be practically separated. In conclusion, it is found that the Notification 1994 amended on 07.07.2004 is not applicable to the project due to the exclusions at para 3 (a) thereof. 4. Further also it is seen that the project dimensions have changed negatively i.e. area under construction is less than the initial proposed area and it is an ongoing project. Therefore, EIA Notification dated 14.09.2006 is also not applicable to this project. a) The Urban Development Department, GoM vide letter dated 06.08.1999 granted the CRZ Clearance. b) As per the submission of the MMRDA and project proponent, the plans were approved in accordance with CRZ NOC granted by the UDD, GoM. MMRDA further submits that there are no significant changes in the proposed plans in CRZ area after 05.12.2001 i.e. the year of approval of plans. Further, there is reduction in FSI due to minor changes. Further, the MMRDS states that it is ongoing project since 05.12.2001. c) The PP to strictly follow the conditions mentioned in the CRZ NOC granted by the UDD, GOM and No construction is allowed in Mangroves area. Further, the MMRDA has clarified vide letter dated 16.02.2018, w.r. to the compliance of the directives given by the MCZMA in its 121st and 122nd meeting that:

Sr. No.	Application unique number	Name of Industry	Decision on grant of consent	Consent granted up to	Remarks/Discussion (1)

No.	MMRD"s reply
Condition1. Of 121st Authority meeting of MCZMA	MMRDA vide its letter dated 07.09.2017 has already informed that it is an ongoing project with CC for layout on 05.12.2001.
Modified condition 2. Of 122nd Authority meeting of MCZMA	Although minor changes are approved by MMRDA, no significant changes in the original approved plans for the project are approved by MMRDA for redevelopment on plot under reference (in CRZ area)
Modified condition 3. Of 122nd Authority meeting of MCZMA	As per the approved CZMP of 2000, there is no 50 m. mangrove buffer zone.
Modified condition 4. Of 122nd Authority meeting of MCZMA	As per the approved CZMP of 2000, there is no 50 m. mangrove buffer zone.
Modified condition 5. Of 121st Authority meeting of MCZMA	In view of the compliance to conditions 1 to 4 above, there is no need to take any action on the redevelopment of drive-In theatre on site under reference.

The letter concluded that the order of the then Chief Minister would have no bearing on the clearance status of this project from the Environment (P) Act, 1986 point of view, Considering paras 3 & 4 above, as the project is ongoing and exempt from the purview of Notifications mentioned at para 3.

In view of above, it was decided to grant 1st consent to operate (part) for construction of Cinema Theatre and commercial Complex named M/s. Indian Film Combine Pvt. Ltd., Plot bearing S. No. 341(pt) of Bandra, S. No. 4 (pt) of Parighkar, Bandra Kurla Complex, Mumbai on total plot area 80,800 Sq. mtrs and Construction BUA of 51,866.57 sq.m (out of TCBUA of 1,41,100.84 sq.m. as per CtoE dated 24.09.2009) by imposing following conditions;

1. PP shall submit the affidavit within 15 days in the prescribed format regarding the part of the built up area/ building for which application for 1st Consent to Operate (Part) is made and that the same is included in the Environmental Clearance accorded.

Sr. No.	Application unique number	Name of Industry	Decision on grant of consent	Consent granted up to	Remarks/Discussion (1)
					2. Project Proponent shall submit the BG of Rs. 25 lakhs towards O & M of pollution control system. 3. PP shall achieve the treated domestic effluent standard for the parameter BOD- 10 mg/lit. 4. The treated domestic effluent shall be 60% recycled for secondary purposes such as toilet flushing, air conditioning, cooling tower make up, firefighting etc. and remaining shall be utilized on land for gardening and connected to the sewerage system provided by local body. Till the time of availability of local body sewer system, applicant shall utilize entire treated domestic effluent for Flushing, Construction of remaining phase and on own land for gardening. 5. MMRDA to ensure that it was ongoing project as mentioned in its reply and approved on 05.12.2001 to which commencement certificate was issued in the year 2003. 6. MMRDA to ensure that there are no significant subsequent changes in the original approved plans for the project undertaken in CRZ area. 7. MMRDA to ensure that ongoing work is as per the provisions of the CRZ Notification and beyond mangroves buffer zone as applicable, as per approved CZMP of 2000. 8. MMRDA to ensure that no condition of the clearance including CRZ NoC is violated. And no construction should be undertaken in mangroves or its mangroves 50 buffer zone, as per approved CZMP of 2000. 9. In the event, conditions no 1 to 4as above, are not complied with, the MMRDA shall stop the work and report the violation of the CRZ Notification to the Authority at the earliest. Consent shall be granted after: i. Submission of Certificate from Architect regarding BUA completed for which they have applied for 1st Consent to Operate. ii. After installation of online monitoring system for the parameters Flow, BOD, and TSS at STP outlet and verification of the same from SRO/RO. It was also decided to revalidate consent to establish for remaining CBUA i.e. 89,234.27 Sq. mtrs by imposing standard conditions. Consent shall be issued after submission of requisite consent fee, if any.

Sr. No.	Application unique number	Name of Industry	Decision on grant of consent	Consent granted up to	Remarks/Discussion (1)
	CO1512000443		Approved Consent to Establish (Phase-IV)	Commissioning of the unit or 5 years whichever is	

Exhibit - V

Sub: Complaint received to prohibit the unauthorised construction being done.

OW. No. A/FMMM/land/155/2018-19
(Thane, Central Mumbai)

Date: 30/06/2018

To,
Hon'ble Divisional Forest Officer,
Mumbai Mangroves Conservation Cell,

Ref.: OW. No. Desk-9/Land/379/2018-19, Kurla, Dt. 15.05.2018

With regards to the above referred letter, an application is received from Mr. Sunil Shinde, President, Nationalist Congress, Mumbai. Accordingly, it is mentioned that, Maker Builders are reclaiming the mangrove areas and constructing a wall at Parighkhar, Bandra, East (BKC).

While inspection taken along-with the staff members at the site mentioned in the above complaint, prima-facie it was found that there were no mangroves found nearby at the actual site of construction. An old wall was found at the site. GPS reading of the site was taken for checking on Google Earth and colour photograph of the wall is attached here.

Commercial construction of Maker Builders is going on at this site. Enquiry was made with their General Manager, Mr. Prakash Mukund Walawal, in accordance with the complaint. At that time he provided permissions from various departments, photocopies of which are attached hereto and are verified from the originals. Thereafter, the GPS reading of the said site was taken and it is as under.

1)	N 19.03	08.53 E 072	50 53.31
2)	N 19.03	08.65 E 072	50 58.04
3)	N 19.03	11.35 E 072	51 07.78
4)	N 19.03	15.65 E 072	51 05.22

As per the above GPS reading, while checking the plans of the plot on the Google Earth App, the wall at the plot mentioned in the complaint exists since long time, and the notified mangrove area is up to 400 meters from the wall. The construction mentioned in the said application is not being done by destroying the mangroves. The said site is outside the notified mangroves area.

Humbly submitted the report for information.

Sd/-
Forest Conservator,
Mumbai Mangroves Conservation Unit
Central Mumbai

विषय :- अवैधरित्या लोड असलेले
बांधकामातील आलेले घातक्या वाहने जप्त
जा.क्र.अ/वकामकु/जमिके/155/2018-19
ठाणे (मध्य मुंबई) दि. 30/06/2018

प्रती,
मा. विभागीय वनअधिकारी,
मुंबई कांदळवन संधारण घटक,

संदर्भ :- जा.क्र.क्र-4/जमिके/379/2018-19 दुरध्वनी दि. 15.05.2018

उपरोक्त पत्राचे अनुषंगाने तक्रारदार श्री सुनिल शिंदे उपाध्यक्ष सह्याद्री कॉंक्रेस मुंबई यांचा अर्ज प्राप्त झाला त्यानुसार मौजे परिचेखाडी बॉंद्रे पूर्व (BKC) येथे मेकर बीकेसी कांदळवन क्षेत्रावर भराव करुन भिंत उभी करुन अतिक्रमण केले आहे.

सदरील तक्रारीस अनुसरुन जागेवर जाऊन स्थानिक पंचासह पाहणी केली असता प्रथमदर्शनी या ठिकाणी प्रस्तुत बांधकाम क्षेत्र असल्याचे ठिकाणी जवळपास कांदळवन दिसुन आले आहे. या जागी एक जुनी भिंत दिसुन आली. या जागेचे GPS Readings घेऊन गुगल अर्थवर तपासणी करिता घेतले असता भिंतीचे सांकेतिक छायाचित्र सोबत जोडले आहे.

मेकर बीकेसी यांचे या ठिकाणी कार्यालय असल्याचे समजते. त्यांचे जनरल मॅनेजर श्री प्रकाश कुमार वालावलकर यांचेकडे या प्रकरणी तक्रारीचे अनुषंगाने चौकशी केली असता त्यांनी विविध खात्यांच्या परवानगी पत्राचे छायाप्रत सोबत जोडली सदर परवानगी पत्रांचे मुळ प्रत पाहुन खात्री करुन घेतली. त्यानंतर

खदर जागेचे GPS Readings खेलत ले खालीप्रमाणे आहेत.

1) N 19·03 08·53 E 072 50 53·31
2) N 19·03 08·65 E 072 50 58·04
3) N 19·03 11·35 E 072 51 07·78
4) N 19·03 15 6·5 E 072 51 05·32.

~~सद्य~~ उपरोक्त GPS Readings नुसार Google Earth App वर जागेचे नकाशे तपासले असता ~~सद्य~~ नकाशात नमूद जागेवर असलेली भिंत ही पूर्वीपासून असून ~~सद्य~~ भिंतीपासून कांदळवन अधिसूचित क्षेत्र हे ~~साधारण~~ 400 मीटरपर्यंत आहे. ~~सद्य~~ प्रस्तुत अनधिकृत जागेभोवती बांधकाम हे कांदळवनाचा नाश करून केले जात नाही. सदरची जागा ही अधिसूचित कांदळवन क्षेत्राबाहेर आहे महाराष्ट्रात अहवाल सादर.

धनश्री नरपाल
मुंबई कांदळवन संधारण घटक
मध्य मुंबई

Exhibit - W

Minutes of the 157th meeting of Maharashtra Coastal Zone Management Authority (MCZMA) held on 04th February, 2022

The Authority noted that Shri. Ajit patil, Janshakti Bahuddeshiy Sanstha is sending recurrent complaints vide letters dated 17.08.2020, 28.10.2020, 05.11.2020 & 14.12.2020 to Authority alleging that, officials of Thane Municipal Corporation along with NCCSMC (JV) has carried out destruction of mangroves by dumping at S. No. 86, mouje Kopari, Tal. & Dist. Thane. Complainant has requested to taken action and file the case against TMC officials.

The Authority noted that taking note of the complaint, MCZMA sent numerous communications vide letter dated 25.08.2020, 16.09.2020, 12.11.2020, 15.12.2020, 04.01.2021 to Thane Municipal Corporation, District Collector Thane (DCZMC) & Mangrove cell for necessary action in the matter and sought the Action taken report. No report till date is received to MCZMA from TMC, District Collector in the matter. Mangrove Cell responded on 16.4.2021 stating that Mangrove Cell has forwarded the complaint to District Collector since, land under reference does not falls in notified protected forest of mangrove area. Thane Municipal Corporation vide letter dated 22.06.2021 submitted its reply as per which, The project of Satis East in under Smart City Mission of Central Govt. and said construction does not falls in CRZ area as per approved CZMP,2011 and not falls in mangrove area as per MRSAC maps. District Collector Thane vide letter dated 29.07.2021 submitted its reply as per which Thane Muncipal Corporation stated that the said construction does not falls in CRZ area and CRZ Notification is not applicable. Mangrove destruction not carried out as no mangroves on the said site. Accordingly, a report was sent to GAD, GoM.

The Authority noted the matter and took it on record

Item No.40: Regarding Complaint pertaining to alleged destruction of mangroves by one M/s Indian Film Combine Pvt Ltd - Maker Group at village Parighkhar Survey no. 4, part CTS NO.8, part Bandra Survey No. 341 part CTS No. 629, Mumbai

The Authority noted that the complaint received in the matter was deliberated by the MCZMA at length in its 119th, 121st and 122nd meetings held on 30.6.2017, 15.9.2017 and 30.10.2017 respectively.

Minutes of the 157th meeting of Maharashtra Coastal Zone Management Authority (MCZMA) held on 04th February, 2022

MCMZA in its 119th meeting noted the complaint and replies received in the matter. After deliberation at length, the Authority decided to seek following details from the Project proponent:

1. When was the permission granted for on-going construction on site under reference and date of commencement of the work?
2. Whether the construction on the site is as per the CRZ NoC granted by the UDD, GoM.
3. Submit chronology of subsequent changes made in the approved plan in detail.
4. Submit copies of the CRZ Clearance and EC obtained, if any.
5. Whether the construction is on landward or seaward side of the road fronting the Creek.
6. Distance of the construction under consideration from the HTL of the creek and mangroves / Mangroves buffer zone.

The MCZMA in its 119th meeting further decided to direct MMRDA to stop the work till the time matter is decided on the basis of above said information to be submitted to Authority. Accordingly, as per the decision taken in the meeting, the MCZMA vide letter dated 11.8.2017 issued directions under section 5 to stop the work on site. Further, the MCZMA vide letter dated 22.8.2017 sought certain information from the PP.

Upon receipt of reply from project proponent, the MCZMA again deliberated the matter in its 121st meeting held on 15th & 16th Sep, 2017, wherein the Authority noted that hearing was conducted on 6th September, 2017 under the chairmanship of the ACS, Environment and Chairman, MCZMA wherein project proponent, complainant and MMRDA were called to present their say. During the hearing PP and complainant presented their say. Complainant alleged that revised CRZ clearance from the MCZMA was necessary as work was started in the year 2010 and hence, CRZ clearance of the UDD is invalid. It was further alleged that mangroves are present on the site. During the hearing, Complainant and MMRDA were directed to submit the written submission in the matter. The complainant has not submitted its written submission to the Authority, till the date of meeting. The MMRDA submitted their reply vide letter dated 07.09.2017. The reply of the MMRDA is as follows:

1. The permission for the ongoing construction i.e. the first CC for the layout was issued on 05.12.2001. The copy of the Work Start Notice dt. 04.07.2003 submitted by M/s The Indian Film Combine Pvt. Ltd. is

available with MMRDA by which applicant has informed that the work has been commenced on 27.06.2003

2. The construction on site under reference is as per the CRZ NoC granted by Govt. in UDD on 06.08.1999.
3. The list of approvals issued till date by MMRDA for the redevelopment on land under reference is submitted.
4. As regards the Appeal filed by M/s The Indian Film Combine Pvt. Ltd., The competent authority, Govt. of Maharashtra has passed an order under section 47 of MR & TP Act on 15.01.2007 in which it is stated that the entire project has been approved under CRZ provision and it is accordingly excluded from the scope of EIA Notification 1994 as amended by Notification 2004.
5. Yes, construction is on the landward side of the 15m wide road (which is between the site u/r and the creek) as per Govt. Notification 2000 and it is also on landward side of imaginary line parallel to HTL drawn from the existing authorised structure on plot under reference.
6. MMRDA has issued the initial approval for the layout on 05.12.2001 based on the CZMP 2000 and within the existing compound wall approved by MCGM in 1977 and it is on landward side of the imaginary line parallel to HTL drawn from the existing authorized structure on plot under reference.

During the 121st meeting, the Project proponent and MMRDA were presented the matter. Complainant was absent during the meeting and informed that he would be late as he is busy with other important work. Therefore, the mater was considered at the end of the meeting, however, the complainant could not remain present during the meeting, when the matter was discussed. During the 121st meeting, the Authority observed the followings:

1. The Urban Development Department, GoM vide letter dated 06.08.1999 granted the CRZ clearance.
2. As per the submission of the MMRDA and project proponent, the plans were approved in accordance with CRZ NoC granted by the UDD, GoM. MMRDA further submits that there are no significant changes in the proposed plans in CRZ area after 5.12.2001 i.e. the year of approval of plans. Further, there is reduction in FSI due to minor changes. Further, the MMRDA states that it is ongoing project since 5.12.2001.

3. The PP to strictly follow the conditions mentioned in the CRZ Noc granted by the UDD, GoM and no construction is allowed in Mangrove area.

The MCZMA in its 121st meeting also noted the opinion of the Law and Judiciary Department Opinion received in the matter, which states that it is for the concern Authority to examine those factual aspect and see no condition of clearance is violated and take appropriate decision. It was further stated that the condition of each initial clearance and subsequent clearance have to be kept in mind and scrupulously followed by the project proponent while executing the project.

Considering the above, including opinion of Law and Judiciary Department, and information furnished by the MMRDA and PP, the Authority after deliberation decided to withdraw the stop work order dated 11.8.2017 of the MCZMA subject to compliance of following:

1. MMRDA to ensure that it was ongoing project as mentioned in its reply and approved on 5.12.2001 to which commencement certificate was issued in the year 2003.
2. MMRDA to ensure that there are no subsequent changes in the original approved plans for the project undertaken in CRZ area.
3. MMRDA to ensure that ongoing work is as per the provisions of the CRZ Notification and beyond mangroves buffer zone as applicable.
4. As per the opinion of the Law and Judiciary department, the MMRDA and PP to ensure that no condition of the clearances including CRZ NoC is violated. And, no construction should be undertaken in mangroves or its mangroves 50 buffer zone.
5. In the event, conditions no. 1 to 4 as above, are not complied with, the MMRDA shall stop the work and report the violation of the CRZ Notification to the Authority at the earliest.

The minutes of 121st meeting were confirmed with following changes in MCZMA's 122nd meeting which are as follows:

- At Item no. 6, on page 8, in line no. 3 from the top, 'year 1991' shall be read as 'year 1999'
- At item no. 6, on page 9, condition no. 2, 3 and 4 shall be read as:

2. MMRDA to ensure that there are no significant subsequent changes in the original approved plans for the project undertaken in CRZ area.
3. MMRDA to ensure that ongoing work is as per the provisions of the CRZ Notification and beyond mangroves buffer zone as applicable, as per approved CZMP of 2000.
4. As per the opinion of the Law and Judiciary department, the MMRDA and PP to ensure that no condition of the clearances including CRZ NoC is violated. And, no construction should be undertaken in mangroves or its mangroves 50 buffer zone, as per approved CZMP of 2000.

MMRDA vide letter dated 16.2.2018 has sent letter to MCZMA stating that as per approved CZMP of 2000, there is no 50 m mangrove buffer zone. The Environment Dept vide letter dated 5.3.2018 has communicated the same to MPCB also, regarding applicability of EC and CRZ clearance to the project of M/s India Film Combine Pvt Ltd.

With respect to complaint of Mr. Diliprao Patil in the matter, National Human Rights commission sought report from the MCZMA. The MCZMA vide letter dated 13.1.2022 has sent a report National Human Rights Commissioner in the matter. The Authority noted that the Department has received remarks in the matter from Revenue & Forest Department on 5.1.2022 along with report of the Mangrove Cell sent to Joint Registrar (Law), National Human Rights Commission vide letter dated 3.1.2022. As per the said report of Mangrove Cell, *"The said land parcel is not part of the notified Reserved Forest (Mangrove) area and not in possession of Mangrove Cell. However, it is located at a distance of 6 to 7 meters from the notified forest area in village parighkhar. The area is falling within 50 meter buffer zone from the nearby mangrove area and on account of it being non-forest land the concerned Revenue or Municipal authorities are expected to initiate necessary action, if any violation is observed"*

The Authority noted that the project is ongoing and has earlier approval from CRZ point of view from the Urban Development Department. It was noted that at present, contempt petition (Contempt Petition no. 20/2018 Santosh Daudkar V/s UPS Madan & Ors) is filed in the matter before Hon'ble High Court of Mumbai, which is sub-judiced.

In the light of above, after detailed discussion and deliberation, the Authority decided that the PP need to take prior high court permission, since the area is within 50 m mangrove buffer area, as per report of Mangrove Cell.

Item No.41: Sushil R. Nimbalkar V/s. State of Maharashtra & Ors regarding beautification work done by MMB at Desai Creek, Nilje, Tal. Kalyan Dist. Thane (WP No. 3543 of 2021)

The Authority noted that the Hon'ble National Green Tribunal has passed an order dated 28.5.2021 in the matter of Original Application no. 67/2020 (Palava Rahivasi Sangh V/s District Collector, Thane & Ors). Hon'ble NGT observes that application seeks direction to stop work at the bank of Nilje-Desai Creek, Village Nilje, Taluka Kalyan, District Thane, Maharashtra. Hon'ble NGT order states at para 1 that, "*Case of the applicant is that such constructions are in violation of Coastal Regulation Zone (CRZ) norms. The construction in question will result in reduction of width of the water channel. This will cause flooding in the rainy season affecting the inhabitants, including houses, schools, hospitals and other buildings in the area which may result in loss of life and damage to property. No environment impact assessment has been carried out before the execution of the work. The work is being executed by M/s Subash Construction, Dombivli east, TqKalyan, District Thane*"

Accordingly, the Hon'ble NGT passed an order directing that, "*the issue raised may in the first instance be looked into by the MCZMA and SEIAA, Maharashtra. If any violations are found, remedial action may be taken, following due process of law*"

It is also noted that Civil Write Petition no.14223/2021 has also been filed before the Hon'ble High Court seeking compliance of the Hon'ble NGT order and issue of flooding in the Desai creek. Respondent No. 10 is MCZMA in the matter.

In view of above said order of the Hon'ble NGT, Pune, the State Environment & Climate Change, GoM vide order dated 6.8.2021 requested members of the MCZMA & SEIAA namely, Dr. Mahesh Shindikar, Expert Member, MCZMA and Mr. Pankaj Joshi, Expert Member, SEIAA to carry out site inspection and submit a report in the matter. Site visit was carried out on 19th August, 2021. The Authority noted the observations of the site visit report which are as follows:

Exhibit - X

MAHARASHTRA COASTAL ZONE MANAGEMENT AUTHORITY

Tel. No. : 2202 9388
E-mail : dir1.mev-mh@nic.in
Website: https://mczma.gov.in/

No. Complaint-2021/CR126/TC 4
Office of the -
Maharashtra Coastal Zone Management Authority,
Environment & Climate Change Department,
15th Floor, New Administrative Building,
Mantralaya, Mumbai- 400 032
Date: 04th March, 2022

M C OFFICE
No.:- 1646
Date:-16/3/2022

मुंबई महानगर प्रदेश विकास प्राधिकरण
आवक क्र 1060
दिनांक 15-9-22

To,
The Indian Film Combine Pvt Ltd,
85, First Floor, Maker Tower 'F',
Cuffe Parade, Mumbai 400 005

Subject: Regarding Complaint pertaining to alleged destruction of mangroves by one M/s Indian Film Combine Pvt Ltd – Maker Group at village Parighkhar Survey no. 4, part CTS NO.8, part Bandra Survey No. 341 part CTS No. 629, Mumbai

The Maharashtra Coastal Zone Management Authority in its 157th meeting held on 04th February, 2022 deliberated the Complaint pertaining to alleged destruction of mangroves by one M/s Indian Film Combine Pvt Ltd – Maker Group at village Parighkhar Survey no. 4, part CTS NO.8, part Bandra Survey No. 341 part CTS No. 629, Mumbai.

2. The Authority noted that the complaint received in the matter was deliberated by the MCZMA at length in its 119th, 121st and 122nd meetings held on 30.6.2017, 15.9.2017 and 30.10.2017 respectively.

3. With respect to complaint of Mr. Diliprao Patil in the matter, National Human Rights commission sought report from the MCZMA. The MCZMA vide letter dated 13.1.2022 has sent a report National Human Rights Commissioner in the matter. The Authority noted that the Department has received remarks in the matter from Revenue & Forest Department on 5.1.2022 along with report of the Mangrove Cell sent to Joint Registrar (Law), National Human Rights Commission vide letter dated 3.1.2022. As per the said report of Mangrove Cell, "The said land parcel is not part of the notified Reserved Forest (Mangrove) area and not in possession of Mangrove Cell. However, it is located at a distance of 6 to 7 meters from the notified forest area in village parighkhar. The area is falling within 50 meter buffer zone from the nearby mangrove area and on account of it being non-forest land the concerned Revenue or Municipal authorities are expected to initiate necessary action, if any violation is observed"

4. The Authority noted that the project is ongoing and has earlier approval from CRZ point of view from the Urban Development Department. It was noted that at present, contempt petition (Contempt Petition no. 20/2018 Santosh Daudkar V/s UPS Madan & Ors) is filed in the matter before Hon'ble High Court of Mumbai, which is sub-judiced.

5. In the light of above, after detailed discussion and deliberation, the Authority decided that the PP need to take prior high court permission, since the area is within 50 m mangrove buffer area, as per report of Mangrove Cell.

6. Copy of the minutes are attached herewith. Agenda item & minutes of the meeting is available on the website of MCZMA i.e. http://mczma.gov.in.

(Narendra Toke) 4/3/21
Director, Environment & MS, MCZMA

Copy for information to:

1. **PS (Environment) & Chairperson, (MCZMA),** Environment & CC Department, Room No. 217 (Annex), Mantralaya, Mumbai -32.
2. **Member Secretary, Maharashtra Pollution Control Board,** Kalpataru Point, 3rd and 4th floor, Road No. 8, Sion Cir, opp. PVR Theater, Mumbai -400022
3. **Metropolitan Commissioner, Mumbai Metropolitan Region Development Authority,** E-Block, C-14 & 15, City Park Rd, E Block BKC, Bandra Kurla Complex, Bandra East, Mumbai, Maharashtra 400051
4. **Select File-TC 4**

THE INDIAN FILM COMBINE PVT. LTD.

REGD. OFFICE : MAKER TOWER 'F', 1ST FLOOR, 85, CUFFE PARADE, MUMBAI - 400 005. TEL.: +91 (22) 22185291 / 40402020 FAX :+91 (22) 66345042
CIN : U92100MH1942PTC003702

25th April 2022

The Director, Environment
& Member Secretary MCZMA,
15th Floor, New Administrative Building,
Mantralaya,
Mumbai - 400 032

Kind Attention: Shri Narendra Toke

Sub: 1. Complaint filed by one Mr. Diliprao Patil pertaining to the alleged destruction of mangroves by The Indian Film Combine Private Limited ("**IFC**") in it's project located at village Parigkhar Survey no. 4 part, CTS no. 8 part, village Bandra Survey no. 341 part CTS no. 629 part Mumbai.

2. Discussion in respect of the above complaint at item No 40 on the agenda of 157th Meeting of Maharashtra Coastal Zone Management Authority ("**MCZMA**") held on 4th February 2022 through Video Conference.

3. Your letter no. Complaint-2021/CR126/TC 4 dated 4th March 2022

Dear Sir,

This is in reference to the above referred discussion in respect of the above complaint at item no. 40 on the agenda of the 157th meeting of the MCZMA held on 4th February 2022 and your consequent letter no. Complaint-2021/CR126/TC 4 dated 4th March 2022 on the above-mentioned subject.

The above letter concludes by stating "In the light of above, after detailed discussion and deliberation, the Authority decided that the PP need to take prior high court permission, since the area is within 50 m mangrove buffer area, as per report of Mangrove Cell."

Sir, we, IFC, believe that the decision with regard to the PP needing to take prior High Court permission taken in the 157th meeting was only due to the fact that the discussion on the matter was held ex-parte as we had no notice of the meeting and consequently were unable to put the facts in the matter in their proper perspective before the MCZMA.

Accordingly, the brief relevant facts in the matter, most of which are also reiterated in the minutes of the 157th meeting, are enclosed herewith as a representation (in the form of a presentation) with the relevant documents annexed thereto.

In the above facts and circumstances, IFC respectfully submits that there is no need for IFC to take prior High Court permission.

Accordingly, we request the MCZMA, based on the enclosed representation and clarification of the matter, to remove the requirement imposed on IFC to obtain prior

25-4-22
आवक रिपोर्टिंग
पर्यावरण विभाग
मंत्रालय, मुंबई

High Court permission, pursuant to the ex-parte discussion in MCZMA's 157th meeting.

We would be grateful for an opportunity to further clarify the matter, if deemed necessary.

Thanking You.

Yours faithfully,
For **The Indian Film Combine Pvt Ltd.**

Authorized Signatory

Enclosure: - A representation setting out the relevant facts in the matter along with relevant Annexures.

Presentation regarding complaint pertaining to alleged destruction of mangroves on plot located at Village Parigkhar, Survey No. 4 (part), CTS No. 8 (part), Bandra Survey No. 341 (part), CTS No. 629 (part), Mumbai

All information contained in this presentation is to be treated as Confidential.

Background

1. The Indian Film Combine Pvt. Ltd. ("**IFC**"), is in receipt of letter no. Complaints-2021/CR126/TC 4 dated 4th March 2022 from Director, Environment & MS, Maharashtra Coastal Zone Management Authority ("**MCZMA**") in respect of a complaint filed by one Mr. Diliprao Patil pertaining to the alleged destruction of mangroves by IFC in it's project located at village Parigkhar Survey no. 4 part, CTS no. 8 part, village Bandra Survey no. 341 part CTS no. 629 part Mumbai. ("**Current Complaint**") (copy attached at Annexure **"A"**)

2. The aforesaid letter of MCZMA dated 4th March 2022:

   i. states that the MCZMA deliberated the aforesaid Current Complaint in it's 157th meeting held on 4th February 2022 and also noted that an earlier similar complaint was deliberated by the MCZMA at length in it's 119th, 121st and 122nd meetings held on 30.6.2017, 15.9.2017 and 30.10 2017 respectively. (Copy of item no. 40, being the relevant portion from the minutes of the 157th meeting of the MCZMA held on 4th February 2022, is annexed hereto at Annexure "**B**")

   ii. refers to various reports submitted in respect of the Current Complaint and quotes a portion from the report of the Mangrove Cell which *inter alia* states that the land parcel on which IFC's project is located is "not part of the notified Reserved Forest (Mangrove) area and not in possession of the Mangrove Cell. However, it is located at a distance of 6 to 7 meters from the notified forest area in village parigkhar. The area is falling within 50 meter buffer zone from the nearby mangrove area……"

All information contained in this presentation is to be treated as Confidential.

Background

iii. notes that the project is ongoing and has earlier approval from CRZ point of view from the Urban Development Department and also that a Contempt Petition no. 20/2018 in the earlier matter is sub-judice before the Hon'ble High Court of Mumbai.

iv. concludes by stating "In the light of above, after detailed discussion and deliberation, the Authority decided that the PP need to take prior high court permission, since the area is within 50 m mangrove buffer area, as per report of Mangrove Cell".

IFC believes that the decision with regard to the PP needing to take prior High Court permission taken in the 157th meeting and the consequent letter at Annexure A hereto were only due to the fact that the discussion on the matter was held ex-parte as IFC had no notice of the meeting and consequently was unable to put the facts in the matter in their proper perspective before the MCZMA.

All information contained in this presentation is to be treated as Confidential.

Brief Statement of Relevant Facts

The brief relevant facts in the matter, most of which are also reiterated in item 40 of the minutes of the 157th meeting (Annexure B hereto) are as follows:

1. On or about 25th July 2016, one Mr. Santosh Daundkar had filed a complaint with "**MCZMA**" (the "**MCZMA Complaint**") alleging contravention of the provisions of the Environment Protection Act, including destruction of mangroves and construction within the 50 meter mangrove buffer zone.

2. This MCZMA Complaint was taken up for consideration at the 119th Meeting of the MCZMA held on 28th to 30th June 2017, and the minutes thereof were duly published on the website of MCZMA. At the said 119th Meeting of the MCZMA, after deliberation, the MCZMA decided to seek certain information from IFC, and decided to direct Mumbai Metropolitan Region Development Authority ("**MMRDA**") to stop the work till the time the matter is decided on the basis of the information to be submitted to the MCZMA.

3. Pursuant to the 119th Meeting of the MCZMA, a hearing was conducted on 6th September 2017, under the chairmanship of the Additional Chief Secretary (**"ACS"**), Environment & Chairman, MCZMA, wherein IFC (as the project proponent), MMRDA and the said complainant before the MCZMA were called upon to present their say. The complainant before the MCZMA, IFC and MMRDA were heard by the ACS, Environment & Chairman, MCZMA, at the said hearing, and the complainant before the MCZMA and MMRDA were directed to submit their written submissions in the matter.

4. The MMRDA, by its letter dated 7th September 2017 addressed to the ACS, Environment & Chairman, MCZMA, provided the information/clarifications that were required by the MCZMA at the said 119th meeting.

All information contained in this presentation is to be treated as Confidential.

Brief Statement of Relevant Facts

5. Thereafter, the MCZMA, in its 121st and 122nd Meetings held on 15th and 16th September 2017 and 30th October 2017 deliberated the matter, cleared the Project and decided to withdraw the stop work notice subject to certain conditions.

6. The MCZMA, by its letter dated 11th January 2018 addressed to the Metropolitan Commissioner, MMRDA recorded the fact that as per the decision taken in the 119th Meeting of the MCZMA vide letter dated 11.8.2017 issued directions under section 5 to stop the work on site and certain information from IFC was sought and that IFC had submitted its reply to the MCZMA providing the requisite information and relevant documents. This letter also recorded the fact that a hearing had been conducted on 6th September 2017 under the chairmanship of the ACS, Environment & Chairman, MCZMA, wherein the says of IFC, MMRDA and the complainant before the MCZMA had been considered. Para 5. of the said letter importantly records as follows:

".....The MMRDA officials further submitted that the mangroves are not present on the plot under reference, however, at present, the plot boundary may be situated between 50 m mangroves buffer zone, which is subject to verification as it is a dynamic matter."

The said letter further recorded that the MCZMA, after taking into account MMRDA's response and the opinion received from the Law and Judiciary Department, and the information furnished by MMRDA and IFC, and after deliberations in the 121st meeting held on 15th & 16th September 2017, decided to withdraw the stop work order dated 11.8.2017 subject to compliance of the terms and conditions specified therein, i.e.

All information contained in this presentation is to be treated as Confidential.

Brief Statement of Relevant Facts

i. MMRDA to ensure that it was ongoing project as mentioned in its reply and approved on 5.12.2001 to which commencement certificate was issued in the year 2003.

ii. MMRDA to ensure that there are no significant subsequent changes in the original approved plans for the project undertaken in CRZ area.

iii. MMRDA to ensure that ongoing work is as per the provisions of the CRZ Notification and beyond mangroves buffer zone as applicable, as per approved CZMP of 2000.

iv. As per the opinion of the Law and Judiciary department, the MMRDA and PP to ensure that no condition of the clearances including CRZ NOC is violated. And, no construction should be undertaken in mangroves or its mangroves 50 m buffer zone, as per approved CZMP of 2000.

v. In the event, conditions no.1 to 4 as above, are not complied with, the MMRDA shall stop the work and report the violation of the CRZ Notification to the Authority at the earliest.

Pertinently, copies of the said letter dated 11th January 2018 addressed to the Metropolitan Commissioner, MMRDA were forwarded by the MCZMA, amongst others, to the complainant before the MCZMA as also to IFC. A copy of the aforesaid letter dated 11th January 2018 of the MCZMA is annexed hereto at Annexure "C".

All information contained in this presentation is to be treated as Confidential.

Brief Statement of Relevant Facts

7. In response to MCZMA's aforesaid letter dated 11th January 2018, MMRDA, by its letter 16th February 2018, clarified as follows:

"With reference to your above letters dated 11/08/2017, 11/01/2018 and Minutes of 121st & 122nd Meeting of MCZMA, regarding the subject matter, the following is for your information:

No.	***MMRDA's reply***
Condition 1. *of 121st Authority meeting of MCZMA*	*MMRDA vide its letter dt. 07/09/2017 has already informed that it is a ongoing project with CC for lay-out on 5/12/2001.*
Modified Condition 2. *of 122nd Authority meeting of MCZMA.*	*Although minor changes are approved by MMRDA; no significant changes in the original approved plans for the project are approved by MMRDA for redevelopment on plot under reference. (in CRZ area).*
Modified Condition 3. *of 122nd Authority meeting of MCZMA*	*As per the approved CZMP of 2000, there is no 50 m. mangrove buffer zone.*
Modified Condition 4. *of 122nd Authority meeting of MCZMA*	*As per the approved CZMP of 2000, there is no 50 m. mangrove buffer zone.*
Condition 5. *of 121st Authority meeting of MCZMA*	*In view of the compliance to conditions 1 to 4 above, there is no need to take any action on the redevelopment of Drive-In-Theatre on site under reference.*

A copy of the said letter dated 16th February 2018 addressed by MMRDA to the MCZMA is annexed hereto at Annexure "**D**".

All information contained in this presentation is to be treated as Confidential.

Brief Statement of Relevant Facts

8. From the above facts and circumstances it is absolutely clear that pursuant to an almost identical complaint on the issues of destruction of mangroves and construction within the 50 meter mangrove buffer zone, MCZMA had taken the precaution of stopping work on the project till it gathered and examined all the requisite information from IFC, MMRDA and the complainant and had cleared the project to continue by withdrawing the stop work notice only after it was satisfied on all aspects including that there was no destruction of mangroves by IFC and the construction was as per the applicable buffer zone as per the CZMP of 2000.

9. Pursuant to this clearance by MCZMA as far back as 2017, IFC has continued with the permitted construction work and completed the superstructure of the hotels, some part of which may fall within the 50 meter buffer zone as of today as mangroves keep growing and the buffer zone is a dynamic matter. It is also pertinent to mention that all construction on the project is in CRZ II and within the original boundary wall that was sanctioned in 1977 and on the landward side of imaginary line from authorised structures originally sanctioned in 1977.

10. As far as the Contempt Petition No. 20/2018 (Santosh Daundkar V/S UPS Madan & Ors) is concerned, it is a proceeding filed by the same complainant alleging malafides on the part of 2 senior IAS officers in not stopping work on the project on 4 specific dates and the petition does not prejudice the decision taken by the entire MCZMA committee to withdraw the stop work notice based on detailed examination and deliberation.

11. IFC believes that the decision with regard to the PP needing to take prior High Court permission taken in the 157th meeting and the consequent letter at Annexure A hereto were only due to the fact that the discussion on the matter was held ex-parte as IFC had no notice of the meeting and consequently was unable to put the facts in the matter in their proper perspective before the MCZMA.

All information contained in this presentation is to be treated as Confidential.

Submission

In the above facts and circumstances, IFC respectfully submits that there is no need for IFC to take prior High Court permission.

Accordingly, we request the MCZMA , based on this representation and clarification of the matter, to remove the requirement imposed on IFC to obtain prior High Court permission, pursuant to the ex-parte discussion in MCZMA's 157th meeting.

IFC would be grateful for an opportunity to further clarify the matter, if deemed necessary.

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Thank You

All information contained in this presentation is to be treated as Confidential.

ANNEXURE "A"
456

MAHARASHTRA COASTAL ZONE MANAGEMENT AUTHORITY

Tel. No. : 2202 9388
E-mail : dirl.mev-mh@nic.in
Website: https://mczma.gov.in/

No. Complaint-2021/CR126/TC 4
Office of the -
Maharashtra Coastal Zone Management Authority,
Environment & Climate Change Department,
15th Floor, New Administrative Building,
Mantralaya, Mumbai- 400 032
Date: 04th March, 2022

M C OFFICE
No.:- 1646
Date:-16/3/2022

मुंबई महानगर प्रदेश विकास प्राधिकरण
आवक क्र 1060
दिनांक 15-9-22

To,
The Indian Film Combine Pvt Ltd,
85, First Floor, Maker Tower 'F',
Cuffe Parade, Mumbai 400 005

Subject: Regarding Complaint pertaining to alleged destruction of mangroves by one M/s Indian Film Combine Pvt Ltd – Maker Group at village Parighkhar Survey no. 4, part CTS NO.8, part Bandra Survey No. 341 part CTS No. 629, Mumbai

The Maharashtra Coastal Zone Management Authority in its 157th meeting held on 04th February, 2022 deliberated the Complaint pertaining to alleged destruction of mangroves by one M/s Indian Film Combine Pvt Ltd – Maker Group at village Parighkhar Survey no. 4, part CTS NO.8, part Bandra Survey No. 341 part CTS No. 629, Mumbai.

2. The Authority noted that the complaint received in the matter was deliberated by the MCZMA at length in its 119th, 121st and 122nd meetings held on 30.6.2017, 15.9.2017 and 30.10.2017 respectively.

3. With respect to complaint of Mr. Diliprao Patil in the matter, National Human Rights commission sought report from the MCZMA. The MCZMA vide letter dated 13.1.2022 has sent a report National Human Rights Commissioner in the matter. The Authority noted that the Department has received remarks in the matter from Revenue & Forest Department on 5.1.2022 along with report of the Mangrove Cell sent to Joint Registrar (Law), National Human Rights Commission vide letter dated 3.1.2022. As per the said report of Mangrove Cell, "The said land parcel is not part of the notified Reserved Forest (Mangrove) area and not in possession of Mangrove Cell. However, it is located at a distance of 6 to 7 meters from the notified forest area in village parighkhar. The area is falling within 50 meter buffer zone from the nearby mangrove area and on account of it being non-forest land the concerned Revenue or Municipal authorities are expected to initiate necessary action, if any violation is observed"

4. The Authority noted that the project is ongoing and has earlier approval from CRZ point of view from the Urban Development Department. It was noted that at present, contempt petition (Contempt Petition no. 20/2018 Santosh Daudkar V/s UPS Madan & Ors) is filed in the matter before Hon'ble High Court of Mumbai, which is sub-judiced.

5. In the light of above, after detailed discussion and deliberation, the Authority decided that the PP need to take prior high court permission, since the area is within 50 m mangrove buffer area, as per report of Mangrove Cell.

6. Copy of the minutes are attached herewith. Agenda item & minutes of the meeting is available on the website of MCZMA i.e. http://mczma.gov.in.

(Narendra Toke) 4/3/21
Director, Environment & MS, MCZMA

Copy for information to:

1. **PS (Environment) & Chairperson, (MCZMA),** Environment & CC Department, Room No. 217 (Annex), Mantralaya, Mumbai -32.
2. **Member Secretary, Maharashtra Pollution Control Board,** Kalpataru Point, 3rd and 4th floor, Road No. 8, Sion Cir, opp. PVR Theater, Mumbai -400022
3. **Metropolitan Commissioner, Mumbai Metropolitan Region Development Authority,** E-Block, C-14 & 15, City Park Rd, E Block BKC, Bandra Kurla Complex, Bandra East, Mumbai, Maharashtra 400051
4. **Select File-TC 4**

Exhibit - Z

THE INDIAN FILM COMBINE PVT. LTD.

REGD. OFFICE : MAKER TOWER 'F', 1ST FLOOR, 85, CUFFE PARADE, MUMBAI - 400 005. TEL.: +91 (22) 22185291 / 40402020 FAX :+91 (22) 66345042
CIN : U92100MH1942PTC003702

26th June 2024

The Director, Environment & The Member Secretary,
Maharashtra Coastal Zone Management Authority (MCZMA),
15th Floor, New Administrative Building,
Mantralaya,
Mumbai - 400 032

Sub: 1. Complaint filed by one Mr. Diliprao Patil pertaining to the alleged destruction of mangroves by The Indian Film Combine Private Limited ("**IFC**") in it's project located at village Parigkhar Survey no. 4 part, CTS no. 8 part, village Bandra Survey no. 341 part CTS no. 629 part Mumbai (**"Plot"**).

2. Discussion in respect of the above complaint at item No 40 on the agenda of 157th Meeting of Maharashtra Coastal Zone Management Authority ("**MCZMA**") held on 4th February 2022 through Video Conference.

3. Our letter dated 18th February 2022

4. Your letter no. Complaint-2021/CR126/TC 4 dated 4th March 2022

5. Our Letter dated 25th April 2022

Dear Sir,

This is in reference to the above referred discussion in respect of the above complaint at item no. 40 on the agenda of the 157th meeting of the MCZMA held on 4th February 2022, your letter no. Complaint-2021/CR126/TC 4 dated 4th March 2022, our responses vide letter dated 18th February 2022 and 25th April 2022 (copies annexed hereto for ready reference at **Annexure A** and **Annexure B** respectively) and our subsequent discussions on the above-mentioned subject.

This this regard please find enclosed herewith at **Annexure C** complete details including relevant facts in respect of the above-mentioned subject.

In view of the facts submitted herein and the Order of the Hon'ble High Court of Bombay dated 11th December 2023 in the matter of Writ Petition No. 15318 of 2023 between Shivtej Builders and Developers *vs* The Navi Mumbai Municipal Corporation & Ors, we once again submit that it is clear that there is no need for IFC to take prior High Court permission, and accordingly, the requirement for prior High Court permission is once again hereby requested to be withdrawn.

Thanking You.

Yours faithfully,
For **The Indian Film Combine Pvt Ltd.**

Authorized Signatory

Enclosures: - As above

C/c: **Hon'ble PS (Environment) & Chairperson (MCZMA)**, Environment & CC Department Room No. 217 (Annex), Mantralaya, Mumbai -32

26/6/24
प्रधान सचिव कार्यालय,
पर्यावरण व वातावरणीय बदल विभाग,
मंत्रालय, मुंबई-४०० ०३२.

26/6/24
लिपिक,
प्रधान सचिव कार्यालय,
पर्यावरण व वातावरणीय बदल विभाग,
मंत्रालय, मुंबई-४०० ०३२.

Exhibit - AA

Varsha

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 15318 OF 2023

Shivtej Builders and Developers …Petitioner
Versus
The Navi Mumbai Municipal Corporation & Ors …Respondents

Mr Suresh Sabrad, *i/b JS Legal,for the Petitioner.*
Mr Tejesh Dande, *for Respondent No.1-NMMC.*
Mr YD Patil, *AGP for the Respondent-State.*

CORAM G.S. Patel &
Kamal Khata, JJ.
DATED: 11th December 2023

PC:-

1. For some reason that we cannot understand, the Maharashtra Coastal Zone Management Authority ("**MCZMA**") insisted on 10th August 2023 that the Navi Mumbai Municipal Corporation ("**NMMC**") had to "ensure" that the Petitioner "obtained permission" from this High Court before it granted an Occupation Certificate to the Petitioner.

2. At least as currently advised, this court is not bound by such directions of the MCZMA. That would require a substantial amendment to the Constitution of India. Nobody has proposed it yet.

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3. We direct the NMMC to take up and process the Petitioner's application for an Occupation Certificate in accordance with law, without any regard whatever to Item 2 of the MCZMA order of 10th August 2023 at page 46. We clarify that it is not for the MCZMA to direct that this High Court's permission should or should not be obtained.

4. Mr Dande, Learned Counsel for Respondent No 1, states that the application will be processed expeditiously. We request that this be done in any event within eight to twelve weeks from today.

5. The Petition is disposed of in these terms.

(Kamal Khata, J) **(G. S. Patel, J)**

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Exhibit - BB

Item No.5 (Pune Bench)

BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE

(By Video Conferencing)

ORIGINAL APPLICATION NO.38 OF 2023 (WZ)

Pratap Lal Teli .... Applicant

Versus

Secretary, Environment Department,
Govt. of Maharashtra & Ors. ....Respondents

Date of Hearing : 06.04.2023

CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER

Applicant : Mr. Yogesh Pratap Singh, Advocate

ORDER

1. We have heard the learned counsel for the applicant at length.

2. It is being alleged by the applicant in the present application that respondent No. 6 – M/s India Film Combine Pvt. Ltd. is raising mammoth construction with built-up area exceeding more than 1.5 lakh sq.mtrs in highly eco-sensitive Mangrove buffer zone area without Environment Clearance (EC). The area where the construction is alleged to have been done or in the process of being done is said to be Drive-in Theatre. No exact location of the same has been given in the pleadings by referring to the specific survey number where the alleged illegal construction is said to have been made or is in process of being made. Therefore, the specific provision of CRZ Notification, 2011, which is being violated, has not been mentioned. There is no evidence on record as to which Authority has passed the layout and for how-much area and therefore, how this Tribunal would be able to determine whether prior EC would be required in the present matter or not. Some document dated 14/16.12.2004,

which appears to be a letter written by the Chief, T&CP Division of Planning Authority addressed to Shri Rajendra Pagnis is annexed with the application regarding approval to the revised layout proposal in respect of re-development of Drive-in Theatre on land bearing Survey No.341 (Pt.) CTS No.629 (Pt) of village Parighkhar in Bandra-Kurla Complex, showing that several deficiencies were found in the proposal and revised layout proposal would be processed for approval on rectification of the deficiencies. Thereafter, one order dated 15.01.2007 passed by the Hon'ble Chief Minister in Appeal under Section 47 of the Maharashtra Regional and Town Planning Act, 1966 filed by the Indian Film Combine Pvt. Ltd (respondent No.6) against Mumbai Metropolitan Region Development Authority (MMRDA) has been annexed, wherein it is ordered that impugned order dated 14/16th December, 2004 is quashed and the appeal is allowed and it is being stated that pursuant to this order, the illegal construction is being done.

3. At Annexure-A-11 to the application, which are minutes of 157th meeting of Maharashtra Coastal Zone Management Authority (MCZMA) held on 04.02.2022, at Item No.40, the matter in dispute in the present application appears to have been dealt with on the basis of a complaint of some other person, whose name is not mentioned therein wherein it is resolved by the MCZMA that the Project Proponent needs to take prior High Court's permission since the area is within 50 mtrs mangrove buffer area as per report of Mangrove Cell.

4. From the above total evidence provided as well as submissions made, we find that there is no adequate evidence on record placed by the applicant as to where exactly the construction is being done nor has provided the layout approved by the appropriate Authority under which this construction is going on. It is expressed by the learned counsel for the applicant that the Project Proponent is a person having big clout

against whom it is difficult to obtain information. But nothing has been shown on record that the effort was made to obtain information under the Right to Information Act from appropriate Authority which was denied to him.

5. At this stage, the learned counsel for the applicant prays that he may be allowed to withdraw this application with permission to file fresh after obtaining the documents from the appropriate Authority.

6. We dismiss this application for insufficient evidence on record with liberty to the applicant to file fresh proceeding.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

April 06, 2023
O.A.NO.38/2023 (WZ)
npj

मुंबई महानगर प्रदेश विकास प्राधिकरण
MUMBAI METROPOLITAN REGION
DEVELOPMENT AUTHORITY

No.TCP(P-2)/BKC-27/(CC)/E/DRINT/ III/ 4 7 /2002.

Date : 2 3 JAN 2003

COMMENCEMENT CERTIFICATE

Permission is hereby granted, under Section 45 of the Maharashtra Regional & Town Planning Act 1966 (Maharashtra Act No. XXXVII of 1966) to the Applicant **M/s. Indian Film Combines Pvt. Ltd.** for the proposed redevelopment of Drive-in-Theatre, on land bearing S.No. 341(pt) CTS No. 629 (pt) of village Bandra and S. No. 4(pt) and CTS 8(pt) of village Parighkhar in Bandra Kurla Complex, consisting of development of proposed office bldg. block-B as depicted on Drg. Nos. DRV LAYOUT –1, 1 & 2 (3 drgs) and Drg. Nos. DRV OFFICE B –1 to B-8 on following conditions.

1. This Certificate is liable to be revoked by the Metropolitan Commissioner, MMRDA if -
   (a) the development works in respect of which permission is granted under this certificate is not carried out or the user thereof is not in accordance with the sanctioned plans;
   (b) any of the conditions subject to which the same is granted or any of the restrictions imposed by the Metropolitan Commissioner for MMRDA is contravened or is not complied with ;
   (c) the Metropolitan Commissioner for MMRDA is satisfied that the same is obtained through fraud or misrepresentation; and in such an event the applicant and every person deriving title through or under him shall be deemed to have carried out the development work in contravention of Section 43 or 45 of the Maharashtra Regional & Town Planning Act, 1966 ;

2. This Commencement Certificate is valid for a period of one year from the date hereof and will have to be renewed thereafter;

3. This Commencement Certificate is renewable every year but such extended period shall in no case exceed three years. Provided further that such lapse shall not bar any subsequent application for fresh permission under Section 44 of the Maharashtra Regional & Town Planning Act, 1966;

4. The conditions of this certificate shall be binding not only on the applicant but also his /her heirs , successors, executors, administrators and assignees and every person deriving title through or under him ;

5. Any development carried out in contravention of the Commencement Certificate is liable to be treated as un-authorised and may be proceeded against under sections 53 or, as the case may be, section 54 of the M.R.&T.P. Act, 1966. The Applicant and/or his agents in such cases may be proceeded against under Section 52 of the said Act. To carry out an un-authorised development is treated as a cognisable offense and is punishable with imprisonment apart from fine.

6. The applicant shall obtain development permission under Section 44 of the Maharashtra Regional & Town Planning Act, 1966 prior to erection of each building in the amended layout approved vide this Commencement Certificate.

7. The applicant shall comply with the conditions of the letter of intent dated23.5.2000 issued by the Additional Collector & Competent Authority, ULC, Brihanmumbai.

8. The extent of built up area of commercial user shall be restricted to near about 50% of the total permissible built up area as per Collectors Order dated 15.7.1999.

9. The FSI in lieu of road set back area admeasuring 7769.50 sq.m. shall be available after necessary correction as to the transfer of the said land to MMRDA are made in the PR Cards of the lands under reference.

10. The total permissible built up area shall be restricted to 1,31,190.85 sq.m. The built up area in lieu of area admeasuring 5000 sq.m. reserved for traction sub station will be available under section 126 of MR&TP Act, 1966 after handing over the land free of cost and free from encumbrances to the appropriate authority i.e. Indian Railways as and when required in future.

मुख्य अधिकारी महानगर प्राधिकरण
एच. विभाग
दिनांक 2 9 JAN 2003
कार्यकारी अभियंता इमारती
प्रस्ताव (पश्चिम) उपनगरे

Bandra-Kurla Complex, Bandra (East), Mumbai – 400 051
OFF : 659 1234 PBX : 659 0001-08 FAX : 659 1112 / 659 1264 RES : 498 6868 E-MAIL : mmrda@giasbm01.vsnl.net.in WEB SITE: http://www.mmrdamumbai.org

11. The applicant shall redevelop the Drive-in-Theatre prior to obtaining Occupation Certificate for office blocks/commercial development as per the amended layout.

12. The MCGM shall ensure the necessary compliances under the BMC Act, 1888 before issuing its approval for the proposed layout.

13. As soon as the development permission for new construction is obtained, the owner/ developer shall install a "Display Board" at a conspicuous place on the site indicating following details :-

    (a) Name and address of the owner/developer, architect and contractor;
    (b) Survey No./City Survey No./Ward No. of land under reference alongwith description of its boundaries ;
    (c) Order No. and date of grant of development permission/redevelopment permission issued by MMRDA and BMC;
    (d) F.S.I. permitted;
    (e) Address where copies of detailed approved plans shall be available for inspection ;

14. A notice in the form of advertisement giving all the details mentioned in 13 above shall also be published in two widely circulated newspapers, one of which should be in Marathi language.

SR/-
METROPOLITAN COMMISSIONER
M. M. R. D. A.

To:
The Executive Engineer (Bldg. Proposals)
Western Suburbs, BMC Office,, H&K Wards,
Dr. R.K.Patkar Marg,
Bandra (West),
Mumbai-400 050.

P.S. :*The Commencement Certificate is issued subject to the conditions in the forwarding letter No. No.TCP(P-2)/BKC-27/(CC)/E/DRINT/III/ 47 /2002, dated* 23 JAN 2003

Copy to :
M/s. Pagnis & Pagnis,
Architect,
4, Anand, 1st floor,
D.L.Vaidya Road, Dadar,
MUMBAI 400 028.

Metropolitan Commissioner

Valid up to 29 APR 2004

CE/1484/WS/AH

This Commencement certificate is for 30 APR 2003
carrying out the work up to ~~For~~ Top only of Basement As per approved plan dt. 5/02/03

30/04/03
AEBP (CH)

Valid up to 29/4/2005

CE/1484/~~BSH~~/WS/AH of 15 MAY 2004
Further C. C. is now extended Full C.C.R.
For ~~38.60 mts~~ height + LMR + OHT as per approved plan dated 5/2/2003.

15/5/04
Asstt. Engr. B.P. (WS). AH

MUMBAI METROPOLITAN REGION DEVELOPMENT AUTHORITY
मुंबई महानगर प्रदेश विकास प्राधिकरण

No.TCP(P-2)/BKC-27/(CC)/E/DRINT/IV/ 377 /2003. Date : 26 FEB 2003

COMMENCEMENT CERTIFICATE

Permission is hereby granted, under Section 45 of the Maharashtra Regional & Town Planning Act 1966 (Maharashtra Act No. XXXVII of 1966) to the Applicant **M/s. Indian Film Combine Pvt. Ltd.** for the proposed redevelopment of Drive-in-Theatre, on land bearing S.No. 341(pt) CTS No. 629 (pt) of village Bandra and S. No. 4(pt) and CTS 8(pt) of village Parighkhar in Bandra Kurla Complex, consisting of development of proposed office bldg. block-C as depicted on Drg. Nos. DRV LAYOUT –1, (2 drgs) and DRV OFFICE C-1 to C-8 on following conditions:

1. This Certificate is liable to be revoked by the Metropolitan Commissioner, MMRDA if -
   (a) the development works in respect of which permission is granted under this certificate is not carried out or the user thereof is not in accordance with the sanctioned plans;
   (b) any of the conditions subject to which the same is granted or any of the restrictions imposed by the Metropolitan Commissioner, MMRDA is contravened or is not complied with ;
   (c) the Metropolitan Commissioner, MMRDA is satisfied that the same is obtained through fraud or misrepresentation; and in such an event the applicant and every person deriving title through or under him shall be deemed to have carried out the development work in contravention of Section 43 or 45 of the Maharashtra Regional & Town Planning Act, 1966 ;

2. This Commencement Certificate is valid for a period of one year from the date hereof and will have to be renewed thereafter;

3. This Commencement Certificate is renewable every year but such extended period shall in no case exceed three years. Provided further that such lapse shall not bar any subsequent application for fresh permission under Section 44 of the Maharashtra Regional & Town Planning Act, 1966;

4. The conditions of this certificate shall be binding not only on the applicant but also his /her heirs ,successors, executors, administrators and assignees and every person deriving title through or under him ;

5. Any development carried out in contravention of the Commencement Certificate is liable to be treated as un-authorised and may be proceeded against under sections 53 or, as the case may be, section 54 of the M.R.&T.P. Act, 1966. The Applicant and/or his agents in such cases may be proceeded against under Section 52 of the said Act. To carry out an un-authorised development is treated as a cognisable offence and is punishable with imprisonment apart from fine.

6. The applicant shall obtain development permission under Section 44 of the Maharashtra Regional & Town Planning Act, 1966 prior to erection of each building in the amended layout approved vide this Commencement Certificate.

7. The applicant shall comply with the conditions of the letter of intent dated 23.5.2000 issued by the Additional Collector & Competent Authority, ULC, Brihanmumbai.

8. The extent of built up area of commercial user shall be restricted to 50% of the total permissible built up area as per Collector's Order dated 15.7.1999.

9. The FSI in lieu of road set back area admeasuring 7769.50 sq.m. shall be available after necessary correction as to the transfer of the said land to MMRDA are made in the PR Cards of the lands under reference.

10. The total permissible built up area shall be restricted to 1,31,190.85 sq.m. The built up area in lieu of area admeasuring 5000 sq.m. reserved for traction sub station will be available under section 126 of MR&TP Act, 1966 after handing over the land free of cost and free from encumbrances to the appropriate authority i.e. Indian Railways as and when required in future.

11. The applicant shall redevelop the Drive-in-Theatre prior to obtaining Occupation Certificate for office blocks/commercial development as per the amended layout.

12. The MCGM shall ensure the necessary compliances under the BMC Act, 1888 before issuing its approval for the proposed layout.

13. As soon as the development permission for new construction is obtained, the owner/ developer shall install a "Display Board" at a conspicuous place on the site indicating following details :-

    i) Name and address of the owner/developer, architect and contractor;
    ii) Survey No./City Survey No./Ward No. of land under reference along with description of its boundaries ;
    ii) Order No. and date of grant of development permission/redevelopment permission issued by MMRDA and BMC;
    iv) F.S.I. permitted;
    v) Address where copies of detailed approved plans shall be available for inspection ;

14. A notice in the form of advertisement giving all the details mentioned in 13 above shall also be published in two widely circulated newspapers, one of which should be in Marathi language.

26/2/03

METROPOLITAN COMMISSIONER
M. M. R. D. A.

To:
The Executive Engineer (Bldg. Proposals)
Western Suburbs, BMC Office,, H&K Wards,
Dr. R.K.Patkar Marg,
Bandra (West),
Mumbai-400 050.

P.S. :*The Commencement Certificate is issued subject to the conditions in the forwarding letter No. No.TCP(P-2)/BKC-27/(CC)/E/DRINT/IV/ 87 /2003, dated* 26 FEB 2003

Copy to :
Shri Rajendra Pagnis,
M/s. Pagnis & Pagnis,
Architect,
4, Anand, 1st floor,
D.L.Vaidya Road, Dadar,
MUMBAI 400 028.

Valid up to 29 APR 2004

CE/1485/WS/AH

30 APR 2003

This Commencement certificate is for carrying out the work up.o ~~for~~ top of Basement. As per approved plan dt. 10/03/03 only

29/04/03
AEBP (H)

Valid up to ~~29/4/2005~~ 15 MAY 2004

CE/ 1485 /~~BSH~~/WS/AH of

Further C. C. is now extended Full c.c. i.t.o. For 38.60 ~~mtrs~~ height + LMRT OHT as per approved plan dated 10/3/03.

15/5/04
Asstt. Engr. B.P. (WS): AH

Exhibit - DD

ENVIRONMENT IMPACT ASSESSMENT NOTIFICATION

MINISTRY OF ENVIRONMENT AND FORESTS

NOTIFICATION

New Delhi, the 27th January, 1994

(Incorporating amendments made on 04/05/1994, 10/04/1997, 27/1/2000, 13/12/2000, 01/08/2001, 21/11/2001, 13/06/2002, 28/02/2003, 7/5/2003, 4/8/2003, 22/9/2003 and 7/7/2004.)

1. S.O. 60 (E) Whereas a notification under clause (a) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986 inviting objections from the public within sixty days from the date of publication of the said notification, against the intention of the Central Government to impose restrictions and prohibitions on the expansion and modernization of any activity or new projects being undertaken in any part of India unless environmental clearance has been accorded by the Central Government or the State Government in accordance with the procedure specified in that notification was published as SO No. 80(E) dated 28th January, 1993;

And whereas all objections received have been duly considered;

Now, therefore, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986) read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government hereby directs that on and from the date of publication of this notification in the Official Gazette, expansion or modernization of any activity (if pollution load is to exceed the existing one), or new project listed in Schedule I to this notification, shall not be undertaken in any part of India unless it has been accorded environmental clearance by the Central Government in accordance with the procedure hereinafter specified in this notification;

2. Requirements and procedure for seeking environmental clearance of projects:

I(a) Any person who desires to undertake any new project in any part of India or the expansion or modernization of any existing industry or project listed in the Schedule-I shall submit an application to the Secretary, Ministry of Environment and Forests, New Delhi.

The application shall be made in the proforma specified in Schedule-II of this notification and shall be accompanied by a project report which shall, inter alia, include an Environmental Impact Assessment Report, an ** Environment Management Plan and details of public hearing as specified in Schedule-IV** prepared in accordance with the guidelines issued by the Central Government in the Ministry of Environment and Forests from time to time. However, Public Hearing is not required in respect of

(i) small scale industrial undertakings located in (a) notified/designated industrial areas/industrial estates or (b) areas earmarked for industries under the jurisdiction of industrial development authorities;
(ii) widening and strengthening of highways;
(iii) mining projects (major minerals) with lease area up to 25 hectares.

(iv) units located in Export Processing Zones, Special Economic Zones
(v) modernisation of existing irrigation projects
(vi) offshore exploration activities, beyond 10 kilometres from the nearest habituated village boundary, gaothans and ecologically sensitive areas such as, mangroves (with a minimum area of 1000 sq.m), corals, coral reefs, national parks, sanctuaries, reserve forests and breeding and spawning grounds of fish and other marine life; .

***Provided further, that for pipeline projects, Environmental Impact Assessment Report will not be required:

Provided further, that for pipeline and highway projects, public hearing shall be conducted in each district through which the pipeline or highway passes through: ***

(b) Cases rejected due to submission of insufficient or inadequate data and *Plans may be reviewed as and when submitted with complete data and *Plans. Submission of incomplete data or plans for the second time would itself be a sufficient reason for the Impact assessment Agency to reject the case summarily.

II In case of the following site specific projects:

(a) mining;
(b) pit-head thermal power stations;
(c) hydro-power, major irrigation projects and/or their combination including flood control;
(d) ports and harbours (excluding minor ports);
(e) *prospecting and exploration of major minerals in areas above 500 hectares; *
(f) greenfield airports, petrochemical complexes and refineries.

The project authorities will intimate the location of the project site to the Central Government in the Ministry of Environment and Forests while initiating any investigation and surveys. The Central Government in the Ministry of Environment and Forests will convey a decision regarding suitability or otherwise of the proposed site within a maximum period of thirty days. *The said site clearance shall be granted for a sanctioned capacity and shall be valid for a period of five years for commencing the construction, operation or mining. *

III (a) The reports submitted with the application shall be evaluated and assessed by the Impact Assessment Agency, *and if deemed necessary it may consult* a committee of Experts, having a composition as specified in Schedule-III of this Notification. The Impact Assessment Agency (IAA) would be the Union Ministry of Environment and Forests. The Committee of Experts mentioned above shall be constituted by the Impact Assessment Agency or such other body under the Central Government authorised by the Impact Assessment Agency in this regard.

(b) The said Committee of Experts shall have full right of entry and inspection of the site or, as the case may be, factory premises at any time prior to, during or after the commencement of the operations relating to the project.

**(c) The Impact Assessment Agency shall prepare a set of recommendations based on technical assessment of documents and data, furnished by the project authorities,

supplemented by data collected during visits to sites or factories if undertaken, and details of public hearing.

The assessment shall be completed within a period of ninety days from receipt of the requisite documents and data from the project authorities and completion of public hearing and decision conveyed within thirty days thereafter.

The clearance granted shall be valid for a period of five years for commencement of the construction or operation of the project. **

No construction work, preliminary or otherwise, relating to the setting up of the project may be undertaken till the environmental and site clearance is obtained.

IV. In order to enable the Impact Assessment Agency to monitor effectively the implementation of the recommendations and conditions subject to which the environmental clearance has been given, the project authorities concerned shall submit a half yearly report to the *Impact Assessment Agency. Subject to the public interest, * the Impact Assessment Agency shall make compliance reports publicly available.

V. If no comments from the Impact Assessment Agency are received within the time limit, the project would be deemed to have been approved as proposed by project authorities.

3. Nothing contained in this Notification shall apply to:

(a) any item falling under entry Nos. 3 *18*20* 31*and 32* of the Schedule-I to be located or proposed to be located in the areas covered by the Notifications S.O. No.102 (E) dated 1st February, 1989, S.O. 114 (E) dated 20th February, 1991; *S.O. No. 416 (E) dated 20th June, 1991* and S.O. No.319 (E) dated 7th May, 1992.

(b) any item falling under entry Nos.1,2,3,4,5,7,9,10,13, 14,16,17,19,*21*,25 and 27 of Schedule-I if the investment is less than Rs.100 crores for new projects and less than Rs. 50 crores for expansion/modernization projects;

(c) any item reserved for Small Scale Industrial Sector with investment less than Rs. 1 crore.

(d) defence related road construction projects in border areas.

(e) any item falling under entry No. 8 of Schedule I, if that product is covered by the notification G.S.R. 1037(E) dated 5th December 1989.

(f) Modernisation projects in irrigation sector if additional command area is less than 10,000 hectares or project cost is less than Rs. 100 crores.:

(g) any construction project falling under entry 31 of Schedule-I including new townships, industrial townships, settlement colonies, commercial complexes, hotel complexes, hospitals and office complexes for 1000 (one thousand)persons or below or with an investment of Rs.50,00,00,000/- (Rupees fifty crores) or below.

(h) any industrial estate falling under entry 32 of Schedule-I including industrial estates accommodating industrial units in an area of 50 hectares or below but excluding the industrial estates irrespective of area if their pollution potential is high.

Explanation.-

(i) New construction projects which were undertaken without obtaining the clearance required under this notification and where construction work has not come up to the plinth level shall require clearance under this notification with effect from the 7th day of July, 2004.

(ii) In the case of new Industrial Estates which were undertaken without obtaining the clearance required under this notification, and where the construction work has not commenced or the expenditure does not exceed 25% of the total sanctioned cost, shall require clearance under this notification with effect from the 7th day of July, 2004.

(iii) Any project proponent intending to implement the proposed project under sub-paras (g) and (h) in a phased manner or in modules, shall be required to submit the details of the entire project covering all phases or modules for appraisal under this notification".

4. Concealing factual data or submission of false, misleading data/reports, decisions or recommendations would lead to the project being rejected. Approval, if granted earlier on the basis of false data, would also be revoked. Misleading and wrong information will cover the following:

- False information
- False data
- Engineered reports
- Concealing of factual data
- False recommendations or decisions

[No.Z-12013/4/89-IA-I]

SCHEDULE-I

(See paras 1 and 2)

LIST OF PROJECTS REQUIRING ENVIRONMENTAL CLEARANCE FROM THE CENTRAL GOVERNMENT

1. Nuclear Power and related projects such as Heavy Water Plants, nuclear fuel complex, Rare Earths.
2. River Valley projects including Hydel Power Projects, Major Irrigation Projects and their combination including flood control project except projects relating to improvement work including widening and strengthening of existing canals with land acquisition upto a maximum of 20 metres, (on both sides put together) along the existing alignments provided such canals do not pass through ecologically sensitive areas such as national parks, sanctuaries, tiger reserves and reserve forests..
3. Ports, Harbours, Airports (except minor ports and harbours).
4. Petroleum Refineries including crude and product pipelines; isolated petroleum product storages.
5. Chemical Fertilizers (Nitrogenous and Phosphatic other than single superphosphate).
6. Pesticides (Technical).
7. Petrochemical complexes (Both Olefinic and Aromatic) and Petro-chemical intermediates such as DMT, Caprolactam, LAB etc. and production of basic plastics such as LLDPE, HDPE, PP, PVC.
8. Bulk drugs and pharmaceuticals.
9. Exploration for oil and gas and their production, transportation and storage.
10. Synthetic Rubber.
11. Asbestos and Asbestos products.
12. Hydrocyanic acid and its derivatives.
13. (a) Primary metallurgical industries (such as production of Iron and Steel, Aluminium, Copper, Zinc, Lead and Ferro Alloys).
    (b) Electric arc furnaces (Mini Steel Plants).
14. Chlor alkali industry.
15. Integrated paint complex including manufacture of resins and basic raw materials required in the manufacture of paints.
16. Viscose Staple fibre and filament yarn.
17. Storage batteries integrated with manufacture of oxides of lead and lead antimony alloys.
18. All tourism projects between 200m—500 metres of High Water Line and at locations with an elevation of more than 1000 metres with investment of more than Rs.5 crores.
19. Thermal Power Plants.
20. Mining projects *(major minerals)* with leases more than 5 hectares.
21. Highway Projects **except projects relating to improvement work including widening and strengthening of roads with marginal land acquisition along the existing alignments provided it does not pass through ecologically sensitive areas such as National Parks, Sanctuaries, Tiger Reserves, Reserve Forests**
22. Tarred Roads in the Himalayas and or Forest areas.
23. Distilleries.
24. Raw Skins and Hides
25. Pulp, paper and newsprint.
26. Dyes.

27. Cement.
28. Foundries (individual)
29. Electroplating
30. Meta amino phenol
31. New construction projects
32. New industrial estates

SCHEDULE-II

[See Sub-para I (a) of para 2]

APPLICATION FORM

1. (a) Name and Address of the project proposed:

   (b) Location of the project:
   Name of the Place:
   District, Tehsil:
   Latitude/Longitude:
   Nearest Airport/Railway Station:

   (c) Alternate sites examined and the reasons for selecting the proposed site:
   (d) Does the site conform to stipulated land use as per local land use plan:

2. Objectives of the project:

3. (a) Land Requirement:
   Agriculture Land:
   Forest land and Density of vegetation.
   Other (specify):
   (b) (i) Land use in the Catchment within 10 kms radius of the proposed site:
   (ii) Topography of the area indicating gradient, aspects and altitude:
   (iii) Erodibility classification of the proposed land:
   (c) Pollution sources existing in 10 km radius and their impact on quality of air, water and land:
   (e) Distance of the nearest National Park/Sanctuary/Biosphere Reserve/Monuments/heritage site/Reserve Forest:
   (f) Rehabilitation plan for quarries/borrow areas:
   (g) Green belt plan:
   (h) Compensatory afforestation plan:

4. Climate and Air Quality:

   (a) Wind rose at site:
   (b) Max/Min/Mean annual temperature:
   (c) Frequency of inversion:
   (d) Frequency of cyclones/tornadoes/cloud burst:
   (e) Ambient air quality data:

(f) Nature & concentration of emission of SPM, Gas (CO, CO_2, NOx, CHn etc.) from the project:

5. Water balance:

(a) Water balance at site:
(b) Lean season water availability;
Water Requirement:
(c) Source to be tapped with competing users (River, Lake, Ground, Public supply):
(d) Water quality:
(e) Changes observed in quality and quantity of groundwater in the last years and present charging and extraction details:
(f) (i) The quantum of existing industrial effluents and domestic sewage with incremental load to be released in the receiving water body due to the proposed activities along with treatment details;
(ii) The quantum and quality of water in the receiving water body before and after disposal of solid wastes including municipal solid wastes, industrial effluents and domestic sewage;
(iii) The quantum of industrial effluents and domestic sewage to be released on land and type of land;
(g) (i) Details of reservoir water quality with necessary Catchment Treatment Plan:
(ii) Command Area Development Plan:

6. Solid wastes:

(a) Nature and quantity of solid wastes generated including municipal solid wastes, biomedical wastes, hazardous wastes and industrial wastes".
(b) Solid waste disposal method:

7. Noise and Vibrations:

(a) Sources of Noise and Vibrations:
(b) Ambient noise level:
(c) Noise and Vibration control measures proposed:
(d) Subsidence problem, if any, with control measures:

8. Power requirement indicating source of supply: Complete environmental details to be furnished separately, if captive power unit proposed:

9. Peak labour force to be deployed giving details of:

- Endemic health problems in the area due to waste water/air/soil borne diseases:
- Health care system existing and proposed:

10. (a) Number of villages and population to be displaced:

(c) Rehabilitation Master Plan:

11. Risk Assessment Report and Disaster Management Plan:

Report prepared as per guidelines issued by the Central Government in the MOEF from time to time:

12. (a) Environmental Impact Assessment
(b) Environment Management Plan:
(c) Detailed Feasibility Report:
(d) Duly filled in questionnaire

13. Details of Environmental Management Cell:

I hereby give an undertaking that the data and information given above are due to the best of my knowledge and belief and I am aware that if any part of the data/information submitted is found to be false or misleading

at any stage, the project be rejected and the clearance given, if any, to the project is likely to be revoked at our risk and cost.

Signature of the applicant
With name and full address

Given under the seal of
Organisation on behalf of
Whom the applicant is signing.

Date:
Place:

In respect to item for which data are not required or is not available as per the declaration of project proponent, the project would be considered on that basis.

SCHEDULE-III

[See sub-para III (a) of Para 2]

COMPOSITION OF THE EXPERT COMMITTEES FOR ENVIRONMENTAL IMPACT ASSESSMENT

1. *The Committees will consist of experts in the following disciplines:*

   (i) Eco-system Management
   (ii) Air/Water Pollution Control
   (iii) Water Resource Management
   (iv) Flora/Fauna conservation and management
   (v) Land Use Planning
   (vi) Social Sciences/Rehabilitation
   (vii) Project Appraisal
   (viii) Ecology
   (ix) Environmental Health
   (x) Subject Area Specialists
   (xi) Representatives of NGOs/persons concerned with environmental issues.

2. The Chairman will be an outstanding and experienced ecologist or environmentalist or technical professional with wide managerial experience in the relevant development sector.
3. The representative of Impact Assessment Agency will act as a Member-Secretary.
4. Chairman and Members will serve in their individual capacities except those specifically nominated as representatives.
5. The Membership of a Committee shall not exceed 15.

SCHEDULE -V

(See Sub-para 1 of para 2)

Procedure for Public Hearing

(1) **Process of Public Hearing**: - Whoever apply for environmental clearance of projects, shall submit to the concerned State Pollution Control Board twenty sets of the following documents namely: -

   (i) An executive summary containing the salient features of the project both in English as well as local language along with Environmental Impact Assessment (EIA). However, for pipeline project, Environmental Impact Assessment report will not be required. But Environmental Management Plan including risk mitigation measures is required.
   (ii) Form XIII prescribed under Water (Prevention and Control of Pollution) Rules, 1975 where discharge of sewage, trade effluents, treatment of water in any form, is required.
   (iii) Form I prescribed under Air (Prevention and Control of Pollution) Under Territory Rules, 1983 where discharge of emissions are involved in any process, operation or industry.
   (iv) Any other information or document which is necessary in the opinion of the Board for their final disposal of the application.

(2) **Notice of Public Hearing**: -

(i) The State Pollution Control Board shall cause a notice for environmental public hearing which shall be published in at least two newspapers widely circulated in the region around the project, one of which shall be in the vernacular language of the locality concerned. State Pollution Control Board shall mention the date, time and place of public hearing. Suggestions, views, comments and objections of the public shall be invited within thirty days from the date of publication of the notification.

(ii) All persons including bona fide residents, environmental groups and others located at the project site/sites of displacement/sites likely to be affected can participate in the public hearing. They can also make oral/written suggestions to the State Pollution Control Board.

Explanation: - For the purpose of the paragraph person means: -

(a) any person who is likely to be affected by the grant of environmental clearance;
(b) any person who owns or has control over the project with respect to which an application has been submitted for environmental clearance;
(c) any association of persons whether incorporated or not like to be affected by the project and/or functioning in the filed of environment;
(d) any local authority within any part of whose local limits is within the neighbourhood, wherein the project is proposed to be located.

(3) **Composition of public hearing panel: -** The composition of Public Hearing Panel may consist of the following, namely: -

(i) Representative of State Pollution Control Board;
(ii) District Collector or his nominee;
(iii) Representative of State Government dealing with the subject;
(iv) Representative of Department of the State Government dealing with Environment;
(v) Not more than three representatives of the local bodies such as Municipalities or panchayats;
(vi) Not more than three senior citizens of the area nominated by the District Collector.

(4) **Access to the Executive Summary and Environmental Impact Assessment Report: -** The concerned persons shall be provided access to the Executive Summary and Environmental Impact Assessment report of the project at the following places, namely: -

i) District Collector Office;
(ii) District Industry Centre;
(iii) In the Office of the Chief Executive Officers of Zila Praishad or Commissioner of the Municipal Corporation/Local body as the case may be;
(iv) In the head office of the concerned State Pollution Control Board and its concerned Regional Office.
(v) In the concerned Department of the State Government dealing with the subject of environment.

(5) Time period for completion of public hearing:
The public hearing shall be completed within a period of 60 days from the date of receipt of complete documents as required under paragraph 1.

[No.Z-12013/4/89-IA]

Foot NOTE: -The Principal Notification was published vide number S.O. 60 (E) dated 27th January 1994 and subsequently amended vide numbers

1. S.O. 356(E) dated 4th May, 1994,
2. S.O. 318 (E) dated 10th April, 1997,
3. S.O. 73 (E) dated 27th January, 2000,
4. S.O. 1119 (E) dated 13th December 2000,
5. S.O. 737 (E) dated 1st August 2001,
6. S.O. 1148 (E) dated 21st November 2001,
7. S.O. 632 (E) dated 13th June 2002,
8. S.O. 248(E) dated 28th February 2003,
9. S.O. 506 (e) dated 7th May 2003,
10. S.O. 891 (E) dated 4th August 2003 and
11. S.O 1087(E) dated 22nd September 2003.
12. S.O 801(E) dated 7th July 2004.

****

The portions within asterisks and underlined are amendments

Exhibit - EE

THE GAZETTE OF INDIA

EXTRAORDINARY

PART II – Section 3 – Sub-section (ii)

MINISTRY OF ENVIRONMENT AND FORESTS

NOTIFICATION

New Delhi, the 7th July, 2004

S.O.801(E), dated 7th July, 2004 - Whereas a draft of certain amendments to the notification of the Government of India in the Ministry of Environment and Forests number S.O.60 (E), dated the 27th January 1994 was published in the Gazette of India, Extraordinary, Part II, section 3, sub-section (ii) vide number S.O.1236 (E), dated the 27th October, 2003 inviting objections and suggestions from all persons likely to be affected thereby within a period of sixty days from the date on which copies of the Gazette containing the said notification were made available to the public;

And whereas, copies of the said notification were made available to the public on 27th October, 2003;

And whereas, the Orders of the Hon'ble Supreme Court in the Writ Petition (C) No.725 of 1994 with I.A. No.20, 21, 1207, 1183, 1216 and 1251 in Writ Petition (C) No.4677 of 1985 in the matter of news item published in Hindustan Times titled "And Quiet Flows the Maily Yamuna" vs. Central Pollution Control Board and Others have been duly considered;

And whereas, the Orders of Hon'ble High Court of Madras in W.P. (C) No.33493 of 2003 and W.P. Nos.35205, 35517, 35691, 35692 and 35825 of 2003 and W.P. M.P. Nos.40556, 42562, 43720, 45348 to 45350, 42791, 42792, 43882,

43181, 43366 to 43369, 43544 and 43545 of 2003 between C.S. Kuppuraj and others Vs. the State of Tamil Nadu and others have also been duly considered;

And whereas, all objections and suggestions received have been duly considered by the Central Government;

Now, therefore, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986) read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government hereby makes the following further amendments in the notification number S.O. 60 (E), dated the 27th January 1994, namely:-

In the said notification, -

I. in paragraph 3-

(i) in item (a), for the letters, word and figures “Nos.3,18 and 20”, the letters, word and figures “Nos.3,18,20,31 and 32” shall be substituted;

(ii) after sub-para (f), the following shall be inserted, namely:-

“(g) any construction project falling under entry 31 of Schedule-I including new townships, industrial townships, settlement colonies, commercial complexes, hotel complexes, hospitals and office complexes for 1,000 (one thousand) persons or below or discharging sewage of 50,000 (fifty thousand) litres per day or below or with an investment of Rs.50,00,00,000/- (Rupees fifty crores) or below.

(h) any industrial estate falling under entry 32 of Schedule-I including industrial estates accommodating industrial units in an area of 50 hectares or below but excluding the industrial estates irrespective of area if their pollution potential is high.

Explanation.–

- New construction projects which were undertaken without obtaining the clearance required under this notification, and where construction work has not come up to the plinth level, shall require clearance under this notification with effect from the 7th day of July, 2004.

- In the case of new Industrial Estates which were undertaken without obtaining the clearance required under this notification and where the construction work has not commenced or the expenditure does not exceed 25% of the total sanctioned cost, shall require clearance under this notification with effect from the 7th day of July, 2004.

- Any project proponent intending to implement the proposed project under sub-paras (g) and (h) in a phased manner or in modules, shall be required to submit the details of the entire project covering all phases or modules for appraisal under this notification";

II. in Schedule-I, after item 30 and the entry relating thereto, the following shall be inserted, namely:-

"31. New construction projects

32. New industrial estates.";

III. in Schedule-II, -

(i) in para 5, for sub-para (f), the following shall be substituted, namely:-

"(f)(i) The quantum of existing industrial effluents and domestic sewage with incremental load to be released in the receiving water body due to the proposed activities along with treatment details;

(ii) The quantum and quality of water in the receiving water body before and after disposal of solid wastes including municipal solid wastes, industrial effluents and domestic sewage;

(iii) The quantum of industrial effluents and domestic sewage to be released on land and type of land;";

(ii) in para 6, for sub-para (a), the following shall be substituted, namely:- "(a) Nature and quantity of solid wastes generated including municipal solid wastes, biomedical wastes, hazardous wastes and industrial wastes.".

[No. Z-11011/1/2002-IA-I]

R. Chandramohan, Jt. Secy.

Note: The principal notification was published in the Gazette of India vide number S.O.60 (E) dated 27-1-1994 and subsequently amended vide:

- S.O. 356 (E) dated 4th May, 1994,
- S.O 318 (E), dated 10th April, 1997,
- S.O. 73 (E) dated 27th January, 2000,
- S.O. 1119 (E) dated 13th December, 2000,
- S.O. 737(E) dated 1st August, 2001,
- S.O.1148 (E) dated 21st November, 2001,
- S.O. 632 (E) dated the 13th June, 2002,
- S.O. 248 (E) dated the 28th February, 2003,
- S.O. 506 (E) dated the 7th May, 2003,
- S.O. 891(E) dated the 4th August, 2003,
- S.O. 1087(E) dated the 22nd September, 2003.

Exhibit - FF

PRIOR ENVIRONMENTAL CLEARANCE— NOTIFICATION DATED 14-9-2006

NOTIFICATION

New Delhi, the 14th September, 2006

(Published in the Gazette of India, Ext., Pt. II, S. 3(ii), dated 14th September, 2006)

S.O. 1533(E).—Whereas, a draft notification under sub-rule (3) of rule 5 of he Environment (Protection) Rules, 1986 for imposing certain restrictions nd prohibitions on new projects or activities, or on the expansion or nodernisation of existing projects or activities based on their potential nvironmental impacts as indicated in the Schedule to the notification, being ndertaken in any part of India*, unless prior environmental clearance has een accorded in accordance with the objectives of National Environment olicy as approved by the Union Cabinet on 18th May, 2006 and the rocedure specified in the notification, by the Central Government or the tate or Union Territory Level Environment Impact Assessment Authority SEIAA), to be constituted by the Central Government in consultation with he State Government or the Union Territory Administration concerned nder sub-section (3) of section 3 of the Environment (Protection) Act, 1986 r the purpose of this notification, was published in the Gazette of India xtraordinary, Part II, section 3, sub-section (*ii*) *vide* Number S.O. 1324(E), ated the 15th September, 2005 inviting objections and suggestions from all ersons likely to be affected thereby within a period of sixty days from the ate on which copies of Gazette containing the said notification were made vailable to the public;

And whereas, copies of the said notification were made available to the ublic on 15th September, 2005;

And whereas, all objections and suggestions received in response to the ove mentioned draft notification have been duly considered by the Central overnment;

Now, therefore, in exercise of the powers conferred by sub-section (1) and use (*v*) of sub-section (2) of section 3 of the Environment (Protection) Act, 86, read with clause (*d*) of sub-rule (3) of rule 5 of the Environment rotection) Rules, 1986 and in supersession of the Notification Number S.O. (E), dated the 27th January, 1994, except in respect of things done or itted to be done before such supersession, the Central Government hereby ects that on and from the date of its publication the required construction new projects or activities or the expansion or modernisation of existing jects or activities listed in the Schedule to this notification entailing pacity addition with change in process and or technology shall be dertaken in any part of India only after the prior environmental clearance m the Central Government or as the case may be, by the State Level vironment Impact Assessment Authority, duly constituted by the Central vernment under sub-section (3) of section 3 of the said Act, in accordance h the procedure specified hereinafter in this notification.

*Includes territorial waters.

2. Requirements of prior Environmental Clearance (EC).—The following projects or activities shall require prior environmental clearance from the concerned regulatory authority, which shall hereinafter referred to be as the Central Government in the Ministry of Environment and Forests for matters falling under Category "A" in the Schedule and at State level the State Environment Impact Assessment Authority (SEIAA) for matters falling under Category "B" in the said Schedule, [1][and at District level, the District Environment Impact Assessment Authority (DEIAA) for matters falling under Category 'B2' for mining of minor minerals in the said Schedule] before any construction work, or preparation of land by the project management except for securing the land, is started on the project or activity:

(*i*) All new projects or activities listed in the Schedule to this notification;

[2][(*ii*) Expansion, modernisation or any change in the product mix or raw material mix in existing projects or activities, listed in the Schedule to this notification, resulting in capacity beyond the threshold limits specified for the concerned sector in the said Schedule, subject to conditions and procedure provided in the sub-paragraph (*ii*) of paragraph 7.]

3. State Level Environment Impact Assessment Authority.—(1) A State Level Environment Impact Assessment Authority hereinafter referred to as the SEIAA shall be constituted by the Central Government under sub-section (3) of section 3 of the Environment (Protection) Act, 1986 comprising of three Members including a Chairman and a Member-Secretary to be nominated by the State Government or the Union Territory Administration concerned.

(2) The Member-Secretary shall be a serving officer of the concerned State Government or Union Territory Administration familiar with environmental laws.

[3][(3) The Chairman shall be an expert in terms of the eligibility criteria given in Appendix VI in one of the specified fields, with sufficient experience in environmental policy or management.

(4) The other Member shall be an expert fulfilling the eligibility criteria given in Appendix VI in one of the specified fields.]

(5) The State Government or Union Territory Administration shall forward the names of the Members and the Chairman referred in sub-paragraphs (3) to (4) above to the Central Government and the Central Government shall constitute the SEIAA as an authority for the purposes of this notification within thirty days of the date of receipt of the names.

(6) The non-official Member and the Chairman shall have a fixed term of three years (from the date of the publication of the notification by the Central Government constituting the authority):

[4][Provided that wherever considered necessary and expedient, the Central Government may extend the term for a further period not exceeding [5][twelve months.]

1. Inserted by S.O. 141(E), dated 15-1-2016.
2. Substituted by S.O. 980(E), dated 2-3-2021.
3. Substituted by S.O. 1737(E), dated 11-10-2007.
4. Inserted by S.O. 1562(E), dated 21-5-2020.
5. Substituted by S.O. 3752(E), dated 20-10-2020.

[1][(7) All decisions of the SEIAA shall be taken in a meeting and shall ordinarily be unanimous:

Provided that, in case a decision is taken by majority, the details of views, for and against it, shall be clearly recorded in the minutes and a copy thereof sent to MoEF.]

[2][**3-A. District Level Environment Impact Assessment Authority.**—(1) A District Level Environment Impact Assessment Authority hereinafter referred to as the DEIAA shall be constituted by the Central Government under sub-section (3) of section 3 of the Environment (Protection) Act, 1986 comprising of four members including a Chairperson and a Member-Secretary.

(2) The District Magistrate or District Collector shall be the Chairperson of the DEIAA.

(3) The Sub-Divisional Magistrate or Sub-Divisional Officer of the district head quarter of the concerned district of the State shall be the Member-Secretary of the DEIAA.

(4) The other two members of the DEIAA shall be the senior most Divisional Forest Officer and one expert. The expert shall be nominated by the Divisional Commissioner of the Division or Chief Conservator of Forest, as the case may be. The term and qualifications of the expert fulfilling the eligibility criteria are given in Appendix VII to this notification.

(5) The members of the DEIAA who are serving officers of the concerned State Government or the Union territory Administration shall be *ex officio* members except the expert member.

(6) The District Level Expert Appraisal Committee hereinafter referred to as the DEAC shall comprise of eleven members, including a Chairman and a Member-Secretary.

(7) The senior most Executive Engineer, Irrigation Department in the district of respective State Governments or Union territory Administration shall be the Chairperson of the DEAC.

(8) The Assistant Director or Deputy Director of the Department of Mines and Geology or District Mines Officer or Geologist of the district shall be the Member-Secretary of the DEAC in that order.

(9) A representative of the State Pollution Control Board or Committee, senior most Sub-Divisional Officer (Forest) in the district, representative of Remote Sensing Department or Geology Department or State Ground Water Department, one occupational health expert or Medical Officer to be nominated by the District Magistrate or District Collector, Engineer from Zila Parishad, and three expert members to be nominated by the Divisional Commissioner or Chief Conservator of Forest, as the case may be, shall be the other members of the DEAC. The term and qualifications of the experts fulfilling the eligibility criteria are given in Appendix VII to this notification.

(10) The members of the DEAC who are serving officers of the concerned State Government or the Union territory Administration shall be *ex officio* members except the expert members.

1. Substituted by S.O. 3067(E), dated 1-12-2009.
2. Inserted by S.O. 141(E), dated 15-1-2016.

(11) The District Magistrate or District Collector shall notify an agency to act as Secretariat for the DEIAA and the DEAC and shall provide all financial and logistic support for their statutory functions.

(12) The DEIAA and DEAC shall exercise the powers and follow the procedure as specified in the said notification, as amended from time to time.

(13) The DEAC shall function on the principle of collective responsibility and the Chairman shall endeavor to reach a consensus in each case and if consensus cannot be reached, the view of the majority shall prevail.]

4. Categorisation of projects and activities.—(*i*) All projects and activities are broadly categorised into two categories—Category A and Category B, based on the spatial extent of potential impacts and potential impacts on human health and natural and man made resources.

(*ii*) All projects or activities included as Category "A" in the Schedule, including expansion and modernisation of existing projects or activities and change in product mix, shall require prior environmental clearance from the Central Government in the Ministry of Environment and Forests (MoEF) on the recommendations of an Expert Appraisal Committee (EAC) to be constituted by the Central Government for the purposes of this notification.

(*iii*) All projects or activities included as Category "B" in the Schedule, including expansion and modernisation of existing projects or activities as specified in sub-paragraph (*ii*) of Paragraph 2, or change in product mix as specified in sub-paragraph (*iii*) of Paragraph 2, but excluding those which fulfil the General Conditions (GC) stipulated in the Schedule, will require prior environmental clearance from the State/Union territory Environment Impact Assessment Authority (SEIAA). The SEIAA shall base its decision on the recommendations of a State or Union territory Level Expert Appraisal Committee (SEAC) as to be constituted for in this notification. [1][In the absence of a duly constituted SEIAA or SEAC, a Category "B" project shall be considered at the Central Level as a Category "B" project].

[2][(*iii-a*) Such Category 'B' projects, relating to the National defence or strategic or security importance or those as notified by the Central Government on account of exigencies such as pandemics, natural disasters or to promote environmentally friendly activities under National Programmes or Schemes or Missions or such projects which are inordinately delayed beyond the stipulated timeline as laid down in this notification and also meet the criteria as laid down in this regard from time to time, shall be considered at the Central level as Category 'B' projects;]

[3][(*iv*) The 'B2' Category projects pertaining to mining of minor mineral of lease area less than or equal to five hectare shall require prior environmental clearance from DEIAA. The DEIAA shall base its decision on the recommendations of DEAC, as constituted for this notification.]

[4][**5. Screening, Scoping and Appraisal Committees.**—The same Expert Appraisal Committees (EACs) at the Central Government, SEACs at the

1. Substituted by S.O. 3067(E), dated 1-12-2009.
2. Substituted by S.O. 1886(E), dated 20-4-2022.
3. Inserted by S.O. 141(E), dated 15-1-2016.
4. Substituted by S.O. 141(E), dated 15-1-2016.

State or Union territory level and DEAC at the district level shall screen, scope and appraise projects or activity in category 'A', 'B1 and B2' and 'B2' projects for mining of minor minerals of lease area less than and equal to five hectare respectively. EAC, SEACs and DEACs shall meet at least once every month.

(*a*) The composition of the EAC shall be as given in Appendix VI. The SEAC at the State or the Union territory level shall be constituted by the Central Government in consultation with the concerned State Government or the Union territory Administration with identical composition. DEAC at the district level shall be constituted by the Central Government as per the composition given in paragraph 3-A.

(*b*) The Central Government may with the prior concurrence of the concerned State Governments or the Union territory Administration constitute one SEAC for more than one State or Union territory for reasons of administrative convenience and cost.

[1][(*c*) The Expert Appraisal Committee and State Level Expert Appraisal Committee shall be reconstituted after every three years:

Provided that wherever considered necessary and expedient, the Central Government may extend the term for a further period not exceeding [2][twelve months].]

(*d*) The authorised members of the EAC, SEACs and DEACs concerned, may inspect any site connected with the project or activity in respect of which the prior environmental clearance is sought for the purpose of screening or scoping or appraisal with prior notice of at least seven days to the project proponent who shall provide necessary facilities for the inspection.

(*e*) The EAC, SEACs and DEACs shall function on the principle of collective responsibility. The Chairperson shall endeavor to reach a consensus in each case and if consensus cannot be reached the view of the majority shall prevail.]

[3][**6. Application for Prior Environmental Clearance** (EC).—An application seeking prior environmental clearance in all cases shall be made by the project proponent in the prescribed Form 1 annexed herewith and Supplementary Form 1-A, if applicable, as given in Appendix II after the identification of prospective site(s) for the project and/or activities to which the application relates; and in Form 1-M for mining of minor minerals up to five hectare under Category 'B2' projects, as given in Appendix VIII, before commencing any construction activity, or preparation of land, or mining at the site by the project proponent. The project proponent shall furnish along with the application, a copy of the pre-feasibility project report, in addition to Form 1, Form 1-A, and Form 1-M; and in case of construction projects or activities (item 8 of the Schedule), a copy of the conceptual plan shall be provided instead of pre-feasibility report.]

1. Substituted by S.O. 1562(E), dated 21-5-2020.
2. Substituted by S.O. 3752(E), dated 20-10-2020.
3. Substituted by S.O. 141(E), dated 15-1-2016.

State or Union territory level and DEAC at the district level shall screen, scope and appraise projects or activity in category 'A', 'B1 and B2' and 'B2' projects for mining of minor minerals of lease area less than and equal to five hectare respectively. EAC, SEACs and DEACs shall meet at least once every month.

(*a*) The composition of the EAC shall be as given in Appendix VI. The SEAC at the State or the Union territory level shall be constituted by the Central Government in consultation with the concerned State Government or the Union territory Administration with identical composition. DEAC at the district level shall be constituted by the Central Government as per the composition given in paragraph 3-A.

(*b*) The Central Government may with the prior concurrence of the concerned State Governments or the Union territory Administration constitute one SEAC for more than one State or Union territory for reasons of administrative convenience and cost.

[1][(*c*) The Expert Appraisal Committee and State Level Expert Appraisal Committee shall be reconstituted after every three years:

Provided that wherever considered necessary and expedient, the Central Government may extend the term for a further period not exceeding [2][twelve months].]

(*d*) The authorised members of the EAC, SEACs and DEACs concerned, may inspect any site connected with the project or activity in respect of which the prior environmental clearance is sought for the purpose of screening or scoping or appraisal with prior notice of at least seven days to the project proponent who shall provide necessary facilities for the inspection.

(*e*) The EAC, SEACs and DEACs shall function on the principle of collective responsibility. The Chairperson shall endeavor to reach a consensus in each case and if consensus cannot be reached the view of the majority shall prevail.]

[3]**[6. Application for Prior Environmental Clearance (EC).**—An application seeking prior environmental clearance in all cases shall be made by the project proponent in the prescribed Form 1 annexed herewith and Supplementary Form 1-A, if applicable, as given in Appendix II after the identification of prospective site(s) for the project and/or activities to which the application relates; and in Form 1-M for mining of minor minerals up to five hectare under Category 'B2' projects, as given in Appendix VIII, before commencing any construction activity, or preparation of land, or mining at the site by the project proponent. The project proponent shall furnish along with the application, a copy of the pre-feasibility project report, in addition to Form 1, Form 1-A, and Form 1-M; and in case of construction projects or activities (item 8 of the Schedule), a copy of the conceptual plan shall be provided instead of pre-feasibility report.]

1. Substituted by S.O. 1562(E), dated 21-5-2020.
2. Substituted by S.O. 3752(E), dated 20-10-2020.
3. Substituted by S.O. 141(E), dated 15-1-2016.

7. Stages in the Prior Environmental Clearance (EC) Process [1][* * *].— (*i*) [2][*For new projects or activities listed in the Schedule to this notification*:]—The environmental clearance process for new projects will comprise of a maximum of four stages, all of which may not apply to particular cases as set forth below in this notification. These four stages in sequential order are:—

- Stage (1) Screening (Only for Category "B" projects and activities)
- Stage (2) Scoping
- Stage (3) Public Consultation
- Stage (4) Appraisal

I. *Stage (1)—Screening.*—[3][(*A*)] In case of Category "B" projects or activities, this stage will entail the scrutiny of an application seeking prior environmental clearance made in determining whether or not the project or activity requires further environmental studies for preparation of an Environmental Impact Assessment (EIA) for its appraisal prior to the grant of environmental clearance depending upon the nature and location specificity of the project. The projects requiring an Environment Impact Assessment report shall be termed Category "B-1" and remaining projects shall be termed Category "B-2" and will not require an Environment Impact Assessment report. For categorisation of projects in B-1 or B-2 except Item 8(*b*), the Ministry of Environment and Forests shall issue appropriate guidelines from time to time.

[4][(*B*) The cases as specified in Appendix IX shall be exempted from prior environmental clearance.]

[5][II. *Stage (2)—Scoping.*—(*i*) "Scoping" refers to the process to determine detailed and comprehensive Terms of Reference (ToR) addressing all relevant environmental concerns for the preparation of an Environmental Impact Assessment and Environment Management Report in respect of the project or activity for which Prior Environmental Clearance is sought.

(*ii*) All projects or activities listed under Category "B2" of the schedule shall not require Scoping.

(*iii*) Sector specific Standard Terms of References developed by the Ministry of Environment, Forest and Climate Change, from time to time shall be displayed on its website.

(*iv*) The Standard Terms of References shall be issued to the following projects or activities through online mode, on acceptance of application within 7 working days, without referring to EAC or SEAC by the Ministry or SEIAA, as the case may be:—

(*a*) All Highway projects in Border States covered under entry (*i*) and (*ii*) of column (3) and (4) against item 7(*f*) of the Schedule;

(*b*) All projects or activities proposed to be located in industrial estates or parks (item 7(*c*) of the Schedule) approved by the concerned authorities, and which are not disallowed in such approvals; and

1. Omitted by S.O. 980(E), dated 2-3-2021.
2. Inserted by S.O. 980(E), dated 2-3-2021.
3. Renumbered by S.O. 141(E), dated 15-1-2016.
4. Inserted by S.O. 141(E), dated 15-1-2016.
5. Substituted by S.O. 751(E), dated 17-2-2020.

(*c*) All expansion proposals of existing projects having earlier Prior Environmental Clearance:

Provided that EAC or SEAC may recommend additional specific Terms of Reference in addition to the Standard ToR, if found necessary, for a project or activity, within 30 days from the date of acceptance of application.

(*v*) All new projects or activities other than specified in sub-paragraph (*iv*) above, shall be referred to the EAC or SEAC by the Regulatory Authority, as the case may be, within 30 days from the date of application, for recommending the specific ToR in addition to the Standard ToR, deemed necessary. In case, the regulatory authority does not refer the matter to the EAC or SEAC, as the case may be, within 30 days of date of application in Form I, sector specific Standard ToR shall be issued, online, on 30th day, by the Regulatory Authority.

(*vi*) Applications for Terms of Reference may be rejected by the regulatory authority concerned on the recommendation of the EAC or SEAC concerned. In case of such rejection, the decision together with reasons for the same after due personal hearing shall be communicated to the applicant in writing within sixty days of the receipt of the application.

(*vii*) The project proponent shall prepare the EIA report based on the sector specific Standard ToR as well as additional specific ToR, if any, stipulated by the EAC or SEAC.

(*viii*) The Terms of Reference for the projects or activities except for River valley and Hydroelectric projects, issued by the regulatory authority concerned, shall have the validity of four years from the date of issue. In case of the River valley and Hydro-electric projects, the validity will be for five years.]

[1][(*ix*) Notwithstanding anything contained above, the period from the 1st April, 2020 to the 31st March, 2021 shall not be considered for the purpose of calculation of the period of validity of Terms of Reference granted under the provisions of this notification in view of outbreak of Corona Virus (COVID-19) and subsequent lockdowns (total or partial) declared for its control, however, all activities undertaken during this period in respect of the said Terms of Reference shall be treated as valid.]

[2][(*x*) Notwithstanding anything contained above, the projects where construction and commissioning of proposed activities have not been completed within the validity period of the Environmental Clearance (EC) and a fresh application for EC has been submitted due to expiry of the said period of the EC, the concerned Expert Appraisal Committee or State Level Expert Committee, as the case may be, may exempt the requirement of public hearing subject to the condition that the project has been implemented not less than fifty percentage in its physical form or construction.]

III. *Stage (3)—Public Consultation.*—(*i*) "Public Consultation" refers to the process by which the concerns of local affected persons and others who have plausible stake in the environmental impacts of the project or activity are ascertained with a view to taking into account all the material concerns in

1. Inserted by S.O. 221(E), dated 18-1-2021.
2. Inserted by S.O. 1247(E), dated 18-3-2021.

the project or activity design as appropriate. All Category "A" and Category "B-1" projects or activities shall undertake Public Consultation, except the following:—

(*a*) modernisation of irrigation projects [Item 1(*c*)(*ii*) of the Schedule];

(*b*) all projects or activities located within industrial estate or parks [Items 7(*c*) of the Schedule] approved by the concerned authorities, and which are not disallowed in such approvals;

(*c*) expansion of Roads and Highways [Item 7(*f*) of the Schedule] which do not involve any further acquisition of land;

[1][(*cc*) maintenance dredging provided the dredged material shall be disposed within port limits;]

[2][(*d*) all Building or Construction projects or Area Development projects (which do not contain any Category "A" projects and activities) and Townships (Item 8(*a*) and 8(*b*) in the Schedule to the notification)];

(*e*) all Category "B-2" projects and activities;

(*f*) all projects or activities concerning national defence and security or involving other strategic considerations as determined by the Central Government;

[3][(*g*) all linear projects such as Highways, pipelines, etc., in border States;]

[4][(*h*) all standalone pelletization plants, which were in existence and in operation on or before the 27th day of May, 2014 and have valid consent to establish and consent to operate from the concerned State Pollution Control Board or the Union Territory Pollution Control Committee.]

(*ii*) The Public Consultation shall ordinarily have two components comprising of:—

(*a*) a public hearing at the site or in its close proximity—district wise, to be carried out in the manner prescribed in Appendix IV, for ascertaining concerns of local affected persons;

(*b*) obtain responses in writing from other concerned persons having a plausible stake in the environmental aspects of the project or activity.

(*iii*) The public hearing at, or in close proximity to, the site(s) in all cases shall be conducted by the State Pollution Control Board (SPCB) or the Union territory Pollution Control Committee (UTPCC) concerned in the specified manner and forward the proceedings to the regulatory authority concerned within *[(forty-five days)] of a request to the effect from the applicant.

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*Corrected by Corrigendum No. S.O. 1949, dated 13-11-2006.
1. Inserted by S.O. 3067(E), dated 1-12-2009.
2. Substituted by S.O. 3067(E), dated 1-12-2009.
3. Inserted by S.O. 382(E), dated 3-2-2015.
4. Inserted by S.O. 2572(E), dated 14-9-2015.

(*iv*) In case the State Pollution Control Board or the Union territory Pollution Control Committee concerned does not undertake and complete the public hearing within the specified period, and/or does not convey the proceedings of the public hearing within the prescribed period directly to the regulatory authority concerned as above, the regulatory authority shall engage another public agency or authority which is not subordinate to the regulatory authority, to complete the process within a further period of forty-five days.

(*v*) If the public agency or authority nominated under the sub-paragraph (*iii*) above reports to the regulatory authority concerned that owing to the local situation, it is not possible to conduct the public hearing in a manner which will enable the views of the concerned local persons to be freely expressed, it shall report the facts in detail to the concerned regulatory authority, which may, after due consideration of the report and other reliable information that it may have, decide that the public consultation in the case need not include the public hearing.

(*vi*) For obtaining responses in writing from other concerned persons having a plausible stake in the environmental aspects of the project or activity, the concerned regulatory authority and the State Pollution Control Board (SPCB) or the Union Territory Pollution Control Committee (UTPCC) shall invite responses from such concerned persons by placing on their website the Summary EIA report prepared in the format given in Appendix III-A by the applicant alongwith a copy of the application in the prescribed form, within seven days of the receipt of a written request for arranging the public hearing. Confidential information including non-disclosable or legally privileged information involving Intellectual Property Right, source specified in the application shall not be placed on the website. The regulatory authority concerned may also use other appropriate media for ensuring wide publicity about the project or activity. The regulatory authority shall, however, make available on a written request from any concerned person the Draft EIA report for inspection at a notified place during normal office hours till the date of the public hearing. All the responses received as part of this public consultation process shall be forwarded to the applicant through the quickest available means.

(*vii*) After completion of the public consultation, the applicant shall address all the material environmental concerns expressed during this process, and make appropriate changes in the draft EIA and EMP. The final EIA report, so prepared, shall be submitted by the applicant to the concerned regulatory authority for appraisal. The applicant may alternatively submit a supplementary report to draft EIA and EMP addressing all the concerns expressed during the public consultation.

IV. Stage (4)—Appraisal.—(*i*) Appraisal means the detail scrutiny by the Expert Appraisal Committee or State Level Expert Appraisal Committee of the application and other documents like the Final EIA report, outcome of the public consultations including public hearing proceedings, submitted by the applicant to the regulatory authority concerned for grant of environmental clearance. This appraisal shall be made by Expert Appraisal Committee or State Level Expert Appraisal Committee concerned in a transparent manner in a proceeding to which the applicant shall be invited

for furnishing necessary clarifications in person or through an authorised representative. On conclusion of this proceeding, the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned shall make categorical recommendations to the regulatory authority concerned either for grant of prior environmental clearance on stipulated terms and conditions, or rejection of the application for prior environmental clearance, together with reasons for the same.

(*ii*) The appraisal of all projects or activities which are not required to undergo public consultation, or submit an Environment Impact Assessment report, shall be carried out on the basis of the prescribed application Form 1 and Form 1-A as applicable, any other relevant validated information available and the site visit wherever the same is considered as necessary by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned.

(*iii*) The appraisal of *[an application shall be] completed by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned within sixty days of the receipt of the final Environment Impact Assessment report and other documents or the receipt of Form 1 and Form 1-A, where public consultation is not necessary and the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee shall be placed before the competent authority for a final decision within the next fifteen days. The prescribed procedure for appraisal is given in Appendix V.

[1][(*ii*) *Prior Environmental Clearance (EC) process for Expansion or Modernization or Change of product mix in existing projects.*—(*a*) All applications seeking prior environmental clearance for expansion with increase in the production capacity beyond the capacity for which prior environmental clearance has been granted under this notification or with increase in either lease area or production capacity in the case of mining projects or for the modernisation of an existing unit with increase in the total production capacity beyond the threshold limit prescribed in the Schedule to this notification through change in process and or technology or involving a change in the product mix shall be made in Form I and they shall be considered by the concerned Expert Appraisal Committee or State Level Expert Appraisal Committee within sixty days, who will decide on the due diligence necessary including preparation of Environment Impact Assessment and public consultations and the application shall be appraised accordingly for grant of environmental clearance [2][in respect of projects or activities other than falling in clause (*b*) and (*c*)].

[3][(*b*) *Existing projects (having Prior Environmental Clearance) with no increase in pollution load:*—Any increase in production capacity in respect of processing or production or manufacturing sectors (listed against item numbers 2, 3, 4 and 5 in the Schedule to this notification) with or without any change in (*i*) raw material-mix or (*ii*) product-mix or (*iii*) quantities within products or (*ii*) number of products including new products falling in

*Corrected by Corrigendum No. S.O. 1949, dated 13-11-2006.

1. Substituted by S.O. 3518(E), dated 23-11-2016.

2. Inserted by S.O. 980(E), dated 2-3-2021.

the same category or (*iv*) configuration of the plant or process or operations in existing area or in areas contiguous to the existing area (for which prior environmental clearance has been granted) shall be exempt from the requirement of Prior Environmental Clearance provided that there is no increase in pollution load (derived on the basis of such Prior Environmental Clearance):

Provided that such exemption shall be applicable only consequent to—

(*A*) the project proponent furnishing information regarding such changes along with no increase in pollution load certificate, from the environmental auditor or reputed institutions empanelled by the State Pollution Control Board or Union Territory Pollution Control Committee or Central Pollution Control Board or Ministry of Environment, Forest and Climate Change, as per the procedure laid down in Appendix XIII, on PARIVESH portal as well as to the concerned State Pollution Control Board or Union Territory Pollution Control Committee.

Note.—If on verification, the State Pollution Control Board or Union Territory Pollution Control Committee, as the case may be, after giving the project proponent the opportunity of being heard, holds that such change or expansion or modernisation results in increase in pollution load, the exemption claimed under this clause shall not be valid and it shall be deemed that the project proponent was always liable to obtain prior environmental clearance, in respect of such change or expansion or modernisation, as per the clause (*a*) and the provisions of Environment (Protection) Act, 1986 shall apply accordingly;

(*B*) installation and implementation of Online Continuous Monitoring System (OCMS) with at least 95% uptime, connected to the servers of the Central Pollution Control Board and State Pollution Control Board or Union Territory Pollution Control Committee concerned to report the quantity and quality, of emission and discharges:

Provided further that the provisions of this clause shall not be applicable if such change or increase results in change in category of project or activity from Category—"B2" to either Category—"A" or Category "B1".

(*c*) Any change in configuration of the plant or activity from the environmental clearance conditions during execution of the project after detailed engineering, in respect of projects or activities, falling in any item of the Schedule to this notification, shall not require prior environmental clearance, if there is no change in production capacity and there is no increase in pollution load subject to furnishing particulars of such changes on PARIVESH portal in the format as may be provided by the Government from time to time, before implementing such changes whereupon a system generated acknowledgement will be issued by the concerned Regulatory Authority.

Explanation.—For the purpose of this sub-paragraph, "Pollution load" shall be determined on the basis of multiplication of quantity and concentration of different components and parameters (as provided or referred in the Prior Environment Clearance or the Environment Impact Assessment Report (EIA) and Environment Management Plan based on which such Prior Environment Clearance has been granted), in respect of

emissions, effluents or discharge, solid, industrial hazardous waste and such other parameters notified under the Environment (Protection) Rules, 1986 as amended from time to time.]

[1][(*iii*) *Preparation of District Survey Report for Sand Mining or River Bed Mining and Mining of other Minor Minerals.*—(*a*) The prescribed procedure for preparation of District Survey Report for sand mining or river bed mining and mining of other minor minerals is given in Appendix X.

(*b*) The prescribed procedure for environmental clearance for mining of minor minerals including cluster situation is given in Appendix XI.]

8. Grant or Rejection of Prior Environmental Clearance (EC).—(*i*) The regulatory authority shall consider the recommendations of the [2][EAC or SEAC or DEAC] concerned and convey its decision to the applicant within forty-five days of the receipt of the recommendations of the [2][Expert Appraisal Committee or State Level Expert Appraisal Committee or District Level Expert Appraisal Committee] concerned or in other words within one hundred and five days of the receipt of the final Environment Impact Assessment Report, and where Environment Impact Assessment is not required, within one hundred and five days of the receipt of the complete application with requisite documents, except as provided below.

(*ii*) The regulatory authority shall normally accept the recommendations of the [2][Expert Appraisal Committee or State Level Expert Appraisal Committee or District Level Expert Appraisal Committee] concerned. In case where it disagrees with the recommendations of the [2][Expert Appraisal Committee or State Level Expert Appraisal Committee or District Level Expert Appraisal Committee] concerned, the regulatory authority shall request reconsideration by the [2][Expert Appraisal Committee or State Level Expert Appraisal Committee or District Level Expert Appraisal Committee] concerned within forty-five days of the receipt of the recommendations of the [2][Expert Appraisal Committee or State Level Expert Appraisal Committee or District Level Expert Appraisal Committee] concerned while stating the reasons for the disagreement. An intimation of this decision shall be simultaneously conveyed to the applicant. The [2][Expert Appraisal Committee or State Level Expert Appraisal Committee or District Level Expert Appraisal Committee] concerned, in turn, shall consider the observations of the regulatory authority and furnish its views on the same within a further period of sixty days. The decision of the regulatory authority after considering the views of the [2][Expert Appraisal Committee or State Level Expert Appraisal Committee or District Level Expert Appraisal Committee] concerned shall be final and conveyed to the applicant by the regulatory authority concerned within the next thirty days.

(*iii*) In the event that the decision of the regulatory authority is not communicated to the applicant within the period specified in sub-paragraphs (*i*) or (*ii*) above, as applicable, the applicant may proceed as if the environment clearance sought for has been granted or denied by the regulatory authority in terms of the final recommendations of the [2][Expert Appraisal Committee or State Level Expert Appraisal Committee or District Level Expert Appraisal Committee] concerned.

1. Inserted by S.O. 141(E), dated 15-1-2016.
2. Substituted by S.O. 141(E), dated 15-1-2016.

(*iv*) On expiry of the period specified for decision by the regulatory authority under paragraph (*i*) and (*ii*) above, as applicable, the decision of the regulatory authority, and the final recommendations of the [1][Expert Appraisal Committee or State Level Expert Appraisal Committee or District Level Expert Appraisal Committee] concerned shall be public documents.

(*v*) Clearances from other regulatory bodies or authorities shall not be required prior to receipt of applications for prior environmental clearance of projects or activities, or screening, or scoping, or appraisal, or decision by the regulatory authority concerned, unless any of these is sequentially dependent on such clearance either due to requirement of law, or for necessary technical reasons.

(*vi*) Deliberate concealment and/or submission of false or misleading information or data which is material to screening or scoping or appraisal or decision on the application shall make the application liable for rejection, and cancellation of prior environmental clearance granted on that basis. Rejection of an application or cancellation of a prior environmental clearance already granted, on such ground, shall be decided by the regulatory authority, after giving a personal hearing to the applicant, and following the principles of natural justice.

[2][**9. Validity of Environmental Clearance (EC).**—[3][(*i*) The "Validity of Environmental Clearance" is meant the period from which a prior Environmental Clearance is granted by the regulatory authority, or may be presumed by the applicant to have been granted under sub-paragraph (*iii*) of paragraph 8, to the start of production operations by the project or activity; or completion of all construction operations in case of construction projects relating to item 8 of the Schedule, to which the application for prior environmental clearance refers:

Provided that in the case of mining projects or activities, the validity shall be counted from the date of execution of the mining lease.

(*ii*) The prior environmental clearance granted for an existing or new project or activity shall be valid for a period of:—

(*a*) thirteen years in the case of River Valley projects or activities [item 1(*c*) of the Schedule];

(*b*) fifteen years in the case of Nuclear power projects or activities and processing of nuclear fuel [item 1(*e*) of the Schedule];

(*c*) ten years in the case of all other projects and activities other than the Mining projects and River Valley Projects and Nuclear power projects referred to in clauses (*a*) and (*b*).

(*iii*) In the case of Area Development projects and Townships [item 8(*b*)], the validity period of ten years shall be limited only to such activities as may be the responsibility of the applicant as a developer:

Provided that the period of validity of Environmental Clearance with respect to the Projects and Activities listed in this sub-paragraph and sub-

1. Substituted by S.O. 141(E), dated 15-1-2016.
2. Substituted by S.O. 2944(E), dated 14-9-2016.
3. Substituted by S.O. 1807(E), dated 12-4-2022.

paragraphs (*ii*) may be extended in respect of valid Environmental Clearance, by the regulatory authority concerned by a maximum period of two years in the case of River Valley projects, five years in the case of Nuclear power projects and processing of nuclear fuel and one year in the case of all other projects, if an application is made in the laid down proforma to the regulatory authority by the applicant within the validity period of the existing Environment Clearance:

Provided further that the regulatory authority may also consult the concerned Expert Appraisal Committee before grant of such extension.

(*iv*) The prior Environmental Clearance granted for mining projects shall be valid for the project life as laid down in the mining plan approved and renewed by competent authority, from time to time, subject to a maximum of thirty years, whichever is earlier:

Provided that the period of validity of Environmental Clearance with respect to projects or activities included in this sub-paragraph may be extended by another twenty years, beyond thirty years, subject to the condition that the adequacy of the existing environmental safeguards laid down in the existing Environmental Clearance shall be examined by concerned Expert Appraisal Committee every five years beyond thirty years, on receipt of such application in the laid down proforma from the Project Proponent within the maximum validity period of Environmental Clearance of thirty years, and subsequently on receipt of such application in the laid down proforma from the Project Proponent within the validity period of the extended Environment Clearance, every five years for incorporating such additional environment safeguards in the Environmental Management Plan, as may be deemed necessary, till the validity of the mining lease or end of life of mine or fifty years, whichever is earlier.]

[1][(*v*) Where the application for extension under sub-paragraphs (*ii*), (*iii*) and (*iv*) has been filed in the laid down proforma]—

(*a*) within thirty days after the validity period of Environmental Clearance, such cases shall be referred to concerned Expert Appraisal Committee or State Level Expert Appraisal Committee or District Level Expert Appraisal Committee and based on their recommendations, the delay shall be condoned at the level of the Joint Secretary in the Ministry of Environment, Forest and Climate Change or Member Secretary, State Level Expert Appraisal Committee or Member Secretary, District Level Expert Appraisal Committee, as the case may be;

(*b*) more than thirty days after the validity period of Environmental Clearance but less than ninety days after such validity period, then, based on the recommendations of the Expert Appraisal Committee or State Level Expert Appraisal Committee or District Level Expert Appraisal Committee, the delay shall be condoned with the approval of the Minister in charge of Environment, Forest and Climate Change or Chairman, as the case may be:

Provided that no condonation for delay shall be granted for any application for extension filed beyond ninety days after the validity period of Environmental Clearance.]

1. Substituted by S.O. 1807(E), dated 12-4-2022.

[1][**9-A.** Notwithstanding anything contained in this notification, the period from the 1st April, 2020 to the 31st March, 2021 shall not be considered for the purpose of calculation of the period of validity of Prior Environmental Clearances granted under the provisions of this notification in view of outbreak of Corona Virus (COVID-19) and subsequent lockdowns (total or partial) declared for its control, however, all activities undertaken during this period in respect of the Environmental Clearance granted shall be treated as valid.]

10. Post Environmental Clearance Monitoring.—[2][(*i*)(*a*) In respect of Category "A" projects, it shall be mandatory for the project proponent to make public the environmental clearance granted for their project alongwith the environmental conditions and safeguards at their cost by prominently advertising it at least in two local newspapers of the district or State where the project is located and in addition, this shall also be displayed in the project proponent's website permanently. (*b*) In respect of Category "B" projects, irrespective of its clearance by MoEF/SEIAA, the project proponent shall prominently advertise in the newspapers indicating that the project has been accorded environment clearance and the details of MoEF website where it is displayed. (*c*) The Ministry of Environment and Forests and the State/ Union Territory Level Environment Impact Assessment Authorities (SEIAAs), as the case may be, shall also place the environmental clearance in the public domain on Government portal. (*d*) The copies of the environmental clearance shall be submitted by the project proponents to the Heads of local bodies, Panchayats and Municipal Bodies in addition to the relevant offices of the Government who in turn has to display the same for 30 days from the date of receipt.]

[3][(*ii*)] It shall be mandatory for the project management to submit half-yearly compliance reports in respect of the stipulated prior environmental clearance terms and conditions in [4][soft copies] to the regulatory authority concerned, on 1st June and 1st December of each calendar year.

[3][(*iii*)] All such compliance reports submitted by the project management shall be public documents. Copies of the same shall be given to any person on application to the concerned regulatory authority. The latest such compliance report shall also be displayed on the website of the concerned regulatory authority.

[5][(*iv*) The prescribed procedure for sand mining or river bed mining and monitoring is given in Appendix XII.]

11. Transferability of Environmental Clearance (EC).—[6][(1)] A prior environmental clearance granted for a specific project or activity to an applicant may be transferred during its validity to another legal person entitled to undertake the project or activity on application by the transferor, or by the transferee with a written "no objection" by the transferor, to, and by the regulatory authority concerned, on the same terms and conditions under which the prior environmental clearance was initially granted, and for

1. Substituted by S.O. 221(E), dated 18-1-2021.
2. Inserted by S.O. 3067(E), dated 1-12-2009.
3. Renumbered by S.O. 3067(E), dated 1-12-2009.
4. Substituted by S.O. 5845(E), dated 26-11-2018.
5. Inserted by S.O. 141(E), dated 15-1-2016.
6. Renumbered by S.O. 811(E), dated 23-3-2015.

the same validity period. No reference to the [1][Expert Appraisal Committee or State Level Expert Appraisal Committee or District Level Expert Appraisal Committee] concerned is necessary in such cases.

[2][(1-A) A prior-Environmental Clearance granted for a specific project, except mining projects may be split amongst two or more legal persons, entitled to undertake the project and transferred during the validity to another legal person on application made by the transferor in the format specified on PARIVESH portal to the concerned Regulatory Authority along with requisite documents. The concerned Regulatory Authority shall split and transfer the prior-Environmental Clearance, on recommendation of the concerned Expert Appraisal Committee to the other legal persons for the respective projects.]

[3][(2) Where an allocation of coal block is cancelled in any legal proceeding, or by the Government in accordance with law, the environmental clearance granted in respect of such coal block may be transferred, subject to the same validity period as was initially granted, to any legal person to whom such block is subsequently allocated, and in such case, obtaining of "no objection" from either the holder of environment clearance or from the regulatory authority concerned shall not be necessary and no reference shall be made to the Expert Appraisal Committee or the State Level Expert Appraisal Committee concerned.]

[4][(3) The prior Environmental Clearance vested with the previous lessee shall be deemed to have been transferred during its validity period in terms of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957) as amended by the Mines and Minerals (Development and Regulation) Amendment Act, 2021 (16 of 2021) to the successful bidder of the mining leases, from the date of commencement of new lease for the remaining validity period (calculated from the date from which the said Environmental Clearance was initially granted), subject to the new lessee registering online on PARIVESH portal along with an undertaking to comply with all the conditions of the transferred Environmental Clearance.]

[5][(4) The successful bidder of the mining leases, expiring under the provisions of sub-sections (5) and (6) of section 8-A of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957) and selected through auction as per the procedure provided under that Act and the rules made thereunder, shall be deemed to have acquired valid prior environmental clearance vested with the previous lessee for a period of two years, from the date of commencement of new lease and it shall be lawful for the new lessee to continue mining operations as per the same terms and conditions of environmental clearance granted to the previous lessee on the said lease area for a period of two years from the date of commencement of new lease or till the new lessee obtains a fresh environmental clearance with the terms and conditions mentioned therein, whichever is earlier:

Provided that the successful bidder shall apply and obtain prior environmental clearance from the regulatory authority within a period of two years from the date of grant of new lease.]

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*Corrected by Corrigendum No. S.O. 1949, dated 13-11-2006.

1. Substituted by S.O. 141(E), dated 15-1-2016.
2. Inserted by S.O. 1832(E), dated 21-4-2023.
3. Inserted by S.O. 811(E), dated 23-3-2015.
4. Substituted by S.O. 2817(E), dated 13-7-2021.
5. Inserted by S.O. 1224(E), dated 28-3-2020.

12. Operation of EIA Notification, 1994, till disposal of pending cases.— From the date of final publication of this notification the Environment Impact Assessment (EIA) Notification Number S.O. 60(E), dated 27th January, 1994 is hereby superseded, except in *[supersession] of the things done or omitted to be done before such *[supersession] to the extent that in case of all or some types of applications made for prior environmental clearance and pending on the date of final publication of this notification, the Central Government may relax any one or all provisions of this notification except the list of the projects or activities requiring prior environmental clearance in *[Schedule], or continue operation of some or all provisions of the said notification, for a period not exceeding [1][twenty-four months] from the date of issue of this notification.

[2][**13. Preparation and presentation of Environment Impact Assessment (EIA) report and Environment Management Plan (EMP).**—The Environmental consultant organisations which are accredited for a particular sector and the category of project for that sector with the Quality Council of India (QCI) or National Accreditation Board for Education and Training (NABET) or any other agency as may be notified by the Ministry of Environment, Forest and Climate Change from time to time shall be allowed to prepare the Environmental Impact Assessment report and Environmental Management Plan of a project in that sector and category and to appear before the concerned Expert Appraisal Committee (EAC) or the State Expert Appraisal Committee (SEAC). The Ministry will also prepare a panel of national level reputed educational and research institutions to work as Environmental Consultant Organisations.]

[3][**14. Integration of environmental condition in building bye-laws.**— (1) The integrated environmental conditions with the building permission being granted by the local authorities and the construction of buildings as per the size shall adhere to the objectives and monitorable environmental conditions as given at Appendix XIV.

(2) The States adopting the objectives and monitorable environmental conditions referred to in sub-paragraph (1), in the building bye-laws and relevant State laws and incorporating these conditions in the approvals given for building construction making it legally enforceable shall not require a separate environmental clearance from the Ministry of Environment, Forest and Climate Change for individual buildings.

(3) The States may forward the proposed changes in their bye-laws and rules to the Ministry of Environment, Forest and Climate Change, who in turn will examine the said draft bye-laws and rules and convey the concurrence to the State Governments.

(4) When the State Governments notifies the bye-laws and rules concurred by the Ministry of Environment, Forest and Climate Change, the Central Government may issue an order stating that no separate environmental clearance is required for buildings to be constructed in the States or local authority areas.

(5) The local authorities like Development Authorities, Municipal Corporations, may certify the compliance of the environmental conditions prior to issuance of Completion Certificate, as applicable as per the

*Corrected by Corrigendum No. S.O. 1949, dated 13-11-2006.

1. Substituted by S.O. 1737(E), dated 11-10-2007.
2. Substituted by S.O. 648(E), dated 3-3-2016.
3. Inserted by S.O. 3999(E), dated 9-12-2016.

requirements stipulated for such buildings based on the recommendation of the Environmental Cell constituted in the local authority.

(6) The State Governments where bye-laws or rules are not framed may continue to follow the existing procedure of appraisal for individual projects and grant of Environmental Clearance for buildings and constructions as per the provisions laid down in this notification.

(7) For the purpose of certification regarding incorporation of environmental conditions in buildings, the Ministry of Environment, Forest and Climate Change may empanel through competent agencies, the Qualified Building Environment Auditors (QBEAs) to assess and certify the building projects, as per the requirements of this notification and the procedure for accreditation of Qualified Building Auditors and their role as given at Appendix XV.

(8) In order to implement the integration of environmental condition in building bye-laws, the State Governments or Local Authorities may constitute the Environment Cell (herein after called as Cell), for compliance and monitoring and to ensure environmental planning within their jurisdiction.

(9) The Cell shall monitor the implementation of the bye-laws and rules framed for Integration of environmental conditions for construction of building and the Cell may also allow the third part auditing process for oversight, if any.

(10) The Cell shall function under the administrative control of the Local Authorities.

(11) The composition and functions of the Cell are given at Appendix-XVI.

(12) The Local Authorities while integrating the environmental concerns in the building bye-laws, as per their size of the project, shall follow the procedure, as given below:

BUILDINGS CATEGORY "1" (5,000 to < 20,000 Square meters)

A Self declaration Form to comply with the environmental conditions (Appendix XIV) along with Form 1-A and certification by the Qualified Building Environment Auditor to be submitted online by the project proponent besides application for building permission to the local authority along with the specified fee in separate accounts. Thereafter, the local authority may issue the building permission incorporating the environmental conditions in it and allow the project to start based on the self declaration and certification along with the application. After completion of the construction of the building, the project proponent may update Form 1-A online based on audit done by the Qualified Building Environment Auditor and shall furnish the revised compliance undertaking to the local authority. Any non-compliance issues in buildings less than 20,000 square meters shall be dealt at the level of local body and the State through existing mechanism.

OTHER BUILDINGS CATEGORIES (>20,000 Square meters)

The project proponent may submit online application in Form 1-A alongwith specified fee for environmental appraisal and additional fee for building permission. The fee for environmental appraisal will be deposited in a separate account. The Environment Cell will process the application and present it in the meeting of the Committee headed by the authority competent to give building permission in that local authority. The Committee will appraise the project and stipulate the environmental conditions to be integrated in the building permission. After recommendations of the Committee, the building permission and environmental clearance will be issued in an integrated format by the local authority.

The project proponent shall submit Performance Data and Certificate of Continued Compliance of the project for the environmental conditions parameters applicable after completion of construction from Qualified Building Environment Auditors every five years to the Environment Cell with special focus on the following parameters:—

(*a*) Energy Use (including all energy sources).

(*b*) Energy generated on site from onsite Renewable energy sources.

(*c*) Water use and waste water generated, treated and reused on site.

(*d*) Waste Segregated and Treated on site.

(*e*) Tree plantation and maintenance.

After completion of the project, the Cell shall randomly check the projects compliance status including the five years audit report. The State Governments may enact the suitable law for imposing penalties for non-compliances of the environmental conditions and parameters. The Cell shall recommend financial penalty, as applicable under relevant State laws for non-compliance of conditions or parameters to the local authority. On the basis of the recommendation of the Cell, the local authority may impose the penalty under relevant State laws. The cases of false declaration or certification shall be reported to the accreditation body and to the local body for blacklisting of Qualified Building Environment Auditors and financial penalty on the owner and Qualified Building Environment Auditors.

No Consent to Establish and Operate under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 will be required from the State Pollution Control Boards for residential buildings up to 1,50,000 square meters.]

[1][14. Local bodies such as Municipalities, Development Authorities and District Panchayats, shall stipulate environmental conditions while granting building permission, for the Building or Construction projects with built-up area ≥ 20,000 sq. mtrs and <50,000 sq. mtrs and industrial sheds, educational institutions, hospitals and hostels for educational institutions from built-up area ≥ 20,000 sq. m to <1,50,000 sq. m as specified in Notification S.O. 5733(E), dated 14th November, 2018.]

1. Inserted by S.O. 5736(E), dated 15-11-2018.

SCHEDULE

(*See* paragraphs 2 and 7)

LIST OF PROJECTS OR ACTIVITIES REQUIRING PRIOR ENVIRONMENTAL CLEARANCE

Project or Activity		Category with threshold limit		Conditions, if any
		A	B	
1		Mining, extraction of natural resources and power generation (for a specified production capacity)		
(1)	(2)	(3)	(4)	(5)
[1](*a*)	(*i*) Mining of minerals	[2][> 250 ha. of mining lease area in respect of major mineral mining lease other than coal.] [2][> 500 ha] of mining lease area in respect of coal mine lease Asbestos mining irrespective of mining area.	[2][All mining lease area in respect of minor mineral mining leases and ≤ 250 ha of mining lease area in respect of major mineral mining lease other than coal.] [2][≤ 500 ha] of mining lease area in respect of coal mine lease.	[3][General Conditions shall apply except for mining of minor minerals.] *Note.*— (1) Mineral prospecting is exempted; (2) The prescribed procedure for environmental clearance for mining of minor minerals including cluster situation is given in Appendix XI] [4][(3) The evacuation or removal and transportation of already mined out material lying within the mining leases expiring under the provisions of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957), by the previous lessee, after the expiry of the said lease, shall not form the part of the mining capacity so permitted to the successful bidder, selected through auction as per the procedure provided under that Act and the rules made thereunder.]
	(*ii*) Slurry pipelines (coal, lignite and other ores) passing through national parks/ sanctuaries/ coral reefs, ecologically sensitive areas.	All projects.		
[5][1(*b*)	Off-shore and onshore oil and gas exploration, development and production	All projects in respect of off-shore and onshore oil and gas development and production [3][with or without] exploration		*Note 1.*—Seismic surveys which are part of Exploration Surveys are exempted provided the concession areas have got previous clearance for physical survey.

1. Substituted by S.O. 3977(E), dated 14-8-2018.
2. Substituted by S.O. 1886(E), dated 20-4-2022.
3. Substituted by S.O. 2163(E), dated 9-5-2022.
4. Inserted by S.O. 1224(E), dated 28-3-2020.
5. Substituted by S.O. 236(E), dated 16-1-2020.

(1)	(2)	(3)	(4)	(5)
[1][1(c)	[2][(i) River Valley and hydro-electric projects (RVHEPs):— (a) RVHEPs without Pump Storage Projects; (b) RVHEPs with Pump Storage Projects; (c) standalone Pump Storage Projects.]	(i) [3][≥ 100 MW] hydro-electric power generation;	(i) ≥ 25 MW and [3][< 100 MW] hydroelectric power generation;	*Note 2.*—All project in respect of off-shore and onshore oil and gas exploration are categorized as 'B2' projects.] General condition shall apply. *Note.*— (i) Category "B" river valley projects falling in more than one State shall be appraised at the Central Government Level. (ii) Change in irrigation technology having environmental benefits (*e.g.*, From flood irrigation to Drip irrigation, etc.) by an existing project, leading to increase in Culturable Command Area but without increase in dam height and submergence, will not require amendment/ revision of EC.] [5][(iii) Irrigation projects involving Inter-State issues shall be appraised at Central level without change in category.] [6][(iv) Pump Storage Projects including off-stream closed loop shall be appraised based on specific Terms of Reference issued by the Central Government for Pump Storage Projects. The Pump Storage Projects which meet all the criteria specified below shall be appraised as B2 category irrespective of power generation capacity:— (a) Projects which do not attract Forest Clearance and/or Wild Life Clearance, (b) Projects wherein no new Reservoir is created (c) The Projects wherein there is no increase in capacity of the existing reservoir and in submergence area of reservoir.]
	(ii) Irrigation projects	[4][* * *]	(ii) > 2000 ha. and [4][* * *] of culturable command area.	

Irrigation system	Requirement of EC
(a) Minor Irrigation system (< 2000 Ha)	Exempted
(b) Medium irrigation system (>2000 and <10,000 Ha.)	Required to prepare EMP and to be dealt at State Level (B_2 category).
(c) Major irrigation system (≥10,000 [4][* * *])	Required to prepare EIA/ EMP and to be dealt at State Level (B_1 category).

1. Substituted by S.O. 3977(E), dated 14-8-2018.
2. Substituted by S.O. 2226(E), dated 18-5-2023.
3. Substituted by S.O. 1886(E), dated 20-4-2022.
4. Omitted by S.O. 1886(E), dated 20-4-2022.
5. Inserted by S.O. 1886(E), dated 20-4-2022.
6. Inserted by S.O. 2226(E), dated 18-5-2023.

(1)	(2)	(3)	(4)	(5)
1(*d*)	Thermal Power Plants	[1][≥ 100 MW] (coal/ lignite/naphta and gas based); ≥ 50 MW (all other fuels except biomass); ≥ 20 MW (using municipal solid non-hazardous waste, as fuel).	[2][> 5 MW] to < 500 MW (coal/lignite/naphta and gas based); [1][< 100 MW] and ≥ 5 MW (all other fuels except biomass and municipal solid non-hazardous waste); < 20 MW > 15 MW (using municipal solid non-hazardous waste, as fuel). ≥ 15 MW plants based on biomass fuel	General condition shall apply. *Note.*— (*i*) Thermal Power plants up to 15 MW based on biomass or non-hazardous municipal soild waste using auxiliary fuel such as coal, lignite/ petroleum products up to 15% are exempt. (*ii*) Thermal Power plants using waste heat boilers without any auxiliary fuel are exempt.]
1(*e*)	Nuclear power projects and processing of nuclear fuel	All projects		
2			Primary Processing	
[3][2(*a*)	Coal washeries	[1][≥ 2.5] million ton/annum throughput of coal	[1][< 2.5] million ton/ annum throughput of coal	General condition shall apply (If located within mining area the proposal shall be appraised together with the mining proposal) [5][Integrated coal mining projects with washeries located within mining lease area shall continue to be considered at Central level or State level, as the case may be, as per the extant threshold for coal mining projects.]
2(*b*)	Mineral beneficiation	[4][* * *]	[1][All mineral beneficiation projects irrespective of the procedure for beneficiation]	General condition shall apply (Mining proposal with mineral beneficiation shall be appraised together for grant of clearance).] [5][Integrated mining projects with beneficiation plants located within mining

1. Substituted by S.O. 1886(E), dated 20-4-2022.
2. Substituted by S.O. 1834(E), dated 6-7-2015.
3. Substituted by S.O. 1599(E), dated 25-6-2014.
4. Omitted by S.O. 1886(E), dated 20-4-2022.
5. Inserted by S.O. 1886(E), dated 20-4-2022.

(1)	(2)	(3)	(4)	(5)
				lease area shall continue to be considered at Central level or State level, as the case may be, as per the extant threshold for mining projects.]
3		Materials Production		
3(*a*)	Metallurgical industries (ferrous and non-ferrous)	(*a*) Primary metallurgical industry All projects (*b*) Sponge iron manufacturing < 200 TPD (*c*) Secondary metallurgical processing industry All toxic and heavy metal producing units < 20,000 tonnes/annum	Sponge iron manufacturing < 200 TPD Secondary metallurgical processing industry (*i*) All toxic and heavy metal producing units < 20,000 tonnes/annum (*ii*) All other non-toxic secondary metallurgical processing industries > 5,000 tonnes/annum	[1][General condition shall apply. *Note.*— (*i*) The recycling industrial units registered under the HSM Rules, are exempted. (*ii*) In case of secondary metallurgical processing industrial units, those projects involving operation of furnaces only such as induction and electric arc furnace, submerged arc furnace, and cupola with capacity more than 30,000 tonnes per annum (TPA) would require environmental clearance. (*iii*) Plant/units other than power plants (given against entry no. 1(*d*) of the Schedule), based on municipal solid waste (non-hazardous) are exempted]
[2]3(*b*)	Cement plants	> 1.0 million tonnes/annum production capacity	< 1.0 million tonnes/annum production capacity. All stand alone grinding units	General condition shall apply. *Note.*— 1. Fuel for cement industry may be coal, petcoke, mixture of coal and petcoke and co-processing of waste provided it meets the emission standards. 2. The manufacturing of composite cement by plants having environmental clearance for manufacturing Ordinary Portland Cement (OPC), Portland Pozzolana Cement

1. Substituted by S.O. 3067(E), dated 1-12-2009.
2. Substituted by S.O. 3518(E), dated 23-11-2016.

(1)	(2)	(3)	(4)	(5)
				(PPC) and Portland Slag Cement (PSC) shall be exempt provided the production is within sanctioned capacity.]
4		Materials Processing		
4(*a*)	Petroleum refining industry	All projects	—	—
[1][4(*b*)	(*i*) Coke oven plants (*ii*) Coaltar processing units	≥ 2,50,000 tonnes/annum —	< 2,50,000 and ≥ 25,000 tonnes/annum All projects	General condition shall apply]
4(*c*)	Asbestos milling and asbestos based products	All projects	—	—
4(*d*)	Chlor-alkali industry	[1][≥ 300 TPD production capacity if a unit located outside the notified industrial area/estate]	[2][(*i*) All projects irrespective of the size, if it is located in a Notified Industrial Area/ Estate] (*ii*) < 300 tonnes per day (TPD) and located outside a Notified Industrial Area/ Estate]	[2][General as well as specific conditions shall apply. No new Mercury Cell based plants will be permitted and existing units converting to membrance cell technology are exempt from the notification]
4(*e*)	Soda ash industry	All projects	—	—
4(*f*)	[1][Skin/hide processing including tanning industry]	New projects outside the industrial area or expansion of existing units outside the industrial area	All new or expansion of projects located within a notified industrial area/estate	[2][General as well as specific conditions shall apply]
5		Manufacturing/Fabrication		
[3][5(*a*)	Chemical fertilisers	All projects including all Single Super Phosphate with H_2SO_4 production except granulation of chemical fertilizers	All Single Super Phosphate without H_2SO_4 production and granulation of chemical fertilizers	General condition shall apply. Granulation of single super phosphate powder is exempt. 2. Neem coating of fertilizers is exempt provided that the total production does not exceed the sanctioned capacity in EC plus the weight of the coating material used. 3. Fortification of fertilizers is exempt

1. Substituted by S.O. 1599(E), dated 25-6-2014.
2. Substituted by S.O. 3067(E), dated 1-12-2009.
3. Substituted by S.O. 3518(E), 23-11-2016.

(1)	(2)	(3)	(4)	(5)
				provided that the total production does not exceed the sanctioned capacity in EC plus the weight of the fortification material used.]
5(*b*)	Pesticides industry and pesticide specific intermediates (excluding formulations)	All units producing technical grade pesticides	—	—
5(*c*)	Petro-chemical complexes (industries based on processing of petroleum fractions and natural gas and/or reforming to aromatics)	All projects	—	—
5(*d*)	Manmade fibres manufacturing	Rayon	Others	General condition shall apply
5(*e*)	[1][Petroleum products and Petrochemical based processing such as production of carbon black and electrode grade graphite (processes other than cracking and reformation and not covered under the complexes)]	Located outside the notified industrial area/estate	Located in a notified industrial area/estate	[1][General as well as specific condition shall apply. *Note.*— Manufacturing of products from polymer granules is exempt.]
[1][5(*f*)	Synthetic organic chemicals industry (dyes and dye intermediates; bulk drugs and intermediates excluding drug formulations; synthetic rubbers; basic organic chemicals, other	Located outside the notified industrial area/estate except small units as defined in column (5).	(*i*) Located in a notified industrial area/estate (*ii*) Small units as defined in column (5)	General as well as specific condition shall apply. Small units: with water consumption <25m^3/day, fuel consumption <25 TPD and not covered in the category of MAH units as per the Management, Storage and Import of Hazardous Chemical Rules, 1989.

1. Substituted by S.O. 1599(E), dated 25-6-2014.

(1)	(2)	(3)	(4)	(5)
				provided that the total production does not exceed the sanctioned capacity in EC plus the weight of the fortification material used.]
5(*b*)	Pesticides industry and pesticide specific intermediates (excluding formulations)	All units producing technical grade pesticides	—	—
5(*c*)	Petro-chemical complexes (industries based on processing of petroleum fractions and natural gas and/or reforming to aromatics)	All projects	—	—
5(*d*)	Manmade fibres manufacturing	Rayon	Others	General condition shall apply
5(*e*)	[1][Petroleum products and Petrochemical based processing such as production of carbon black and electrode grade graphite (processes other than cracking and reformation and not covered under the complexes)]	Located outside the notified industrial area/estate	Located in a notified industrial area/estate	[1][General as well as specific condition shall apply. *Note.*— Manufacturing of products from polymer granules is exempt.]
[1][5(*f*)	Synthetic organic chemicals industry (dyes and dye intermediates; bulk drugs and intermediates excluding drug formulations; synthetic rubbers; basic organic chemicals, other	Located outside the notified industrial area/estate except small units as defined in column (5).	(*i*) Located in a notified industrial area/estate (*ii*) Small units as defined in column (5)	General as well as specific condition shall apply. Small units: with water consumption <25m^3/day, fuel consumption <25 TPD and not covered in the category of MAH units as per the Management, Storage and Import of Hazardous Chemical Rules, 1989.

1. Substituted by S.O. 1599(E), dated 25-6-2014.

(1)	(2)	(3)	(4)	(5)
				provided that the total production does not exceed the sanctioned capacity in EC plus the weight of the fortification material used.]
5(*b*)	Pesticides industry and pesticide specific intermediates (excluding formulations)	All units producing technical grade pesticides	—	—
5(*c*)	Petro-chemical complexes (industries based on processing of petroleum fractions and natural gas and/or reforming to aromatics)	All projects	—	—
5(*d*)	Manmade fibres manufacturing	Rayon	Others	General condition shall apply
5(*e*)	[1][Petroleum products and Petrochemical based processing such as production of carbon black and electrode grade graphite (processes other than cracking and reformation and not covered under the complexes)]	Located outside the notified industrial area/estate	Located in a notified industrial area/estate	[1][General as well as specific condition shall apply. *Note.*— Manufacturing of products from polymer granules is exempt.]
[1][5(*f*)	Synthetic organic chemicals industry (dyes and dye intermediates; bulk drugs and intermediates excluding drug formulations; synthetic rubbers; basic organic chemicals, other	Located outside the notified industrial area/estate except small units as defined in column (5).	(*i*) Located in a notified industrial area/estate (*ii*) Small units as defined in column (5)	General as well as specific condition shall apply. Small units: with water consumption <25m³/day, fuel consumption <25 TPD and not covered in the category of MAH units as per the Management, Storage and Import of Hazardous Chemical Rules, 1989.

1. Substituted by S.O. 1599(E), dated 25-6-2014.

(1)	(2)	(3)	(4)	(5)
	synthetic organic chemicals and chemical intermediates)			[1][All proposals for respect of Active Pharmaceutical Ingredients (API), received from 16th July, 2021 to 31st December, 2021, shall be appraised, as Category 'B2' projects, provided that any subsequent amendment or expansion or change in product mix, after the 31st December, 2021, shall be considered as per the provisions in force at that time.]
[2][5(*g*)	Distilleries	Molasses based distilleries > 100 KLD Non-molasses based distilleries > 200 KLD	Molasses based distilleries ≤ 100 KLD Non-molasses based distilleries ≤ 200 KLD	[3][(*a*) Except for the projects falling in item 5(*ga*) of this Schedule; (*b*) Expansion of sugar manufacturing units or distilleries for production of ethanol, having Prior Environment Clearance (EC) for existing unit, to be used completely for Ethanol Blended Petrol (EBP) Programme only, as per self-certification in form of an affidavit by the Project Proponent, shall be appraised as category 'B2' projects: Provided that subsequently if it is found that the ethanol, produced based on the EC granted as per this dispensation, is not being used completely for EBP Programme, or if ethanol is not being produced, or if the said distillery is not fulfilling the requirements based on which the project has been appraised as category B2 project, the EC shall stand cancelled.]

1. Substituted by S.O. 2859(E), dated 16-7-2021.
2. Substituted by S.O. 1960(E), dated 13-6-2019.
3. Substituted by S.O. 2339(E), dated 16-6-2021.

(1)	(2)	(3)	(4)	(5)
[1][5(*ga*)	Grain based distilleries producing ethanol, solely to be used for Ethanol Blended Petrol Programme of the Government of India *Note.*—Grains include wheat, rice, maize, barley, sorghum.	Projects without Zero Liquid Discharge	Projects with Zero Liquid Discharge	*Note.*— (*i*) Projects under category B shall be appraised as B2 category project and in terms of para 4(*iiia*) of this notification (*ii*) Applicable for projects who file application for grant of EC upto 31st March 2024 or till further notification whichever is earlier provided that any subsequent amendment or expansion or change in product mix after 31st March 2024, shall be considered as per the provisions inforce at that time. (*iii*) The project proponent shall file a notorised affidavit that ethanol produced from proposed project shall be used completely for EBP Programme: Provided that subsequently if it is found that the ethanol produced, based on the EC granted as per this dispensation, is not being used completely for EBP Programme, or if ethanol is not being produced, or if the said distillery is not fulfilling the requirements based on which the project has been appraised as category B2 project, the EC shall stand cancelled.]
5(*hi*)	Integrated paint industry	—	All projects	General condition shall apply

1. Inserted by S.O. 2339(E), dated 16-6-2021.

(1)	(2)	(3)	(4)	(5)
[1][5(*i*)	Pulp and paper industry	Pulp manufacturing and Pulp and Paper manufacturing industry except from waste paper.	Pulp manufacturing from waste paper and paper manufacturing from waste paper pulp and other ready pulp	General condition shall apply *Note.*— Paper manufacturing from waste paper pulp and ready pulp without deinking, bleaching and colouring is exempt.]
5(*j*)	Sugar Industry	—	≥ 5,000 tcd cane crushing capacity	General condition shall apply
5(*k*)	[2][* * *]			
6			Service Sectors	
6(*a*)	Oil and gas transportation pipe line (crude and refinery/ petrochemical products), passing through national parks/ sanctuaries/coral reefs/ecologically sensitive areas including LNG Terminal	All projects		
6(*b*)	[3][* * *]			
7	Physical Infrastructure including Environmental Services			
7(*a*)	Airports	[4][[5][All new projects] including airstrips, which are for commercial use]	[6][All expansions projects, including airstrips, which are for commercial use]	[4][*Note.*— Air strips, which do not involve bunkering/ refueling facility and or Air Traffic Control, are exempted]
7(*b*)	All ship breaking yards including ship breaking units	All projects	—	—
7(*c*)	Industrial estates/ parks/ complexes/areas, Export Processing Zones (EPZs), Special Economic Zones (SEZs), Biotech	If at least one industry in the proposed industrial estate falls under the Category A, entire industrial area shall be treated as Category A, irrespective of the area. Industrial estates with area greater than 500 ha. and	Industrial estates housing at least one Category B industry and area < 500 ha. Industrial estates of area > 500 ha. and not	[4][General as well as specific conditions shall apply] *Note.*— 1. Industrial Estate of area below 500 ha. and not housing any industry of Category

1. Substituted by S.O. 1599(E), dated 25-6-2014.
2. Omitted by S.O. 3067(E), dated 1-12-2009.
3. Omitted by S.O. 1960(E), dated 13-6-2019.
4. Inserted by S.O. 1142(E), dated 17-4-2015.
5. Substituted by S.O. 1886(E), dated 20-4-2022.

(1)	(2)	(3)	(4)	(5)
	Parks, Leather Complexes	housing at least one Category B industry	housing any industry belonging to Category A or B	"A" or "B" does not require clearance 2. If the area is less than 500 ha. but contains building and construction projects > 20,000 Sq. mtr. and or development area more than 50 ha it will be treated as activity listed at Serial no. 8(*a*) or 8(*b*) in the Schedule, as the case may be]
7(*d*)	Common hazardous waste treatment, storage and disposal facilities (TSDFs)	All integrated facilities having incineration and landfill or incineration alone	All facilities having land fill only	General condition shall only
[1][7(*da*)	Bio-Medical Waste Treatment Facilities	—	All projects	—]
7(*e*)	[2][Ports, harbours, break waters, dredging]	< 5 million TPA of cargo handling capacity (excluding fishing harbours)	< 5 million TAP of cargo handling capacity and/or ports/ harbours < 10,000 TPA of fish handling capacity	[1][General condition shall apply *Note.*— 1. Capital dredging inside and outside the ports or harbours and channels are included; 2. Maintenance dredging is exempt provided it formed part of the original proposal for which Environment Management Plan (EMP) was prepared and environmental clearance obtained]
7(*f*)	Highways	[3][(*i*) New National Highways; and [5][(*ii*) Expansion of National Highways greater than 100 km, involving additional right of way or land acquisition greater than 40 m on existing alignments and 60 m on re-alignments or by-passes.]]	[2][[4][(*i*) All New State Highway Projects.] (*ii*) State Highway expansion projects in hilly terrain (above 1,000 m AMSL) and or ecologically sensitive areas]	[2][General condition shall apply *Note.*— Highways include expressways]

1. Inserted by S.O. 1142(E), dated 17-4-2015.
2. Substituted by S.O. 3067(E), dated 1-12-2009.
3. Substituted by S.O. 1737(E), dated 11-10-2007.
4. Substituted by S.O. 3252(E), dated 22-12-2014.
5. Substituted by S.O. 2559(E), dated 22-8-2013.

(1)	(2)	(3)	(4)	(5)
7(*g*)	[1][***]	[1][***]	[1][***]	[1][***]
[2][7(*h*)	Common Effluent Treatment Plants (CETPs)		All projects	General condition shall apply *Note.*—Environmental clearance for CETPs setup for or within projects or activities which do not require environmental clearance are exempted, and if any of the existing or proposed member units of the said CETP produces or proposes to produce any product requiring environmental clearance, then the CETP shall need environmental clearance.]
7(*i*)	Common Municipal Solid Waste Management Facility (CMSWMF)		All projects	General condition shall apply
[3][8	Building or Construction projects or Area Development projects and Townships as well as for industrial sheds, educational institutions, hospitals and hostels for educational institutions			
8(*a*)	Building or Construction projects		≥ 50,000 sq mtrs and < 1,50,000 sq mtrs of built up area	*Note 1.*—The term "built-up area" for the purpose of this notification is the built-up or covered area on all the floors put together including its basement and other service areas, which are proposed in the buildings or construction projects. *Note 2.*—The projects or activities shall not include industrial sheds, educational institutions, hospitals and hostels for educational institutions. *Note 3.*—General Conditions shall not apply.

1. Omitted by S.O. 1953(E), dated 27-4-2022.
2. Substituted by S.O. 6250(E), dated 19-12-2018.
3. Substituted by S.O. 5736(E), dated 15-11-2018.

(1)	(2)	(3)	(4)	(5)
8(*b*)	Townships and Area Development projects as well as industrial sheds educational institutions, hospitals and hostels for educational institutions		≥ 1,50,000 sq. mtrs. of built-up area and or covering an area ≥ 50 ha	A project of Township and Area Development Projects covered under this item shall require an Environment Assessment Report and be appraised as Category 'B1' Project. *Note.*—General Conditions shall not apply.]

Note.—

[1][*General Condition (GC).*—Any project or activity specified in Category 'B' will be appraised at the Central level as Category 'A', if located in whole or in part within 5 km from the boundary of: (*i*) protected areas notified under the Wild Life (Protection) Act, 1972 (53 of 1972), (*ii*) Critically polluted areas as identified by the Central Pollution Control Board constituted under the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974) from time to time, (*iii*) Eco-sensitive areas as notified under sub-section (2) of section 3 of the Environment (Protection) Act, 1986, and (*iv*) inter-State boundaries and international boundaries; provided that for River Valley Projects specified in item 1(*c*), Thermal Power Plants specified in item 1(*d*), Industrial estates/parks/complexes/ areas, export processing zones (EPZs), Special Economic Zones (SEZs), biotech parks, leather complexes specified in item 7(*c*) and common hazardous waste treatment, storage and disposal facilities (TSDFs) specified in item 7(*d*), the appraisal shall be made at Central level even if located within 10km:

Provided further that the requirement regarding distance of 5 km or 10 km, as the case may be, of the inter-State boundaries can be reduced or completely done away with by an agreement between the respective States or the Union Territories sharing the common boundary in case the activity does not fall within 5 km or 10 km, as the case may be of the areas mentioned at item (*i*), (*ii*) and (*iii*) above.]

APPENDIX I

(*See* paragraph 6)

FORM 1

[2][(I) Basic Information

Sl. No.	Item	Details
1.	Name of the project/s	
2.	S. No. in the schedule	
3.	Proposed capacity/area/length/tonnage to be handled/ command area/lease area/number of wells to be drilled	
4.	New/Expansion/Modernization	
5.	Existing Capacity/Area, etc.	
6.	Category of Project, *i.e.*, "A" or "B"	
7.	Does it attract the general condition? If yes, please specify.	
8.	Does it attract the specific condition? If yes, please specify.	

1. Substituted by S.O. 1599(E), dated 25-6-2014.
2. Substituted by S.O. 3067(E), dated 1-12-2009.

Serial Number	Item	Details
9.	Location	
	Plot/Survey/Khasra No.	
	Village	
	Tehsil	
	District	
	State	
10.	Nearest railway station/airport alongwith distance in kms.	
11.	Nearest Town, City, District Headquarters alongwith distance in kms.	
12.	Village Panchayats, Zilla Parishad, Municipal Corporation, Local body (complete postal addresses with telephone nos. to be given)	
13.	Name of the applicant	
14.	Registered Address	
15.	Address for correspondence:	
	Name	
	Designation (Owner/Partner/CEO)	
	Address	
	Pin Code	
	E-mail	
	Telephone No.	
	Fax No.	
16.	Details of Alternative Sites examined, if any. Location of these sites should be shown on a topo sheet.	Village-District-State 1. 2. 3.
17.	Interlinked Projects	
18.	Whether separate application of interlinked project has been submitted?	
19.	If yes, date of submission	
20.	If no, reason	
21.	Whether the proposal involves approval/clearance under: if yes, details of the same and their status to be given. (*a*) The Forest (Conservation) Act, 1980? (*b*) The Wildlife (Protection) Act, 1972? (*c*) The C.R.Z. Notification 1991?	
22.	Whether there is any Government Order/Policy relevant/relating to the site?	
23.	Forest land involved (hectares)	
24.	Whether there is any litigation pending against the project and/or land in which the project is propose to be set up? (*a*) Name of the Court (*b*) Case No. (*c*) Orders/directions of the Court, if any and its relevance with the proposed project.]	

(II) Activity

1. Construction, operation or decommissioning of the Project involving actions, which will cause physical changes in the locality (topography, land use, changes in water bodies, etc.):

Sl. No.	Information/Checklist confirmation	Yes/No	Details thereof (with approximate quantities/ rates, wherever possible) with source of information data
1.1	Permanent or temporary change in land use, land cover or topography including increase in intensity of land use (with respect to local land use plan)		
1.2	Clearance of existing land, vegetation and buildings?		
1.3	Creation of new land uses?		
1.4	Pre-construction investigations, *e.g.*, bore houses, soil testing?		
1.5	Construction works?		
1.6	Demolition works?		
1.7	Temporary sites used for construction works or housing of construction workers?		
1.8	Aboveground buildings, structures or earthworks including linear structures, cut and fill or excavations		
1.9	Underground works including mining or tunneling?		
1.10	Reclamation works?		
1.11	Dredging?		
1.12	Offshore structures?		
1.13	Production and manufacturing processes?		
1.14	Facilities for storage of goods or materials?		
1.15	Facilities for treatment or disposal of solid waste or liquid effluents?		
1.16	Facilities for long term housing of operational workers?		
1.17	New road, rail or sea traffic during construction or operation?		
1.18	New road, rail, air, water or other transport infrastructure including new or altered routes and stations, ports, airports, etc.?		
1.19	Closure or diversion of existing transport routes or infrastructure leading to changes in traffic movements?		
1.20	New or diverted transmission lines or pipelines?		
1.21	Impoundment, damming, culverting, realignment or other changes to the hydrology of watercourses or aquifers?		
1.22	Stream crossings?		

1.23	Abstraction or transfers of water from ground or surface waters?		
1.24	Changes in water bodies or the land surface affecting drainage or run-off?		
1.25	Transport of personnel or materials for construction, operation or decommissioning?		
1.26	Long-term dismantling or decommissioning or restoration works?		
1.27	Ongoing activity during decommissioning which could have an impact on the environment?		
1.28	Influx of people to an area in either temporarily or permanently?		
1.29	Introduction of alien species?		
1.30	Loss of native species or genetic diversity?		
1.31	Any other actions?		

2. Use of natural resources for construction or operation of the Project (such as land, water, materials or energy, especially any resources which are non-renewable or in short supply):

Sl. No.	Information/Checklist confirmation	Yes/No	Details thereof (with approximate quantities/ rates, wherever possible) with source of information data
2.1	Land especially undeveloped or agricultural land (ha)		
2.2	Water (expected source and competing users) unit: KLD		
2.3	Minerals (MT)		
2.4	Construction material—stone, aggregates, and/soil (expected source—MT)		
2.5	Forests and timber (source—MT)		
2.6	Energy including electricity and fuels (source, competing users) Unit: fuel (MT), energy (MW)		
2.7	Any other natural resources (use appropriate standard units)		

3. Use, storage, transport, handling or production of substances or materials, which could be harmful to human health or the environment or raise concerns about actual or perceived risks to human health:

Sl. No.	Information/Checklist confirmation	Yes/No	Details thereof (with approximate quantities/ rates, wherever possible) with source of information data
3.1	Use of substances or materials, which are hazardous (as per MSIHC rules) to human health or the environment (flora, fauna and water supplies)		
3.2	Changes in occurrence of disease or affect disease vectors (*e.g.*, insect or water borne diseases)		

3.3	Affect the welfare of people, *e.g.*, by changing living conditions?		
3.4	Vulnerable groups of people who could be affected by the project, *e.g.*, hospital patients, children, the elderly , etc.		
3.5	Any other causes		

4. Production of solid wastes during construction or operation or decommissioning (MT/month):

Sl. No.	Information/Checklist confirmation	Yes/No	Details thereof (with approximate quantities/ rates, wherever possible) with source of information data
4.1	Spoil, overburden or mine wastes		
4.2	Municipal waste (domestic and or commercial wastes)		
4.3	Hazardous wastes (as per Hazardous Waste Management Rules)		
4.4	Other industrial process wastes		
4.5	Surplus product		
4.6	Sewage sludge or other sludge from effluent treatment		
4.7	Construction or demolition wastes		
4.8	Redundant machinery or equipment		
4.9	Contaminated soils or other materials		
4.10	Agricultural wastes		
4.11	Other solid wastes		

5. Release of pollutants or any hazardous, toxic or noxious substances to air (Kg/hr):

Sl. No.	Information/Checklist confirmation	Yes/No	Details thereof (with approximate quantities/ rates, wherever possible) with source of information data
5.1	Emissions from combustion of fossil fuels from stationary or mobile sources		
5.2	Emissions from production processes		
5.3	Emissions from materials handling including storage or transport		
5.4	Emissions from construction activities including plant and equipment		
5.5	Dust or odours from handling of materials including construction materials, sewage and waste		
5.6	Emissions from incineration of waste		
5.7	Emissions from burning of waste in open air (*e.g.*, slash materials, construction debris)		
5.8	Emissions from any other sources		

6. Generation of Noise and Vibration, and Emissions of Light and Heat:

Sl. No.	Information/Checklist confirmation	Yes/No	Details thereof (with approximate quantities/ rates, wherever possible) with source of information data
6.1	From operation of equipment, *e.g.*, engines, ventilation plant, crushers		
6.2	From industrial or similar processes		
6.3	From construction or demolition		
6.4	From blasting or piling		
6.5	From construction or operational traffic		
6.6	From lighting or cooling systems		
6.7	From any other sources		

7. Risks of contamination of land or water from releases of pollutants into the ground or into sewers, surface waters, groundwater, coastal waters or the sea:

Sl. No.	Information/Checklist confirmation	Yes/No	Details thereof (with approximate quantities/ rates, wherever possible) with source of information data
7.1	From handling, storage, use or spillage of hazardous materials		
7.2	From discharge of sewage or other effluents to water or the land (expected mode and place of discharge)		
7.3	By deposition of pollutants emitted to air into the land or into water		
7.4	From any other sources		
7.5	Is there a risk of long term build up of pollutants in the environment from these sources?		

8. Risk of accidents during construction or operation of the Project, which could affect human health or the environment:

Sl. No.	Information/Checklist confirmation	Yes/No	Details thereof (with approximate quantities/ rates, wherever possible) with source of information data
8.1	From explosions, spillages, fires, etc., from storage, handling, use or production of hazardous substances		
8.2	From any other causes		
8.3	Could the project be affected by natural disasters causing environmental damage (*e.g.*, floods, earthquakes, landslides, cloudburst, etc.)?		

9. Factors which should be considered (such as consequential development) which could lead to environmental effects or the potential for cumulative impacts with other existing or planned activities in the locality:

Sl. No.	Information/Checklist confirmation	Yes/No	Details thereof (with approximate quantities/ rates, wherever possible) with source of information data
9.1	Lead to development of supporting, lities, ancillary development or development stimulated by the project which could have impact on the environment, *e.g.*: • supporting infrastructure (roads, power supply, waste or wastewater treatment, etc.) • housing development • extractive industries • supply industries • other		
9.2	Lead to after-use of the site, which could have an impact on the environment		
9.3	Set a precedent for later developments		
9.4	Have cumulative effects due to proximity to other existing or planned projects with similar effects		

(III) Environmental Sensitivity

Sl. No.	Areas	Name/ Identity	Aerial distance (within 15 km) Proposed project location boundary
1.	Areas protected under international conventions, national or local legislation for their ecological, landscape, cultural or other related value		
2.	Areas which are important or sensitive for ecological reasons—Wetlands, watercourses or other water bodies, coastal zone, biospheres, mountains, forests		
3.	Areas used by protected, important or sensitive species of flora or fauna for breeding, nesting, foraging, resting, over wintering, migration		
4.	Inland, coastal, marine or underground waters		
5.	State, National boundaries		
6.	Routes or facilities used by the public for access to recreation or other tourist, pilgrim areas		
7.	Defence installations		
8.	Densely populated or built-up area		
9.	Areas occupied by sensitive man-made land uses (hospitals, schools, places of worship, community facilities)		
10.	Areas containing important, high quality or scarce resources (groundwater resources, surface resources, forestry, agriculture, fisheries, tourism, minerals)		

11.	Areas already subjected to pollution or environmental damage (those where existing legal environmental standards are exceeded)		
12.	Areas susceptible to natural hazard which could cause the project to present environmental problems (earthquakes, subsidence, landslides, erosion, flooding or extreme or adverse climatic conditions)		

(IV) Proposed Terms of Reference for EIA studies.

[1][I hereby given undertaking that the data and information given in the application and enclosures are true to the best of my knowledge and belief and I am aware that if any part of the data and information submitted is found to be false or misleading at any stage, the project will be rejected and clearance give, if any to the project will be revoked at our risk and cost.

Date.....

Place.....

.....

Signature of the applicant
With Name and Full Address
(Project Proponent/Authorised Signatory)

Note.—

1. The projects involving clearance under Coastal Regulation Zone Notification, 1991 shall submit with the application a C.R.Z. map duly demarcated by one of the authorised agencies, showing the project activities, w.r.t. C.R.Z. (at the stage of TOR) and the recommendations of the State Coastal Zone Management Authority (at the stage of EC). Simultaneous action shall also be taken to obtain the requisite clearance under the provisions of the C.R.Z. Notification, 1991 for the activities to be located in the CRZ.

2. The projects to be located within 10 km of the National Parks, Sanctuaries, Boisphere Reserves, Migratory Corridors of Wild Animals, the project proponent shall submit the map duly authenticated by Chief Wildlife Warden Showing these features vis-a-vis the project location and the recommendations or comments of the Chief Wildlife Warden thereon (at the stage of EC).

3. All correspondence with the Ministry of Environment and Forests including submission of application for TOR/Environmental Clearance, subsequent clarifications, as may be required from time to time, participation in the EAC Meeting on behalf of the project proponent shall be made by the authorised signatory only. The authorised signatory should also submit a document in support of his claim of being an authorised signatory for the specific project.]

APPENDIX II

(*See* paragraph 6)

FORM 1-A

(ONLY FOR CONSTRUCTION PROJECTS LISTED UNDER ITEM 8 OF THE SCHEDULE)

Check list of Environmental Impacts

(Project proponents are required to provide full information and wherever necessary attach explanatory notes with the Form and submit alongwith proposed environmental management plan and monitoring programme)

1. *Land Environment*

(Attach panoramic view of the project site and the vicinity)

1.1. Will the existing landuse get significantly altered from the project that is not consistent with the surroundings? (Proposed landuse must conform to the approved

1. Inserted by S.O. 3067(E), dated 1-12-2009.

Master Plan/Development Plan of the area. Change of land use if any and the statutory approval from the competent authority be submitted). Attach Maps of (*i*) site location, (*ii*) surrounding features of the proposed site (within 500 metres), and (*iii*) the site (indicating levels and contours) to appropriate scales. If not available attach only conceptual plans.

1.2. List out all the major project requirements in terms of the land area, built up area, water consumption, power requirement, connectivity, community facilities, parking needs, etc.

1.3. What are the likely impacts of the proposed activity on the existing facilities adjacent to the proposed site? (Such as open spaces, community facilities, details of the existing landuse, disturbance to the local ecology).

1.4. Will there be any significant land disturbance resulting in erosion, subsidence and instability? (Details of soil type, slope analysis, vulnerability to subsidence, seismicity, etc., may be given).

1.5. Will the proposal involve alteration of natural drainage systems? (Give details on a contour map showing the natural drainage near the proposed project site).

1.6. What are the quantities of earthwork involved in the construction activity-cutting, filling, reclamation, etc. (Given details of the quantities of earthwork involved, transport of fill materials from outside the site, etc.).

1.7. Give details regarding water supply, waste handling, etc., during the construction period.

1.8. Will the low lying areas and wetlands get altered? (Provide details of how low lying and wetlands are getting modified from the proposed activity).

1.9. Whether construction debris and waste during construction cause health hazard? (Give quantities of various types of wastes generated during construction including the construction labour and the means of disposal).

2. *Water Environment*

2.1. Give the total quantity of water requirement for the proposed project with the breakup of requirements for various uses. How will the water requirement met? State the sources and quantities and furnish a water balance statement.

2.2. What is the capacity (dependable flow or yield) of the proposed source of water?

2.3. What is the quality of water required, in case, the supply is not from a municipal source? (Provide physical, chemical, biological characteristics with class of water quality).

2.4. How much of the water requirement can be met from the recycling of treated wastewater? (Give the details of quantities, sources and usage).

2.5. Will there be diversion of water from other users? (Please assess the impacts of the project on other existing uses and quantities of consumption).

2.6. What is the incremental pollution load from waste water generated from the proposed activity? (Give details of the quantities and composition of waste water generated from the proposed activity).

2.7. Give details of the water requirements met from water harvesting? Furnish details of the facilities created.

2.8. What would be the impact of the land use changes occurring due to the proposed project on the run off characteristics (quantitative as well as qualitative) of the area in the post construction phase on a long term basis? Would it aggravate the problems of flooding or water logging in any way?

2.9. What are the impacts of the proposal on the groundwater? (Will there be tapping of groundwater; give the details of groundwater table, recharging capacity, and approvals obtained from competent authority, if any).

2.10. What precautions/measures are taken to prevent the run-off from construction activities polluting land and aquifers? (Give details of quantities and the measures taken to avoid the adverse impacts).

2.11. How is the storm water from within the site managed? (State the provisions made to avoid flooding of the area, details of the drainage facilities provided alongwith a site layout indication contour levels).

2.12. Will the deployment of construction labourers particularly in the peak period lead to unsanitary conditions around the project site (Justify with proper explanation).

2.13. What on-site facilities are provided for the collection, treatment and safe disposal of sewage? (Give details of the quantities of wastewater generation, treatment capacities with technology and facilities for recycling and disposal).

2.14. Give details of dual plumbing system if treated waste used in used for flushing of toilets or any other use.

3. *Vegetation*

3.1. Is there any threat of the project to the biodiversity? (Give a description of the local ecosystem with its unique features, if any).

3.2. Will the construction involve extensive clearing or modification of vegetation? (Provide a detailed account of the trees and vegetation affected by the project).

3.3. What are the measures proposed to be taken to minimize the likely impacts on important site features (Give details of proposal for tree plantation, landscaping, creation of water bodies, etc., alongwith a layout plan to an appropriate scape).

4. *Fauna*

4.1. Is there likely to be any displacement of fauna-both terrestrial and aquatic or creation of barriers for their movement? Provide the details.

4.2. Any direct or indirect impacts on the avifauna of the area? Provide details.

4.3. Prescribe measures such as corridors, fish ladders, etc., to mitigate adverse impacts on fauna.

5. *Air Environment*

5.1. Will the project increase atmospheric concentration of gases and result in heat islands? (Give details of background air quality levels with predicted values based on dispersion models taking into account the increased traffic generation as a result of the proposed constructions).

5.2. What are the impacts on generation of dust, smoke, odorous fumes or other hazardous gases? Give details in relation to all the meteorological parameters.

5.3. Will the proposal create shortage of parking space for vehicles? Furnish details of the present level of transport infrastructure and measures proposed for improvement including the traffic management at the entry and exit to the project site.

5.4. Provide details of the movement patterns with internal roads, bicycle tracks, pedestrian pathways, footpaths, etc., with areas under each category.

5.5. Will there be significant increase in traffic noise and vibrations? Give details of the sources and the measures proposed for mitigation of the above.

5.6. What will be the impact of DG sets and other equipment on noise levels and vibration in and ambient air quality around the project site? Provide details.

6. *Aesthetics*

6.1. Will the proposed constructions in any way result in the obstruction of a view, scenic amenity or landscapes? Are these considerations taken into account by the proponents?

6.2. Will there be any adverse impacts from new constructions on the existing structures? What are the considerations taken into account?

6.3. Whether there are any local considerations of urban form and urban design influencing the design criteria? They may be explicitly spelt out.

6.4. Are there any anthropological or archaeological sites or artefacts nearby? State if any other-significant features in the vicinity of the proposed site have been considered.

7. *Socio-Economic Aspects*

7.1. Will the proposal result in any changes to the demographic structure of local population? Provide the details.

7.2. Give details of the existing social infrastructure around the proposed project.

7.3. Will the project cause adverse effects on local communities, disturbance to sacred sites or other cultural values? What are the safeguards proposed?

8. *Building Materials*

8.1. May involve the use of building materials with high-embodied energy. Are the construction materials produced with energy efficient processes? (Give details of energy conservation measures in the selection of building materials and their energy efficiency).

8.2. Transport and handling of materials during construction may result in pollution, noise and public nuisance. What measures are taken to minimize the impacts?

8.3. Are recycled materials used in roads and structures? State the extent of savings achieved?

8.4. Give details of the methods of collection, segregation and disposal of the garbage generated during the operation phases of the project.

9. *Energy Conservation*

9.1. Give details of the power requirements, source of supply, backup source, etc. What is the energy consumption assumed per square foot of built-up area? How have you tried to minimize energy consumption?

9.2. What type of, and capacity of, power back-up to you plan to provide?

9.3. What are the characteristics of the glass you plan to use? Provide specifications of its characteristics related to both short wave and long wave radiation?

9.4. What passive solar architectural features are being used in the building? Illustrate the applications made in the proposed project.

9.5. Does the layout of streets and buildings maximise the potential for solar energy devices? Have you considered the use of street lighting, emergency lighting and solar hot water systems for use in the building complex? Substantiate with details.

9.6. Is shading effectively used to reduce cooling/heating loads? What principles have been used to maximise the shading of Walls on the East and the West and the Roof? How much energy saving has been effected/

9.7. Do the structures use energy-efficient space conditioning, lighting and mechanical systems? Provide technical details. Provide details of the transformers and motor efficiencies, lighting intensity and air-conditioning load assumptions? Are you using CFC and HCFC free chillers? Provide specifications.

9.8. What are the likely effects of the building activity in altering the micro-climates? Provide a self-assessment on the likely impacts of the proposed construction on creation of heat island and inversion effects?

9.9. What are the thermal characteristics of the building envelope? (*a*) roof; (*b*) external walls; and (*c*) fenestration? Give details of the material used and the U-values or the R-values of the individual components.

9.10. What precautions and safety measures are proposed against fire hazards? Furnish details of emergency plans.

9.11. If you are using glass as wall material provide details and specifications including emissivity and thermal characteristics.

9.12. What is the rate of air infiltration into the building? Provide details of how you are mitigating the effects of infiltration.

9.13. To what extent the non-conventional energy technologies are utilised in the overall energy consumption? Provide details of the renewable energy technologies used.

10. *Environment Management Plan*

The Environment Management Plan would consist of all mitigation measures for each itemwise activity to be undertaken during the construction, operation and the entire life

cycle to minimise adverse environmental impacts as a result of the activities of the project. It would also delineate the environmental monitoring plan for compliance of various environmental regulations. It will state the steps to be taken in case of emergency such as accidents at the site including fire.

APPENDIX III

(*See* paragraph 7)

GENERIC STRUCTURE OF ENVIRONMENTAL IMPACT ASSESSMENT DOCUMENT

Sl. No.	EIA Structure	Contents
1.	Introduction	• Purpose of the report • Identification of project and project proponent • Brief description of nature, size, location of the project and its importance to the country, region • Scope of the study—details of regulatory scoping out (As per Terms of Reference)
2.	Project Description	• Condensed description of those aspects of the project (based on project feasibility study), likely to cause environmental effects. Details should be provided to give clear picture of the following: • Type of project • Need for the project • Location (maps showing general location, specific location, project boundary and project site layout) • Size or magnitude of operation (including Associated activities required by or for the project) • Proposed schedule for approval and implementation • Technology and process description • Project description (including drawings showing project layout, components of project, etc.) Schematic representations of the feasibility drawings which give information important for EIA purpose • Description of mitigation measures incorporated into the project to meet environmental standards, environmental operating conditions, or other EIA requirements (as required by the scope) • Assessment of new and untested technology for the risk of technological failure
3.	Description of the Environment	• Study area, period, components and methodology • Establishment of baseline for valued environmental components, as identified in the scope • Base maps of all environmental components
4.	Anticipated Environmental Impacts and Mitigation Measures	• Details of Investigated Environmental impacts due to project location, possible accidents, project design, project construction, regular operations, final decommissioning or rehabilitation of a completed project • Measures for minimising and/or offsetting adverse impacts identified • Irreversible and Irretrievable commitments of environmental components

		• Assessment of significance of impacts (Criteria for determining significance, Assigning significance) • Mitigation measures
5.	Analysis of Alternatives (Technology and Site)	• In case, the scoping exercise results in need for alternatives • Description of each alternative • Summary of adverse impacts of each alternative • Mitigation measures proposed for each alternative, and • Selection of alternative
6.	Environmental Monitoring Program	• Technical aspects of monitoring the effectiveness of mitigation measures (incl. Measurement methodologies, frequency, location, data analysis, reporting schedules, emergency procedures, detailed budget and procurement schedules)
7.	Additional Studies	• Public Consultation • Risk assessment • Social Impact Assessment. R&R Action Plans
8.	Project Benefits	• Improvements in the physical infrastructure • Improvements in the social infrastructure • Employment potential—skilled; semi-skilled and unskilled • Other tangible benefits
9.	Environmental Cost Benefit Analysis	• If recommended at the Scoping stage
10.	EMP	• Description of the administrative aspects of ensuring that mitigative measures are implemented and their effectiveness monitored, after approval of the EIA
11.	Summary and Conclusion (This will constitute the summary of the EIA Report)	• Overall justification for implementation of the project • Explanation of how adverse effects have been mitigated
12.	Disclosure of Consultants engaged	• The names of the consultants engaged with their brief resume and nature of consultancy rendered

APPENDIX III-A

(*See* paragraph 7)

CONTENTS OF SUMMARY ENVIRONMENTAL IMPACT ASSESSMENT

The Summary EIA shall be a summary of the full EIA Report condensed to ten A-4 size pages at the maximum. It should necessarily cover in brief the following Chapters of the full EIA Report:—

1. Project Description
2. Description of the Environment
3. Anticipated Environmental impacts and mitigation measures
4. Environmental Monitoring Programme
5. Additional Studies
6. Project Benefits
7. Environment Management Plan

[1][APPENDIX IV

(*See* paragraph 7)

PROCEDURE FOR CONDUCT OF PUBLIC HEARING

1.0 The Public Hearing shall be arranged in a systematic, time bound and transparent manner ensuring widest possible public participation at the project site(s) or in its close proximity District-wise, by the concerned State Pollution Control Board (SPCB) or the Union Territory Pollution Control Committee (UTPCC).

2.0 *The Process*:

2.1 The applicant shall make a request through a simple letter to the Member-Secretary of the SPCB or Union Territory Pollution Control Committee, in whose jurisdiction the project is located, to arrange the public hearing within the prescribed statutory period. In case the project site is covering more than one District or State or Union Territory, the public hearing is mandated in each District, State or Union Territory in which the project is located and the applicant shall make separate requests to each concerned SPCB or UTPCC for holding the public hearing as per this procedure.

2.2 The applicant shall enclose with the letter of request, at least 10 hard copies and an equivalent number of soft (electronic) copies of the draft EIA Report with the generic structure given in Appendix III including the Summary Environment Impact Assessment report in English and in the official language of the state/local language, prepared strictly in accordance with the Terms of Reference communicated after Scoping (Stage-2). Simultaneously the applicant shall arrange to forward copies, one hard and one soft, of the above draft EIA Report alongwith the Summary EIA report to the following authorities or offices, within whose jurisdiction the project will be located:

(*a*) District Magistrate/District Collector/Deputy Commissioner/s

(*b*) Zila Parishad or Municipal Corporation or Panchayats Union

(*c*) District Industries Office

(*d*) Urban Local Bodies (ULBs)/PRIs Concerned/Development authorities

(*e*) Concerned Regional Office of the Ministry of Environment and Forests

2.3 On receiving the draft Environmental Impact Assessment report, the above-mentioned authorities except the Regional Office of MoEF, shall arrange to widely publicize it within their respective jurisdictions requesting the interested persons to send their comments to the concerned regulatory authorities. They shall also make available the draft EIA Report for inspection electronically or otherwise to the public during normal office hours till the Public Hearing is over.

2.4 The SPCB or UTPCC concerned shall also make similar arrangements for giving publicity about the project within the State/Union Territory and make available the Summary of the draft Environmental Impact Assessment report (Appendix III-A) for inspection in select offices or public libraries or any other suitable location, etc. They shall also additionally make available a copy of the draft Environmental Impact Assessment report to the above five authorities/offices as given in para. 2.2.

3.0 *Notice of Public Hearing*:

3.1 The Member-Secretary of the concerned SPCB or UTPCC shall finalise the date, time and exact venue for the conduct of public hearing within 7 (seven) days of the date of receipt of the draft Environmental Impact Assessment report from the project proponent, and advertise the same in one major National Daily and one Regional vernacular Daily/Official State Language. A minimum notice period of 30 (thirty) days shall be provided to the public for furnishing their responses;

3.2 The advertisement shall also inform the public about the places or offices where the public could access the draft Environmental Impact Assessment report and the Summary Environmental Impact Assessment report before the public hearing. In places where the newspapers do not reach, the Competent Authority should arrange to inform the local public about the public hearing by other means such as by way of beating of drums as well as advertisement/announcement on radio/television.

1. Substituted by S.O. 695(E), dated 6-4-2011.

3.3 No postponement of the date, time, venue of the public hearing shall be undertaken, unless some untoward emergency situation occurs and then only on the recommendation of the concerned District Magistrate/District Collector/Deputy Commissioner, the postponement shall be notified to the public through the same National and Regional vernacular dailies and also prominently displayed at all the identified offices by the concerned SPCB or Union Territory Pollution Control Committee;

[1][3.3 (*a*) In the event of any such postponement referred to in sub-paragraph 3.3, the time duration for convening the re-scheduled public hearing should not be less than forty-five days from the date of first advertisement already published in accordance to para 3.1 for initial date of public hearing and it shall be ensured that a minimum notice period of fifteen days shall be provided to the public before the re-scheduled date of the public hearing, for furnishing the responses in writing: Provided that SPCB or UTPCC along with concerned authorities, as mentioned at para 2.2, shall ensure that all requisite documents are available to public in accordance with sub-paragraphs 2.3 and 2.4 from the date of first advertisement published for the initial date of public hearing till convening of the rescheduled public hearing;]

3.4 In the above exceptional circumstances, fresh date, time and venue for the public consultation shall be decided by the Member-Secretary of the concerned SPCB or UTPCC only in consultation with the District Magistrate/District Collector/Deputy Commissioner and notified afresh as per procedure under 3.1 above.

4.0 *Supervision and Presiding over the Hearing*:

4.1 The District Magistrate/District Collector/Deputy Commissioner or his or her representative not below the rank of an Additional District Magistrate [1][or any other District Level Officer authorised by him or her in this behalf] assisted by a representative of SPCB or UTPCC, shall supervise and preside over the entire public hearing process:

[1][Provided that in case the project or activity is confined to the territorial jurisdiction of one sub-division, the District Magistrate/District Collector/Deputy Commissioner, as the case may be, may alternatively authorise any officer not below the rank of Sub-Divisional Magistrate to supervise and preside over the entire public hearing process assisted by a representative of SPCB or UTPCC, as the case may be.]

5.0 *Videography*:

5.1 The SPCB or UTPCC shall arrange to video film the entire proceedings. A copy of the videotape or a CD shall be enclosed with the public hearing proceedings while forwarding it to the Regulatory Authority concerned.

6.0 *Proceedings*:

6.1 The attendance of all those who are present at the venue shall be noted and annexed with the final proceedings.

6.2 There shall be no quorum required for attendance for starting the proceedings.

6.3 A representative of the applicant shall initiate the proceedings with a presentation on the project and the Summary EIA report.

6.4 Persons present at the venue shall be granted the opportunity to seek information or clarifications on the project from the applicant. The summary of the public hearing proceedings accurately reflecting all the views and concerns expressed shall be recorded by the representative of the SPCB or UTPCC and read over to the audience at the end of the proceedings explaining the contents in the local/vernacular language and the agreed minutes shall be signed by the District Magistrate/District Collector/Deputy Commissioner or his or her representative on the same day and forwarded to the SPCB/UTPCC concerned.

6.5 A Statement of the issues raised by the public and the comments of the applicant shall also be prepared in the local language or the Official State language, as the case may be, and in English and annexed to the proceedings.

6.6 The proceedings of the public hearing shall be conspicuously displayed at the office of the Panchayats within whose jurisdiction the project is located, office of the

1. Inserted by S.O. 2163(E), dated 9-5-2022.

concerned Zila Parishad, District Magistrate/District Collector/Deputy Commissioner, and the SPCB or UTPCC. The SPCB or UTPCC shall also display the proceedings on its website for general information. Comments, if any, on the proceedings, may be sent directly to the concerned regulatory authorities and the applicant concerned.

7.0 *Time period for completion of public hearing*:

7.1 The public hearing shall be completed within a period of forty-five days from date of receipt of the request letter from the applicant. Thereafter the SPCB or UTPCC concerned shall sent the public hearing proceedings to the concerned regulatory authority within eight days of the completion of the public hearing. Simultaneously, a copy will also be provided to the project proponent. The applicant may also directly forward a copy of the approved public hearing proceedings to the regulatory authority concerned alongwith the final Environmental Impact Assessment report or supplementary report to the draft EIA report prepared after the public hearing and public consultations incorporating the concerns expressed in the public hearing alongwith action plan and financial allocation, time-wise, to address those concerns.

7.2 If the SPCB or UTPCC fails to hold the public hearing within the stipulated 45 (forty-five) days, the Central Government in Ministry of Environment and Forests for Category "A" project or activity and the State Government or Union Territory Administration for Category "B" project or activity at the request of the SEIAA, shall engage any other agency or authority to complete the process, as per procedure laid down in this notification.]

APPENDIX V

(*See* paragraph 7)

PROCEDURE PRESCRIBED FOR APPRAISAL

1. The applicant shall apply to the concerned regulatory authority through a simple communication enclosing the following documents where public consultations are mandatory:—

- Final Environment Impact Assessment Report [20 (twenty) hard copies and 1 (one) soft copy)]
- A copy of the video tape or CD of the public hearing proceedings
- A copy of final layout plan (20 copies)
- A copy of the project feasibility report (1 copy)

2. The Final EIA Report and the other relevant documents submitted by the applicant shall be scrutinised in office within 30 days from the date of its receipt by the concerned regulatory authority strictly with reference to the TOR and the inadequacies noted shall be communicated electronically or otherwise in a single set to the Members of the EAC/ SEAC enclosing a copy each of the Final EIA Report including the public hearing proceedings and other public responses received alongwith a copy of Form 1 or Form 1-A and scheduled date of the EAC/SEAC meeting for considering the proposal.

[1][3. Where a public consultation is not mandatory, the appraisal shall be made on the basis of the prescribed application Form 1 and EIA report, in the case of all projects and activities other than Item 8 of the Schedule. In the case of Item 8 of the Schedule, considering its unique project cycle, the EAC or SEAC concerned shall appraise projects or activities on the basis of Form 1, Form 1-A, conceptual plan and the EIA report [required only for projects listed under 8(*b*)] and make recommendations on otherwise and also stipulate the conditions for environmental clearance.]

4. Every application shall be placed before the EAC/SEAC and its appraisal completed within 60 days of its receipt with requisite documents/details in the prescribed manner.

5. The applicant shall be informed at least 15 (fifteen) days prior to the scheduled date of the EAC/SEAC meeting for considering the project proposal.

6. The minutes of the EAC/SEAC meeting shall be finalised within 5 working days of the meeting and displayed on the website of the concerned regulatory authority. In case the project of activity is recommended for grant of EC, then the minutes shall clearly list out the specific environmental safeguards and conditions. In case the recommendations are for rejection, the reasons for the same shall also be explicitly stated.

1. Substituted by S.O. 156(E), dated 25-1-2012.

APPENDIX VI

(*See* paragraph 5)

COMPOSITION OF THE SECTOR/PROJECT SPECIFIC EXPERT APPRAISAL COMMITTEE (EAC) FOR CATEGORY A PROJECTS AND THE STATE/UT LEVEL EXPERT APPRAISAL COMMITTEES (SEACs) FOR CATEGORY B PROJECTS TO BE CONSTITUTED BY THE CENTRAL GOVERNMENT

1. The Expert Appraisal Committees EAC(s) and the State/UT Level Expert Appraisal Committees (SEACs) shall consist of only professionals and experts fulfilling the following eligibility criteria:

Professional.—The person should have at least (*i*) 5 years of formal University training in the concerned discipline leading to a MA/MSc Degree, or (*ii*) in case of Engineering/Technology/Architecture disciplines, 4 years formal training in a professional training course together with prescribed practical training in the field leading to a B.Tech/B.E./B.Arch. Degree, or (*iii*) Other professional degree (*e.g.*, Law) involving a total of 5 years of formal University training and prescribed practical training, or (*iv*) prescribed apprenticeship/articleship and pass examinations conducted by the concerned professional association (*e.g.*, Chartered Accountancy), or (*v*) a University degree, followed by 2 years of formal training in a University or Service Academy (*e.g.* MBA/IAS/IFS). In selecting the individual professionals, experience gained by them in their respective fields will be taken note of.

Expert.—A professional fulfilling the above eligibility criteria with at least 15 years of relevant experience in the field, or with an advanced degree (*e.g.* Ph.D.) in a concerned field and at least 10 years of relevant experience.

Age.—Below 70 years. However, in the event of the non-availability of/paucity of experts in a given field the maximum age of a member of the Expert Appraisal Committee may be allowed up to 75 years.

[1][2. The Members of the EAC shall be Experts with the requisite expertise and experience in the following fields or disciplines. In the event that persons fulfilling the criteria of "Experts" are not available, professionals in the same field with sufficient experience may be considered:

- *Environment Quality.*—Experts in measurement, monitoring, analysis and interpretation of data in relation to environmental quality.
- *Sectoral Project Management.*—Experts in Project Management or Management of Process or Operations or Facilities in the relevant sectors.
- *Environmental Impact Assessment Process.*—Experts in conducting and carrying out Environmental Impact Assessments (EIAs) and preparation of Environment Management Plans (EMPs) and other Management Plans and who have wide expertise and knowledge of predictive techniques and tools used in the EIA process.
- Risk Assessment
- Life Science (Floral and Faunal Management)
- Forestry and Wildlife
- Environmental Economics Expert with experience in project appraisal
- Public Administration or Management]

3. The Membership of the EAC shall not exceed 15 (fifteen) regular Members. However, the Chairperson may co-opt an expert as a Member in a relevant field for a particular meeting of the Committee.

[2][***]

5. The Chairperson shall nominate one of the Members as the Vice-Chairperson who shall preside over the EAC in the absence of the Chairman/Chairperson.

6. A representative of the Ministry of Environment and Forests shall assist the Committee as its Secretary.

7. The maximum tenure of a Member, including Chairperson, shall be for 2 (two) terms of 3 (three) years each:

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1. Substituted by S.O. 1737(E), dated 11-10-2007.
2. Omitted by S.O. 1737(E), dated 11-10-2007.

[1][Provided that wherever considered necessary and expedient, the Central Government may extend the term of such member for a further period not exceeding [2][twelve months].]

8. The Chairman/Members may not be removed prior to expiry of the tenure without cause and proper enquiry.

[3][APPENDIX VII

(*See* paragraph 3-A)

QUALIFICATIONS AND TERMS FOR THE EXPERTS IN DEIAA AND DEAC

1. *Qualification.*—The person should have at least (*i*) 5 years of formal University training in the concerned discipline leading to a MA or M Sc Degree or, (*ii*) in case of Engineering/Technology/Architectural discipline, 4 years formal training course together with prescribed practical training in the field leading to a B. Tech/B.E./B. Arch. Degree, or (*iii*) Other professional degree (*e.g.*, MBA, etc.) involving a total of 5 years of formal University training and prescribed practical training, or (*iv*) Prescribed apprenticeship/article ship and pass examinations conducted by the concerned professional associations (*e.g.*, Chartered Accountancy) or (*v*) a University degree, followed by two years of formal training in a University or Service Academy (*e.g.*, MBA/ MPA, etc.). In selecting the individual professionals, experience gained by them in their respective fields will be taken note of.

2. *Expert.*—A professional fulfilling the above eligibility criteria with at least 10 years of relevant experience in the field or with an advanced degree (*e.g.*, Ph. D) in a concerned field with at least 5 years of relevant experience.

3. *Age.*—Below 70 years. However, in the event of non-availability of paucity of experts in a given field, the maximum age of a member may be allowed up to 75 years.

4. Fields: Experts in Mining, Geology, Hydrology, Remote Sensing, Environment Quality, Environment Impact Assessment Process, Risk Assessment, Life Sciences, Marine Sciences, Forestry and Wildlife, Environmental Economics, Bio-diversity, and River Ecology.

5. *Tenure.*—The maximum tenure of expert members shall be for two terms of three years each.

6. The Expert Members may not be removed prior to expiry of the tenure without cause and proper enquiry.

APPENDIX VIII

(*See* paragraph 6)

FORM 1-M

APPLICATION FOR MINING OF MINOR MINERALS UNDER CATEGORY 'B-2' FOR LESS THAN AND EQUAL TO FIVE HECTARE

(*I*) Basic Information

(*i*) Name of the Mining Lease site:

(*ii*) Location/site (GPS Co-ordinates):

(*iii*) Size of the Mining Lease (Hectare):

(*iv*) Capacity of Mining Lease (TPA):

(*v*) Period of Mining Lease:

(*vi*) Expected cost of the Project:

(*vii*) Contact Information:

1. Inserted by S.O. 1562(E), dated 21-5-2020.
2. Substituted by S.O. 3752(E), dated 20-10-2020.
3. Inserted by S.O. 141(E), dated 15-1-2016.

Sl. No.	Environmental Sensitivity Areas	Distance in kilometer/Details
1.	Distance of project site from nearest rail or road bridge over the concerned River, Rivulet, Nallah, etc.	
2.	Distance from infrastructural facilities	
	Railway line	
	National Highway	
	State Highway	
	Major District Road	
	Any Other Road	
	Electric transmission line pole or tower	
	Canal or check dam or reservoirs or lake or ponds	
	In-take for drinking water pump house	
	Intake for Irrigation canal pumps	
3.	Areas protected under international conventions, national or local legislation for their ecological, landscape, cultural or other related value	
4.	Areas which are important or sensitive for ecological reasons—Wetlands, watercourses or other water bodies, coastal zone, biospheres, mountains, forests	
5.	Areas used by protected, important or sensitive species of flora or fauna for breeding, nesting, foraging, resting, over wintering, migration	
6.	Inland, coastal, marine or underground waters	
7.	State, National boundaries	
8.	Routes or facilities used by the public for access to recreation or other tourist, pilgrim areas	
9.	Defence installations	
10.	Densely populated or built-up area, distance from nearest human habitation	
11.	Areas occupied by sensitive man-made land uses (hospitals, schools, places of worship, community facilities)	
12.	Areas containing important, high quality or scarce resources (ground water resources, surface resources, forestry, agriculture, fisheries, tourism, minerals)	
13.	Areas already subjected to pollution or environmental damage. (those where existing legal environmental standards are exceeded)	
14.	Areas susceptible to natural hazard which could cause the project to present environmental problems (earthquakes, subsidence, landslides, erosion, flooding or extreme or adverse climatic conditions)	

15.	Is proposed mining site located over or near fissure/fracture for ground water recharge
16.	Whether the proposal involves approval or clearance under the following Regulations or Acts, namely:— (*a*) The Forest (Conservation) Act, 1980; (*b*) The Wildlife (Protection) Act, 1972; (*c*) The Coastal Regulation Zone Notification, 2011. If yes, details of the same and their status to be given.
17.	Forest land involved (hectares)
18.	Whether there is any litigation pending against the project and/or land in which the project is propose to be set up? (*a*) Name of the Court (*b*) Case No. (*c*) Orders or directions of the Court, if any, and its relevance with the proposed project.

.....

(Signature of Project Proponent
Alongwith name and address)

[1][APPENDIX IX

EXEMPTION OF CERTAIN CASES FROM REQUIREMENT OF ENVIRONMENTAL CLEARANCE

The following cases shall not require Prior Environmental Clearance, namely:—

1. Extraction of ordinary clay or sand by manual mining, by the Kumhars (Potter) to prepare earthen pots, lamp, toys, etc., as per their customs.

2. Extraction of ordinary clay or sand by manual mining, by earthen tile makers who prepare earthen tiles.

3. Removal of sand deposits on agricultural field after flood by farmers.

4. Customary extraction of sand and ordinary earth from sources situated in Gram Panchayat for personal use or community work in village.

5. Community works, like, de-silting of village ponds or tanks, construction of village roads, ponds or bunds undertaken in Mahatma Gandhi National Rural Employment and Guarantee Schemes, other Government sponsored schemes and community efforts.

[2][6. Extraction or sourcing or borrowing of ordinary earth for the linear projects such as roads, pipelines, etc., shall be subject to the compliance of standard operating procedures and environmental safeguards issued in this regard from time to time.

7. Dredging and de-silting of dams, reservoirs, weirs, barrages, river and canals for the purpose of their maintenance, upkeep and disaster management shall be subject to the compliance of environmental safeguards issued in the regard from time to time.]

8. Traditional occupational work of sand by Vanjara and Oads in Gujarat vide notification number GU/90(16)/MCR-2189(68)/5-CHH, dated the 14th February, 1990 of the Government of Gujarat.

9. Manual extraction of lime shells (dead shell), shrines, etc., within inter tidal zone by the traditional community.

10. Digging of wells for irrigation or drinking water purpose.

11. Digging of foundation for buildings, not requiring prior environmental clearance, as the case may be.

12. Excavation of ordinary earth or clay for plugging of any breach caused in canal, nallah, drain, water body, etc., to deal with any disaster or flood like situation upon orders of the District Collector or District Magistrate or any other Competent Authority.

13. Activities declared by the State Government under legislations or rules as non-mining activity.]

1. Substituted by S.O. 1224(E), dated 28-3-2020.

[1][APPENDIX X

[*See* paragraph 7(*iii*)(*a*)]

I. PROCEDURE FOR PREPARATION OF DISTRICT SURVEY REPORT FOR SAND MINING OR RIVER BED MINING

The main objective of the preparation of District Survey Report (as per the Sustainable Sand Mining Guideline) is to ensure the following:—

Identification of areas of aggradations or deposition where mining can be allowed; and identification of areas of erosion and proximity to infrastructural structures and installations where mining should be prohibited and calculation of annual rate of replenishment and allowing time for replenishment after mining in that area.

The report shall have the following structure:—

(1) Introduction;

(2) overview of Mining Activity in the District;

(3) the List of Mining Leases in the District with location, area and period of validity;

(4) details of Royalty or Revenue received in last three years;

(5) detail of Production of Sand or Bajri or minor mineral in last three years;

(6) process of Deposition of Sediments in the rivers of the District;

(7) general Profile of the District;

(8) land Utilization Pattern in the district: Forest, Agriculture, Horticulture, Mining, etc.;

(9) physiography of the District;

(10) rainfall: month-wise;

(11) geology and Mineral Wealth.

In addition to the above, the report shall contain the following:—

(*a*) District wise detail of river or stream and other sand source;

(*b*) District wise availability of sand or gravel or aggregate resources;

(*c*) District wise detail of existing mining leases of sand and aggregates.

A survey shall be carried out by the District Environment Impact Assessment Authority with the assistance of Geology Department or Irrigation Department or Forest Department or Public Works Department or Ground Water Boards or Remote Sensing Department or Mining Department etc. in the district.

Drainage system with description of main rivers

Sl. No.	Name of the River	Area drained (Sq. Km)	% Area drained in the District
(1)			
(2)			

Salient Features of Important Rivers and Streams:

S. No.	Name of the River or Stream	Total Length in the District (in Km)	Place of origin	Altitude at Origin
(1)				
(2)				

1. Substituted by S.O. 3611(E), dated 25-7-2018.

Portion of the River or Stream Recommended for Mineral Concession	Length of area recommended for mineral concession (in kilometer)	Average width of area recommended for mineral concession (in meters)	Area recommended for mineral concession (in square meter)	Mineable mineral potential (in metric tonne) (60% of total mineral potential)

Mineral Potential

Boulder (MT)	Bajari (MT)	Sand (MT)	Total Mineable Mineral Potential (MT)

Annual Deposition

Sl. No.	River or Stream	Portion of the river or stream recommended for mineral concession	Length of area recommended for mineral concession (in kilometer)	Average width of area recommended for mineral concession (in meters)	Area recommended for mineral concession (in square meter)	Mineable mineral potential (in metric tonne) (60% of total mineral potential)
(1)						
(2)						
Total for the District						

A Sub-Divisional Committee comprising of (*i*) Sub-Divisional Magistrate, (*ii*) Officers from (*a*) Irrigation department, (*b*) State Pollution Control Board or Committee, (*c*) Forest department, (*d*) Geology or mining officer shall visit each site for which environmental clearance has been applied for and make recommendation on suitability of site for mining or prohibition thereof.

Methodology adopted for calculation of Mineral Potential.—The mineral potential is calculated based on field investigation and geology of the catchment area of the river or streams. As per the site conditions and location, depth of minable mineral is defined. The area for removal of the mineral in a river or stream can be decided depending on geo-morphology and other factors, it can be 50 % to 60 % of the area of a particular river or stream. For Example, in some hill States mineral constituents like boulders, river born Bajri, sand up to a depth of one meter are considered as resource mineral. Other constituents like clay and silt are excluded as waste while calculating the mineral potential of particular river or stream.

The District Survey Report shall be prepared in the district and its draft shall be placed in the public domain by keeping its copy in Collectorate and posting it on the district's website for twenty-one days. The comments received shall be considered and

if found correct, shall be incorporated in the final Report to be finalised within six months by the District Environment Impact Assessment Authority.

The District Survey Report shall form the basis for application for environmental clearance, preparation of reports and appraisal of projects. The Report shall be updated once every five years.

II. PROCEDURE FOR PREPARATION OF DISTRICT SURVEY REPORT OF MINOR MINERALS OTHER THAN SAND MINING OR RIVER BED MINING

The District Survey Report shall be prepared for each minor mineral in the district separately and its draft shall be placed in the public domain by keeping its copy in Collectorate and posting it on district's website for twenty-one days. The comments received shall be considered and if found fit, shall be incorporated in the final Report to be finalised within six months by the DEIAA.

The District Survey Report for minor minerals other than sand mining or River bed mining shall be as per structure mentioned below:—

FORMAT FOR PREPARATION OF DISTRICT SURVEY REPORT FOR MINOR MINERALS OTHER THAN SAND MINING OR RIVER BED MINING

(1) Introduction;

(2) overview of Mining Activity in the District;

(3) general Profile of the District;

(4) geology of the District;

(5) drainage of Irrigation pattern;

(6) land Utilisation Pattern in the District: Forest, Agricultural, Horticultural, Mining, etc.;

(7) surface Water and Ground Water scenario of the district;

(8) rainfall of the district and climatic condition;

(9) details of the mining leases in the District as per the following format:—

Sl. No.	Name of the Mineral	Name of the Lessee	Address & Contact No. of Lessee	Mining lease Grant Order No. & date	Area of Mining lease (ha)	Period of Mining lease (Initial)		Period of Mining lease (1st/2nd....renewal)	
						From	To	Form	To
1	2	3	4	5	6	7	8	9	10

Date of commencement of Mining Operation	Status (Working/Non-Working/Temp. Working for dispatch, etc.)	Captive/ Non-Captive	Obtained Environmental Clearance (Yes/No), If Yes Letter No with date of grant of EC.	Location of the Mining lease (Latitude & Longitude)	Method of Mining (Opencast/ Underground)
11	12	13	14	15	16

(10) details of Royalty or Revenue received in last three years;

(11) details of Production of Minor Mineral in last three years;

(12) mineral Map of the District;

(13) list of Letter of Intent (LOI) Holders in the District along with its validity as per the following format:—

(14) total Mineral Reserve available in the District;

Sl. No.	Name of the Mineral	Name of the Lessee	Address & Contact No. of Letter of Intent Holder	Letter of Intent Grant Order No. & date	Area of Mining lease to be allotted	Validity of LoI	Use (Captive/ Non-Captive)	Location of the Mining lease (Latitude & Longitude)
1	2	3	4	5	6	7	8	9

(15) quality/Grade of Mineral available in the District;

(16) use of Mineral;

(17) demand and Supply of the Mineral in the last three years;

(18) mining leases marked on the map of the district;

(19) details of the area of where there is a cluster of mining leases viz. number of mining leases, location (latitude and longitude);

(20) details of Eco-Sensitive Area, if any, in the District;

(21) impact on the Environment (Air, Water, Noise, Soil, Flora & Fauna, land use, agriculture, forest etc.) due to mining activity;

(22) remedial Measures to mitigate the impact of mining on the Environment;

(23) reclamation of Mined out area (best practice already implemented in the district, requirement as per rules and regulation, proposed reclamation plan);

(24) risk Assessment & Disaster Management Plan;

(25) details of the Occupational Health issues in the District. (Last five-year data of number of patients of Silicosis & Tuberculosis is also needs to be submitted);

(26) plantation and Green Belt development in respect of leases already granted in the District;

(27) any other information.

The District Environment Impact Assessment Authority (DEIAA) based on the nature and type of minor mineral in the District may include the additional parameters in the District Survey Report in consultation with the Department of Mines and Geology of the concerned State Government.

The District Survey Report shall form the basis for application for environmental clearance, preparation of reports and appraisal of projects. The Report shall be updated once every five years.]

APPENDIX XI

[*See* paragraph 7(*iii*)(*b*)]

PROCEDURE FOR ENVIRONMENTAL CLEARANCE FOR MINING OF MINOR MINERALS INCLUDING CLUSTER

The following policy shall be followed for environmental clearance of mining of minor minerals including cluster situation:—

(1) The data provided by the States (Sustainable Sand Mining Guidelines) shows that most of the mining leases for minor minerals are of lease area less than 5 hectare. It is also reported that in hill States getting a stretch in river with area more than 5 hectare is very uncommon. So the size of lease for minor minerals including river sand mining will be determined by the States as per their circumstances.

(2) The mining of minor minerals is mostly in clusters. The Environment Impact Assessment or Environment Management Plan are required to be prepared for the entire cluster in order to capture all the possible externalities. These reports shall capture carrying capacity of the cluster, transportation and related issues, replenishment and recharge issues, geo-hydrological study of the cluster area. The Environment Impact Assessment or Environment Management Plan shall be prepared by the State or State nominated Agency or group of project proponents in the Cluster or the project proponent in the cluster.

(3) There shall be one public consultation for entire cluster after which the final Environment Impact Assessment or Environment Management Plan report for the cluster shall be prepared.

(4) Environmental clearance shall be applied for and issued to the individual project proponent. The individual lease holders in cluster can use the same Environment Impact Assessment or Environment Management Plan for application for environmental clearance. The cluster Environment Impact Assessment or Environment Management Plan shall be updated as per need keeping in view any significant change.

(5) The details of cluster Environment Impact Assessment or Environment Management Plan shall be reflected in each environmental clearance in that cluster and DEAC, SEAC, and EAC shall ensure that the mitigative measures emanating from the Environment Impact Assessment or Environment Management Plan study are fully reflected as environmental clearance conditions in the environmental clearance's of individual project proponents in that cluster.

[1][(6) A cluster shall be formed when the distance between the peripheries of one lease is less than 500 meters from the periphery of other lease in a homogeneous mineral area which shall be applicable to the mine leases or quarry licenses granted on and after 9th September, 2013.]

(7) Form 1-M, Pre-Feasibility Report and mine plan for Category 'B2' projects for mining of minor minerals shall be prepared by the Registered Qualified Person or Accredited Consultants of Quality Council of India, National Accreditation Board for Education and Training. The Environment Impact Assessment or Environment Management Plan for Category 'A' and Category 'B1' projects shall be prepared by the accredited consultants of Quality Council of India, National Accreditation Board for Education and Training.

(8) The SEIAAs shall have supervisory jurisdiction over the DEIAAs and decisions of DEIAA shall be reviewed by the SEIAA without prejudice to any provisions under any existing law.

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1. Substituted by S.O. 2269(E), dated 1-7-2016.

[1][SCHEMATIC PRESENTATION OF REQUIREMENTS ON ENVIRONMENTAL CLEARANCE OF MINOR MINERALS INCLUDING CLUSTER SITUATION IN APPENDIX XI

Area of Lease (Hectare)	Category of Project	Requirement of EIA / EMP/ DSR	Requirement of Public Hearing	Requirement of EC	Who can prepare EIA/ EMP	Who will apply for EC	Authority to appraise/ grant EC	Authority to monitor EC compliance
EC Proposal of Sand Mining and other Minor Mineral Mining on the basis of individual mine lease								
0 . 5ha	'B2'	Form 1-M, PFR, DSR and Approved Mine Plan	No	Yes	Project Proponent	Project Proponent	DEAC/ DEIAA	DEIAA SEIAA SPCB CPCB MoEFCC Agency nominated by MoEFCC
> 5 ha and < 25 ha	'B2'	Form 1, PFR, DSR and Approved Mine Plan and EMP	No	Yes	Project Proponent	Project Proponent	SEAC/ SEIAA	
≥ 25 ha and ≤ 100ha	'B1'	Form 1, PFR, DSR and Approved Mine Plan and EIA and EMP	Yes	Yes	Project Proponent	Project Proponent	SEAC/ SEIAA	
> 100 ha	'A'	Form 1, PFR, DSR and Approved Mine Plan and EIA and EMP	Yes	Yes	Project Proponent	Project Proponent	EAC/ MoEFCC	
EC Proposal of Sand Mining and other Minor Mineral Mining in cluster situation								
Cluster area of mine leases up to 5 ha	'B2'	Form 1-M, PFR, DSR and Approved Mine Plan	No	Yes	State, State Agency, Group of Project Proponents, Project Proponent	Project Proponent	DEAC/ DEIAA	DEIAA/ SEIAA SPCB CPCB MoEFCC Agency nominated by MoEFCC
Cluster area of Mine leases > 5 ha and < < 25 ha with no individual lease > 5 ha	'B2'	Form 1, PFR, DSR and Approved Mine Plan and one EMP for all leases in the Cluster	No	Yes	State, State Agency, Group of Project Proponents, Project Proponent	Project Proponent	DEAC/ DEIAA/	
Cluster of Mine leases of area > 5 ha and < 25 ha with any individual lease < 5 ha	'B2'	Form 1, PFR, DSR and Approved Mine Plan and one EMP for all leases in the Cluster	No	Yes	State, State Agency, Group of Project Proponents, Project Proponent	Project Proponent	SEAC/ SEIAA	

1. Substituted by S.O. 3977(E), dated 14-8-2018.

Cluster of Mine leases of area ≥ 25 hectares with individual lease size ≤ 100 ha	'B2'	Form 1, PFR, DSR and Approved Mine Plan and one EIA/EMP for all leases in the Cluster	Yes	Yes	State, State Agency, Group of Project Proponents, Project Proponent	Project Proponent	SEAC/ SEIAA	
Cluster of any size with any of the individual lease > 100ha	'A'	Form 1, PFR, DSR and Approved Mine Plan and one EIA/EMP for all leases in the Cluster	Yes	Yes	State, State Agency, Group of Project Proponents, Project Proponent	Project Proponent	EAC/ MoEFCC]	

[1][*Note.*—(1) In the State of Rajasthan, for mining of minor minerals, in situation of a large number of leases or quarry licenses of very small size (up to one hectare each) in contiguous area, the Mines and Geology Department of the State Government shall,—

(*A*) define the size of cluster as per local situation for effective formulation and implementation of mine plan and Environment Management Plan;

(*B*) prepare mine plan and an Environment Management Plan for the cluster;

(*C*) prepare a Regional Mine Plan and Regional Environment Management Plan including all the clusters in that contiguity.

(*D*) provide for mobilistation of funds from the Project Proponents in predetermined proportion for implementation of cluster and Regional Environment Management Plan.

(2) The District Mineral Fund can also be used to augment the fund for implementation of Environment Management Plans.

(3) The Environment Management Plan shall be prepared and presented within ninety days from the date of publication of this notification in the Official Gazette for environment clearance granted on or after 15th January, 2016 to any lease in that cluster. The recommendation of the State Expert Appraisal Committee and approval of the State Environment Impact Assessment Authority shall be granted within sixty days of presentation of the Environment Management Plan.

(4) The implementation of the Environment Management Plan shall begin within six months from the date of publication of this notification in the Official Gazette. The Environment Management Plan shall be monitored at the interval of six months by the concerned State Environment Impact Assessment Authority.

(5) The leases not operative for three years or more and leases which have got environmental clearance as on 15th January, 2016 shall not be counted for calculating the area of cluster, but shall be included in the Environment Management Plan and the Regional Environmental Management Plan.]

APPENDIX XII

[*See* paragraph 10(*iv*)]

PROCEDURE FOR MONITORING OF SAND MINING OR RIVER BED MINING

1. The security feature of Transport Permit shall be as under:

(*a*) Printed on Indian Banks' Association (IBA) approved Magnetic Ink Character Recognition (MICR) Code paper.

(*b*) Unique Barcode.

(*c*) Unique Quick Response (QR) code.

(*d*) Fugitive Ink Background.

(*e*) Invisible Ink Mark.

(*f*) Void Pantograph.

(*g*) Watermark.

1. Inserted by S.O. 2269(E), dated 1-7-2016.

2. Requirement at Mine Lease Site:

(*a*) *Small Size Plot (Up to 5 hectare)*: Android Based Smart Phone.

(*b*) Large Size Plots (More than 5 hectare): CCTV camera, Personal Computer (PC), Internet Connection, Power Back up.

(*c*) Access control of mine lease site.

(*d*) Arrangement for weight or approximation of weight of mined out mineral on basis of volume of the trailer of vehicle used.

3. Scanning of Transport Permit or Receipt and Uploading on Server:

(*a*) *Website.*—Scanning of receipt on mining site can be done through barcode scanner and computer using the software;

(*b*) *Android Application.*—Scanning on mining site can be done using Android Application using smart phone. It will require internet availability on SIM card;

(*c*) *SMS.*—Transport Permit or Receipt shall be uploaded on server even by sending SMS through mobile. Once Transport Permit or Receipt get uploaded, an unique invoice code gets generated with its validity period.

4. *Proposed working of the system.*—The State Mining Department should print the Transport Permit or Receipt with security features enumerated at Paragraph 1 above and issue them to the mine lease holder through the District Collector. Once these Transport Permits or Receipts are issued, they would be uploaded on the server against that mine lease area. Each receipt should be preferably with pre-fixed quantity, so the total quantity gets determined for the receipts issued.

When the Transport Permit or Receipt barcode gets scanned and invoice is generated, that particular barcode gets used and its validity time is recorded on the server. So all the details of transporting of mined out material can be captured on the server and the Transport Permit or Receipt cannot be reused.

5. *Checking On Route.*—The staff deployed for the purpose of checking of vehicles carrying mined mineral should be in a position to check the validity of Transport Permit or Receipt by scanning them using website, Android Application and SMS.

6. *Breakdown of Vehicle.*—In case the Vehicle breakdown, the validity of Transport Permit or Receipt shall be extended by sending SMS by driver in specific format to report breakdown of vehicle. The server will register this information and register the breakdown. The State can also establish a call centre, which can register breakdowns of such vehicles and extend the validity period. The subsequent restart of the vehicle also should be similarly reported to the server or call centre.

7. *Tracking of Vehicles.*—The route of vehicle from source to destination can be tracked through the system using check points, RFID Tags, and GPS tracking.

8. *Alerts or Report Generation and Action Review.*—The system will enable the authorities to develop periodic report on different parameters like daily lifting report, vehicle log or history, lifting against allocation, and total lifting. The system can be used to generate auto mails or SMS. This will enable the District Collector or District Magistrate to get all the relevant details and shall enable the authority to block the scanning facility of any site found to be indulged in irregularity. Whenever any authority intercepts any vehicle transporting illegal sand, it shall get registered on the server and shall be mandatory for the officer to fill in the report on action taken. Every intercepted vehicle shall be tracked.

The monitoring of mined out mineral, environmental clearance conditions and enforcement of Environment Management Plan will be ensured by the DEIAA, SEIAA and the State Pollution Control Board or Committee. The monitoring arrangements envisaged above shall be put in place not later than three months. The monitoring of enforcement of environmental clearance conditions shall be done by the Central Pollution Control Board, Ministry of Environment, Forest and Climate Change and the agency nominated by the Ministry for the purpose.]

[1][APPENDIX XIII

VERIFICATION OF NO INCREASE IN POLLUTION LOAD

The instant amendment in EIA Notification exempts the requirement of Prior Environmental Clearance for any increase in production capacity in respect of processing or production or manufacturing sectors (listed against item numbers 2, 3, 4 and 5 in the Schedule to this notification) with or without any change in (*i*) raw material-mix or (*ii*) product-mix or (*ii*) quantities within products or (*ii*) number of products including new products falling in the same category or (*iv*) configuration of the plant or process or operations in existing area or in areas contiguous to the existing area specified in the environmental clearance of the project. This facility is available to those units which have obtained prior environmental clearance under EIA Notification, 1994 and EIA Notification, 2006. To claim exemption from obtaining Prior Environment Clearance in respect of such cases, the project proponent shall follow the following process:—

1. The project proponent is required to obtain a certificate of "no increase in the pollution load" from the environmental auditors or reputed institutions, to be empanelled by the State Pollution Control Board or Central Pollution Control Board or Ministry of Environment, Forest and Climate Change (hereinafter referred to as the Ministry).

2. A copy of "no increase in pollution load" certificate and intimation, as provided by the Ministry from time to time on PARIVESH portal, shall be uploaded by the unit for which system generated acknowledgement shall be issued online;

3. The unit shall inform the State Pollution Control Board or Union Territory Pollution Control Committee, as the case may be, in specified format along with—

(*i*) "no increase in pollution load" certificate from the Environmental Auditor or reputed institutions empanelled by the State Pollution Control Board or Pollution Control Committee or Central Pollution Control Board or Ministry;

(*ii*) last Consent to Operate certificate for the project or activity; and

(*iii*) online system generated acknowledgement of uploading of intimation and "no increase in pollution load" certificate on PARIVESH Portal;

4. The information so received shall be examined by the State Pollution Control Board or Union Territory Pollution Control Committee, as the case may be, who shall take decision on such information, received from the project proponent.

5. If on verification the State Pollution Control Board or Union Territory Pollution Control Committee, as the case may be, holds that the change or expansion or modernisation will result or has resulted in increase in pollution load, the exemption claimed under this clause shall not be valid and it shall be deemed that the project proponent was liable to obtain Prior Environmental Clearance before under taking such changes or increase, as per the clause (*a*) of sub-paragraph (*ii*) of paragraph 7 of this notification and the provisions of Environment (Protection) Act, 1986 shall apply accordingly.

Note.—For removal of doubts, it is clarified that it shall be the responsibility of the project proponent to satisfy itself about "no increase in pollution load" as a result of changes, expansion or modernisation, as the case may be, before under taking such changes or increase, and the project proponent shall be liable for action under the provisions of the Environment (Protection) Act, 1986 if on verification of facts or claim it is found that such change or expansion or modernisation involves increase in pollution load.]

1. Substituted by S.O. 980(E), dated 2-3-2021.

[1][APPENDIX XIV

ENVIRONMENTAL CONDITIONS FOR BUILDINGS AND CONSTRUCTIONS

(CATEGORY "1": 5,000 to less than 20,000 Square meters)

MEDIUM	Sl. No.	ENVIRONMENTAL CONDITIONS
Topography and Natural Drainage	1	The natural drain system should be maintained for ensuring unrestricted flow of water. No construction shall be allowed to obstruct the natural drainage through the site. No construction is allowed on wetland and water bodies. Check dams, bioswales, landscape, and other sustainable urban drainage systems (SUDS) are allowed for maintaining the drainage pattern and to harvest rain water.
Water Conservation, Rain Water Harvesting, and Ground Water Recharge	2	Use of water efficient appliances shall be promoted. The local bye-law provisions on rain water harvesting should be followed. If local bye-law provision is not available, adequate provision for storage and recharge should be followed as per the Ministry of Urban Development Model Building Bye-Laws, 2016. A rain water harvesting plan needs to be designed where the recharge bores (minimum one recharge bore per 5,000 square meters of built up area) is recommended. Storage and reuse of the rain water harvested should be promoted. In areas where ground water recharge is not feasible, the rain water should be harvested and stored for reuse. The ground water shall not be withdrawn without approval from the Competent Authority. All recharge should be limited to shallow aquifer.
	2(*a*)	At least 20% of the open spaces as required by the local building bye-laws shall be pervious. Use of Grass pavers, paver blocks with at least 50% opening, landscape, etc., would be considered as pervious surface.
Waste Management	3	*Solid waste*: Separate wet and dry bins must be provided in each unit and at the ground level for facilitating segregation of waste. *Sewage*: In areas where there is no municipal sewage network, onsite treatment systems should be installed. Natural treatment systems which integrate with the landscape shall be promoted. As far as possible treated effluent should be reused. The excess treated effluent shall be discharged following the CPCB norms. Sludge from the onsite sewage treatment, including septic tanks, shall be collected, conveyed and disposed as per the Ministry of Urban

1. Inserted by S.O. 3999(E), dated 9-12-2016.

		Development, Central Public Health and Environmental Engineering Organisation (CPHEEO) Manual on Sewerage and Sewage Treatment Systems, 2013. The provisions of the Solid Waste (Management) Rules, 2016 and the E-waste (Management) Rules, 2016, and the Plastics Waste (Management) Rules, 2016 shall be followed.
Energy	4	Compliance with the Energy Conservation Building Code (ECBC) of Bureau of Energy Efficiency shall be ensured. Buildings in the States which have notified their own ECBC, shall comply with the State ECBC. Outdoor and common area lighting shall be Light Emitting Diode (LED). Solar, wind or other Renewable Energy shall be installed to meet electricity generation equivalent to 1% of the demand load or as per the state level/ local building bye-laws requirement, whichever is higher. Solar water heating shall be provided to meet 20% of the hot water demand of the commercial and institutional building or as per the requirement of the local building bye-laws, whichever is higher. Residential buildings are also recommended to meet its hot water demand from solar water heaters, as far as possible. Concept of passive solar design that minimize energy consumption in buildings by using design elements, such as building orientation, landscaping, efficient building envelope, appropriate fenestration, increased day lighting design and thermal mass, etc., shall be incorporated in the building design. Wall, window, and roof u-values shall be as per ECBC specifications.
Air Quality and Noise	5	Dust, smoke & other air pollution prevention measures shall be provided for the building as well as the site. These measures shall include screens for the building under construction, continuous dust/wind breaking walls all around the site (at least 3 meter height). Plastic/tarpaulin sheet covers shall be provided for vehicles bringing in sand, cement, murram and other construction materials prone to causing dust pollution at the site as well as taking out debris from the site. Sand, murram, loose soil, cement, stored on site shall be covered adequately so as to prevent dust pollution.

		Wet jet shall be provided for grinding and stone cutting. Unpaved surfaces and loose soil shall be adequately sprinkled with water to suppress dust. All construction and demolition debris shall be stored at the site (and not dumped on the roads or open spaces outside) before they are properly disposed. All demolition and construction waste shall be managed as per the provisions of the Construction and Demolition Waste Rules, 2016. All workers working at the construction site and involved in loading, unloading, carriage of construction material and construction debris or working in any area with dust pollution shall be provided with dust mask. For indoor air quality the ventilation provisions as per National Building Code of India shall be made.
	5(*a*)	The location of the DG set and exhaust pipe height shall be as per the provisions of the CPCB norms.
Green Cover	6	A minimum of 1 tree for every 80 square meters of land should be planted and maintained. The existing trees will be counted for this purpose. Preference should be given to planting native species.
	6(*a*)	Where the trees need to be cut, compensatory plantation in the ratio of 1:3 (*i.e.*, planting of 3 trees for every 1 tree that is cut) shall be done and maintained.

(Category "2": 20,000 to less than 50,000 Square meters)

MEDIUM	Sl. No.	ENVIRONMENTAL CONDITIONS
Topography and Natural Drainage	1	The natural drain system should be maintained for ensuring unrestricted flow of water. No construction shall be allowed to obstruct the natural drainage through the site. No construction is allowed on wetland and water bodies. Check dams, bioswales, landscape, and other sustainable urban drainage systems (SUDS) are allowed for maintaining the drainage pattern and to harvest rain water. Buildings shall be designed to follow the natural topography as much as possible. Minimum cutting and filling should be done.
Water Conservation, Rain Water Harvesting, and Ground Water Recharge	2	A complete plan for rain water harvesting, water efficiency and conservation should be prepared. Use of water efficient appliances should be promoted with low flow fixtures or sensors. The local bye-law provisions on rain water harvesting should be followed. If local bye-law

		provision is not available, adequate provision for storage and recharge should be followed as per the Ministry of Urban Development Model Building Byelaws, 2016. A rain water harvesting plan needs to be designed where the recharge bores of minimum one recharge bore per 5,000 square meters of built up area and storage capacity of minimum one day of total fresh water requirement shall be provided. In areas where ground water recharge is not feasible, the rain water should be harvested and stored for reuse. The ground water shall not be withdrawn without approval from the Competent Authority. All recharge should be limited to shallow aquifer
	2(*a*)	At least 20% of the open spaces as required by the local building bye-laws shall be pervious. Use of Grass pavers, paver blocks with at least 50% opening, landscape, etc., would be considered as pervious surface.
Waste Management	3	*Solid waste*: Separate wet and dry bins must be provided in each unit and at the ground level for facilitating segregation of waste. *Sewage*: Onsite sewage treatment of capacity of treating 100% waste water to be installed. Treated waste water shall be reused on site for landscape, flushing, cooling tower, and other end-uses. Excess treated water shall be discharged as per CPCB norms. Natural treatment systems shall be promoted. Sludge from the onsite sewage treatment, including septic tanks, shall be collected, conveyed and disposed as per the Ministry of Urban Development, Central Public Health and Environmental Engineering Organisation (CPHEEO) Manual on Sewerage and Sewage Treatment Systems, 2013. The provisions of the Solid Waste (Management) Rules, 2016 and the E-waste (Management) Rules, 2016, and the Plastics Waste (Management) Rules, 2016 shall be followed.
	3(*a*)	All non-biodegradable waste shall be handed over to authorized recyclers for which a written tie up must be done with the authorized recyclers.
	3(*b*)	Organic waste compost/Vermiculture pit with a minimum capacity of 0.3 kg/person/day must be installed.

Energy	4	Compliance with the Energy Conservation Building Code (ECBC) of Bureau of Energy Efficiency shall be ensured. Buildings in the States which have notified their own ECBC, shall comply with the State ECBC. Outdoor and common area lighting shall be LED. Concept of passive solar design that minimize energy consumption in buildings by using design elements, such as building orientation, landscaping, efficient building envelope, appropriate fenestration, increased day lighting design and thermal mass, etc., shall be incorporated in the building design. Wall, window, and roof u-values shall be as per ECBC specifications.
	4(*a*)	Solar, wind or other Renewable Energy shall be installed to meet electricity generation equivalent to 1% of the demand load or as per the state level/ local building bye-laws requirement, whichever is higher.
	4(*b*)	Solar water heating shall be provided to meet 20% of the hot water demand of the commercial and institutional building or as per the requirement of the local building bye-laws, whichever is higher. Residential buildings are also recommended to meet its hot water demand from solar water heaters, as far as possible.
	4(*c*)	Use of environment friendly materials in bricks, blocks and other construction materials, shall be required for at least 20% of the construction material quantity. These include flyash bricks, hollow bricks, AACs, Fly Ash Lime Gypsum blocks, Compressed earth blocks, and other environment friendly materials. Fly ash should be used as building material in the construction as per the provisions of the Fly Ash Notification of September, 1999 as amended from time to time.
Air Quality and Noise	5	Dust, smoke & other air pollution prevention measures shall be provided for the building as well as the site. These measures shall include screens for the building under construction, continuous dust/wind breaking walls all around the site (at least 3 meter height). Plastic/tarpaulin sheet covers shall be provided for vehicles bringing in sand, cement, murram and other construction materials prone to causing dust pollution at the site as well as taking out debris from the site.

		Sand, murram, loose soil, cement, stored on site shall be covered adequately so as to prevent dust pollution. Wet jet shall be provided for grinding and stone cutting. Unpaved surfaces and loose soil shall be adequately sprinkled with water to suppress dust. All construction and demolition debris shall be stored at the site (and not dumped on the roads or open spaces outside) before they are properly disposed. All demolition and construction waste shall be managed as per the provisions of the Construction and Demolition Waste Rules, 2016. All workers working at the construction site and involved in loading, unloading, carriage of construction material and construction debris or working in any area with dust pollution shall be provided with dust mask. For indoor air quality the ventilation provisions as per National Building Code of India.
	5(*a*)	The location of the DG set and exhaust pipe height shall be as per the provisions of the CPCB norms.
Green Cover	6	A minimum of 1 tree for every 80 sq.mt. of land should be planted and maintained. The existing trees will be counted for this purpose. Preference should be given to planting native species.
	6(*a*)	Where the trees need to be cut, compensatory plantation in the ratio of 1:3 (*i.e.*, planting of 3 trees for every 1 tree that is cut) shall be done and maintained.
Top Soil preservation and reuse	7	Topsoil should be stripped to a depth of 20 cm from the areas proposed for buildings, roads, paved areas, and external services. It should be stockpiled appropriately in designated areas and reapplied during plantation of the proposed vegetation on site.
Transport	8	A comprehensive mobility plan, as per MoUD best practices guidelines (URDPFI), shall be prepared to include motorized, non-motorized, public, and private networks. Road should be designed with due consideration for environment, and safety of users. The road system can be designed with these basic criteria. 1. Hierarchy of roads with proper segregation of vehicular and pedestrian traffic. 2. Traffic calming measures. 3. Proper design of entry and exit points. 4. Parking norms as per local regulation.

(Category "3": 50000 to 150000 m2)

MEDIUM	Sl. No.	ENVIRONMENTAL CONDITIONS
Topography and Natural Drainage	1	The natural drain system should be maintained for ensuring unrestricted flow of water. No construction shall be allowed to obstruct the natural drainage through the site. No construction is allowed on wetland and water bodies. Check dams, bioswales, landscape, and other sustainable urban drainage systems (SUDS) are allowed for maintaining the drainage pattern and to harvest rain water. Buildings shall be designed to follow the natural topography as much as possible. Minimum cutting and filling should be done.
Water conservation, Rain Water Harvesting, and Ground Water Recharge	2	A complete plan for rain water harvesting, water efficiency and conservation should be prepared. The local bye-law provisions on rain water harvesting should be followed. If local bye-law provisions are not available, adequate provision for storage and recharge should be followed as per the Ministry of Urban Development Model Building Bye-Laws, 2016. A rain water harvesting plan needs to be designed where the recharge bores of minimum one recharge bore per 5,000 square meters of built up area and storage capacity of minimum one day of total fresh water requirement shall be provided. In areas where ground water recharge is not feasible, the rain water should be harvested and stored for reuse. The ground water shall not be withdrawn without approval from the Competent Authority. All recharge should be limited to shallow aquifer.
	2(*a*)	At least 20% of the open spaces as required by the local building bye-laws shall be pervious. Use of Grass pavers, paver blocks with at least 50% opening, landscape, etc., would be considered as pervious surface.
	2(*b*)	Use of water efficient appliances should be promoted. Low flow fixtures or sensors be used to promote water conservation.
	2(*c*)	Separation of grey and black water should be done by the use of dual plumbing system. In case of single stack system separate recirculation lines for flushing by giving dual plumbing system be done.

Solid Waste Management	3	*Solid waste*: Separate wet and dry bins must be provided in each unit and at the ground level for facilitating segregation of waste. The provisions of the Solid Waste (Management) Rules, 2016 and the E-waste (Management) Rules, 2016, and the Plastics Waste (Management) Rules, 2016 shall be followed.
	3(*a*)	All non-biodegradable waste shall be handed over to authorized recyclers for which a written tie up must be done with the authorized recyclers.
	3(*b*)	Organic waste composter/Vermiculture pit with a minimum capacity of 0.3 kg/person/day must be installed.
Sewage Treatment Plant	4	Onsite sewage treatment of capacity of treating 100% waste water to be installed. Treated waste water shall be reused on site for landscape, flushing, cooling tower, and other end-uses. Excess treated water shall be discharged as per CPCB norms. Natural treatment systems shall be promoted. Sludge from the onsite sewage treatment, including septic tanks, shall be collected, conveyed and disposed as per the Ministry of Urban Development, Central Public Health and Environmental Engineering Organisation (CPHEEO) Manual on Sewerage and Sewage Treatment Systems, 2013.
Energy	5	Compliance with the Energy Conservation Building Code (ECBC) of Bureau of Energy Efficiency shall be ensured. Buildings in the States which have notified their own ECBC, shall comply with the State ECBC. Outdoor and common area lighting shall be LED. Concept of passive solar design that minimize energy consumption in buildings by using design elements, such as building orientation, landscaping, efficient building envelope, appropriate fenestration, increased day lighting design and thermal mass, etc., shall be incorporated in the building design. Wall, window, and roof u-values shall be as per ECBC specifications.
	5(*a*)	Solar, wind or other Renewable Energy shall be installed to meet electricity generation equivalent to 1% of the demand load or as per the state level/ local building bye-laws requirement, whichever is higher.

	5(*b*)	Solar water heating shall be provided to meet 20% of the hot water demand of the commercial and institutional building or as per the requirement of the local building bye-laws, whichever is higher. Residential buildings are also recommended to meet its hot water demand from solar water heaters, as far as possible.
	5(*c*)	Use of environment friendly materials in bricks, blocks and other construction materials, shall be required for at least 20% of the construction material quantity. These include flyash bricks, hollow bricks, AACs, Fly Ash Lime Gypsum blocks, Compressed earth blocks, and other environment friendly materials. Fly ash should be used as building material in the construction as per the provisions of the Fly Ash Notification of September, 1999 as amended from time to time.
Air Quality and Noise	6	Dust, smoke & other air pollution prevention measures shall be provided for the building as well as the site. These measures shall include screens for the building under construction, continuous dust/wind breaking walls all around the site (at least 3 meter height). Plastic/tarpaulin sheet covers shall be provided for vehicles bringing in sand, cement, murram and other construction materials prone to causing dust pollution at the site as well as taking out debris from the site. Wheel washing for the vehicles used be done. Sand, murram, loose soil, cement, stored on site shall be covered adequately so as to prevent dust pollution. Wet jet shall be provided for grinding and stone cutting. Unpaved surfaces and loose soil shall be adequately sprinkled with water to suppress dust. All construction and demolition debris shall be stored at the site (and not dumped on the roads or open spaces outside) before they are properly disposed. All demolition and construction waste shall be managed as per the provisions of the Construction and Demolition Waste Rules, 2016. All workers working at the construction site and involved in loading, unloading, carriage of construction material and construction debris or working in any area with dust pollution shall be provided with dust mask. For indoor air quality the ventilation provisions as per National Building Code of India.

	6(*a*)	The location of the DG se and exhaust pipe height shall be as per the provisions of the CPCB norms.
Green Cover	7	A minimum of 1 tree for every 80 sq.mt. of land should be planted and maintained. The existing trees will be counted for this purpose. Preference should be given to planting native species.
	7(*a*)	Where the trees need to be cut, compensatory plantation in the ratio of 1:3 (*i.e.*, planting of 3 trees for every 1 tree that is cut) shall be done and maintained.
Top Soil Preservation and Reuse	8	Topsoil should be stripped to a depth of 20 cm from the areas proposed for buildings, roads, paved areas, and external services. It should be stockpiled appropriately in designated areas and reapplied during plantation of the proposed vegetation on site.
Transport	9	A comprehensive mobility plan, as per MoUD best practices guidelines (URDPFI), shall be prepared to include motorized, non-motorized, public, and private networks. Road should be designed with due consideration for environment, and safety of users. The road system can be designed with these basic criteria. 1. Hierarchy of roads with proper segregation of vehicular and pedestrian traffic. 2. Traffic calming measures. 3. Proper design of entry and exit points. 4. Parking norms as per local regulation.
Environment Management Plan	10	An environmental management plan (EMP) shall be prepared and implemented to ensure compliance with the environmental conditions specified in item number 1 to 9 above. A dedicated Environment Monitoring Cell with defined functions and responsibility shall be put in place to implement the EMP. The environmental cell shall ensure that the environment infrastructure like Sewage Treatment Plant, Landscaping, Rain Water Harvesting, Energy efficiency and conservation, water efficiency and conservation, solid waste management, renewable energy, etc., are kept operational and meet the required standards. The environmental cell shall also keep the record of environment monitoring and those related to the environment infrastructure.

[1][APPENDIX

ENVIRONMENTAL CONDITIONS FOR BUILDINGS AND CONSTRUCTIONS

(CATEGORY: Building or Construction projects or Area Development projects and Townships ≥ 20,000 to <50,000 Square meters as well as for industrial sheds, educational institutions, hospitals and hostels for educational institutions from 20,000 sq.m to <1,50,000 sq.m)

Sl. No. (1)	MEDIUM (2)	ENVIRONMENTAL CONDITIONS (3)
1	Topography and Natural Drainage	The natural drain system shall be maintained for ensuring unrestricted flow of water. No construction shall be allowed to obstruct the natural drainage through the site. No construction is allowed on wetland and water bodies. Check dams, bio-swales, landscape, and other sustainable urban drainage systems (SUDS) are allowed for maintaining the drainage pattern and to harvest rain water. Buildings shall be designed to follow the natural topography as much as possible. Minimum cutting and filling should be done.
2	Water Conservation, Rain Water Harvesting and Ground Water Recharge	A complete plan for rain water harvesting, water efficiency and conservation should be prepared and implemented. Use of water efficient appliances should be promoted with low flow fixtures or sensors. The local bye-law provisions on rain water harvesting should be followed. If local bye-law provision is not available, adequate provision for storage and recharge should be followed as per the Ministry of Urban Development Model Building Bye-laws, 2016. A rain water harvesting plan needs to be designed where the recharge bores of minimum one recharge bore per 5,000 square meters of built up area and storage capacity of minimum one day of total fresh water requirement shall be provided. In areas where ground water recharge is not feasible, the rain water should be harvested and stored for reuse. The ground water shall not be withdrawn without approval from the Competent Authority. All recharge should be limited to shallow aquifer.
2(*a*)		At least 20 per cent of the open spaces as required by the local building bye-laws shall be pervious. Use of Grass pavers, paver blocks, landscape, etc., with at least 50 per cent opening in paving which would be considered as pervious surface.
3	Waste Management	*Solid waste:* Separate wet and dry bins must be provided in each unit and at the ground level for facilitating segregation of waste.

1. Inserted by S.O. 5733(E), dated 14-11-2018.

		Sewage: On site sewage treatment of capacity of treating 100 per cent waste water to be installed. Treated waste water shall be reused on site for landscape, flushing, cooling tower, and other end-uses. Excess treated water shall be discharged as per statutory norms notified by Ministry of Environment, Forest and Climate Change. Natural treatment systems shall be promoted. Sludge from the on site sewage treatment, including septic tanks, shall be collected, conveyed and disposed as per the Ministry of Urban Development, Central Public Health and Environmental Engineering Organisation (CPHEEO) Manual on Sewerage and Sewage Treatment Systems, 2013. The provisions of the Solid Waste (Management) Rules, 2016 and the E-waste (Management) Rules, 2016, and the Plastics Waste (Management) Rules, 2016 shall be followed.
3(*a*)		All non-biodegradable waste shall be handed over to authorized recyclers for which a written tie up must be done with the authorized recyclers.
3(*b*)		Organic waste compost/Vermiculture pit with a minimum capacity of 0.3 kg per person per day must be installed.
4	Energy	Compliance with the Energy Conservation Building Code (ECBC) of Bureau of Energy Efficiency shall be ensured. Buildings in the States which have notified their own ECBC, shall comply with the State ECBC. Outdoor and common area lighting shall be Light Emitting Diode (LED). Concept of passive solar design that minimize energy consumption in buildings by using design elements, such as building orientation, landscaping, efficient building envelope, appropriate fenestration, increased day lighting design and thermal mass, etc., shall be incorporated in the building design. Wall, window, and roof u-values shall be as per ECBC specifications.
4(*a*)		Solar, wind or other Renewable Energy shall be installed to meet electricity generation equivalent to 1 per cent of the demand load or as per the state level/local building bye-laws requirement, whichever is higher.
4(*b*)		Solar water heating shall be provided to meet 20 per cent of the hot water demand of the commercial and institutional building or as per the requirement of the local building bye-laws, whichever is higher. Residential buildings are also recommended to meet its hot water demand from solar water heaters, as far as possible.

4(*c*)		Use of environment friendly materials in bricks, blocks and other construction materials, shall be required for at least 20 per cent of the construction material quantity. These include flyash bricks, hollow bricks, Autoclaved Aerated Concrete (AAC), Fly Ash Lime Gypsum blocks, Compressed earth blocks, and other environment friendly materials. Fly ash should be used as building material in the construction as per the provisions of the Fly Ash Notification, S.O. 763(E), dated 14th September, 1999 as amended from time to time.
5	Air Quality and Noise	Roads leading to or at construction sites must be paved and blacktopped (*i.e.*, metallic roads). No excavation of soil shall be carried out without adequate dust mitigation measures in place. No loose soil or sand or Construction & Demolition Waste or any other construction material that causes dust shall be left uncovered. Wind-breaker of appropriate height, *i.e.*, 1/3rd of the building height and maximum up to 10 meters shall be provided. Water sprinkling system shall be put in place. Dust mitigation measures shall be displayed prominently at the construction site for easy public viewing. Grinding and cutting of building materials in open area shall be prohibited. Construction material and waste should be stored only within earmarked area and road side storage of construction material and waste shall be prohibited. No uncovered vehicles carrying construction material and waste shall be permitted. Construction and Demolition Waste processing and disposal site shall be identified and required dust mitigation measures be notified at the site Dust, smoke and other air pollution prevention measures shall be provided for the building as well as the site. Wet jet shall be provided for grinding and stone cutting. Unpaved surfaces and loose soil shall be adequately sprinkled with water to suppress dust. All demolition and construction waste shall be managed as per the provisions of the Construction and Demolition Waste Rules, 2016. All workers working at the construction site and involved in loading, unloading, carriage of construction material and construction debris or working in any area with dust pollution shall be provided with dust mask. For indoor air quality the ventilation provisions as per National Building Code of India.

5(*a*)		The location of the Genset and exhaust pipe height shall be as per the provisions of the statutory norms notified by Ministry of Environment, Forest and Climate Change. The Genset installed for the project shall follow the emission limits, noise limits and general conditions notified by Ministry of Environment, Forest and Climate Change *vide* G.S.R. 281(E), dated 7th March 2016 as amended from time to time.
6	Green Cover	A minimum of 1 tree for every 80 sq.mt. of land should be planted and maintained. The existing trees will be counted for this purpose. Preference should be given to planting native species.
6(*a*)		Where the trees need to be cut, compensatory plantation in the ratio of 1:3 (*i.e.*, planting of 3 trees for every 1 tree that is cut) shall be done and maintained.
7	Top Soil preservation and reuse	Top soil should be stripped to a depth of 20 cm from the areas proposed for buildings, roads, paved areas, and external services. It should be stockpiled appropriately in designated areas and reapplied during plantation of the proposed vegetation on site.
8	Transport	The building plan shall be aligned with the approved comprehensive mobility plan (as per Ministry of Housing and Urban Affairs best practices guidelines (URDPFI)).]

APPENDIX XV

ACCREDITATION OF ENVIRONMENTAL AUDITORS (QUALIFIED BUILDING AUDITORS)

The Ministry of Environment, Forest and Climate Change (MoEFCC), through qualified agencies shall accredit the Qualified Building Environment Auditors (QBEAs). The Qualified Building Environment Auditors could be a firm/organization or an individual expert, who fulfils the requirements. The Ministry will implement this process of accreditation through Quality Council of India (QCI), National Productivity Council or any other organization identified by the Government. The organizations like Indian Green Building Council, Bureau of Energy Efficiency, etc., can also be associated in the process of accreditation, training, and renewal. The environmental consultants accredited by the QCI for building sector will be qualified as QBEAs. The QBEAs will meet the following criteria. The accrediting agency can improvise on these criteria.

Qualifications of the Auditor:

(*a*) *Education*: Architect (Degree or Diploma), Town Planners (Degree), Civil Engineer/Mechanical Engineer (Degree or Diploma), PG in Environmental Science or any other qualification as per the scheme of the accreditation.

(*b*) *Training:* Mandatory training to be given by the accreditation body or their approved training providers. This will be as per the scheme of the accreditation.

(*c*) *Experience:* At least 3 years of work experience in the related field or building sector Environment Impact Assessment consultants accredited by QCI or any other experience criteria as per the scheme of the accreditation.

(*d*) *Infrastructure and equipment:* As per the scheme of the accreditation

(*e*) *Renewal:* The accreditation will be valid for 5 years and will be renewed as per the process developed under the accreditation scheme.

Accountability/Complaint redressal mechanism: Any complaints regarding the quality of the work of QBEAs shall be made to the accreditation body. The accreditation body shall evaluate the complaint and take appropriate action including black listing or cancellation of the accreditation with wide public notice. This will be in addition to the action at the level of local authority for penalty and blacklisting. The Ministry can also take such action in case of specific complaint or feedback.

APPENDIX XVI

Environmental Cell at the level of Local Authority: An Environmental Cell shall be setup at the local authority level to support compliance and monitoring of environmental conditions in buildings. The Cell shall also provide assistance in environmental planning and capacity building within their jurisdiction. The responsibility of this cell would be monitoring the implementation of this notification and providing an oversight to the Third-Party Auditing process. The cell will operate under the local authority.

Constitution of the cell: The cell will comprise of at least 3 dedicated experts in following fields:

(*a*) Waste management (solid and liquid)

(*b*) Water conservation and management

(*c*) Resource efficiency including Building materials

(*d*) Energy Efficiency and renewable energy

(*e*) Environmental planning including air quality management.

(*f*) Transport planning and management.

The Cell shall induct at least two outside experts as per the requirements and background of dedicated experts. Existing environmental cells at the level of local authority can be co-opted and trained for this Cell.

Financial Support: An additional fee may be charged along with processing fee for building permission for integrating environmental conditions and it's monitoring. The local authority can fix and revise this additional fee from time to time. The amount of this fee shall be deposited in a separate bank account, and used for meeting the requirement of salary/emoluments of experts and running the system of online application, verifications and the Environmental Cell.

Functions of the Cell:

1. The cell shall be responsible for assessing and appraising the environmental concerns of the area under their jurisdiction where building activities are proposed. The Cell can evolve and propose additional environmental conditions as per requirements. These conditions may be area specific and shall be notified in advance from time to time. These additional conditions shall be approved following a due consultation process. These environmental conditions will be integrated in building permissions by the sanctioning authority.

2. Develop and maintain an online system for application and payment of fees. The Cell shall maintain an online database of all applications received, projects approved, the compliance audit report, random inspections made. The Cell shall maintain a portal for public disclosure of project details including self certification and compliance audit reports filed by the Qualified Building Environment Auditors for public scrutiny of compliance of environmental conditions by the project.

3. Monitoring the work of Environmental Audit process carried by the Qualified Building Auditors.

4. The Cell shall review the applications; finalize the additional environmental conditions if required within 30 days of the submission of the application to the local authority.

5. The Cell shall adopt risk based random selection of projects for verifying on site for certification of QBA, compliance of environmental conditions and five yearly audit report.

6. The Cell shall recommend to the local authority for financial penalty for non-compliance of environmental conditions by the project proponent.

7. The Cell shall recommend to the accrediting body and the local authority against any Qualified Building Environment Auditor, if any lapse is found in their work.]

Exhibit - GG

MINISTRY OF ENVIRONMENT & FORESTS
(Department of Environment, Forests and Wildlife)

NOTIFICATION UNDER SECTION 3(1) AND SECTION 3(2)(v) OF THE ENVIRONMENT (PROTECTION) ACT, 1986 AND RULE 5(3)(d) OF THE ENVIRONMENT (PROTECTION) RULES, 1986 DECLARING COASTAL STRETCHES AS COASTAL REGULATION ZONE (CRZ) AND REGULATING ACTIVITIES IN THE CRZ.

New Delhi, the 19th February, 1991
[as amended up to 15th May, 2009 except S.O.635 (E)]

S.O.1 14 (E). - Whereas a Notification under Section 3(1) and Section 3(2)(v) of the Environment (Protection) Act, 1986, inviting objections against the declaration of Coastal Stretches as Coastal Regulation Zone (CRZ) and imposing restrictions on industries, operations and processes in the CRZ was published vide S.O. No.944 (E) dated 15th December, 1990.

And whereas all objections received have been duly considered by the Central Government;

Now, therefore, in exercise of the powers conferred by Clause (d) of sub-rule (3) of Rule 5 of the Environment (Protection) Rules, 1986, and all other powers vesting in its behalf, the Central Government hereby declares the coastal stretches of seas, bays, estuaries, creeks, rivers and backwaters which are influenced by tidal action (in the landward side) upto 500 meters from the High Tide Line (HTL) and the land between the Low Tide Line (LTL) and the HTL as Coastal Regulation Zone; and imposes with effect from the date of this Notification, the following restrictions on the setting up and expansion of industries, operations or processes, etc. in the said Coastal Regulation Zone (CRZ).

(i) For the purposes of this notification, the High Tide Line means the line on the land upto which the highest water line reaches during the spring tide. The High Tide Line shall be demarcated uniformly in all parts of the country by the demarcating authority or authorities so authorized by the Central Government, in accordance with the general guidelines issued in this regard.[1,6.]

(ii) The distance from the High Tide Line shall apply to both sides in the case of rivers, creeks and backwaters and may be modified on a case to case basis for reasons to be recorded in writing while preparing the Coastal Zone Management Plans provided that this distance shall not be less than 100 meters or the width of the creek, river or backwaters, which ever is less. The distance up to which development along rivers, creeks and backwaters is to be regulated shall be governed by the distance up to which the tidal effects are experienced which shall be determined based on salinity concentration of 5 parts per thousand (ppt). For the purpose of this notification ,the salinity measurements shall be made during the driest period of the year and the distance upto which tidal effects are experienced shall be clearly identified and demarcated accordingly in the Coastal Zone Management Plans. (amended on 21st May 2002)

2. Prohibited Activities:

The following activities are declared as prohibited within the Coastal Regulation Zone, namely:

(i) Setting up of new industries and expansion of existing industries, except
   (a) [10] those directly related to water front or directly needing foreshore facilities
   (b) **Projects of Department of Atomic Energy** and
   (c) non-polluting industries in the field of information technology and other service industries in the Coastal Regulation Zone of Special Economic Zones (SEZ) (amended on 21st May 2002)

provided that (a) facilities for generating power by non conventional energy sources and setting up of desalination plants may be permitted within the said zone in areas not classified as CRZ-I(i); and (b) construction of airstrips in the said zone in areas not classified as CRZ-I(i) may also be permitted in the Islands of Lakshadweep and Andaman & Nicobar by Government of India in the Ministry of Environment & Forests. (amended on 19th Oct 2002)

Provided further that the development of green field Airport at Navi Mumbai shall be undertaken subject to detailed scientific study for incorporating adequate environmental safeguard measures required for neutralizing damage to coastal environment as may be appropriate to the Navi Mumbai region. (amended on 15th May 2009)

(ii) Manufacture or handling or storage or disposal of hazardous substances as specified in the Notifications of the Government of India in the Ministry of Environment and Forests No. S.O. 594(E) dated 28th July 1989, S.O. 966(E) dated 27th November, 1989 and GSR 1037(E) dated 5th December, 1989; **except transfer of hazardous substances from ships to ports, terminals and refineries and vice versa in the port areas:[3]**

Provided that, facilities for receipt and storage of petroleum products and Liquefied Natural Gas as specified in Annexure -III appended to this notification and facilities for regasification of Liquefied Natural Gas, may be permitted within the said Zone in areas not classified as CRZ-I (i), subject to implementation of safety regulations including guidelines issued by the Oil Industry Safety Directorate in the Government of India, Ministry of Petroleum and Natural Gas and guidelines issued by the Ministry of Environment and Forests and subject to such further terms and conditions for implementation of ameliorative and restorative measures in relation to the environment as may be stipulated by the Government of India in the Ministry of Environment and Forests.

(iii) Setting up and expansion of fish processing units including warehousing (excluding hatchery and natural fish drying in permitted areas);

Provided that existing fish processing units for modernization purposes may utilize twenty five per cent additional plinth area required for additional equipment and pollution control measures only subject to existing Floor Space index/ Floor Area Ratio norms and subject to the condition that the additional plinth area shall not be towards seaward side of existing unit and also subject to the approval of State

Pollution Control Board or Pollution Control Committee.

(iv) Setting up and expansion of units/mechanism for disposal of waste and effluents, except facilities required for discharging treated effluents into the water course with approval under the Water (Prevention and Control of Pollution) Act, 1974; and except for storm water drains;

(v) Discharge of untreated wastes and effluents from industries, cities or towns and other human settlements. Schemes shall be implemented by the concerned authorities for phasing out the existing practices, if any, within a reasonable time period not exceeding three years from the date of this notification;

(vi) Dumping of city or town waste for the purposes of landfilling or otherwise; the existing practice, if any, shall be phased out within a reasonable time not exceeding three years from the date of this Notification;

(vii) Dumping of ash or any wastes from thermal power stations;

(viii) Land reclamation, bunding or disturbing the natural course of sea water except those required for construction **or modernization or expansion** of ports, harbors, jetties, wharves, quays, slipways, bridges and sea-links and for other facilities that are essential for activities permissible under the notification or for control of coastal erosion and maintenance or clearing of water ways, channels and ports or for prevention of sandbars or for tidal regulators, storm water drains or for structures for prevention of salinity ingress and sweet water recharge:
provided that reclamation for commercial purposes such as shopping and housing complexes, hotels and entertainment activities shall not be permissible;

(ix) Mining of sands, rocks and other substrata materials, except (a) those rare minerals not available outside the CRZ areas **and (b) exploration and extraction of Oil and Natural Gas**

Provided that in the Union Territory of the Andaman and Nicobar islands, mining of sands may be permitted by the Committee which shall be constituted by the Lieutenant Governor of the Andaman and Nicobar Islands consisting of Chief Secretary; Secretary, Department of Environment; Secretary, Department of Water Resources; and Secretary, Public Works Department. The said Committee may permit mining of sand from non- degraded areas for construction purposes from selected sites, in a regulated manner on a case to case basis, for a period upto the 30th day of September, 2002. The quantity of sand mined shall not exceed the essential requirements for completion of construction works including dwelling units, shops in respect of half yearly requirements of 2001-2002 and 2002-2003 annual plans. The permission for mining of sand may be given on the basis of a mining plan from such sites and in such quantity which shall not have adverse impacts on the environment.

(x) Harvesting or drawal of ground water and construction of mechanisms therefor within 200 m of HTL; in the 200m to 500m zone it shall be permitted only when done manually through ordinary wells for drinking, horticulture, agriculture and fisheries;

Provided that drawal of ground water is permitted, where no other source of water is available and when done manually through ordinary wells or hand pumps, for drinking and domestic purposes, in the zone between 50 to 200 m from High Tide Line in case of seas, bays and estuaries and within 200 m or the CRZ, whichever is less, from High Tide Line in case of rivers, creeks and backwaters subject to such restrictions as may be deemed necessary, in areas affected by sea water intrusion, that may be imposed by an authority designated by State Government/Union Territory Administration.

(xi) Construction activities in CRZ -I except as specified in Annexure -I of this notification;

(xii) Any construction activity between the Low Tide Line and High Tide Line except facilities for carrying treated effluents and waste water discharges into the sea, facilities for carrying sea water for cooling purposes, oil, gas and similar pipelines and facilities essential for activities permitted under this Notification; and

(xiii) Dressing or altering of sand dunes, hills, natural features including landscape changes for beautification, recreational and other such purpose, except as permissible under this Notification.

3. Regulation of Permissible Activities:

All other activities, except those prohibited in para 2 above, will be regulated as under:

(1) Clearance shall be given for any activity within the Coastal Regulation Zone only if it requires waterfront and foreshore facilities.

The assessment shall be completed within a period of ninety days from receipt of the requisite documents and data from the project authorities, and the decision shall be conveyed within thirty days thereafter. (amended on 21st May 2002)

(2) The following activities will require environmental clearance from the Ministry of Environment and Forests, Government of India, namely:

(i) Construction activities related to **projects of Department of Atomic Energy** or Defense requirements for which foreshore facilities are essential such as. slipways, jetties, wharves, quays; except for classified operational component of defense projects for which a separate procedure shall be followed. (Residential buildings, office buildings, hospital complexes, workshops shall not come within the definition of operational requirements except in very special cases and hence shall not normally be permitted in the CRZ);

(ia) the clearance granted shall be valid for a period of five years for the commencement of the construction or operation. (amended on 19th Oct 2002)

(ii) Operational constructions for ports, harbours and light houses and construction activities of jetties, wharves, quays, slip ways, pipelines and conveying system including transmission lines, provided that, environmental clearance in case of constructions or modernization or

expansion of jetties and wharves in the Union territory of Lakshadweep for providing embarkation and disembarkation facilities shall be on the basis of a report of scientific study conducted by the Central Government or any agency authorized or recognized by it suggesting environmental safeguard measures required to be taken for minimizing damage to corals and associated biodiversity." (amended on 30th May 2003)

(ii) a: Exploration and extraction of oil and natural gas and all associated activities and facilities thereto;

(iii) Thermal Power Plants (only foreshore facilities for transport of raw materials facilities for intake of cooling water and outfall for discharge of treated waste water/cooling water); and

(iii a) Housing schemes in CRZ area as specified in sub-paragraph (2) of paragraph 6;

(iii b) Mining of rare minerals;

(iii c) Specified activities/facilities in SEZ subject to one time approval by the Government of India in the Ministry of Environment and Forests to such activities based on the Master Plan of SEZ, spatial distribution of projects to be located in CRZ and such other information as may be required for the purpose. (amended on 21st May 2002)

(iii d) facilities for generating power by non conventional energy sources, desalination plants and weather radars;

(iiie) airstrips and associated facilities in Lakshadweep and Andaman and Nicobar Islands. (amended on 19th Oct 2002)

(iv) **Demolition or reconstruction of -**

I. buildings of archaeological or historical importance
II. heritage buildings; and
III. buildings under public use.

Explanation : - For the purpose of this clause iv, **'public use'** shall include use for purposes **of worship, education, medical care and cultural activities.**

(v) All other activities with investment of five crore rupees or more:

Provided that activities involving investment of less than five crore rupees shall be regulated by the concerned authorities at the State or Union territory level in accordance with the provision of sub-paragraph (2) of paragraph 6 of Annexure-I of this notification. (amended on 22nd April 2003)

(3) (i) The Coastal States and Union Territory Administrations shall prepare, within a period of one year from the date of this Notification, Coastal Zone Management Plans identifying and classifying the CRZ areas within their respective territories in accordance with the guidelines given in Annexures I and II of the Notification and obtain approval (with or without modifications) of the Central Government in the Ministry of Environment & Forests;

(ii) Within the framework of such approved plans, all development and

activities within the CRZ other than those covered in para 2 and para 3(2) above shall be regulated by the State Government, Union Territory Administration or the local authority as the case may be in accordance with the guidelines given in Annexure-I and II of the Notification; and

(iii) In the interim period till the Coastal Zone management Plans mentioned in para 3(3) (i) above are prepared and approved, all developments and activities within the CRZ shall not violate the provisions of this Notification. State Governments and Union Territory Administrations shall ensure adherence to these regulations and violations, if any, shall be subject to the provisions of the Environment (Protection) Act, 1986.

4. Procedure for monitoring and enforcement:

The Ministry of Environment & Forests and the Government of State or Union Territory and such other authorities at the State or Union Territory levels, as may be designated for this purpose, shall be responsible for monitoring and enforcement of the provisions of this notification within their respective jurisdictions.

ANNEXURE-I

COASTAL AREA CLASSIFICATION AND DEVELOPMENT REGULATIONS

Classification of Coastal Regulation Zone:

6(1) For regulating development activities, the coastal stretches within 500 meters of High Tide Line on the landward side are classified into four categories, namely:

Category I (CRZ-I):

(i) Areas that are ecologically sensitive and important, such as national parks/marine parks, sanctuaries, reserve forests, wildlife habitats, mangroves, corals/coral reefs, areas close to breeding and spawning grounds of fish and other marine life, areas of outstanding natural beauty / historically / 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 or the concerned authorities at the State/Union Territory level from time to time.

(ii) Area between Low Tide Line and the high Tide Line.

Category-II (CRZ-II):

The areas that have already been developed up to or close to the shoreline. For this purpose, "developed area" is referred to as that area within the municipal limits or in other legally designated urban areas which is already substantially built up and which has been provided with drainage and approach roads and other infrastructural facilities, such as water supply and sewerage mains.

Category-III (CRZ-III):

Areas that are relatively undisturbed and those which do not belong to either Category-I or II. These will include coastal zone in the rural areas (developed and undeveloped) and also areas within Municipal limits or in other legally designated urban areas which are not substantially built up.

Category-IV (CRZ-IV):

Coastal stretches in the Andaman & Nicobar, Lakshadweep and small islands, except those designated as CRZ-I, CRZ-II or CRZ-III.

Norms for Regulation of Activities:

6(2) The development or construction activities in different categories of CRZ area shall be regulated by the concerned authorities at the State/Union Territory level, in accordance with the following norms:

CRZ-I:

(i) **No new construction shall be permitted in CRZ- I except (a) Projects relating to Department of Atomic Energy and (b) Pipelines, conveying systems including transmission lines (c) facilities that are essential for activities permissible under CRZ-I** (d) operational construction of jetties, wharves or construction, development or modernization of jetties and wharves in the Union territory of Lakshadweep for providing embarkation or disembarkation facilities on the basis of a scientific study report conducted by the Central Government or any agency authorized or recognized by it suggesting environmental safeguard measures required to be taken for minimizing damage to corals and associated bio-diversity; (amended on 30th May 2003) and (e)installation of weather radar for monitoring of cyclone movement and prediction by Indian Meteorological Department. (amended on 19th Oct 2002)

Between the LTL and the HTL, activities as specified under paragraph 2 (xii) may be permitted. In addition, between LTL and HTL in areas which are not ecologically sensitive and important, the following may be permitted: (a) Exploration and extraction of Oil and Natural Gas, (b) activities as specified under proviso of sub-paragraphs (i) and (ii)**of paragraph 2, (c) Construction of dispensaries, schools, public rain shelters, community toilets, bridges, roads, jetties, water supply, drainage, sewerage which are required for traditional inhabitants of the Sunderbans Bio-sphere reserve area, West Bengal, on a case to case basis, by the West Bengal State Coastal Zone Management Authority (d) salt harvesting by solar evaporation of sea water.** (amended on 21st May 2002) "(e) desalination plants, and (f) storage of non hazardous cargo such as edible oil, fertilizers and food grain within notified ports" (amended on 19th Oct 2002) (g) development of green field airport and related activities at Navi Mumbai.(amended on 15th May 2009)

CRZ-II:

(i) Buildings shall be permitted **only on the landward side of the existing road (or roads approved in the Coastal Zone Management Plan of the area) or on the landward side of existing authorized structures.** Buildings permitted on the landward side of the existing and proposed roads/existing authorized structures shall be subject to the existing local Town and Country Planning Regulations including the existing norms of **Floor Space Index/Floor Area Ratio:**

Provided that no permission for construction of buildings shall be given on landward side of any new roads (except roads approved in the Coastal Zone Management Plan) which are constructed on the seaward side of an existing road.

Provided further that the above restrictions on construction, based on existing roads/authorised structures, roads proposed in the approved Coastal Zone Management Plans, new roads shall not apply to the housing schemes of State Urban Development Authorities implemented in phases for which construction activity was commenced prior to 19th February, 1991 in atleast one phase and all relevant approvals from State/Local Authorities were obtained prior to 19th February, 1991; in all such cases specific approval of the Ministry of Environment and Forests would be necessary on a case to case basis. (amended on 21st May 2002)

(ia) facilities for receipt and storage of petroleum products and liquefied natural gas as specified in Annexure-III appended to this notification and facilities for regasification of liquefied natural gas subject to the conditions as mentioned in para 2(ii).

(ib) desalination plants

(ic) storage of non hazardous cargo such as edible oil, fertilizers and food grain in notified ports.

(id) facilities for generating power by non conventional energy sources.

(ie) construction of airstrips and associated facilities in the Islands of Lakshadweep and Andaman and Nicobar. (amended on 19th Oct 2002)

(if) development of green field airport and related activities at Navi Mumbai. (amended on 15th May 2009)

(ii) Reconstruction of the authorized buildings to be permitted subject to the existing FSI/FAR norms and without change in the existing use.

(iii) The design and construction of buildings shall be consistent with the surrounding landscape and local architectural style.

CRZ-III:

(i) The area upto 200 meters from the High Tide Line is to be earmarked as 'No

Development Zone' provided that such area does not fall within any notified port limits or any notified Special Economic Zone. (amended on 21st May 2002) No construction shall be permitted within this zone except for repairs of existing authorized structures not exceeding existing FSI, existing plinth area and existing density, **and for permissible activities under the notification including facilities essential for such activities.** However, the following uses / activities may be permissible in this zone - agriculture, horticulture, gardens, pastures, parks, play fields, forestry, projects relating to the Department of Atomic Energy (ammended on 24th July 2003) mining of rare minerals (amended on 21st May 2002) and salt manufacture from sea water, facilities for receipt and storage of petroleum products and liquefied natural gas as specified in Annexure-III appended to this notification and facilities for regasification of liquefied natural gas subject to the conditions as mentioned in para 2(ii), facilities for generating power by non conventional energy sources, desalination plants, weather radars and construction of airstrips and associated facilities in the Islands of Lakshadweep and Andaman and Nicobar (amended on 19th Oct 2002)

(ia) Construction of dispensaries, schools, public rain shelters, community toilets, bridges, roads and provision of facilities for water supply, drainage, sewerage which are required for the local inhabitants may be permitted, on a case to case basis, by the Central Government or Coastal Zone Management Authority constituted for the State/Union Territory.

Provided that construction of units or ancillary thereto for domestic sewage treatment and disposal shall be permissible notwithstanding anything contained in sub-paragraph (iv) of paragraph 2 of this notification. (amended on 21st May 2002)

(ib). the No Development Zone may be reduced to a minimum of 50 mts in the identified stretches of the Islands in the Union Territory of Andaman and Nicobar Islands selected and declared by the Central Government for promotion of tourism, based on an integrated coastal zone management study conducted or commissioned by the Ministry of Environment & Forests (amended on 24th July 2003)

(ii) Development of vacant plots between 200 and 500 meters of High Tide Line in designated areas of CRZ-III with prior approval of Ministry of Environment and Forests (MEF) permitted for construction of hotels/beach resorts for temporary occupation of tourists/visitors subject to the conditions as stipulated in the guidelines at Annexure-II.

(iia) facilities for receipt and storage of petroleum products and liquefied natural gas as specified in Annexure-III appended to this notification and facilities for regasification of liquefied natural gas subject to the conditions as mentioned in para 2(ii).

(iib) storage of non hazardous cargo such as edible oil, fertilizers and food grain in notified ports.

(iic) desalination plants

(iid) facilities for generating power by non conventional energy sources.

(iie) construction of airstrips and associated facilities in the Islands of Lakshadweep and Andaman & Nicobar." (amended on 19th Oct 2002)

(iif) construction and operation of jetties in the Union territory of Lakshadweep. (amended on 30th May 2003)

(iii) Construction/reconstruction of dwelling units between 200 and 500 meters of the High Tide Line permitted so long it is within the ambit of traditional rights and customary uses such as existing fishing villages and *gaothans*. Building permission for such construction/reconstruction will be subject to the conditions that the total number of dwelling units shall not be more than twice the number of existing units; total covered area on all floors shall not exceed 33 percent of the plot size; the overall height of construction shall not exceed 9 meters and construction shall not be more than 2 floors ground floor plus one floor. **Construction is allowed for permissible activities under the notification including facilities essential for such activities. An authority designated by State Government/Union Territory Administration may permit construction of public rain shelters, community toilets, water supply, drainage, sewerage, roads and bridges. The said authority may also permit construction of schools and dispensaries, for local inhabitants of the area, for those panchayats the major part of which falls within CRZ if no other area is available for construction of such facilities.**

(iv) Reconstruction / alterations of an existing authorized building permitted subject to (i) to (iii) above.

(v) In notified SEZ, construction of non-polluting industries in the field of information technology and other service industries, desalination plants ,beach resorts and related recreational facilities essential for promotion of SEZ as approved in its Master Plan by SEZ Authority may be permitted. (amended on 21st May 2002)

(vi) development of green field airport and related activities at Navi Mumbai. (amended on 15th May 2009)

CRZ-IV:

Andaman & Nicobar Islands:

(i) No new construction of buildings shall be permitted within 200 meters of the HTL; except facilities for generating power by non conventional energy sources, desalination plants and construction of airstrips and associated facilities (amended on 19th Oct 2002)

(id) The No Construction Zone may be reduced to a minimum of 50 mts in the identified stretches of the Islands in the Union Territory of the Andaman and Nicobar Islands selected and declared by the Central Government for promotion of tourism, based on an integrated coastal zone management study conducted by the Ministry of Environment & Forests by itself or through any agency authorized by it in this behalf; (ammended on 24th July 2003)

(ii)The buildings between 50 and 500 meters from the High Tide Line shall not have more than 2 floors (ground floor and first floor),the total covered area on all floors shall not be more than 50 per cent of the plot size and the total height of construction shall not exceed 9 meters; (ammended on 24th July 2003)

(iii)The design and construction of buildings shall be consistent with the surrounding landscape and local architectural style.

(**iv) (a) Corals from the beaches and coastal waters shall not be used for construction and other purposes,**

(b) sand may be used from the beaches and coastal waters, only for construction purpose upto the 30th day of September 2002 and thereafter it shall not be used for construction and other purposes.

(iv)Dredging and underwater blasting in and around coral formations shall not be permitted; and

(v) However, in some of the islands, coastal stretches may also be classified into categories CRZ-I or II or III with the prior approval of Ministry of Environment and Forests and in such designated stretches, the appropriate regulations given for respective Categories shall apply.

Lakshadweep and small Islands:

(i) For permitting construction of buildings, the distance from the High Tide Line shall be decided depending on the size of the islands. This shall be laid down for each island, on the basis of integrated coastal zone management study and with approval of the Ministry of Environment & Forests, keeping in view the land use requirements for specific purposes vis-à-vis local conditions including hydrological aspects erosion and ecological sensitivity;

(ia) facilities for generating power by non conventional energy sources;

(ib) desalination plants;

(ic) construction of airstrips and associated facilities (amended on 19th Oct 2002)

(id) operational construction of jetties and wharves or construction, development or modernization of jetties and wharves on the basis of a scientific study conducted by the Central Government or any agency authorized or recognized by it on a case to case basis suggesting environmental safeguard measures required to be taken for minimizing damage to corals and associated biodiversity. (amended on 30th May 2003)

(ii) The buildings within 500 meters from the HTL shall not have more than 2 floors (ground floor and 1st floor), the total covered area on all floors shall not be more than 50 per cent of the plot size and the total height of construction shall not exceed 9 meters;

(iii) The design and construction of buildings shall be consistent with the surrounding landscape and local architectural style;

(iv) Corals and sand from the beaches and coastal waters shall not be used for construction and other purposes;

(v) Dredging and underwater blasting in and around coral formations shall not be permitted; and

(vi) However, in some of the islands, coastal stretches may also be classified into categories CRZ-I or II or III, with the prior approval of Ministry of Environment & Forests and in such designated stretches, the appropriate regulations given for respective Categories shall apply.

Annexure – II

GUIDELINES FOR DEVELOPMENT OF BEACH RESORTS/HOTELS IN THE DESIGNAED AREAS OF CRZ-III FOR TEMPORARY OCCUPATION OF TOURIST/VISITORS, WITH PRIOR APPROVAL OF THE MINISTRY OF ENVIRONMENT & FORESTS.

7(1) Construction of beach resorts/hotels with prior approval of MEF in the designated areas of CRZ-III for temporary occupation of tourists/visitors shall be subject to the following conditions:

(i) The project proponents shall not undertake any construction (including temporary constructions and fencing or such other barriers) within 200 metres (in the landward wide) from the High Tide Line and within the area between the Low Tide and High Tide Line;

(ia) live fencing and barbed wire fencing with vegetative cover may be allowed around private properties subject to the condition that such fencing shall in no way hamper public access to the beach;
(ib) no flattening of sand dunes shall be carried out;
(ic) no permanent structures for sports facilities shall be permitted except construction of goal posts, net posts and lamp posts.
(id) construction of basements may be allowed subject to the condition that no objection certificate is obtained from the State Ground Water Authority to the effect that such construction will not adversely affect free flow of ground water in that area. The State Ground Water Authority shall take into consideration the guidelines issued by the Central Government before granting such no objection certificate.

Explanation:
Though no construction is allowed in the no development zone for the purposes of calculation of FSI, the area of entire plot including 50% of the portion which falls within the no development zone shall be taken into account.

Provided further that construction for the purpose of tourism development may be permitted beyond 50 mts on the landward side of the High Tide Line in the Union Territories of the Andaman and Nicobar Islands and Lakshadweep Islands based on integrated coastal zone management study conducted by the Ministry of Environment & Forests by itself or through any agency authorized by it in this behalf. (ammended on 24th July 2003)

(ii) The total plot size shall not be less than 0.4 hectares and the total covered area on all floors shall not exceed 33 per cent of the plot size i.e. the FSI shall not exceed 0.33. Further, the total covered area of all the floors shall not be more than 50% of the plot size both in the Union Territory of

Andaman and Nicobar Islands and the Union Territory of Lakshadweep Islands. (ammended on 24th July 2003) The open area shall be suitably landscaped with appropriate vegetal cover;

(iii) The construction shall be consistent with the surrounding landscape and local architectural style;

(iv) The overall height of construction upto highest ridge of the roof, shall not exceed 9 meters and the construction shall not be more than 2 floors (ground floor plus one upper floor);

(v) Ground water shall not be tapped within 200m of the HTL; within the 200 metre - 500 metre zone, it can be tapped only with the concurrence of the Central/State Ground Water Board;

(vi) Extraction of sand, levelling or digging of sandy stretches except for structural foundation of building, swimming pool shall not be permitted within 500 metres of the High Tide Line;

(vii) The quality of treated effluents, solid wastes, emissions and noise levels, etc. from the project area must conform to the standards laid down by the competent authorities including the Central/State Pollution Control Board and under the Environment (Protection) Act, 1986;

(viii) Necessary arrangements for the treatment of the effluents and solid wastes must be made. It must be ensured that the untreated effluents and solid wastes are not discharged into the water or on the beach; and no effluent/solid waste shall be discharged on the beach;

(ix) To allow public access to the beach, at least a gap of 20 meters width shall be provided between any two hotels/beach resorts; and in no case shall gaps be less than 500 meters apart; and

(x) If the project involves diversion of forest land for non-forest purposes, clearance as required under the Forest (Conservation) Act, 1980 shall be obtained. The requirements of other Central and State laws as applicable to the project shall be met with.

(xi) Approval of the State/Union Territory Tourism Department shall be obtained.

7(2) In ecologically sensitive areas (such as marine parks, mangroves, coral reefs, breeding and spawning grounds of fish, wildlife habitats and such other areas as may notified by the Central/State Government/Union Territories) construction of beach resorts/hotels shall not be permitted.

Annexure - III
[See paragraph 2, sub-paragraph (ii)]

List of Petroleum Products Permitted for Storage in Coastal Regulation Zone except CRZ I- (i)

(i) Crude Oil;
(ii) Liquefied Petroleum Gas;
(iii) Motor Spirit;
(iv) Kerosene;
(v) Aviation Fuel;
(vi) High Speed Diesel;
(vii) Lubricating Oil;
(viii) Butane;
(ix) Propane;
(x) Compressed Natural Gas;
(xi) Naphtha;
(xii) Furnace Oil;
(xiii) Low Sulphur Heavy Stock.
(xiv) Liquefied Natural Gas (LNG)

Environmental clearances accorded by the Ministry of Surface Transport from 9th July 1997 till the publication of this notification are valid. All proposals for environment clearance pending with the Ministry of Surface Transport stand transferred to Ministry of Environment and forests from the date of publication of this notification.

The principal notification was published in the Gazette of India vide number S.O. 114(E), dated, the 19th February, 1991 (Corrigendum number S.O 190(E) dated 18th March 1991) and subsequently amended vide: -

(i) S.O. 595 (E) dated 18th August, 1994(Corrigendum S.O.690 (E) dated 19th September 1994.
(ii) S.O. 73 (E) dated 31st January 1997.
(iii) S.O. 494 (E) dated 9th July 1997.(Corrigendum S.O.735(E) dated 21st October 1997.)
(iv) S.O. 334 (E) dated 20th April 1998.
(v) S.O. 873 (E) dated 30th September 1998.
(vi) S.O. 1122 (E) dated 29th December 1998.
(vii) S.O.998 (E) dated 29th September 1999.
(viii) S.O.730 (E) dated 4th August 2000
(ix) S.O. 900(E) dated 29th September 2000
(x) S.O. 329 (E) dated 12th April 2001
(xi) S.O. 988 (E) dated 3rd October 2001.
(xii) S.O. 550 (E) dated 21st May 2002
(xiii) S.O. 1100 (E) dated 19th October 2002
(xiv) S.O. 460 (E) dated 22nd April 2003
(xv) S.O. 636 (E) dated 30th May 2003
(xvi) S.O. 838 (E) dated 24th July 2003

(x) सम्पीडित प्राकृतिक गैस

(xi) नेप्था

(xii) भट्टी का तेल

(xiii) कम गंधकयुक्त भारी स्टाक

[सं एच-110011/6/97-आई ए-III]

आर. एच. खवाजा, संयुक्त सचिव

पाद टिप्पणी : मूल अधिसूचना भारत के असाधारण राजपत्र, भाग II, खण्ड 3, उपखण्ड (ii) में सं. का. आ. 114 (अ) तारीख 19 फरवरी, 1991 द्वारा प्रकाशित की गई थी तत्पश्चात् उसमें निम्नलिखित द्वारा संशोधन किया गया।

(i) सं. का. आ. 595 (अ), दिनांक 18 अगस्त, 1994

(ii)सं. का. आ. 73 (अ), दिनांक 31 जनवरी, 1997

MINISTRY OF ENVIRONMENT AND FORESTS

NOTIFICATION

New Delhi, the 9th July, 1997

S.O. 494(E).—Whereas by the notification of the Government of India in the Ministry of Environment and Forests No S O 114 (E), dated the 19th February, 1991 (hereinafter referred to as the said notification) Central Government declared Coastal Stretches as Coastal Regulation Zone (CRZ) and restrictions were imposed on the setting up and expansion of industries, operations and processes in the said zone:

And whereas some State Governments have drawn attention of the Central Government to the difficulties being faced by the local people and also for construction of essential facilities in the coastal zone;

And whereas these issues have been examined by the Government of India in the Ministry of Environment and Forests and discussed with other concerned authorities,

And whereas the Central Government is of the opinion that the said notification should be amended;

And whereas sub-rule 4 of rule (5) of the Environment (Protection) Rules, 1986 provides that, "Notwithstanding anything contained in sub-rule (3), whenever it appears to the Central Government that it is in public interest to do so, it may dispense with the requirement of notice under clause (a) of sub-rule (3) of the said rules;

And whereas the Central Government is of the opinion that it is in public interest to dispense with the requirement of notice under clause (a) sub-rule (3) of rule 5 of the said rules for amending the said notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of the section 3 of the Environment (Protection) Act, 1986 (29 of 1986) read with sub-rules (3) and (4) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government hereby makes the following further amendments in the aforesaid notification.

2. In the said notification, in paragraph 2,—

(1) In sub-paragraph (ii) the following words and proviso shall be inserted at the end, namely:—

"except transfer of hazardous substances from ships to ports, terminals and refineries and vice versa, in the port areas:

Provided that Government of India in the Ministry of Surface Transport, on a case to case basis, may permit storage of the petroleum products as specified in Annexure-III appended to this notification within the existing port limits of existing ports and harbours and in those areas of ports that have not been classified as CRZ-I subject to implementation of safety regulations including guidelines issued by Oil Safety Directorate in the Government of India, Ministry of Petroleum and Natural Gas after ensuring proper location of site and availability of necessary equipment to meet the safety norms and the exigencies arising due to any accident or spillage,".

(2) in sub-paragrah (iii) the following proviso shall be inserted at the end, namely:—

"Provided that existing fish processing units for modernisation purposes may utilise twenty five per cent additional plinth area required for additional equipment and pollution control measures only subject to existing Floor Space Index/Floor

Area Ratio norms and subject to the condition that the additional plinth area shall not be towards seaward side of existing unit and also subject to the approval of State Pollution Control Board or Pollutionn Control Committee.";

(3) for sub-paragraph (viii) the following shall be substituted, namely:—

"(viii) land reclamation, bunding or disturbing the natural course of sea water except those required for construction of ports, harbours, jetties, wharves, quays, slipways, bridges and sea-links and for other facilities that are essential for activities permissible under the notification or for control of coastal erosion and maintenance or clearing of water ways, channels and ports or for prevention of sandbars or for tidal regulators, storm water drains or for structures for prevention of salinity ingress and sweet water recharge ";

(4) in sub-paragraph (x), for the proviso the following proviso shall be substituted, namely:—

"Provided that drawal of ground water is permitted, where no other source of water is available and when done manually through ordinary wells or hand pumps, for drinking and domestic purposes, in the zone between 50 to 200 m from High Tide Line in case of seas, bays and estuaries and within 200m or the CRZ, whichever is less, from High Tide Line in case of rivers, creeks and backwaters subject to such restrictions, as may be deemed necessary, in areas affected by sea water intrusion, that may be imposed by an authority designated by State Government/Union Territory Administration."

3. In paragraph 3, sub-paragraph (2), for clauses (ii) and (iv) the following shall be substituted namely:—

"(ii) Operational constructions for ports and harbours and light houses and constructions for activities such as jetties, wharves, quays and slipways:

Provided that for expansion or modernisation of existing ports and harbours including fishing harbours operational constructions for ports and harbours and construction of jetties, wharves, quays, slipways, Single Point Mooring and Single Buoy Mooring and for reclamation for facilities essential for operational requirements of ports and harbours in areas within the existing port limits, except the areas classified as category CRZ-I (i), shall require environmental clearance from Government of India in the Ministry of Surface Transport, which shall take decision on these activities on the basis of Environmental Impact Assessment Report

Provided further that reclamation for commercial purposes such as shopping and housing complexes, hotels and entertainment activities shall not be permissible.";

"(iv) All other activities with investment exceeding rupees five crores except those activities which are to be regulated by the concerned authorities at the State/Union Territory level in accordance with the provisions of paragraph 6, sub-paragraph (2) of Annexure I of the notification.".

4. In Annexure I, in paragraph 6, in sub-paragraph (2),—

(1) under heading CRZ-I the following proviso shall be inserted at the end, namely:—

"provided that construction of dispensaries, schools, public rain shelters, community toilets, bridges, roads, jetties, water supply, drainage, sewerage which are required for traditional inhabitants of the Sunderbans Bio-sphere reserve area, West Bengal, may be permitted, on a case to case basis, by an authority designated by the State Government";

(2) under heading CRZ-II, for item (1), the following shall be substituted, namely:—

"Buildings shall be permitted only on the landward side of the existing road (or roads proposed in the approved Coastal Zone Management Plan of the area) or on the landward side of existing authorised structures. Buildings permitted on the landward side of the existing and proposed roads/existing authorised structures shall be subject to the existing local Town and Country Planning Regulations including the existing norms of Floor Space Index/Floor Area Ratio:

Provided that no permission for construction of buildings shall be given on landward side of any new roads (except roads proposed in the approved Coastal Zone Management Plan) which are constructed on the seaward side of an existing road";

(3) under heading CRZ-III,—

(i)in item (i) for the words "No construction shall be permitted within this zone except for repairs of existing authorised structures not exceeding existing FSI, existing plinth area and existing density." the words "No construction shall be permitted within this zone except for repairs of existing authorised structurer not exceeding existing FSI, existing plinth area and existing density, and for permissible activities under the notification including facilities essential for such activities. An authority designated by the State Government/ Union Territory Administration may permit construction of facilities for water supply, drainage and sewerage for requirements of local inhabitants" shall be substituted;

(ii) in item (iii) at the end, the following words shall be inserted, namely:—

"Construction is allowed for permissible activities under the notification including facilities essential for such activities. An authority designated by State Government/Union Territory Administration may permit construction of public rain shelters, community toilets, water supply, drainage, sewerage, roads and bridges. The said authority may also permit construction of schools and dispensaries. for local inhabitants of the area, for those panchayats the major part of which falls within CRZ if no other area is available for construction of such facilities."

5. After Annexure II to the said notification the following Annexure III shall be inserted namely :—

ANNEXURE-III

[See paragraph 2, sub-paragraph (ii)]

List of Petroleum Products Permitted for Storage in Port Areas

(i) Crude Oil ;
(ii) Liquified Petroleum Gas ;
(iii) Motor Spirit ;
(iv) Kerosene ;
(v) Aviation , Fuel;
(vi) High Speed Diesel ;
(vii) Lubricating Oil ;
(viii) Butane ,
(ix) Propane ;
(x) Compressed Natural Gas ;
(xi) Naptha ;
(xii) Furnace Oil ;
(xiii) Low Sulphur Heavy Stock."

[No. H-11011/6/97-IA-III]
R.H. KHWAJA, Jt. Secy.

Foot Notes.—The principal notification was published vide S.O No. 114(E) dated 19th February, 1991 in Part II Section 3, Sub-section (ii) of the Gazette of India Extraordinary and subsequently amended vide :—

(i) S.O No. 595 (E) dated 18 th August, 1994.
(ii) S.O. No. 73 (E) dated 31st January, 1997

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HIGH COURT OF JUDICATURE AT BOMBAY

Exhibit - II

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (LODGING) NO. 3246 OF 2004

The Bombay Environmental Action Group and Anr. ..Petitioners

Versus

The State of Maharashtra and Ors. ... Respondents.

Mr. N.H. Seervai, Senior Advocate, with Gautam Patel, Ms. Madhavi Diwan, and Mr. S. Jagtiani, instructed by M/s. M.V. Jaykar & Co., for the petitioners.

Mr. Ravi Kadam, Advocate General, with Mr. Amjad Syed, Assistant Government Pleader, for respondent Nos. 1, 5 and 6.

Mr. B.A.Desai, Additional Solicitor General, with Mr. Suresh Kumar for respondent No.2.

Mr. K.K. Singhvi, Senior Advocate, with Mrs. P.A. Purandare for the B.M.C.

Mr. Janak Dwarkadas, Senior Advocate, instructed by M/s. P.K.Shroff & Co., for the intervenor.

Mr. E.P. Bharucha, Senior Advocate, with Mr. Presswala, instructed by Rustomji Ginwala for applicants (intervenors).

WITH

WRIT PETITION NO. 1470 OF 2003

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HIGH COURT OF JUDICATURE AT BOMBAY

Usha Madhu Development Co-op. Hsg.Soc. Ltd. & Anr. ... Petitioners

Versus

Union of India and Ors. ...Respondents

Mr. Janak Dwarkadas, Senior Advocate, with Mr. P.K. Shroff, instructed by Parimal K. Shroff & Company, for the petitioners.

Mr. B.A.Desai, Additional Solicitor General, with Mr. Suresh Kumar for respondent No.1.

Mr. Ravi Kadam, Advocate General, with Mr. Amjad Syed, Assistant Government Pleader, for respondent Nos. 2 and 3.

Mr. K.K. Singhvi, Senior Advocate, with Mrs. P.A. Purandare for respondent Nos. 4 and 5.

Mr. Aspi Chinoy, Senior Advocate, instructed by M/s. M.V. Jayakar & Co. for respondent Nos.6 and 7.

WITH

WRIT PETITION NO. 2208 OF 2004

Maharashtra Manav Seva Sangh ... Petitioners

Versus

The Tahasildar,Borivali (West) and Ors. ... Respondents.

Mr. H.S.S. Murthy for the petitioner.

Mr. Ravi Kadam, Advocate General, with Mr. Amjad Syed, Assistant Government Pleader, for respondent Nos. 1 to 4 and 12.

Mr. B.A.Desai, Additional Solicitor General, with Mr. Suresh Kumar for respondent No.5.

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HIGH COURT OF JUDICATURE AT BOMBAY

Ms. Shashikala Sharma, instructed by Mr. Yogesh Adhia, for respondent No.6.

Mr. S.A.Abhyankar for respondent No. 10.

Mr. K.K. Singhvi, Senior Advocate, with Mrs. P.A. Purandare for respondent No.11.

Mr. A.V. Anturkar with Mr. S.B. Deshmukh for the intervenors.

CORAM: DALVEER BHANDARI, C.J. &
DR. D.Y. CHANDRACHUD, J.

DATE: OCTOBER 06, 2005.

P.C.

These writ petitions have been filed seeking urgent measures for the protection and preservation of the fast depleting mangrove forests which line the coast of State of Maharashtra. The petitioners in Writ Petition (Lodging) No. 3246 of 2005, state that 720 Kms. long coastline of Maharashtra is indented by numerous rivers, estuaries, creeks, small bays, headlands, rocky shores, sand and muddy beaches. All such geomorphologic structures act as a habitat for different kinds of eco-systems which are essential for the protection of the coastline from the encroaching sea. The petitioners state that there are about 18 major estuaries along the coastline of Maharashtra harboring some of the biologically richest patches of mangroves along the entire western coast of India. All 52 creeks along the coast of the

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HIGH COURT OF JUDICATURE AT BOMBAY

State are covered by mangroves to a certain extent.

2. The main concern of the petitioners is the destruction of mangroves in various ways. The petitioners have relied upon a number of articles contributed by well-known authors to depict that after the Tsunami, the scientific verdict has been unanimous – damage is greatest where beaches have been built on, dunes flattened, where ground water was pumped out and coral reefs killed. There seems to be unanimity amongst all counsel appearing for different parties that mangroves play an important role in eco-systems and mangroves have to be preserved at any cost.

3. The petitioners in the petition have incorporated that they have received a number of complaints from the citizens about the systematic destruction of mangroves in various localities by land grabbers and encroachers. The petitioners have identified five areas where indiscriminate destruction of mangroves is taking place. Those areas are:

(i) Seven Bungalows, Andheri;

(ii) Kanjurmarg;

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HIGH COURT OF JUDICATURE AT BOMBAY

(iii) Link Road, Goregaon,

(iv) Gorai; and

(v) Malvani Village,Malad.

4. The petitioners have prayed that pending further hearing of these petitions, it is absolutely imperative that the respondents be restrained from destructing or denuding mangroves by dumping, obstructing water supply, cutting of mangroves or by any other method.

5. We have heard the learned counsel for the parties including the learned Advocate General for the State of Maharashtra.

6. This order is passed to prevent further destruction of mangroves and to ensure the conservation and rejuvenation of mangroves in the State of Maharashtra.

7. The Maharashtra State using Satellite Remote Sensing is directed to prepare Phase-II of the mapping for carrying out mangroves study using high resolution satellite data of 65 cms. spatial resolution/one meter spatial resolution for detailed mapping of

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HIGH COURT OF JUDICATURE AT BOMBAY

mangroves with a view to identify more precisely mangrove areas. After receiving the satellite data, transfer of mangrove details on city survey/village maps (cadestral map) would be done. According to the learned Advocate General, this exercise is likely to take about six months. It has become imperative to pass interim order to protect the mangroves during the interregnum. We direct that this order shall not apply to all those cases which are specifically governed by injunction or stay order passed by the Courts of law before this date.

8. The State Government is directed to designate a Senior Officer not below the rank of concerned District Magistrate and Collector and Deputy Commissioner of Police/Superintendent of Police to oversee the implementation of the following directions. They would entertain complaints from citizens in respect of mangrove destruction. The name, address and contact information of such officers shall be advertised prominently in one English newspaper and two Marathi newspapers, apart from the official websites of the Maharashtra Government and the Forest Department.

(i) That there shall be a total freeze on the destruction and cutting of mangroves in the entire State of Maharashtra. We take note of

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HIGH COURT OF JUDICATURE AT BOMBAY

the fact that in *T.N. Godavarman Thirumulkpad* vs. *Union of India and Ors. etc.* [Writ Petition (C)No. 202 of 1995 and 171 of 1996], an affidavit was filed on behalf of the State of Maharashtra by the Chief Conservator of Forests (Administration), in which on the basis of a report of an Expert Committee, it was stated that in the Mumbai Urban Area alone, 1,534 hectares of land were, inter alia, classified as mangrove areas.

(ii) All construction and rubble/garbage dumping on the mangrove areas shall be stopped forthwith;

(iii) Regardless of ownership of the land, all construction taking place within 50 metres on all sides of all mangroves shall be forthwith stopped ;

(iv) No development permission whatsoever shall be issued by any authority in the State of Maharashtra in respect of any area under mangroves.

(v) The Municipal Commissioner of Greater Mumbai shall forthwith issue the necessary directions to the Municipal Corporation of

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HIGH COURT OF JUDICATURE AT BOMBAY

Greater Mumbai Building Proposals Department not to entertain any applications for development (as defined in the Maharashtra Regional and Town Planning Act, 1966) on or in respect of the mangrove lands, regardless of the nature of ownership;

(vi) The State Government and the Maharashtra Coastal Zone Management Authority (MCZMA) are directed to file monthly report on the above action plan to this Court. The first report will be submitted within four weeks from today. The report shall specifically state, in addition to the progress/action taken,

(a) the number of complaints received, if any,

(b) the action taken thereon, if any,

(c) the number of offenders named, and

(d) the details of prosecutions/action launched/taken against such offenders.

(vii) The State of Maharashtra is directed to file in Court and furnish to the petitioners copies of the maps referred to in paragraph 10 of the affidavit dated 16th August, 2005, filed by Mr.Gajanand Varade, Director, Environment Department, State of Maharashtra (Page 346 on the record), within four weeks from today;

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HIGH COURT OF JUDICATURE AT BOMBAY

(viii) The areas shown as mangrove area in the statellite study report "Mapping of mangroves in the Maharashtra State using Satellite Remote Sensing" dated August, 2005, prepared by the Maharashtra Remote Sensing Application Centre (MRSAC) for the MCZMA which was submitted to this Court on 29th August, 2005, form part of Phase I of the mapping by MRSAC. The MRSAC will, in Phase-II, carry out mangroves study using high resolution for detailed mapping of mangroves with a view to identify more precisely mangrove areas in Mumbai and Navi Mumbai. After receiving the said satellite data, transfer of mangrove details on city survey/village maps (cadastral map) will be carried out within a period of 6 months from today;

(ix) After the aforesaid process in clause (viii) is completed, the areas so identified which are government owned shall be declared and notified as "protected forests" in accordance with law after carrying out ground survey etc. The areas so identified that are privately owned shall be declared and notified as "forests" in accordance with law, after carrying out ground survey etc. The said declaration/notification will be completed within a period of 8 weeks of the completion of Phase-II mapping;

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(x) The mangrove areas that are on government owned lands will be handed over to the Forest Department within a period of 12 weeks from the declaration of the same as “protected forests”;

(xi) From the list of “mangrove areas” so identified, Government owned lands will automatically be declared/notified as “protected forests”. Likewise, privately owned lands from the list of mangrove areas so identified, the same will be declared/notified as “forests”;

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HIGH COURT OF JUDICATURE AT BOMBAY

(xii) The Secretary, Revenue Department, shall from the said date of taking over possession of the Government owned land by the Forest Department, update all the revenue records to ensure that the said Government lands are shown as “protected forests” in the said revenue records within a period of 12 weeks from the same being declared as “protected forests”. In the case of lands that are private owned, the secretary, Revenue Department, shall update all the revenue records to ensure that the said private lands are shown as “forests” in the said revenue records within a period of 12 weeks of completion of the steps in clause (x) above;

(xiii) In respect of Government lands, the Forest Department and other authorities of the State of Maharashtra shall take the following necessary steps of protection, conservation and regeneration of the areas that would be declared/notified as “protected forests: in terms of clause (x) above;

(a) Removal of all obstructions that are impeding the growth of mangroves as also the impediments which restrict the flow of sea water in the mangrove areas;

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HIGH COURT OF JUDICATURE AT BOMBAY

(b) Wherever mangrove growth is found to be sparse and denuded (i.e. with forest density less than 0.4 which means canopy less than 40%) within these identified areas, taking necessary steps for rejuvenation;

(c) On identification of the areas as forest, the Municipal Corporation of Greater Mumbai would remove garbage and debris within these areas within a period of three months as per the instructions of the Forest Department. These areas shall be rejuvenated with mangroves;

(d) The Forest Department is directed to take necessary action against the offenders in accordance with law for damaging or destroying mangroves.

9. The Officers so designated in paragraph 8 above shall submit a report on the above action plan every three months to this Court. The first of such reports shall be submitted within four weeks from the date of declaration/notification as “protected forest”. In addition to the progress/action taken, the reports shall specifically state the action taken as regards (a) number of complaints received, if any, (b) the action taken thereon, if any, (c) the number of offenders named, and (d) the

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HIGH COURT OF JUDICATURE AT BOMBAY

details of the prosecutions/action launched/taken against such offenders.

10. The State Government shall provide the necessary staff and funds for implementing the aforesaid directions to all concerned departments of the State.

11. The Principal Secretaries of (i) Environment, (ii) Revenue and (iii) Forest Departments, Government of Maharashtra, shall be overall in-charge of ensuring total compliance of this order.

12. This order shall partly modify the order dated 9th June, 2004 of this Court passed in Writ Petition No. 2208 of 2004.

13. The Chief Secretary of the State of Maharashtra is directed to send a circular to all concerned Collectors/Deputy Commissioners of Police/Superintendents of Police and all other concerned officials to ensure meticulous compliance of this order.

14. A copy of this order shall be sent to the Chief Secretary of the State of Maharashtra with a special messenger.

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HIGH COURT OF JUDICATURE AT BOMBAY
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15. List these matters on 16th November, 2005 for further directions and to ensure implementation of our order.

CHIEF JUSTICE

DR. D.Y. CHANDRACHUD, J.

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MINISTRY OF ENVIRONMENT AND FORESTS
(Department of Environment, Forests and Wildlife)

COASTAL REGULATION ZONE NOTIFICATION

New Delhi, the 6th January, 2011

S.O.19(E).- WHEREAS a draft notification under sub-section (1) of section and clause (V) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 was issued inviting objections and suggestions for the declaration of coastal stretches as Coastal Regulation Zone and imposing restrictions on industries, operations and processes in the CRZ was published vide S.O.No.2291 (E), dated 15th September, 2010.;

AND WHEREAS, copies of the said Gazette were made available to the public on 15th September, 2010.;

AND WHEREAS, the suggestions and objections received from the public have been considered by the Central Government.;

Now, therefore, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986), the Central Government, with a view to ensure livelihood security to the fisher communities and other local communities, living in the coastal areas, to conserve and protect coastal stretches, its unique environment and its marine area and to promote development through sustainable manner based on scientific principles taking into account the dangers of natural hazards in the coastal areas, sea level rise due to global warming, does hereby, declare the coastal stretches of the country and the water area upto its territorial water limit, excluding the islands of Andaman and Nicobar and Lakshadweep and the marine areas surrounding these islands upto its territorial limit, as Coastal Regulation Zone (hereinafter referred to as the CRZ) and restricts the setting up and expansion of any industry, operations or processes and manufacture or handling or storage or disposal of hazardous substances as specified in the Hazardous Substances (Handling, Management and Transboundary Movement) Rules, 2009 in the aforesaid CRZ.; and

In exercise of powers also conferred by clause (d) and sub rule (3) of rule 5 of Environment (Protection) Act, 1986 and in supersession of the notification of the Government of India in the Ministry of Environment and Forests, number S.O.114(E), dated the 19th February, 1991 except as respects things done or omitted to be done before such supersession, the Central Government hereby declares the following areas as CRZ and imposes with effect from the date of the notification the following restrictions on the setting up and expansion of industries, operations or processes and the like in the CRZ,-

(i) the land area from High Tide Line (hereinafter referred to as the HTL) to 500mts on the landward side along the seafront.

(ii) CRZ shall apply to the land area between HTL to 100 mts or width of the creek whichever is less on the landward side along the tidal influenced water bodies that are connected to the sea and the distance upto which development along such tidal influenced water bodies is to be regulated shall be governed by the distance upto which the tidal effects are experienced which shall be determined based on salinity concentration of 5 parts per thousand (ppt) measured during the driest period of the year and distance upto which tidal effects are experienced shall be clearly identified and demarcated accordingly in the Coastal Zone Management Plans (hereinafter

referred to as the CZMPs).

Explanation.- For the purposes of this sub-paragraph the expression tidal influenced water bodies means the water bodies influenced by tidal effects from sea, in the bays, estuaries, rivers, creeks, backwaters, lagoons, ponds connected to the sea or creeks and the like.

~~(iii) the land area falling between the hazard line and 500mts from HTL on the landward side, in case of seafront and between the hazard line and 100mts line in case of tidal influenced water body the word 'hazard line' denotes the line demarcated by Ministry of Environment and Forests (hereinafter referred to as the MoEF) through the Survey of India (hereinafter referred to as the SoI) taking into account tides, waves, sea level rise and shoreline changes.~~[1]

(iii) land area between HTL and Low Tide Line (hereinafter referred to as the LTL) which will be termed as the intertidal zone.

(iv) the water and the bed area between the LTL to the territorial water limit (12 Nm) in case of sea and the water and the bed area between LTL at the bank to the LTL on the opposite side of the bank, of tidal influenced waterbodies.

2. For the purposes of this notification, the HTL means the line on the land upto which the highest water line reaches during the spring tide and shall be demarcated uniformly in all parts of the country by the demarcating authority(s) so authorized by the MoEF in accordance with the general guidelines issued at Annexure-I. HTL shall be demarcated within one year from the date of issue of this notification.

3. Prohibited activities within CRZ,- The following are declared as prohibited activities within the CRZ,-

(i) Setting up of new industries and expansion of existing industries except,-

(a) those directly related to waterfront or directly needing foreshore facilities;

Explanation: The expression "foreshore facilities" means those activities permissible under this notification and they require waterfront for their operations such as ports and harbours, jetties, quays, wharves, erosion control measures, breakwaters, pipelines, lighthouses, navigational safety facilities, coastal police stations and the like.;

(b) projects of Department of Atomic Energy;

(c) facilities for generating power by non-conventional energy sources and setting up of desalination plants in the areas not classified as CRZ-I(i) based on an impact assessment study including social impacts.;

(d) development of green field Airport already permitted only at Navi Mumbai;

(e) reconstruction, repair works of dwelling units of local communities including fishers in accordance with local town and country planning regulations.

[1]Deleted *vide* Notification No. **S.O. 3197(E)** dated 2nd July, 2018

(ii) manufacture or handling oil storage or disposal of hazardous substance as specified in the notification of Ministry of Environment and Forests, No. S.O.594 (E), dated the 28th July 1989, S.O.No.966(E), dated the 27th November, 1989 and GSR 1037 (E), dated the 5th December, 1989 except,-

(a) transfer of hazardous substances from ships to ports, terminals and refineries and vice versa;

(b) facilities for receipt and storage of petroleum products and liquefied natural gas as specified in Annexure-II appended to this notification and facilities for regasification of Liquefied Natural Gas (hereinafter referred to as the LNG) in the areas not classified as CRZ- I(i) subject to implementation of safety regulations including guidelines issued by the Oil Industry Safety Directorate in the Ministry of Petroleum and Natural Gas and guidelines issued by MoEF and subject to further terms and conditions for implementation of ameliorative and restorative measures in relation to environment as may be stipulated by in MoEF.

Provided that facilities for receipt and storage of fertilizers and raw materials required for manufacture of fertilizers like ammonia, phosphoric acid, sulphur, sulphuric acid, nitric acid and the like, shall be permitted within the said zone in the areas not classified as CRZ-I(i).

(iii) Setting up and expansion of fish processing units including warehousing except hatchery and natural fish drying in permitted areas:

(iv) Land reclamation, bunding or disturbing the natural course of seawater except those,-

(a) required for setting up, construction or modernisation or expansion of foreshore facilities like ports, harbours, jetties, wharves, quays, slipways, bridges, sealink, road on stilts, [**road on reclaimed surface**]2 and such as meant for defence and security purpose and for other facilities that are essential for activities permissible under the notification;

[**Provided that such roads shall not be taken as authorised for permitting development on landward side of such roads till existing High Tide Line.**

Provided further that the use of reclaimed land may be permitted for roads, mass rapid or multimodal transit system, construction and installation, on landward side of such roads, of all necessary associated public utilities and infrastructure to operate such transit or transport system including those for electrical or electronic signal system, transit stopover of permitted designs; except for any industrial operation, repair and maintenance.][3]

(b) measures for control of erosion, based on scientific including Environmental Impact Assessment (hereinafter referred to as the EIA)studies

(c) maintenance or clearing of waterways, channels and ports, based on EIA studies;

(d) measures to prevent sand bars, installation of tidal regulators, laying of storm water drains or for structures for prevention of salinity ingress and freshwater recharge based on

[2]Added *vide* Notification No. **S.O.3552(E)** dated 30th December, 2015

[3]Added *vide* Notification No. **S.O.3552(E)** dated 30th December, 2015

carried out by any agency to be specified by MoEF.

(v) Setting up and expansion of units or mechanism for disposal of wastes and effluents except facilities required for,-

(a) discharging treated effluents into the water course with approval under the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974);

(b) storm water drains and ancillary structures for pumping;

(c) treatment of waste and effluents arising from hotels, beach resorts and human settlements located in CRZ areas other than CRZ-I and disposal of treated wastes and effluents;

(vi) Discharge of untreated waste and effluents from industries, cities or towns and other human settlements. The concerned authorities shall implement schemes for phasing out existing discharge of this nature, if any, within a time period not exceeding two years from the date of issue of this notification.

(vii) Dumping of city or town wastes including construction debris, industrial solid wastes, flyash for the purpose of land filling and the like and the concerned authority shall implement schemes for phasing out any existing practice, if any, shall be phased out within a period of one year from date of commencement of this notification.

Note:-The MoEF will issue a separate instruction to the State Governments and Union territory Administration in respect of preparation of Action Plans and their implementation as also monitoring including the time schedule thereof, in respect of paras (v), (vi) and (vii).

(viii) Port and harbour projects in high eroding stretches of the coast, except those projects classified as strategic and defence related in terms of EIA notification, 2006 identified by MoEF based on scientific studies and in consultation with the State Government or the Union territory Administration.

(ix) ~~Reclamation for commercial purposes such as shopping and housing complexes, hotels and entertainment activities~~.

[**Reclamation for commercial purposes such as shopping and housing complexes, hotels and entertainment activities except for construction of memorials/monuments and allied facilities, only in CRZ-IV(A) areas, in exceptional cases, by the concerned State Government, on a case to case basis**.][4]

(x) Mining of sand, rocks and other sub-strata materials except,-

~~(a) Those are rare minerals not available outside the CRZ area,~~

[(a)mining of Atomic Minerals notified under Part-B of the First Schedule of the Mining and Minerals (Development) Act, 1957 (67 of 1957) occurring as such or in association with one or other minerals][5]

(b) Exploration and exploitation of Oil and Natural Gas.

[4]Substituted *vide* Notification No **S.O.556(E)** dated 17th February, 2015

[5]Substituted *vide* Notification No **G.S.R** dated 6th October, 2017

(xi) Drawl of groundwater and construction related thereto, within 200mts of HTL; except the following:-

(a) in the areas which are inhabited by the local communities and only for their use.

(b) In the area between 200mts-500mts zone the drawl of groundwater shall be permitted only when done manually through ordinary wells for drinking, horticulture, agriculture and fisheries and where no other source of water is available.

Note:- Restrictions for such drawl may be imposed by the Authority designated by the State Government and Union territory Administration in the areas affected by sea water intrusion.

(xii) Construction activities in CRZ-I except those specified in para 8 of this notification.

~~(xiii) Dressing or altering the sand dunes, hills, natural features including landscape changes for beautification, recreation and other such purpose.~~

[(xiii) Dressing or altering the sand dunes, hills, natural features including landscape change for beautification, recreation and other such purpose except utilizing the rocks/hills/natural features, only in CRZ-IV(A) areas, for development of memorials/monuments and allied facilities, by the concerned State Government.][6]

(xiv) Facilities required for patrolling and vigilance activities of marine/coastal police stations.

4. Regulation of permissible activities in CRZ area.- The following activities shall be regulated except those prohibited in para 3 above,-

(i) (a) clearance shall be given for any activity within the CRZ only if it requires waterfront and foreshore facilities;

(b) for those projects which are listed under this notification and also attract EIA notification, 2006 (S.O.1533 (E), dated the 14th September, 2006), for such projects clearance under EIA notification only shall be required subject to being recommended by the concerned State or Union territory Coastal Zone Management Authority (hereinafter referred to as the CZMA).

(c) Housing schemes in CRZ as specified in paragraph 8 of this notification;

(d) Construction involving more than 20,000sq mts built-up area in CRZ-II shall be considered [**for approval**][7] in accordance with EIA notification, 2006 and in case of projects less than 20,000sq mts built-up area shall be approved by the concerned State or Union territory Planning authorities in accordance with this notification after obtaining recommendations from the concerned CZMA and prior recommendations of the concern CZMA shall be essential for considering the grant of environmental clearance under EIA notification, 2006 or

[6]Substituted *vide* Notification No **S.O.556(E)** dated 17th February, 2015
[7]Inserted *vide* Notification No. **S.O.3085(E)** dated 28th November, 2014

grant of approval by the relevant planning authority.

(e) MoEF may under a specific or general order specify projects which require prior public hearing of project affected people.

(f) construction and operation for ports and harbours, jetties, wharves, quays, slipways, ship construction yards, breakwaters, groynes, erosion control measures [**and salt works**][8];

(g) [**construction of road by way of reclamation in CRZ area shall be only in exceptional cases, to be recommended by the concerned Coastal Zone Management Authority and approved by the Ministry of Environment, Forest and Climate Change; and in case the construction of such road is passing through mangroves or likely to damage the mangroves, three times the number of mangroves destroyed or cut during the construction process shall be replanted**][9]

(ii) the following activities shall require clearance from MoEF [**after being recommended by the concerned CZMA**][10], namely:-

~~(a) those activities not listed in the EIA notification,2006.~~

[**(a) Those activities listed under the Category 'A' in the EIA Notification 2006 and permissible under the said Notification**][11]

(b) construction activities relating to projects of Department of Atomic Energy or Defence requirements for which foreshore facilities are essential such as, slipways, jetties, wharves, quays; except for classified operational component of defence projects. Residential buildings, office buildings, hospital complexes, workshops of strategic and defence projects in terms of EIA notification, 2006.;

(c) construction, operation of lighthouses;

(d) laying of pipelines, conveying systems, transmission line;

(e) exploration and extraction of oil and natural gas and all associated activities and facilities thereto;

(f) Foreshore requiring facilities for transport of raw materials, facilities for intake of cooling water and outfall for discharge of treated wastewater or cooling water from thermal power plants. MoEF may specify for category of projects such as at (f), (g) and (h) of para4;

(g) ~~Mining of rare minerals as listed by the Department of Atomic Energy~~;

[(g) mining of Atomic Minerals notified under Part-B of the First Schedule of the Mining and Minerals (Development) Act, 1957 occurring as such or in association with one or

[8]Inserted *vide* Notification No. **S.O.3085(E)** dated 28th November, 2014
[9]Added *vide* Notification No. **S.O.3552(E)** dated 30th December, 2015
[10]Inserted *vide* Notification No. **S.O.3085(E)** dated 28th November, 2014
[11]Substituted *vide* Notification No. **S.O.3085(E)** dated 28th November, 2014

other minerals][12]

(h) Facilities for generating power by non-conventional energy resources, desalination plants and weather radars;

(i) Demolition and reconstruction of (a) buildings of archaeological and historical importance, (b) heritage buildings; and buildings under public use which means buildings such as for the purposes of worship, education, medical care and cultural activities;

(j)[**Construction of memorials/monuments and allied facilities by the concerned State Government in CRZ-IV(A) areas, in exceptional cases, with adequate environmental safeguards, subject to following, namely:-**

(A) The concerned State Government shall submit justification for locating the project in CRZ-IV(A) area along with details of alternate sites considered and weightage matrix on various parameters including environmental parameters, to State CZMA who will examine the project and make recommendation to the Central Government (MoEF) for grant of Terms of Reference (ToRs) for preparation of an environmental impact assessment report by the State Government;

(B) On grant of ToRs by the Central Government, the concerned State Government shall submit the draft Environmental Impact Assessment Report (EIA) with the Environmental Management Plan (EMP), draft Risk Assessment Report with Disaster Management Plan (DMP) including on-site and off-site emergency plan and evacuation plan during emergency, to the State Pollution Control Board for conduct of public hearing for the proposed project in accordance with the procedure laid down under the Environment Impact Assessment Notification;

(C) The concerned State Government shall, after addressing the relevant issues raised by the public during the public hearing referred to in sub-item (B), submit the final EIA, EMP, Risk Assessment and DMP, to the State CZMA for their examination and recommendation to the MoEF;

(D) **The Central Government may, if it considers necessary to do so, dispense with the requirement of public hearing referred to in sub-item (B), if it is satisfied that the project will not involve rehabilitation and resettlement of the public or the project site is located away from human habitation**.][13]

4.2 Procedure for clearance of permissible activities.- All projects attracting this notification shall

[12]Substituted *vide* Notification No. **G.S.R.1227(E)** dated 6th October, 2017

[13]Added *vide* Notification No. **S.O. 556(E)** dated 17th February, 2015

be considered for CRZ clearance as per the following procedure, namely:-

(i) The project proponents shall apply with the following documents seeking prior clearance under CRZ notification to the concerned State or the Union territory Coastal Zone Management Authority,-

(a) Form-1 (Annexure-IV of the notification);

(b) Rapid EIA Report including marine and terrestrial component except for construction projects listed under 4(c) and (d)

(c)) Comprehensive EIA with cumulative studies for projects in the stretches classified as low and medium eroding by MoEF based on scientific studies and in consultation with the State Governments and Union territory Administration;

(d) Disaster Management Report, Risk Assessment Report and Management Plan;

(e) CRZ map indicating HTL and LTL demarcated by one of the authorized agency (as indicated in para 2) in 1:4000 scale;

(f) Project layout superimposed on the above map indicated at (e) above;

(g) The CRZ map normally covering 7km radius around the project site.

(h) The CRZ map indicating the CRZ-I, II, III and IV areas including other notified ecologically sensitive areas;

(i) No Objection Certificate from the concerned State Pollution Control Boards or Union territory Pollution Control Committees for the projects involving discharge of effluents, solid wastes, sewage and the like.;

(ii) The concerned CZMA shall examine the above documents in accordance with the approved CZMP and in compliance with CRZ notification and make recommendations within a period of sixty days from date of receipt of complete application,-

(a) MoEF or State Environmental Impact Assessment Authority (hereinafter referred to as the SEIAA) as the case may be for the project attracting EIA notification,2006;

(b) MoEF for the projects not covered in the EIA notification, 2006 but attracting para 4(ii) of the CRZ notification;

(c) [**SEIAA, for the projects specified under paragraph 4(i) (except with respect to item (d) thereof relating to building projects with less than 20,000 sq. mts. of built-up area) and for the projects not attracting EIA Notification, 2006**][14]

~~(iii) MoEF or SEIAA shall consider such projects for clearance based on the recommendations of the concerned CZMA within a period of sixty days.~~

(iii) [MoEFCC or SEIAA shall consider such projects for clearance based on the

[14]Added *vide* Notification No. **S.O.3085(E)** dated 28th November, 2014

recommendations of the concerned CZMA within a period of sixty days.][15]

~~(iv) The clearance accorded to the projects under the CRZ Notification shall be valid for the period of five years from the date of issue of the clearance for commencement of construction and operation.~~

[(iv) In case CZMAs are not in operation due to their reconstitution or any other reasons, then it shall be the responsibility of the Department of Environment in the State Government or Union Territory Administrations, who are the custodian of the Coastal Zone Management Plans of respective States or Union Territories to provide comments and recommend the proposals in terms of the provisions of the said Notification to the Ministry of Environment, Forest and Climate Change.]16

~~(v) For Post clearance monitoring –~~

~~(a) it shall be mandatory for the project proponent to submit half-yearly compliance reports in respect of the stipulated terms and conditions of the environmental clearance in hard and soft copies to the regulatory authority(s) concerned, on 1st June and 31st December of each calendar year and all such compliance reports submitted by the project proponent shall be published in public domain and its copies shall be given to any person on application to the concerned CZMA.~~

~~(b) the compliance report shall also be displayed on the website of the concerned regulatory authority.~~

~~[The clearance accorded to the projects under the CRZ Notification shall be valid for the period of five years from the date of issue of the clearance for commencement of construction and operation.]~~[17]

[**(v) The clearance accorded to the projects under this Notification shall be valid for a period of seven years from the date of issue of such clearance:**

Provided that the construction activities shall commence within a period of five years from the date of the issue of clearance and the construction be completed and the operations be commenced within seven years from the date of issue of such a clearance:

Provided further that the period of validity may be extended for a maximum period of three years in case an application is made to the concerned authority by the applicant within the validity period, along with recommendation for extension of validity of the clearance by the concerned State/Union Territory Coastal Zone Management

[15] Substituted *vide* Notification No. **S.O.1393(E)** dated 3rd May, 2017
[16] Substituted *vide* Notification No. **S.O.1393(E)** dated 3rd May, 2017
[17] Added *vide* Notification No. **S.O.1393(E)** dated 3rd May, 2017

Authority.][18]

~~(vi) To maintain transparency in the working of the CZMAs it shall be the responsibility of the CZMA to create a dedicated website and post the agenda, minutes, decisions taken, clearance letters, violations, action taken on the violations and court matters including the Orders of the Hon'ble Court as also the approved CZMPs of the respective State Government or Union territory.~~

[(vi) For Post clearance monitoring –

(a) It shall be mandatory for the project proponent to submit half-yearly compliance reports in respect of the stipulated terms and conditions of the environmental clearance in hard and soft copies to the regulatory authority(s) concerned, on 1st June and 31st December of each calendar year and all such compliance reports submitted by the project proponent shall be published in public domain and its copies shall be given to any person on application to the concerned CZMA.

(b) The compliance report shall also be displayed on the website of the concerned regulatory authority.][19]

(vii) [**To maintain transparency in the working of the CZMAs it shall be the responsibility of the CZMA to create a dedicated website and post the agenda, minutes, decisions taken, clearance letters, violations, action taken on the violations and court matters including the Orders of the Hon'ble Court as also the approved CZMPs of the respective State Government or Union Territory**.][20]

4.3 [**Post facto clearance for permissible activities-**

i. All activities, which are otherwise permissible under the provisions of this notification, but have commenced construction without prior clearance, would be considered for regularization only in such cases wherein the project applied for regularization in the specified time and the projects which are in violation of CRZ norms would not be regularized;

ii. The concerned Coastal Zone Management Authority shall give specific recommendations regarding regularization of such proposals and shall certify that there have been no violations of the CRZ regulations, while making such recommendations;

iii. **Such cases where the construction have been commenced before the date of this**

[18] Substituted *vide* Notification No. **S.O. 1002(E)** dated 6th March, 2018
[19] Substituted *vide* Notification No. **S.O. 1392(E)** dated 3rd May, 2017
[20] Substituted *vide* Notification No. **S.O. 1392(E)** dated 3rd May, 2017

notification without the requisite CRZ clearance, shall be considered only by the Ministry of Environment, Forest and Climate Change, provided that the request for such regularisation is received in the said Ministry by 30th June, 2018.][21]

5. Preparation of Coastal Zone Management Plans.

(i) The MoEF may obtain the CZMPs prepared through the respective State Government or Union territory;

(ii) The CZMPs may be prepared by the coastal State Government or Union territory by engaging reputed and experienced scientific institution(s) or the agencies including the National Centre for Sustainable Coastal Management (hereinafter referred to as the NCSCM) of MoEF and in consultation with the concerned stakeholders;

~~(iii) The hazard line shall be mapped by MoEF through SoI all along the coastline of the country and the hazard line shall be demarcated taking into account, tide, waves, sea level rise and shoreline changes;~~

~~(iv)For the purpose of depicting the flooding due to tides, waves and sea level rise in the next fifty and hundred years, the contour mapping of the coastline shall be carried out at 0.5m interval normally upto 7km from HTL on the landward side, and the shoreline changes shall be demarcated based on historical data by comparing the previous satellite imageries with the recent satellite imageries;~~

~~(v) Mapping of the hazard line shall be carried out in 1:25,000 scale for macro level planning and 1:10,000 scale or cadastral scale for micro level mapping and the hazard line shall be taken into consideration while preparing the land use plan of the coastal areas;~~

(iii)[**A 'Hazard line' shall be demarcated by the Survey of India, taking into account the extent of the flooding on the land area due to water level fluctuations, sea level rise and shoreline changes (erosion/accretion) occurring over a period of time, and shared with the coastal State and Union Territories through the National Centre for Sustainable Coastal Management, Chennai;**

(iv) The Hazard line shall be used as a tool for disaster management plan for the coastal environment, including planning of adaptive and mitigation measures;

(v) With a view to reduce the vulnerability of the coastal communities and ensuring sustainable livelihood, while drawing the Coastal Zone Management Plan (CZMPs), the land use planning for the area between the Hazard Line and HTL shall take into account such impacts of climate change and shoreline changes.][22]

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[21]Inserted *vide* Notification No. **S.O. 1002(E)** dated 6th March, 2018

[22]Substituted *vide* Notification No. **S.O.3197(E)** dated 2nd July, 2018

(vi) The coastal States and Union Territory will prepare within a period of twenty four months from the date of issue this notification, draft CZMPs in 1:25,000 scale map identifying and classifying the CRZ areas within the respective territories in accordance with the guidelines given in Annexure-I of the notification, which involve public consultation;

(vii) The draft CZMPs shall be submitted by the State Government or Union territory to the concerned CZMA for appraisal, including appropriate consultations, and recommendations in accordance with the procedure(s) laid down in the Environment (Protection) Act,1986;

~~(viii) The State Government or Union territory CZMA shall submit the draft CZMPs to MoEF along with its recommendations on the CZMP within a period of six months after incorporating the suggestions and objections received from the stakeholders;~~

~~The State Government or the Union Territory CZMA shall submit the draft CZMPs to MoEF along with its recommendations on the CZMP on or before the 30th September, 2013, after incorporating the suggestions and objections received from the stakeholders.~~[23]

~~[The Coastal Zone Management Authority of the State Government or of the Union Territory shall submit the draft Coastal Zone] Management Plan along with its recommendation to the Ministry of Environment and Forests on or before 30th September, 2014 after incorporating the suggestions and objections received from the stakeholders.~~[24]

[**(viii) The Coastal Zone Management Authority of the State or of the Union Territory shall submit the draft Coastal Zone Management Plan along with its recommendations to the Ministry of Environment, Forests and Climate Change after incorporating the suggestions and objections received from the stakeholders**.][25]

(ix) MoEF shall thereafter consider and approve the CZMPs within a period of four months from the date of receipt of the CZMPs complete in all respects;

(x) All developmental activities listed in this notification shall be regulated by the State Government, Union Territory Administration, the local authority or the concerned CZMA within the framework of such approved CZMPs as the case may be in accordance with provisions of this notification;

(xi) The CZMPs shall not normally be revised before a period of five years after which, the concerned State Government or the Union territory may consider undertaking revision of the maps following the above procedures;

~~(xii) The CZMPs already approved under CRZ notification, 1991 shall be valid for a period of twenty four months unless the aforesaid period is extended by MoEF by a specific notification subject to such terms and conditions as may be specified therein.~~

~~[The CZMPs already approved by the MoEF shall be used till 31st January, 2014.]~~[26]

[23]Substituted *vide* Notification No. **S.O.2557 (E)** dated 22nd August, 2013
[24]Substituted *vide* Notification No. **S.O.1244 (E)** dated 30th April, 2014
[25]Substituted *vide* Notification No. **S.0. 938 (E)** dated 31st March, 2015
[26]Substituted *vide* Notification No. **S.0. 2557 (E)** dated 22nd August, 2013

~~[The Coastal Zone Management Plans which are already approved by the Ministry of Environment and Forests shall be used till 31st January, 2015]~~[27]

~~[The Coastal Zone Management Plans as already approved by the Ministry of Environment and Forests shall be valid upto 31st day of January, 2016 [2017]~~[28]~~, or till such time as the approval is given by the Ministry to the fresh Coastal Zone Management Plans made under the said notification, whichever is earlier.]~~[29]

[(xii) The Coastal Zone Management Plans as already approved by the Ministry of Environment and Forests shall be valid up to the 31st day of July, [~~2017~~ 2018][30] or till such time as the approval is given by the Ministry to the fresh Coastal Zone Management Plans made under the said notification, whichever is earlier.][31]

6. Enforcement of the CRZ, notification,2011-

(a) For the purpose of implementation and enforcement of the provisions this notification and compliance with conditions stipulated thereunder, the powers either original or delegated are available under Environment (Protection) Act, 1986 with the MoEF, State Government or the Union territory Administration NCZMA and SCZMAs;

(b) The composition, tenure and mandate of NCZMA and State Government or the Union territory CZMAs have already been notified by MoEF in terms of Orders of Hon'ble Supreme Court in Writ Petition 664 of 1993;

(c) the State Government or the Union territory CZMAs shall primarily be responsible for enforcing and monitoring of this notification and to assist in this task, the State Government and the Union territory shall constitute district level Committees under the Chairmanship of the District Magistrate concerned containing atleast three representatives of local traditional coastal communities including from fisherfolk;

(d) The dwelling units of the traditional coastal communities including fisherfolk, tribals as were permissible under the provisions of the CRZ notification, 1991, but which have not obtained formal approval from concerned authorities under the aforesaid notification shall be considered by the respective Union territory CZMAs and the dwelling units shall be regularized subject to the following condition, namely-

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[27] Substituted *vide* Notification No. **S.0. 1244 (E)** dated 30th April, 2014
[28]Substituted *vide* Notification No. **S.0. 1212 (E)** dated 22nd March, 2016
[29]Substituted *vide* Notification No. **S.0. 938 (E)** dated 31st March, 2015
[30]Substituted *vide* Notification No. **S.O. 2444 (E)** dated 31st July, 2017
[31]Substituted *vide* Notification No. **S.O. 622 (E)** dated 23rd February, 2017

(i) these are not used for any commercial activity

(ii) these are not sold or transferred to non-traditional coastal community.

7. Classification of the CRZ – For the purpose of conserving and protecting the coastal areas and marine waters, the CRZ area shall be classified as follows, namely:-

(i) CRZ-I,–

A. The areas that are ecologically sensitive and the geomorphological features which play a role in the maintaining the integrity of the coast,-

(a) Mangroves, in case mangrove area is more than 1000 sq mts, a buffer of 50meters along the mangroves shall be provided;

(b) Corals and coral reefs and associated biodiversity;

(c) Sand Dunes;

(d) Mudflats which are biologically active;

(e) National parks, marine parks, sanctuaries, reserve forests, wildlife habitats and other protected areas under the provisions of Wild Life (Protection) Act, 1972 (53 of 1972), the Forest (Conservation) Act, 1980 (69 of 1980) or Environment (Protection) Act, 1986 (29 of 1986); including Biosphere Reserves;

(f) Salt Marshes;

(g) Turtle nesting grounds;

(h) Horse shoe crabs habitats;

(i) Sea grass beds;

(j) Nesting grounds of birds;

(k) Areas or structures of archaeological importance and heritage sites.

B. The area between Low Tide Line and High Tide Line;

(ii) CRZ-II,-

The areas that have been developed upto or close to the shoreline.

Explanation.- For the purposes of the expression "developed area" is referred to as that area within the existing municipal limits or in other existing legally designated urban areas which are substantially built-up and has been provided with drainage and approach roads and other infrastructural facilities, such as water supply and sewerage mains;

(iii) CRZ-III,-

Areas that are relatively undisturbed and those do not belong to either CRZ-I or II which include coastal zone in the rural areas (developed and undeveloped) and also areas within municipal limits or in other legally designated urban areas, which are not substantially built up.

(iv) *CRZ-IV*,-

A. The water area from the Low Tide Line to twelve nautical miles on the seaward side;

B. shall include the water area of the tidal influenced water body from the mouth of the water body at the sea upto the influence of tide which is measured as five parts per thousand during the driest season of the year.

(v) Areas requiring special consideration for the purpose of protecting the critical coastal environment and difficulties faced by local communities,-

A. (i) CRZ area falling within municipal limits of Greater Mumbai;
(ii) the CRZ areas of Kerala including the backwaters and backwater islands;
(iii) CRZ areas of Goa.

B. Critically Vulnerable Coastal Areas (CVCA) such as Sunderbans region of West Bengal and other ecologically sensitive areas identified as under Environment (Protection) Act, 1986 and managed with the involvement of coastal communities including fisherfolk.

8. Norms for regulation of activities permissible under this notification,-

(i) The development or construction activities in different categories of CRZ shall be regulated by the concerned CZMA in accordance with the following norms, namely:-

~~Note:- The word existing use hereinafter in relation to existence of various features or existence of regularisation or norms shall mean existence of these features or regularisation or norms as on 19.2.1991 wherein CRZ notification, was notified~~[32]~~.~~[33]

I. CRZ-I,-

(i) no new construction shall be permitted in CRZ-I except,-

(a) projects relating to Department of Atomic Energy;

[32] Note added *vide* Corrigendum No. **S.O. 651(E)** dated 29th March, 2011
[33]Note deleted *vide* Notification No. **S.O. 1599(E)** dated 16th June, 2015

(b) pipelines, conveying systems including transmission lines;

(c) facilities that are essential for activities permissible under CRZ-I;

(d) installation of weather radar for monitoring of cyclones movement and prediction by Indian Meteorological Department;

(e) construction of trans harbour sea link and without affecting the tidal flow of water, between LTL and HTL.

(f) Development of greenfield airport already approved at only Navi Mumbai;

(g) [**projects relating to Defence organisations which are of strategic requirement and national importance and cannot be located elsewhere, subject to strict environmental safeguards**.][34]

(ii) Areas between LTL and HTL which are not ecologically sensitive, necessary safety measures will be incorporated while permitting the following, namely:-

(a) exploration and extraction of natural gas;

(b) construction of dispensaries, schools, public rain shelter, community toilets, bridges, roads, jetties, [**erosion control measures**][35], water supply, drainage, sewerage which are required for traditional inhabitants living within the biosphere reserves after obtaining approval from concerned CZMA.

(c) necessary safety measure shall be incorporated while permitting such developmental activities in the area falling in the hazard zone;

(d) salt harvesting by solar evaporation of seawater;

(e) desalination plants;

(f) storage of non-hazardous cargo such as edible oil, fertilizers and food grain within notified ports;

(g) construction of trans harbour sea links, roads on stilts or pillars without affecting the tidal flow of water.

(h) [**Manual mining of atomic mineral(s) notified under Part-B of First Schedule of Mining and Minerals (Development) Act, 1957 occurring as such or in association with one or other minerals – in the intertidal zone by such agencies as authorized by Department of Atomic Energy, as per mining plan approved by the Department of Atomic Energy:**

Provided that the manual mining operations are carried out by deploying persons using baskets and hand spades for collection of ore or mineral within the intertidal zone as per approved mining plan.

***Explanation* – For the purpose of this notification, manual mining shall**

[34]Added *vide* Notification No. **S.O. 3197(E)** dated 2nd July, 2018

[35] Inserted *vide* Notification No. **S.O. 3085(E)** dated 28th November, 2014

mean the mining operations undertaken without deploying or using drilling and blasting or Heavy Earth Moving machinery in the intertidal zone.][36]

II. CRZ-II,-

(i) buildings shall be permitted only on the landward side of the existing road, or on the landward side of existing authorized structures;

~~(ii) buildings permitted on the landward side of the existing and proposed roads or existing authorized structures shall be subject to the existing local town and country planning regulations including the 'existing' norms of Floor Space Index or Floor Area Ratio: Provided that no permission for construction of buildings shall be given on landward side of any new roads which are constructed on the seaward side of an existing road:~~

[(ii) buildings permitted on the landward side of the existing and proposed roads or existing authorized structures shall be subject to the existing local town and country planning regulations as modified from time to time, except the Floor Space Index or Floor Area Ratio, which shall be as per 1991 level:

Provided that no permission for construction of buildings shall be given on landward side of any new roads which are constructed on the seaward side of an existing road:

Provided further that the construction in CRZ-II area of Goa, Kerala and Mumbai shall be governed by the provisions of Clause V of paragraph 8.][37]

(iii) reconstruction of authorized building to be permitted subject with the existing Floor Space Index or Floor Area Ratio Norms and without change in present use;

(iv)facilities for receipt and storage of petroleum products and liquefied natural gas as specified in Annexure-II appended to this notification and facilities for regasification of Liquefied Natural Gas subject to the conditions as mentioned in sub-paragraph (ii) of paragraph3;

(v) desalination plants and associated facilities;

(vi)storage of non-hazardous cargo, such as edible oil, fertilizers and food grain in notified ports;

(vii) facilities for generating power by non-conventional power sources and associated facilities;

III. CRZ-III,-

A. Area upto 200mts from HTL on the landward side in case of seafront and 100mts along tidal influenced water bodies or width of the creek whichever is less is to be earmarked

[36]Inserted *vide* Notification No. **G.S.R. No. 1227(E)** dated 6th October, 2017

[37]Substituted *vide* Notification No. **S.O. 1599(E)** dated 16th June, 2015

as "No Development Zone (NDZ)",-

(i) The NDZ shall not be applicable in such area falling within any notified port limits;

(ii) No construction shall be permitted within NDZ except for repairs or reconstruction of existing authorized structure not exceeding existing Floor Space Index, existing plinth area and existing density and for permissible activities under the notification including facilities essential for activities; Construction/ reconstruction of dwelling units of traditional coastal communities including fisherfolk may be permitted between 100 and 200 metres from the HTL along the seafront in accordance with a comprehensive plan prepared by the State Government or the Union territory in consultation with the traditional coastal communities including fisherfolk and incorporating the necessary disaster management provision, sanitation and recommended by the concerned State or the Union territory CZMA to NCZMA for approval by MoEF;

(iii) however, the following activities may be permitted in NDZ–

(a) agriculture, horticulture, gardens, pasture, parks, play field, and forestry;

(b) projects relating to Department of Atomic Energy;

~~(c) mining of rare minerals;~~

[**(c) Mining of Atomic Minerals notified under Part-B of the First Schedule of the Mining and Minerals (Development) Act, 1957 occurring as such or in association with one or other minerals**.][38]

(d) salt manufacture from seawater;

(e) facilities for receipt and storage of petroleum products and liquefied natural gas as specified in Annexure-II;

(f) facilities for regasification of liquefied natural gas subject to conditions as mentioned in sub paragraph (ii) of paragraph 3;

(g) facilities for generating power by non-conventional energy sources;

(h) Foreshore facilities for desalination plants and associated facilities;

(i) Weather radars;

(j) construction of dispensaries, schools, public rain shelter, community toilets, bridges, roads, provision of facilities for water supply, drainage, sewerage, crematoria, cemeteries and electric sub-station which are required for the local inhabitants may be permitted on a case to case basis by CZMA;

(k) construction of units or auxiliary thereto for domestic sewage, treatment and

[38]Substituted vide Notification No. G.S.R. 1227(E) dated 6th October, 2017

disposal with the prior approval of the concerned Pollution Control Board or Committee;

(l) facilities required for local fishing communities such as fish drying yards, auction halls, net mending yards, traditional boat building yards, ice plant, ice crushing units, fish curing facilities and the like;

(m) development of green field airport already permitted only at Navi Mumbai.

B. Area between 200 mts to 500 mts,-

The following activities shall be permissible in the above areas;

(i) development of vacant plot in designated areas for construction of hotels or beach resorts for tourists or visitors subject to the conditions as specified in the guidelines at Annexure-III;

(ii) facilities for receipt and storage of petroleum products and liquefied natural gas as specified in Annexure-II;

(iii) facilities for regasification of liquefied natural gas subject to conditions as mentioned in sub-paragraph (ii) of paragraph 3;

(iv) storage of non-hazardous cargo such as, edible oil, fertilizers, food grain in notified ports;

(v) foreshore facilities for desalination plants and associated facilities;

(vi) facilities for generating power by non-conventional energy sources;

(vii) construction or reconstruction of dwelling units so long it is within the ambit of traditional rights and customary uses such as existing fishing villages and goathans. Building permission for such construction or reconstruction will be subject to local town and country planning rules with overall height of construction not exceeding 9mts with two floors (ground + one floor);

(viii) Construction of public rain shelters, community toilets, water supply drainage, sewerage, roads and bridges by CZMA who may also permit construction of schools and dispensaries for local inhabitants of the area for those panchayats, the major part of which falls within CRZ if no other area is available for construction of such facilities;

(ix) reconstruction or alteration of existing authorised building subject to sub-paragraph (vii),(viii);

(x) development of green field airport already permitted only at Navi Mumbai.

(xi) [**Mining of Atomic Minerals notified under Part-B of the First Schedule of Mining and Minerals (Development) Act, 1957 occurring as such or in association with one**

or other minerals.][39]

(IV) In CRZ-IV areas,-

The activities impugning on the sea and tidal influenced water bodies will be regulated except for traditional fishing and related activities undertaken by local communities as follows:-

(a) No untreated sewage, effluents, ballast water, ship washes, fly ash or solid waste from all activities including from aquaculture operations shall be let off or dumped. A comprehensive plan for treatment of sewage generating from the coastal towns and cities shall be formulated within a period of one year in consultation with stakeholders including traditional coastal communities, traditional fisherfolk and implemented;

(b) Pollution from oil and gas exploration and drilling, mining, boat house and shipping;

(c) There shall be no restriction on the traditional fishing and allied activities undertaken by local communities.

V. Areas requiring special consideration,-

1. CRZ areas falling within municipal limits of the Greater Mumbai.

(i) Developmental activities in the CRZ area of the Greater Mumbai because of the environmental issues, relating to degradation of mangroves, pollution of creeks and coastal waters, due to discharge of untreated effluents and disposal of solid waste, the need to provide decent housing to the poor section of society and lack of suitable alternatives in the inter connected islands of Greater Mumbai shall be regulated as follows, namely:-

A. Construction of roads - In CRZ-I areas indicated at sub-paragraph (i) of paragraph 7 of the notification the following activities only can be taken up:-

(a) Construction of roads, approach roads and missing link roads approved in the Developmental Plan of Greater Mumbai on stilts ensuring that the free flow of tidal water is not affected, without any benefit of CRZ-II accruing on the landward side of such constructed roads or approach roads subject to the following conditions:-

(i) All mangrove areas shall be mapped and notified as protected forest and necessary protection and conservation measures for the identified mangrove areas shall be initiated.

(ii) Five times the number of mangroves destroyed/cut during the construction process shall be replanted.

B. Solid waste disposal sites shall be identified outside the CRZ area and thereafter within two years the existing conventional solid waste sites shall be relocated outside

[39]Inserted vide Notification No. G.S.R. 1227(E) dated 6th October, 2017

the CRZ area.

C. [**The construction of sewage treatment plans in CRZ-I for the purpose of treating the sewage from the municipal area shall be taken only by the municipal authorities in exceptional circumstances, where no alternate site is available to set up such facilities, subject to recommendations of the concerned CZMA and approval by the Central Government. Three times the number of mangroves destroyed or cut during construction process shall be replanted**.][40]

(iii) In CRZ-II areas-

(a) The development or redevelopment shall continue to be undertaken in accordance with the norms laid down in the Town and Country Planning Regulations as they existed on the date of issue of the notification dated the 19th February, 1991, unless specified otherwise in this notification.

(b) SLUM REHABITATION SCHEMES,-

1. In the Greater Mumbai area there are large slum clusters with lakhs of families residing therein and the living conditions in these slums are deplorable and the civic agencies are not able to provide basic infrastructure such as drinking water, electricity, roads, drainage and the like because the slums come up in an unplanned and congested manner and the slums in the coastal area are at great risk in the event of cyclones, storm surges or tsunamis, in view of the difficulties in providing rescue, relief and evacuation.

2. To provide a safe and decent dwelling to the slum dwellers, the State Government may implement slum redevelopment schemes as identified as on the date of issue of this notification directly or through its parastatal agencies like Maharashtra Housing and Area Development Authority (MHADA), Shivshahi Punarvasan Prakalp Limited (SPPL), Mumbai Metropolitan Region Development Authority (MMRDA) and the like.:

Provided that,-

(i) such redevelopment schemes shall be undertaken directly or through joint ventures or through public private partnerships or other similar models ensuring that

[40]Added *vide* Notification No. **S.O. 1392(E)** dated 3rd May, 2017

the stake of the State Government or its parastatal entities shall be not less than 51%;

(ii) the Floor Space Index or Floor Area Ratio for such redevelopment schemes shall be in accordance with the Town and Country Planning Regulations prevailing as on the date on which the project is granted approval by the competent authority;

(iii) it shall be the duty of the project proponent undertaking the redevelopment through conditions (i) (2) above along with the State Government to ensure that all legally regularized tenants are provided houses in situ or as per norms laid down by the State Government in this regard.

(c) REDEVELOPMENT OF DILAPIDATED, CESSED AND UNSAFE BUILDINGS:

1. In the Greater Mumbai, there are, also a large number of old and dilapidated, cessed and unsafe buildings in the CRZ areas and due to their age these structures are extremely vulnerable and disaster prone and therefore there is an urgent need for the redevelopment or reconstruction of these identified buildings.

2. These projects shall be taken up subject to the following conditions and safeguards:

(i) such redevelopment or reconstruction projects as identified on the date of issue of this notification shall be allowed to be taken up involving the owners of these buildings either above or with private developers in accordance with the prevailing Regulation, directly or through joint ventures or through other similar models.

(ii) the Floor Space Index or Floor Area Ratio for such redevelopment schemes shall be in accordance with the Town and Country Planning Regulations prevailing as on the date on which the project is granted approval by the competent authority

(iii) suitable accommodation to the original tenants of the specified buildings shall be ensured during the course of redevelopment or reconstruction of the buildings by the project proponents, undertaking the redevelopment through condition 2(i) above.

(d) Notwithstanding anything contained in this notification, the developmental activities

for slums and for dilapidated, cessed and unsafe buildings as specified at paras (b) and (c) above shall be carried out in an accountable and transparent manner by the project proponents mentioned therein which shall include the following pre-condition measures, wherever applicable;-

1. (i) applicability of the Right to Information Act, 2005 to all redevelopment or reconstruction projects granted clearance by the Competent Authorities;

(ii) MoEF shall issue an order constituting the CPIO and the first Appellate Authority of appropriate ranks in consultation with Government of Maharashtra;

(iii) details of the Slum Rehabilitation Scheme, including the complete proposal and the names of the eligible slum dwellers will be declared suo-moto as a requirement of Section 4 of compliance of the Right to Information Act, 2005 by the appropriate authority in the Government of Maharashtra in one month before approving it;

(iv) the implementing or executing agency at the State Government with regard to projects indicated at sub-item (b) and (c) of item (iii) of sub-paragraph V shall display on a large notice boards at the site and at the office of the implementing or executing agency the names of the eligible builders, total number of tenements being made, names of eligible slum dwellers who are to be provided the dwelling units and the extra area available for free sale.

(v)Projects being developed under sub-items (b) and (c) of item (iii) of sub-paragraph V shall be given permission only if the project proponent agree to be covered under the Right to Information Act, 2005.

2. MoEF may appoint statutory auditors, who are empanelled by the Comptroller and auditor General (hereinafter referred to as the C&AG) to undertake performance and fiscal audit in respect of the projects relating to redevelopment of dilapidated, cessed and unsafe buildings and the projects relating to Slum Rehabilitation Scheme shall be audited by C&AG.

3. A High Level Oversight Committee may be set up by the Government of Maharashtra for periodic review of implementation of V(iii)(b) and (c) which shall include eminent representatives of various Stakeholders, like Architects, Urban Planner, Engineers, and Civil Society, besides the local urban bodies, the State Government and the Central Government.

4. The individual projects under V(iii)(b) and (c) shall be undertaken only after public consultation in which views of only the legally entitled slum dweller or the legally entitled tenent of the dilapidated or cessed buildings shall be obtained in accordance with

the procedures laid down in EIA notification,2006.

(e) In order to protect and preserve the 'green lung' of the Greater Mumbai area, all open spaces, parks, gardens, playgrounds indicated in development plans within CRZ-II shall be categorized as CRZ-III, that is, 'no development zone'.

(f) The Floor Space Index upto 15% shall be allowed only for construction of civic amenities, stadium and gymnasium meant for recreational or sports related activities and the residential or commercial use of such open spaces shall not be permissible.

(g) Koliwada namely, fishing settlement areas as identified in the Development Plan of 1981 or relevant records of the Government of Maharashtra, shall be mapped and declared as CRZ-III so that any development, including construction and reconstruction of dwelling units within these settlements shall be undertaken in accordance with applicable as per local Town and Country Planning Regulations.

(h) Reconstruction and repair works of the dwelling units, belonging to fisher communities and other local communities identified by the State Government, shall be considered and granted permission by the Competent Authorities on a priority basis, in accordance with the applicable Town and Country Planning Regulations.

(i) [**Construction of Memorial in the honour of Bharat Ratna Dr. Babasaheb Ambedkar in Mumbai on India Mills land shall be allowed with change in land use from industrial to construction of Memorial in accordance with the applicable Town and Country Planning Regulations.**][41]

2. CRZ for Kerala

In view of the unique coastal systems of backwater and backwater islands alongwith space limitation present in the coastal stretches of the State of Kerala, the following activities in CRZ shall be regulated as follows, namely:-

(i) all the islands in the backwaters of Kerala shall be covered under the CRZ notification;

(ii) the islands within the backwaters shall have 50mts width from the High Tide Line on the landward side as the CRZ area;

(iii) within 50 mts from the HTL of these backwater islands existing dwelling units of local communities may be repaired or reconstructed however no new construction shall be permitted;

(iv) beyond 50 mts from the HTL on the landward side of backwater islands, dwelling units of local communities may be constructed with the prior permission of the Gram panchayat;

[41] Inserted *vide* Notification No. **S.O.4162 (E)** dated 23rd December, 2016

(v) foreshore facilities such as fishing jetty, fish drying yards, net mending yard, fishing processing by traditional methods, boat building yards, ice plant, boat repairs and the like, may be taken up within 50mts width from HTL of these backwater islands.

3. CRZ of Goa.-

In view of the peculiar circumstances of the State Goa including past history and other developments, the specific activities shall be regulated and various measures shall be undertaken as follows:-

(i) the Government of Goa shall notify the fishing villages wherein all foreshore facilities required for fishing and fishery allied activities such as traditional fish processing yards, boat building or repair yards, net mending yards, ice plants, ice storage, auction hall, jetties may be permitted by Grama Panchayat in the CRZ area;

(ii) reconstruction, repair works of the structures of local communities including fishermen community shall be permissible in CRZ;

(iii) purely temporary and seasonal structures customarily put up between the months of September to May;

[**(iiia) such structures shall not be removed and dismantled during the month of June to August:**

Provided that the facilities available in these structures shall remain non-operational during the month of June to August][42]

(iv)the eco sensitive low lying areas which are influenced by tidal action known as khazan lands shall be mapped;

(v) the mangroves along such as khazan land shall be protected and a management plan for the khazan land prepared and no developmental activities shall be permitted in the khazan land;

(vi)sand dunes, beach stretches along the bays and creeks shall be surveyed and mapped. No activity shall be permitted on such sand dune areas;

(vii) the beaches such as Mandrem, Morjim, Galgiba and Agonda has been designated as turtle nesting sites and protected under the Wildlife Protection Act, 1972 and these areas shall be surveyed and management plan prepared for protection of these turtle nesting sites;

(viii) no developmental activities shall be permitted in the turtle breeding areas referred to in sub-paragraph(vii).

[42]Added *vide* Notification No. **S.O. 1392(E)** dated 3rd May, 2017

4. (a) Critical Vulnerable Coastal Areas (CVCA) which includes Sunderbans and other identified ecological sensitive areas which shall be managed with the involvement of the local coastal communities including the fisherfolk;-

(b) the entire Sunderbans mangrove area and other identified ecologically important areas such as Gulf of Khambat and Gulf of Kutchchh in Gujarat, Malvan, Achra-Ratnagiri in Maharashtra, Karwar and Coondapur in Karnataka, Vembanad in Kerala, Gulf of Mannar in Tamil Nadu, Bhaitarkanika in Orissa, Coringa, East Godavari and Krishna in Andhra Pradesh shall be declared as Critical Vulnerable Coastal Areas (CVCA) through a process of consultation with local fisher and other communities inhabiting the area and depend on its resources for their livelihood with the objective of promoting conservation and sustainable use of coastal resources and habitats;

(c) the process of identifying planning, notifying and implementing CVCA shall be detailed in the guideline which will be developed and notified by MoEF in consultations with the stakeholders like the State Government, local coastal communities and fisherfolk and the like inhabiting the area;

(d) the Integrated Management Plans (IMPs) prepared for such CVCA shall inter alia keep in view the conservation and management of mangroves, needs of local communities such as, dispensaries, schools, public rain shelter, community toilets, bridges, roads, jetties, water supply, drainage, sewerage and the impact of sea level rise and other natural disasters and the IMPs will be prepared in line with the para 5 above for preparation of Coastal Zone Management Plans;

(e) till such time the IMPs are approved and notified, construction of dispensaries, schools, public rain shelters, community toilets, bridges, roads, jetties, water supply, drainage, sewerage which are required for traditional inhabitants shall be permitted on a case to case basis, by the CZMA with due regards to the views of coastal communities including fisherfolk.

[F.No.11-83/2005-IA-III]

J. M. MAUSKAR, Addl. Secy.

ANNEXURE I

GUIDELINES FOR PREPARATION OF COASTAL ZONE MANAGEMENT PLANS

I. A. Demarcation of High TideLine

1. Demarcation of High Tide Line (HTL) and Low Tide Line (LTL) shall be carried out by one of the agencies authorised by MoEF based on the recommendations of the National Centre for Sustainable Coastal Management (NCSCM).
2. Demarcation of the High Tide Line or LTL shall be made on the Coastal Zone Management (CZM) Maps of scale 1:25,000 prepared by the agencies identified by the MoEF.
3. Local level CZM Maps shall be prepared for use of officials of local bodies for determination of the CRZ.
4. The local level CZM Maps shall be prepared on a Cadastral scale in accordance with the CZM Maps approved by the Central Government.

B. Preparation of CZM Maps

5. Base Maps of 1:25,000 scale shall be acquired from the Survey of India (SOI) and wherever 1:25,000 maps are not available, 1:50,000 maps shall be enlarged to 1:25,000 for the purpose of base map preparation and these maps will be of the standard specification given below:

Unit	:	7.5 minutes X7.5minutes
Numbering	:	Survey of India Sheet Numbering System
Horizontal Datum	:	Everest or WGS84
Vertical Datum	:	Mean Sea Level (MSL)
Topography	:	Topography in the SOI maps will be updated using latest satellite imageries or aerial photographs

6. The High Water Level (HWL) and Low Water Level (LWL) marked on the Base maps will be transferred to the CZM maps.
7. Coastal geomorphological signatures in the field or satellite imageries or aerial photographs will be used for appropriate adjustment, in the HWL or LWL for demarcating HTL or LTL in accordance with the CRZ notification.
8. The following geomorphological features shall be considered while demarcating in HTL or LTL:

Landward (monsoonal) berm crest in the case of sandy beaches

Rocks, Headlands, Cliffs

Seawalls or revetments or embankments

9. 500 meter and 200 metre lines will be demarcated with respect of HTL.
10. HTL (as defined in the CRZ notification) and LTL shall also be demarcated in the CZM maps along the banks of tidal influenced inland water bodies with the help of the geomorphological signatures or features.
11. Classification of different coastal zones shall be done as per the CRZ notification
12. Standard national or international colour codes shall be used to highlight sub-classification of data.

C. Local level CZM Maps

Local level CZM Maps are for the use of local bodies and other agencies to facilitate implementation of the Coastal Zone Management Plans

13. Cadastral (village) maps in 1:3960 or the nearest scale, shall be used as the base maps.

14. These maps are available with revenue Authorities and are prepared as per standard norms.
15. HTL (as defined in the CRZ notification) and LTL will be demarcated in the cadastral map based on detailed physical verification using coastal geomorphological signatures or features in accordance with the CZM Maps approved by the Central Government.
16. 500metre and 200metre lines shall be demarcated with respect to the HTL thus marked.
17. HTL (as defined in the CRZ notification, 1991) and LTL will also be demarcated along the banks of tidal influenced inland water bodies with the help of geomorphological signatures or features.
18. Classifications shall be transferred into local level CZM maps from the CZM Plans.
19. Symbols will be adopted from CZM Maps.
20. Colour codes as given in CZM Maps shall be used.
21. Demarcation of cadastral maps will be done by local agencies approved by the Central Government. The local agencies shall work under the guidance of the concerned State Government or Union Territory Coastal Zone Management Authorities.

D. Hazard mapping:-

II. Classification of CRZ areas

1. The CZM Maps shall be prepared in accordance with para 5 of the CRZ notification demarcating CRZ I, II, III, IV and V.
2. The CZM Maps shall clearly demarcate the land use plan of the area and lists out the CRZ-I areas. All the CRZ-I areas listed under para 7(I)A and B shall be clearly demarcated and colour codes given so that each of the CRZ-I areas can be clearly identified.
3. Buffer zone along mangrove areas of more than 1000sq mts shall be stipulated with a different colour distinguishing from the mangrove area.
4. The buffer zone shall also be classified as CRZ-I area.
5. The hazard line to be drawn up by MoEF shall be superimposed on the CZM maps in 1:25,000 scale and also on the cadastral scale maps.
6. The CRZ-II areas shall be those areas which have been substantially built-up with a ratio of built-up plots to that of total plots is more than 50%.
7. In the CRZ areas, the fishing villages, common properties of the fishermen communities, fishing jetties, ice plants, fish drying platforms or areas infrastructure facilities of fishing and local communities such as dispensaries, roads, schools, and the like, shall be indicated on the cadastral scale maps. States shall prepare detailed plans for long term housing needs of coastal fisher communities in view of expansion and other needs, provisions of basic services including sanitation, safety, and disaster preparedness.
8. No developmental activities other than those listed above shall be permitted in the areas between the hazard line and 500 mts or 100 mts or width of the creek on the landward side. The dwelling unit of the local communities including that of the fishers will not be relocated if the dwelling units are located on the seaward side of the hazard line. The State Government will provide necessary safeguards from natural disaster to such dwelling units of local communities.
9. The water areas of CRZ IV shall be demarcated and clearly demarcated if the water body is sea, lagoon, backwater, creek, bay, estuary and for such classification of the water bodies the terminology used by Naval Hydrographic Office shall be relied upon.
10. The fishing Zones in the water bodies and the fish breeding areas shall be clearly marked.
11. The water area shall be demarcated indicating the pollution levels as per Central Pollution Control Board standards on water quality.
12. In the CRZ V areas the land use maps shall be superimposed on the Coastal Zone Management Plan and clearly demarcating the CRZ I, II, III, IV.

13. The existing authorized developments on the sea ward side shall be clearly demarcated.

14. The features like cyclone shelters, rain shelters, helipads and other infrastructure including road network may be clearly indicated on the CZM Maps for the purpose of rescue and relief operations during cyclones, storms, tsunami and the like.

III. CZMPs approved by MoEF in accordance with CRZ notification,1991

1. While preparing the CZMPs under CRZ notification, 2011, the CZMPs that have been approved under the CRZ Notification, 1991 shall be compared. A justification shall be provided by the concerned CZMA in case the CZMPs prepared under CRZ notification, 2011 varies with respect to the approved CZMP prepared under CRZ notification, 1991.

IV. Public Views on the CZMP.

a) The draft CZMPs prepared shall be given wide publicity and suggestions and objections received in accordance with the Environment (Protection) Act, 1986. Public hearing on the draft CZMPs shall be held at district level by the concerned CZMAs.
b) Based on the suggestions and objections received the CZMPs shall be revised and approval of MoEF shall be obtained.
c) The approved CZMP shall be put up on the website of MoEF, concerned website of the State, Union Territory CZMA and hard copy made available in the panchayat office, District collector office and the like.

V. Revision of Coastal Zone Management Plans

1. Whenever there is a doubt the concerned State or Union territory Coastal Zone Management Authority shall refer the matter to the National Centre for Sustainable Coastal Management who shall verify the CZMP based on latest satellite imagery and ground truthing.
2. The rectified map would be submitted to MoEF for its record.

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ANNEXURE-II

List of petroleum and chemical products permitted for storage in [CRZ except CRZ-I(A)]

(i) Crude oil;

(ii) Liquefied Petroleum Gas;

(iii) Motor spirit;

(iv) Kerosene;

(v) Aviation fuel;

(vi) High speed diesel;

(vii) Lubricating oil;

(viii) Butane;

(ix) Propane;

(x) Compressed Natural Gas;

(xi) Naphtha;

(xii) Furnace oil;

(xiii) Low Sulphur Heavy Stock;

(xiv) Liquefied Natural Gas;

(xv) Fertilizers and raw materials for manufacture of fertilizers.

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ANNEXURE-III

Guidelines for development of beach resorts or hotels in the designated areas of CRZ-III and CRZ-II for occupation of tourist or visitors with prior approval of the Ministry of Environment and Forests

I. Construction of beach resorts or hotels with prior approval of MoEF in designated areas of CRZ-II and III for occupation of tourist or visitors shall be subject to the following conditions, namely:-

(a) The project proponent shall not undertake any construction within 200 metres in the landward side of High Tide Line and within the area between Low Tide Line and High Tide Line;

(b) The proposed constructions shall be beyond the hazard line or 200 mts from the High Tide Line whichever is more;

(c) live fencing and barbed wire fencing with vegetative cover may be allowed around private properties subject to the condition that such fencing shall in no way hamper public access to the beach;

(d) no flattening of sand dunes shall be carried out;

(e) no permanent structures for sports facilities shall be permitted except construction of goal posts, net posts and lamp posts;

(f) Construction of basement may be allowed subject to the condition that no objection certification is obtained from the State Ground Water Authority to the effect that such construction will not adversely affect fee flow of groundwater in that area;

(g) the State Ground Water Authority shall take into consideration the guidelines issued by Central Government before granting such no objection certificate;

(h) though no construction is allowed in the no development zone for the purposes of calculation of Floor Space Index, the area of entire plot including the portion which falls within the no development zone shall be taken into account;

(i) the total plot size shall not be less than 0.4 hectares and the total covered area on all floors shall not exceed 33 percent of the plot size i.e., the Floor Space Index shall not exceed 0.33 and the open area shall be suitably landscaped with appropriate vegetal cover;

(j) the construction shall be consistent with the surrounding landscape and local architectural style;

(k) the overall height of construction upto the highest ridge of the roof, shall not exceed 9metres and the construction shall not be more than two floors (ground floor plus one upper floor);

(l) groundwater shall not be tapped within 200 metre of the High Tide Line; within the 200 metre 500 metre zone it can be tapped only with the concurrence of the Central or State Ground Water Board;

(m) extraction of sand, leveling or digging of sandy stretches except for structural foundation of building, swimming pool shall not be permitted within 500 metres of the High Tide Line;

(n) the quality of treated effluents, solid wastes, emissions and noise levels and the like, from the project area must conform to the standards laid down by the competent authorities including the Central or State Pollution Control Board and under the Environment (Protection) Act,1986;

(o) necessary arrangements for the treatment of the effluents and solid wastes must be made and it must be ensured that the untreated effluents and solid wastes are not discharged into the water or on the beach; and no effluent or solid waste shall be discharged on the beach;

(p) to allow public access to the beach, atleast a gap of 20metres width shall be provided between any two hotels or beach resorts; and in no case shall gaps be less than 500metres apart; and

(q) if the project involves diversion of forestland for non-forest purposes, clearance as required under the Forest (Conservation) Act, 1980 shall be obtained and the requirements of other Central and State laws as applicable to the project shall be met with; and

(r) approval of the State or Union territory Tourism Department shall be obtained.

(s)

II. In ecologically sensitive areas (such as marine parks, mangroves, coral reefs, breeding and spawning grounds of fish, wildlife habitats and such other area as may be notified by the Central or State Government Union territories) construction of beach resorts or hotels shall not be permitted

Note: For the development of beach resorts or hotels in the CRZ-II area, the guidelines at sub-items (c), (d), (e), (f), (g), (n), (o),(q), (r) of item I and at item II shall be applicable.[43]

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[43]Inserted *vide* Notification No. **S.O. 383 (E)** dated 4th February, 2015

Annexure-IV

Form-I for seeking clearance for project attracting CRZ notification

Basic information:

Name of the Project:-

Location or site alternatives under consideration:-

Size of the project (in terms of total area) :-

CRZ classification of the area :-

Expected cost of the project:-

Contact Information:-

(II) Activity

1. Construction, operation or decommissioning of the Project involving actions, which will cause physical changes in the locality (topography, land use, changes in water bodies, and the like)

S. No.	Information/Checklist confirmation	Yes/No	Details thereof (with approximate quantities /rates, wherever possible) with source of information data
1.1	Permanent or temporary change in land use, land cover or topography including increase in intensity of land use (with respect to local land use plan)		
1.2	Details of CRZ classification as per the approved Coastal Zone Management Plan?		
1.3	Whether located in CRZ-I area?		
1.4	The distance from the CRZ-I areas.		
1.5	Whether located within the hazard zone as mapped by Ministry of Environment and Forests/National Disaster Management Authority?		
1.6	Whether the area is prone to cyclone,tsunami, tidal surge, subduction, earthquake etc.?		
1.7	Whether the area is prone for saltwater ingress?		

1.8	Clearance of existing land, vegetation and buildings?		
1.9	Creation of new land uses?		
1.10	Pre-construction investigations e.g. bore hole, soil testing?		
1.11	Construction works?		
1.12	Demolition works?		
1.13	Temporary sites used for construction works or housing of construction workers?		
1.14	Above ground buildings, structures or earthworks including linear structures, cut and fill or excavations		
1.15	Underground Works including mining or tunneling?		
1.16	Reclamation works?		
1.17	Dredging/reclamation/land filling/disposal of dredged material etc.?		
1.18	Offshore structures?		
1.19	Production and manufacturing processes?		
1.20	Facilities for storage of goods or materials?		
1.21	Facilities for treatment or disposal of solid waste or liquid effluents?		
1.22	Facilities for long term housing of operational workers?		
1.23	New road, rail or sea traffic during construction or operation?		
1.24	New road, rail, air waterborne or other transport infrastructure including new or altered routes and stations, ports, airports etc?		
1.25	Closure or diversion of existing transport routes or infrastructure leading to changes in traffic movements?		
1.26	New or diverted transmission lines or pipelines?		

1.27	Impoundment, damming, culverting, realignment or other changes to the hydrology of watercourses or aquifers?		
1.28	Stream and river crossings?		
1.29	Abstraction or transfers of water form ground or surface waters?		
1.30	Changes in water bodies or the land surface affecting drainage or run-off?		
1.31	Transport of personnel or materials for construction, operation or decommissioning?		
1.32	Long-term dismantling or decommissioning or restoration works?		
1.33	Ongoing activity during decommissioning which could have an impact on the environment?		
1.34	Influx of people to an area in either temporarily or permanently?		
1.35	Introduction of alien species?		
1.36	Loss of native species or genetic diversity?		
1.37	Any other actions?		

2. Use of Natural resources for construction or operation of the Project (such as land,water, materials or energy, especially any resources which are non-renewable or in short supply):

S. No.	Information/checklist confirmation	Yes/No	Details thereof (with approximate quantities /rates, wherever possible) with source of information data
2.1	Land especially undeveloped or agricultural land (ha)		
2.2	Water (expected source & competing users) unit: KLD		
2.3	Minerals (MT)		
2.4	Construction material – stone, aggregates, sand/soil (expected source – MT)		
2.5	Forests and timber (source – MT)		

2.6	Energy including electricity and fuels (source, competing users) Unit: fuel(MT), energy (MW)		
2.7	Any other natural resources (use appropriate standard units)		

3. Use, storage, transport, handling or production of substances or materials, which could be harmful to human health or the environment or raise concerns about actual or perceived risks to human health.

S. No.	Information/Checklist confirmation	Yes/ No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
3.1	Use of substances or materials, which are hazardous (as per MSIHC rules) to human health or the environment (flora, fauna, and water supplies)		
3.2	Changes in occurrence of disease or affect disease vectors (e.g. insect or water borne diseases)		
3.3	Affect the welfare of people e.g. by changing living conditions?		
3.4	Vulnerable groups of people who could be affected by the project e.g. hospital patients, children, the elderly etc.,		
3.5	Any other causes, that would affect local communities, fisherfolk, their livelihood, dwelling units of traditional local communities Etc		

4. Production of solid wastes during construction or operation or decommissioning (MT/month)

S. No.	Information/Checklist confirmation	Yes/ No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
4.1	Spoil, overburden or mine wastes		
4.2	Municipal waste (domestic and or commercial wastes)		
4.3	Hazardous wastes (as per Hazardous Waste Management Rules)		
4.4	Other industrial process wastes		
4.5	Surplus product		
4.6	Sewage sludge or other sludge from effluent Treatment		
4.7	Construction or demolition wastes		
4.8	Redundant machinery or equipment		
4.9	Contaminated soils or other materials		
4.10	Agricultural wastes		
4.11	Other solid wastes		

5. Release of pollutants or any hazardous, toxic or noxious substances to air(Kg/hr)

S. No.	Information/Checklist confirmation	Yes/ No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
5.1	Emissions from combustion of fossil fuels from stationary or mobile sources		
5.2	Emissions from production processes		
5.3	Emissions from materials handling including storage or transport		
5.4	Emissions from construction activities including plant and equipment		
5.5	Dust or odours from handling of materials including construction materials, sewage and waste		
5.6	Emissions from incineration of waste		

5.7	Emissions from burning of waste in open air (e.g. slash materials, construction debris)		
5.8	Emissions from any other sources		

6. Generation of Noise and Vibration, and Emissions of Light and Heat:

S. No.	Information/Checklist confirmation	Yes/ No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data with source of information data
6.1	From operation of equipment e.g. engines, ventilation plant, crushers		
6.2	From industrial or similar processes		
6.3	From construction or demolition		
6.4	From blasting or piling		
6.5	From construction or operational traffic		
6.6	From lighting or cooling systems		
6.7	From any other sources		

7. Risks of contamination of land or water from releases of pollutants into the ground or into sewers, surface waters, groundwater, coastal waters or the sea:

S. No.	Information/Checklist confirmation	Yes/ No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
7.1	From handling, storage, use or spillage of hazardous materials		
7.2	From discharge of sewage or other effluents to water or the land (expected mode and place of discharge)		
7.3	By deposition of pollutants emitted to air into the land or into water		
7.4	From any other sources		

7.5	Is there a risk of long term build up of pollutants in the environment from these sources?		

8. Risk of accidents during construction or operation of the Project, which could affect human health or the environment

S. No.	Information/Checklist confirmation	Yes/ No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
8.1	From explosions, spillages, fires etc from storage, handling, use or production of hazardous substances		
8.2	From any other causes		
8.3	Could the project be affected by natural disasters causing environmental damage (e.g., floods, earthquakes, landslides, cloudburst etc)?		

9. Factors which should be considered (such as consequential development) which could lead to environmental effects or the potential for cumulative impacts with other existing or planned activities in the locality

S. No.	Information/Checklist confirmation	Yes/ No	Details thereof (with approximate quantities/rates, wherever possible) with source of information data
9.1	Lead to development of supporting. lities, ancillary development or development stimulated by the project which could have impact on the environment e.g.: Supporting infrastructure (roads, power supply, waste or waste water treatment, etc.)		

	housing development extractive industries supply industries other		
9.2	Lead to after-use of the site, which could have an impact on the environment		
9.3	Set a precedent for later developments		
9.4	Have cumulative effects due to proximity to other existing or planned projects with similar effects		

III. Environmental Sensitivity

S. No.	Areas	Name/ Identity	Aerial distance (within 15 km.) Proposed project location boundary
1	Areas protected under international conventions, national or local legislation for their ecological, landscape, cultural or other related value		
2	Areas which are important or sensitive for ecological reasons - Wetlands, watercourses or other water bodies, coastal zone, biospheres, mountains, forests		
3	Areas used by protected, important or sensitive species of flora or fauna for breeding, nesting, foraging, resting, over wintering, migration		
4	Inland, coastal, marine or underground waters		
5	State, National boundaries		
6	Routes or facilities used by the public for access to recreation or other tourist, pilgrim areas		
7	Defence installations		
8	Densely populated or built-up area		

9	Areas occupied by sensitive man-made land uses (hospitals, schools, places of worship, community facilities)		
10	Areas containing important, high quality or scarce resources (ground water resources, surface resources, forestry, agriculture, fisheries, tourism,minerals)		
11	Areas already subjected to pollution or environmental damage. (those where existing legal environmental standards are exceeded)		
12	Areas susceptible to natural hazard which could cause the project to present environmental problems (earthquakes, subsidence, landslides, erosion, flooding or extreme or adverse climatic conditions)		

****

Explanation:-For the purpose of the Notification, the word "existing" used in the Notification shall mean existence of the features or regularization or norms as on 19th February, 1991 wherein CRZ Notification, was notified.[44]

[44]Inserted *vide* Notification No. **S.O. 3552 (E)** dated 30th December, 2017

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.172 OF 2007
IN
PUBLIC INTEREST LITIGATION NO.87 OF 2006

The Bombay Environmental Action Group Applicant
versus
The State of Maharashtra and others Respondents

WITH
CHAMBER SUMMONS NO.169 OF 2015
IN
PUBLIC INTEREST LITIGATION NO.87 OF 2006

The Bombay Environmental Action Group Applicant
versus
The State of Maharashtra and others Respondents

WITH
NOTICE OF MOTION NO.234 OF 2015
IN
PUBLIC INTEREST LITIGATION NO.87 OF 2006

Mumbai Housing and Area Development
Board Applicant

In the matter of :
Bombay Environment Action Group & anr. Petitioners
versus
State of Maharashtra & others Respondents

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WRIT PETITION NO.176 OF 2015

Malvani Prabodhan Sahakari Grihanirman
Sanstha Maryadit Petitioner

versus

The State of Maharashtra and others Respondents

WITH

WRIT PETITION NO.180 OF 2015

Malvani Anand Deep Sahakari Grihanirman
Sanstha Maryadit Petitioner

versus

The State of Maharashtra and others Respondents

WITH

WRIT PETITION NO.187 OF 2015

Malvani Matoshri Sahakari Grihanirman
Sanstha Maryadit Petitioner

versus

The State of Maharashtra & others Respondents

WITH

WRIT PETITION NO.188 OF 2015

Malvani Sagar Sahakari Grihanirman
Sabha Maryadit Petitioner

versus

The State of Maharashtra & others Respondents

WITH

WRIT PETITION NO.190 OF 2015

Malvni Tiranga Sahakari Grihanirman
Sanstha (Niyojit) Petitioner

versus

The State of Maharashtra & others Respondents

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WITH
WRIT PETITION NO.249 OF 2015

Malvani Sahara Sahakari Grihanirman
Sanstha (Niyojit) Petitioner
versus
The State of Maharashtra and others Respondents

WITH
WRIT PETITION NO.251 OF 2015

Malvani Laxminarayan Sahakari Grihanirman
Sanstha (Maryadit) Petitioner
versus
The State of Maharashtra & others Respondents

Mr.Jai Chhabria i/by M.V.Jayakar & Co. for PIL Petitioners in PIL No.87 of 2006.

Mr.Atul Damle, Sr.Advocate with Mr.Abhijeet Kadam for Petitioners in WP (L) No.1770/2015 and WP Nos.176, 180, 187, 188, 190, 249, 251, 273 of 2015 and for Applicant in CHSW No.169 of 2015.

Mr.G.S.Godbole with Ms.Krishna Raje i/by LJ Law for Applicant in CHSW No.172 of 2007.

Mr.V.M.Parshurami for MHADA.

Mr.V.P.Sawant for Applicant in NMW No.234 of 2015.

Mr.Rui Rodrigues with P.S.Jetly, N.R.Prajapati, Rajesh Singh, Ms.S.V.Bharucha and Ms.Bharadwaj for Union Government.

Ms.Sharmila Deshmukh for MCZMA.

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Mr.G.S.Hegde with Ms.P.M.Bhanushali for CIDCO.

Ms.Yamuna Parekh for MCGM.

Mr.D.A.Nalavade, GP and J.S.Saluja, AGP in WP Nos.176 and 251 of 2015.

Mr.J.S.Saluja, AGP in WP Nos.180 and 190 of 2015.

Mr.Hitesh Venegavkar, Addl.G.P. in WP Nos.187 & 249 of 2015.

Mr.Milind More, Addl.G.P. in WP Nos.188 of 2015.

CORAM : MOHIT S. SHAH, C.J. AND
A.K.MENON, J.

DATE : 29 July 2015

ORAL JUDGMENT - (Per : Chief Justice) :-

The writ petitioners and the applicants in the chamber summons have prayed for modification/variation of the order dated 6 October2005 of this Court in Public Interest Litigation No.86 of 2006 (original Writ Petition (L) No.3246 of 2004 and connected writ petitions) to the extent that the order contained in paragraph 8(iii) of the said order dated 6 October 2005 will not apply to the following plots in Malvani-Malad (West) and Versova-Andheri :

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Sr. No.	Writ Petition No./ Chamber Summons No.	Plot No.	Village	Name of Petitioner/ Applicant society
1	WP No.176 of 2015	45, Survey No.263 (P), CTS No.3525A	Malvani-Malad (West)	Malvani Prabodhan Sahakari Grihanirman Sanstha Maryadit
2	WP No.180 of 2015	57, Survey No.263 (P), CTS No.3525A	Malvani-Malad (West)	Malvani Anand Deep Sahakari Grihanirman Sanstha Maryadit
3	WP No.187 of 2015	56 Survey No.263 (P), CTS No.3525A	Malvani-Malad (West)	Malvani Matoshri Sahakari Grihanirman Sanstha Maryadit
4	WP No.188 of 2015	41 Survey No.263 (P), CTS No.3525A	Malvani-Malad (West)	Malvani Sagar Sahakari Grihanirman Sabha Maryadit
5	WP No.190 of 2015	44 Survey No.263 (P), CTS No.3525A	Malvani-Malad (West)	Malvani Tiranga Sahakari Grihanirman Sanstha (Niyojit)
6	WP No.249 of 2015	42 Survey No.263 (P), CTS No.3525A	Malvani-Malad (West)	Malvani Sahara Sahakari Grihanirman Sanstha (Niyojit)
7	WP No.251 of 2015	38 Survey No.263 (P), CTS No.3525A	Malvani-Malad (West)	Malvani Laxminarayan Sahakari Grihanirman Sanstha (Maryadit)
8	CHSW No.169 of 2015	B/2, CTS No.1374-B	Versova-Andheri	Dinshow Trapinex Builders Pvt.Ltd.
9	CHSW No.172 of 2007	Plot on Survey No.120, CTS No.1374B-24, RSC-2 in MHADA Layout	Versova-Andheri (West)	Blue Star Realtors Pvt.Ltd.

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2. For the purposes of deciding these writ petitions and chamber summonses, we would refer to the facts as set out in the affidavit-in-reply filed on behalf of Maharashtra Housing and Area Development Authority *(MHADA)* dated 13 July 2015.

3. The Government of Maharashtra initiated Bombay Urban Development Project *(BUDP)* on 4 January 1985 as a project aided by the World Bank at Gorai, Charkop, Versova, Malvani and Mulund in Mumbai. The said schemes were undertaken especially for Economically Weaker Section (EWS) and Lower Income Group (LIG) known as Site Service Project. The project was undertaken for allotment of plots for residential purposes which were already developed with all infrastructural services. The Government of Maharashtra, World Bank and MHADA being the implementing agencies, spent substantial amounts between the years 1985 and 1994. Accordingly, MHADA and Maharashtra Housing and Area Development Board *(MHADB)* prepared complete layout plans for Charkop-Kandivali, Gorai-Borivali, Malvani-Malad, Versova-Andheri and Mulund and submitted the same to the Municipal Corporation of Greater Mumbai *(MCGM)* for its approval. After the Municipal Corporation granted approval and other legal formalities were completed, MHADA invited applications from the public at large and co-operative housing societies for allotment of residential plots, society plots, commercial plots, amenity plots etc. on terms and conditions mentioned in the

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respective brochures in the years 1987, 1988, 1989 and 1994 respectively for Charkop, Gorai, Versova, Mulund and Malvani areas. After receiving the applications, MHADA allotted plots under BUDP Project to various persons. The particulars about the date of approval of the lay out by the Municipal Corporation and the date of allotment of plots in the respective layout are given in a chart, as under :

Sr. No.	Location of BUDP Project	Date of approval granted by MCGM to lay out for BUDP Project	Date of allotment of plots by MHADA under BUDP Project layout wise
1	Gorai-Borivali	5 June 1987	11 January 1990
2	Charkop-Kandivali	4 May 1989	5 July 1989
3	Versova-Andheri	6 February 1990	14 June 1994
4	Malvani-Malad	21 December 1991	30 October 1994
5	Mulund	25 June 1992	7 September 1993

4. MHADA has further pointed out in its reply affidavit that when the above process was going on, the Government of India in the Ministry of Environment and Forest (*MoEF*) issued Notification dated 19 February 1991 putting restrictions on construction activities within the Coastal Regulatory Zone (*CRZ*) and, therefore, under the provisions of the said Notification, necessary environmental clearance was required to be obtained. Accordingly, MHADA sent proposal to MoEF on 24 September

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2002 and on 10 February 2003 MoEF granted environmental clearance to the following projects in the following terms :

> " *This has reference to your letter No.Sr.Arch/NB/4319/02, dated 24.9.2002 regarding the subject mentioned above.* ***The Ministry after examination of the above proposal pertaining to development of housing schemes by MHADA hereby accords clearance*** *under Coastal Regulation Zone Notification, 1991 as amended from time to time,* ***to the plots falling within Coastal Regulation Zone area of the following sites*** *:*
>
> *(v) Gorai (Phase-III),*
> *(vi) Charkop - Kandivali (Phase IV);*
> *(vii) Versova S.No.120 Andheri (West) (Phase-I),*
> *(viii) Mulund Sl.No.386 (Phase-I)*
>
> *2. The following conditions may be complied with while undertaking development of the plots in the Coastal Regulation Zone area located in the above sites :-*
>
> *(vii) The floor space index for the proposed developments shall be the floor space index as existed prior to 19th February, 1991;*
> *(viii) ... ...*
>
> *(ix) Sewage treatment facilities shall be provided for the housing scheme but shall be located outside Coastal Regulation Zone area. Discharge of untreated sewage into the creeks is prohibited;*
>
> ***(x) No mangroves shall be destroyed during construction or post construction;***
>
> ***(xi) Dumping of solid waste such as construction waste or municipal solid waste shall not be undertaken in Coastal Regulation Zone area.***"
>
> *(emphasis supplied)*

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5. MoEF, however, did not agree to the grant of environmental clearance to the residential zone in Malvani-Malad (West) on the ground that the area was acquired after 19 February 1991 and the basic sites and services were provided after 19 February 1991. However, subsequently, on representations by MHADA, MoEF granted environmental clearance for the Malvani-Malad (West) layout also, by their letter dated 10 November 2005 subject to the same terms and conditions on which environment clearance dated 10 February 2003 was granted for above four layouts.

6. Thereafter, a writ petition being Writ Petition (L) No.3246 of 2004 came to be filed in this Court where directions were sought regarding protection of mangroves. That writ petition came to be converted in Public Interest Litigation No.87 of 2006. When the said writ petition was heard on 6 October 2005, this Court gave several directions for protection of mangroves. The relevant directions for the purpose of this group of petitions read as under :

> " *8. The State Government is directed to designate a Senior Officer not below the rank of concerned District Magistrate and Collector and Deputy Commissioner of Police/Superintendent of Police to oversee the implementation of the following directions. They would entertain complaints from citizens in respect of mangrove destruction. The name, address and contact information of such officers shall be advertised prominently in one English newspaper and two Marathi newspapers, apart from the official websites of the Maharashtra Government and the Forest Department.*

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(i) That there shall be a total freeze on the destruction and cutting of mangroves in the entire State of Maharashtra. We take note of the fact that in T.N. Godavarman Thirumulkpad vs. Union of India and Ors. etc. [Writ Petition (C)No. 202 of 1995 and 171 of 1996], an affidavit was filed on behalf of the State of Maharashtra by the Chief Conservator of Forests (Administration), in which on the basis of a report of an Expert Committee, it was stated that in the Mumbai Urban Area alone, 1,534 hectares of land were, inter alia, classified as mangrove areas.

(ii) All construction and rubble/garbage dumping on the mangrove areas shall be stopped forthwith;

(iii) Regardless of ownership of the land, all construction taking place within 50 meters on all sides of all mangroves shall be forthwith stopped ;

(iv) No development permission whatsoever shall be issued by any authority in the State of Maharashtra in respect of any area under mangroves.

(v) The Municipal Commissioner of Greater Mumbai shall forthwith issue the necessary directions to the Municipal Corporation of Greater Mumbai Building Proposals Department not to entertain any applications for development (as defined in the Maharashtra Regional and Town Planning Act, 1966) on or in respect of the mangrove lands, regardless of the nature of ownership;

(vi) The State Government and the Maharashtra Coastal Zone Management Authority (MCZMA) are directed to file monthly report on the above action plan to this Court. The first report will be submitted within four weeks from today. The report shall specifically state, in addition to the progress/action taken,

(a) the number of complaints received, if any,
(b) the action taken thereon, if any,
(c) the number of offenders named, and
(d) the details of prosecutions/action launched/taken against such offenders.

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(vii) The State of Maharashtra is directed to file in Court and furnish to the petitioners copies of the maps referred to in paragraph 10 of the affidavit dated 16th August, 2005, filed by Mr.Gajanand Varade, Director, Environment Department, State of Maharashtra (Page 346 on the record), within four weeks from today;

(viii) The areas shown as mangrove area in the statellite study report "Mapping of mangroves in the Maharashtra State using Satellite Remote Sensing" dated August, 2005, prepared by the Maharashtra Remote Sensing Application Centre (MRSAC) for the MCZMA which was submitted to this Court on 29th August, 2005, form part of Phase I of the mapping by MRSAC. The MRSAC will, in Phase-II, carry out mangroves study using high resolution for detailed mapping of mangroves with a view to identify more precisely mangrove areas in Mumbai and Navi Mumbai. After receiving the said satellite data, transfer of mangrove details on city survey/village maps (cadastral map) will be carried out within a period of 6 months from today;

(ix) After the aforesaid process in clause (viii) is completed, the areas so identified which are government owned shall be declared and notified as "protected forests" in accordance with law after carrying out ground survey etc. The areas so identified that are privately owned shall be declared and notified as "forests" in accordance with law, after carrying out ground survey etc. The said declaration/notification will be completed within a period of 8 weeks of the completion of Phase-II mapping;

(x) The mangrove areas that are on government owned lands will be handed over to the Forest Department within a period of 12 weeks from the declaration of the same as "protected forests";

(xi) From the list of "mangrove areas" so identified, Government owned lands will automatically be declared/notified as "protected forests". Likewise, privately owned lands from the list of mangrove areas so identified, the same will be declared/notified as "forests";

(xii) The Secretary, Revenue Department, shall from the said date of taking over possession of the Government owned land by the Forest Department, update all the revenue

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records to ensure that the said Government lands are shown as "protected forests" in the said revenue records within a period of 12 weeks from the same being declared as "protected forests". In the case of lands that are private owned, the secretary, Revenue Department, shall update all the revenue records to ensure that the said private lands are shown as "forests" in the said revenue records within a period of 12 weeks of completion of the steps in clause (x) above;

(xiii) In respect of Government lands, the Forest Department and other authorities of the State of Maharashtra shall take the following necessary steps of protection, conservation and regeneration of the areas that would be declared/notified as "protected forests: in terms of clause (x) above :

(a) Removal of all obstructions that are impeding the growth of mangroves as also the impediments which restrict the flow of sea water in the mangrove areas;

(b) Wherever mangrove growth is found to be sparse and denuded (i.e. with forest density less than 0.4 which means canopy less than 40%) within these identified areas, taking necessary steps for rejuvenation;

(c) On identification of the areas as forest, the Municipal Corporation of Greater Mumbai would remove garbage and debris within these areas within a period of three months as per the instructions of the Forest Department. These areas shall be rejuvenated with mangroves;

(d) The Forest Department is directed to take necessary action against the offenders in accordance with law for damaging or destroying mangroves.

9. The Officers so designated in paragraph 8 above shall submit a report on the above action plan every three months to this Court. The first of such reports shall be submitted within four weeks from the date of declaration/notification as "protected forest". In addition to the progress/action taken, the reports shall specifically state the action taken as regards (a) number of complaints received, if any, (b) the action taken thereon, if any, (c) the number of offenders named,

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and (d) the details of the prosecutions/action launched/taken against such offenders.

10. The State Government shall provide the necessary staff and funds for implementing the aforesaid directions to all concerned departments of the State.

11. The Principal Secretaries of (i) Environment, (ii) Revenue and (iii) Forest Departments, Government of Maharashtra, shall be overall in-charge of ensuring total compliance of this order.

12. This order shall partly modify the order dated 9th June, 2004 of this Court passed in Writ Petition No. 2208 of 2004.

13. The Chief Secretary of the State of Maharashtra is directed to send a circular to all concerned Collectors/Deputy Commissioners of Police/Superintendents of Police and all other concerned officials to ensure meticulous compliance of this order.

14. A copy of this order shall be sent to the Chief Secretary of the State of Maharashtra with a special messenger."

*(*emphasis supplied*)*

7. In view of the above directions, particularly direction prohibiting any construction activity in the buffer zone of 50 meters, all the construction activities in such buffer zone came to a stand still. Hence, the MHADB sent a proposal to Maharashtra Coastal Zone Management Authority (MCZMA) and in response to the said proposal, MCZMA by its letter dated 29 July 2013 observed as under :

"3. The Authority noted that the MoEF, New Delhi has accorded clearance in 2003 and 2005 for the five

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> *affected schemes, under the CRZ Notification, 1991. However, as per the then High Court order dated 6.10.2005 in WP No.3246/2004 and 27.1.2012 in PIL No.87/2006, prior High Court permission is mandatory for the development, if the plot falls in mangroves or its 50 mt. buffer Zone area.*
>
> *4. The Authority deliberated the matter and observed that the MHADA can approach the Hon. Mumbai High Court for seeking the mandatory prior permission for development on the plots which are affected by mangroves or its 50 mt buffer Zone area.*"

8. MHADA has accordingly moved Notice of Motion No.234 of 2015 seeking following directions :

> "*a) That this Hon'ble Court be pleased to exempt and exclude the lands more particularly described in the schedule annexed to the Notice of Motion from the purview of the judgment and order dated 6th October 2005 qua the housing project undertaken by the Applicant at Gorai-Borivali, Charkop-Kandivali, Malwani-Malad, Versova and Mulund in Mumbai.*"

9. The plot owners of the respective plots have also prayed for exemption/variation of the order dated 6 October 2005 as indicated above.

10. The learned counsel for MHADA has submitted that MHADA had launched BUDP project as far back as in the year 1985 for providing affordable housing to the economically weaker section and to the lower income group with the help of World Bank. The BUDP project was undertaken to develop the plots along with providing complete infrastructural services and

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for that purpose all the infrastructural services were provided from 1985 to 1994. It is further submitted that by now, more than ten thousand plots have been developed and the percentage of plots on which residential buildings have been constructed, is as per the particulars given in the following chart:-

Sr. No.	Location of BUDP Project	Date of approval granted by MCGM to lay out for BUDP Project	Date of allotment of plots by MHADA under BUDP Project layout wise	Percentage of Plots development till date
1	Gorai-I Gorai-II	05.06.1987 03.02.1988	11.01.1990	85 percent
2	Charkop-Kandivali	04.05.1989	05.07.1989	85 percent
3	Versova-Andheri	06.02.1990	14.06.1994	76 percent
4	Malvani-Malad	21.12.1991	30.10.2004	84 percent
5	Mulund	25.06.1992	07.09.1993	79 percent

11. The learned counsel for PIL petitioner, however, submits that the question is whether the development permitted on the plots within 50 meters buffer zone is governed by CRZ Notification dated 6 January 2011; and that as per said Notification, the land falling within 50 meter buffer zone shall fall in CRZ-I area and no construction activity is permitted in CRZ-I except specified category of construction.

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12. In view of the above submission, it is necessary to reproduce the relevant provisions of CRZ Notification dated 6 January 2011, which read as follows :

> *" **7. Classification of the CRZ** :*
>
> *For the purpose of conserving and protecting the coastal areas and marine waters, the CRZ area shall be classified as follows, namely :*
>
> ***(i) CRZ-I** :*
>
> *A. The areas that are ecologically sensitive and the geomorphological features, which play a role in the maintaining the integrity of the coast,-*
>
> ***(a) Mangroves, in case mangrove area is more than 1000 sq. mtrs., a buffer of 50 metres along with mangroves shall be provided;***
>
> *(b) to (k) ... ...*
>
> *B. The area between Low Tide Line and High Tide Line;*
>
> ***(ii) CRZ-II** :*
>
> ***The areas that have been <u>developed</u> upto or close to the shoreline.***
>
> *Explanation.- For the purposes of the expression "<u>developed area</u>" is referred to as that <u>area within the existing municipal limits</u> or in other existing legally designated urban areas, <u>which are substantially built-up and has been provided with drainage and approach roads and other infrastructural facilities</u>, such as water supply and sewerage mains.*
>
> ***(iii) CRZ-III** :*
>
> *Areas that are relatively undisturbed and those do not belong*

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to either CRZ-I or II, which include Coastal Zone in the rural areas (developed and undeveloped) and also areas within municipal limits or in other legally designated urban areas, which are not substantially built up.

***(iv) CRZ-IV** :*

A. The water area from the Low Line to twelve nautical miles on the seaward side;

B. ... ...

***(v) Areas requiring special consideration for** the purpose of protecting the critical coastal environment and **difficulties faced by Local Communities**,-*

A. (i) CRZ area falling within municipal limits of Greater Mumbai;

B. Critically Vulnerable Coastal Areas (CVCA) such as Sunderbans region of West Bengal and other ecologically sensitive areas identified as under Environment (Protection) Act, 1986 and managed with the involvement of coastal Communities including fisherfolk."

(Emphasis supplied)

The explanation to Clause 7(ii) of CRZ Notification dated 6 January 2011 read with Guideline no.6 of Classification of CRZ areas in Annexure-I of CRZ Notification dated 6 January 2011 laying down guidelines for preparation of coastal zone management plans. The relevant portion of Guideline no.6 read as under :

***II. Classification of CRZ areas** :*

1. ... ...
2. ... …

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> ***3. Buffer zone along mangrove areas of more than 1000 sq.mts shall be stipulated with a different colour distinguishing from the mangrove area.***
>
> ***4. The buffer zone shall also be classified as CRZ-I area.***
>
> *5. ... …*
>
> ***6. The CRZ-II areas shall be those areas which have been substantially built-up with a ratio of built-up plots to that of total plots is more than 50%.***"
>
> *(Emphasis supplied)*

13. In view of the above provisions, by an order of this Court dated 9 March 2015 passed in Notice of Motion (L) No.743 of 2014 and present group of writ petitions, MCZMA was directed to submit a report to indicate whether plots in question fall within buffer zone of 50 meters from the mangroves and whether mangrove area near the plots is 1000 sq.meters or larger. So also by order dated 26 June 2015 passed in Chamber Summons No.169 of 2015, MHADA was also asked to file an affidavit indicating the ratio of built-up plots to that of total plots in the layouts in question.

14. In compliance with the above directions, MCZMA has submitted a report on the basis of inspection made on 19 July 2015. As per the said report, while plots in question are within 50 meters from the mangroves towards landward side,

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there are existing concrete/tar roads between the mangroves and the plots in question in case of nine sites visited by expert member of MCZMA, Under Secretary of Environment Department-Government of Maharashtra and other officers of MHADA and Municipal Corporation. In view of the said report, the learned counsel for PIL petitioner has submitted that the land falls within CRZ-I and, therefore, no construction activity is permitted.

15. On the other hand, Mr.Parshurami, learned counsel appearing for MHADA, Mr.Godbole learned, counsel appearing for the applicants in Chamber Summons No.172 of 2007 and and Mr.Damle, learned Senior Advocate appearing for Applicant in Chamber Summons No.169 of 2015, have submitted that the lands in question fall in CRZ-II area because the areas that have been developed may be close to the shoreline, but these plots are within municipal limits of Municipal Corporation for Greater Mumbai and are part of the layouts approved by MCGM between 1989 and 1994 with infrastructural facilities such as approach roads, drainage, water supply and sewege mains and are, therefore, developed areas falling in CRZ-II. It is submitted that in view of the particulars given by MHADA in their affidavit dated 13 July 2015, all the five layouts are areas which have been substantially built-up with infrastructural services, with construction on the percentage of plots ranging between 75% to 85% of the total plots in the respective layouts. The learned

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counsel have, therefore, submitted that when the plots fall in areas which are admittedly within existing municipal limits and which are substantially built-up and have been provided with drainage and other infrastructural services including water supply and sewerage, the lands have to be considered as falling under CRZ-II notwithstanding the fact that they may also be falling within 50 meters buffer zone.

16. We find considerable substance in the submissions made by the learned counsel for MHADA and the learned counsel appearing for the writ petitioners and for the applicants in Chamber Summons that CRZ Notification has to be read as a whole. An analysis of the classification of coastal regulation zone into CRZ-I and CRZ-II in sub clauses (i), (ii) and (v) of Clause-7 of the CRZ Notification dated 6 January 2011 read with Annexure-I thereto, indicates that :-

(i) area will fall in CRZ-I, if the area is covered by mangroves of more than 1000 sq.meters. Mangroves generally grow on the land between Low Tide Line and High Tide Line (also known as inter-tidal zone);

(ii) areas up to or close to the shoreline will fall in CRZ-II, if the areas which are within municipal limits (or in other existing legally designated urban areas) and are developed i.e. are substantially built-up and have been provided with drainage and approach roads and other infrastructural

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facilities, such as water supply and sewerage mains, with a ratio of built-up plots to that of total plots being more than 50%;

(iii) The dispute is about the classification of the buffer area of 50 meters from the mangroves.

It is necessary to note that definition of CRZ-II as the areas that have been developed up to or close to the shoreline, does not provide that such developed areas must be at a distance of 50 meters from the shoreline. If the contention of PIL petitioner were correct, the Government of India would have indicated that CRZ-II areas are those which are at a distance of 50 meters from the shoreline and developed etc. Obviously, "**the areas that have been developed up to or close to the shoreline**" could be within 50 meters of the mangroves area which (mangroves area) has more than 1,000 sq.meters of mangroves. The Notification specifically mentions in Clause-7(v) that the CRZ areas falling within the municipal limits of Greater Mumbai require special consideration. Hence, the definition of CRZ-II in clause-7(ii) of Notification specifically uses the words "**the areas that have been developed up to or close to the shoreline**." The Government of India, therefore, knew that there were developed areas within the municipal limits in Greater Mumbai which were up to or close to the shoreline. Hence, we are unable to accept the submission of

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learned counsel for the PIL petitioner that the area of 50 meters from the mangrove area, can never fall in CRZ-II, even if such areas are developed areas within the existing municipal limits of Greater Mumbai. Accepting the PIL petitioner's contention would render the words "up to or close to the shoreline" in clause 7(ii) redundant. Of course, where the buffer zone area of 50 meters from the mangrove area does not have any developed area as defined in Clause-7(ii), it would fall in CRZ-I as per Clause-7(i).

17. Learned counsel for the PIL petitioner would, however, submit that any development which has taken place after 19 February 1991, cannot be taken into consideration for the purposes of considering whether the lands in question fall within CRZ-II area, because CRZ Notification dated 19 February 1991 also defined CRZ-II area in the following terms :

"***ANNEXURE-I***

Coastal Area Classification and Development Regulations
Classification of Coastal Regulation Zone :
6 (1) For regulating development activities, the coastal stretches within 500 m. of High Tide Line of the landward side are classified into four categories, namely :

Category I (CRZ-I) : ... ...

Category-II (CRZ-II) : The areas that have already been developed upto or close to the shoreline. For this purpose, "developed area" is referred to as that area within the municipal limits or in other legally designated urban areas which is already substantially built up and which has been provided with drainage and approach roads and other infrastructural facilities, such as, water supply and sewerage mains."

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It is submitted that since the definition of CRZ-II area in the CRZ Notification dated 6 January 2011 is same as definition of CRZ-II area in CRZ Notification dated 19 February 1991, it would necessarily mean that only those areas will be treated as substantially built-up areas on 6 January 2011 which had already been substantially built-up as on 19 February 1991. It is submitted that MHADA affidavit indicates that the plots in the layouts in question were allotted in 1989 or after 19 February 1991 and, therefore, subsequent development of the areas after 19 February 1991 cannot be taken into account for the purpose of deciding the ratio of "built-up plots to the total plots". It is submitted that it would be less than 50% and, therefore, the plots in question cannot be treated as falling in CRZ-II as per CRZ Notification dated 6 January 2011.

18. The learned counsel for the PIL petitioner further submitted that in any view of the matter, the CRZ clearance granted by MoEF in the years 2003 and 2005 cannot enure for the benefit of the petitioners as those clearances were valid only for a period of five years.

19. We have carefully considered the rival submissions. It is necessary to note that accepting the contention urged on behalf of PIL petitioner that the development which has taken place after 19 February 1991 cannot be taken into consideration for the purposes of determining whether the lands are part of

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layouts which are substantially built-up with more than 50% plots having construction, would mean that construction which has taken place on the buffer zone between 19 February 1991 and 6 October 2005 would have to be declared illegal. In the writ petition which was filed in the year 2004, which was subsequently converted into PIL, no such contention was taken. Therefore, it would be too late in the day to allow PIL petitioner to raise such contention. Even otherwise, we are of the view that while considering whether a plot of land falls in CRZ-II area as per CRZ Notification dated 6 January 2011, we would have to consider the position as on the date of the coming into force of CRZ Notification dated 6 January 2011. However, considering the fact that for the first time by an interim order dated 6 October 2005 this Court had prohibited any construction activity on 50 meter buffer zone i.e. 50 meters from mangroves towards landward side, at the most, relevant date would be 6 October 2005 and not any date prior thereto.

The CRZ Notification of 19 February 1991 did not contain any prohibition on construction on the 50 meters buffer zone. Such a prohibition was for the first time introduced by an interim judicial order dated 6 October 2005. The affidavit on behalf of MHADA clearly shows that more than 10,000 plots in all the five layouts were allotted to various persons by 1994. Since the infrastructural facilities were provided with the assistance of World Bank by 1994 and since the plots were allotted by MHADA as far back as from 1989 to 1994, the case of MHADA

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that plots with construction are ranging in the ratio between 75% to 85% of the total plots upto 6 October 2005, is consistent with its case that the plots in question fall within the existing municipal limits and within the substantially built-up areas which were provided with drainage, concrete/tar roads and other infrastructural facilities as far back as between 1987 and 1994.

20. Mr.Damle, learned Senior Advocate appearing for one of the the applicants in Chamber Summons No.169 of 2015, has also invited our attention to the minutes of 99th meeting of MCZMA wherein it is clearly shown that the plot in question falls in CRZ-II even as per CZMP map of the year 1991.

21. As regards the contention urged on behalf of PIL petitioner that environmental clearance granted by MoEF on 10 July 2003 and 10 November 2005 would lapse after expiry of five years, it is necessary to note that those environmental clearances were not qua individual plots but for all the plots in four layouts under clearance dated 10 February 2003 and for the fifth layout under clearance dated 10 November 2005. Each layout has hundreds of plots and, therefore, once MoEF accorded "clearance to the plots" in a given layout and once the construction was put up on 50% or more plots, it would not be necessary for the other plot holders to obtain again environmental clearance after expiry of five years.

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22. As far as Notice of Motion No.234 of 2015 is concerned, it seeks clearance for development of plots some of which are forming subject matter of the above writ petitions and chamber summons. The affidavit in support of the Notice of Motion of Mr.Yogesh Shivajirao Deshmukh, Estate Manager of MHADA discloses that lay out approvals for Charkop in Kandivali, Gorai in Borivali, Malvani in Virar, Versova in Andheri and Mulund had been submitted to MCGM for its approval and these approvals were received for Gorai on 5 June 1987, Gorai-II on 3 February 1998, Charkop-III on 4 May 1989, Versova on 6 February 1990, Malvani on 21 December 1991 and Mulund on 25 June 1992. It is only after scrutinising the layout that the permissions were granted. According to MHADA, in Gorai area, after the infrastructural development was complete, the plots were allotted to various persons on 11 January 1980. In Charkop, the plots were allotted to various persons on 5 July 1989. In Versova, plots were allotted to various persons on 14 June 1994. In Malwani, plots were allotted on 30 October 1994 and in Mulund on 7 September 1993. The photographs relied upon by the parties including the PIL petitioner discloses what is in our view substantial development. MHADA has on oath stated that the infrastructure in these areas was complete including road, water supply, sewerage main etc. by 1994. No further infrastructure is to be completed in these layouts. In most of

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these cases before us, the petitioners are the societies comprising of members of low income and middle income group and considering the reported shortage of affordable housing for these groups in the City of Mumbai and its suburbs, subject to precautions set out in the judgment, it is necessary to take pragmatic view of the matter. The plots adjoining most of the plots under consideration are already having construction.

23. The MHADA has inadvertently not annexed the schedule to the Chamber Summons specifying the exact particulars of plots in these layouts. MHADA shall file an affidavit in this PIL setting out particulars of various plots in these layouts that have been allotted, within a period of three weeks with copies to the PIL petitioner and MCZMA. Within a period of six weeks thereafter MCZMA will carry out similar exercise as in case of the nine plots which were considered at the time of site visit on 19 July 2015 and file such site inspection reports along with an affidavit. It is only after ensuring that these sites also comply with the requirements of being located on the landward site of permanent road of tar or concrete road that such plots allotted can be permitted to be developed.

24. For avoidance of doubt, without MCZMA completing the aforesaid exercise in terms of aforesaid, the MHADA will not grant any permission to develop in respect of plots other

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than the plots for which reliefs are being granted by the present order. So also the MCGM shall not process any application received without MHADA and MCZMA certifying that the plots in question are all on the landward side of existing tar/concrete roads and are part of the completed infrastructure as on 6 October 2005. All the authorities shall take notice of the same and in no case any construction of a new road or extension of existing road shall be undertaken in these areas along side the mangroves in order to facilitate any development of any vacant plot.

25. Furthermore, it is made clear that all authorities concerned including the Municipal Corporation of Greater Mumbai and MHADA may grant permissions for construction on the plots referred to in the aforesaid layouts subject to strict compliance with all requirements of law including the following :

(a) While carrying out excavation or development work as contemplated in section 7 of the MRTP Act no excavated earth or other debris or construction material or any kind will be stored or dumped on the road or towards the shore line. Any violation of such debris management will be considered as breach, with consequences to follow.

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(b) So also while carrying such debris or excavated earth or any construction materials all concerned will ensure that there is absolutely no spillage and that the shoreline of mangrove or mangrove vegetation whether such mangroves are adjoining the plots in question or otherwise are not affected. All preventive measures shall be undertaken by the authorities concerned including MCZMA, the concerned plot owners, societies and developers so as to avoid any violation of these conditions.

(c) No mangroves shall be destroyed or polluted during construction, nor shall construction waste or municipal solid waste shall be dumped on mangroves or roads or in coastal regulation zone area. Under no circumstances will any garbage refuse or rubble shall be dumped in the mangrove area or in the buffer zone by any of the persons/developers/contractors or the societies concerned. This would have to be monitored on regular basis by the Municipal Corporation of Greater Mumbai by the officer not lower than the rank of Assistant Municipal Commissioner who will be held responsible for the breach of these stipulations.

26. Mangroves being the lifeline of the area, no breach of the above directions can be regularised throughout the layouts forming subject matter of the petitions and other proceedings taken out in the PIL. Any violation will result in

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prompt cancellation of the commencement certificate, if any, issued and all development work as contemplated under MRTP Act shall be forthwith stopped and continuance will be illegal, with consequences to follow. Moreover, in case any plot owner or developer violates these conditions, the plot in question will have to be restored to its original state after demolition of existing structures at the risk and cost of the developer and the society. The authorities concerned will ensure strict compliance with the above by the persons concerned including developers, contractors, societies or other entities contemplated under Maharashtra Ownership of Flats Act, 2012 and Maharashtra Apartment Ownership Act, 1970.

27. In our view, therefore, Notice of Motion No.234 of 2015 taken out by MHADA deserves to be allowed. We accordingly allow the motion and exclude the plots in the layouts for which environmental clearance was granted by MoEF on 10 February 2003 and 10 November 2005, subject to the observations set out above, from operation of the 50 meters buffer zone requirement.

28. It was because there was no such restriction in the CRZ Notification dated 19 February 1991 that this Court had introduced additional safeguard for protection of mangroves, that construction activity was prohibited in the buffer zone area by interim order dated 6 October 2005. Since the restriction is

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now incorporated in the Notification dated 6 January 2011, as per interpretation placed by us on CRZ Notification dated 6 January 2011, where plot of land falls in 50 meters buffer zone but it was already part of an approved layout with infrastructure facilities within a municipal area or in an existing legally designated urban area as on 6 January 2011, then it would have to be treated as falling in CRZ-II, provided the area was substantially developed as per explanation given in CRZ Notification and as explained in this order. In respect of the plots outside the aforesaid approved MoEF layouts, the concerned persons shall move the competent regulatory authority (MCZMA or MoEF), and not this Court.

29. It is clarified that when any CRZ clearance is sought, MCZMA will have to satisfy itself that the plot in question is beyond the existing concrete/tar road towards landward side and is a part of the developed area, as explained in this judgment.

30. The Writ Petitions and Chamber Summons are allowed accordingly in the above terms.

31. Learned counsel for the PIL petitioner prays for stay of this judgment for some time in order to have further recourse in accordance with law.

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This Order is modified/corrected by Speaking to Minutes Order dated 03/09/2015

32. Since our order merely requires authorities to act as per environmental clearances granted by MoEF as far back as in 2003 and 2005, we do not grant the prayer for stay. The prayer is rejected.

(CHIEF JUSTICE)

(A.K.MENON, J.)

MST

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBR SUMMONS NO.172 OF 2007
IN
PUBLIC INTEREST LITIGATION NO.87 OF 2006

The Bombay Environmental Action Group ..Applicant
Versus
The State of Maharashtra & Ors. ..Respondents

WITH
WRIT PETITION NO.176 OF 2015, 180 OF 2015, 187 OF 2015, 188 OF 2015, 190 OF 2015, 249 OF 2015, 251 OF 2015 & 273 OF 2015
WITH
NOTICE OF MOTION NO.234 OF 2015
IN
PUBLIC INTEREST LITIGATION NO.87 OF 2006
WITH
CHAMBR SUMMONS NO.169 OF 2015
IN
PUBLIC INTEREST LITIGATION NO.87 OF 2006

.....

Mr. Jai Chhabria i/b. M. V. Jayakar & Co. for the PIL Petitioners.
Mr. Abhijeet Kadam for the Petitioner in WP(L)/1770/2015, WP Nos.176, 180, 187, 188, 190, 249, 251, 273 of 2015.
Ms. Krishna Raje i/b. L. J. Law for the Applicant in CHSW/172/2007.
Mr. V. M. Parsurami for MHADA.
Mr. D. V. Daroj i/b. Rajesh Singh for Respondent no.2 in WP/176, 180, 187, 188, 190, 249, 251 & 273/2015 (UOI).
Mr. N. R. Prajapati with Rui A. Rodrigues for the Respondent-UOI.
Mr. N. P. Pandit, AGP, in CHSW/172/2007 & 169/2015, NM/234/2015 & WP/176/2015.

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HIGH COURT OF JUDICATURE AT BOMBAY

Mr. J. S. Saluja, AGP, in WP Nos.187 and 249 of 2015.
Mr. H. S. Venegavkar, AGP, in WP/188/2015.
Mr. Milind More, AGP, in WP/190/2015.

.....

CORAM: MOHIT S. SHAH, C.J. &
A. K. MENON, J.

DATE : 3 SEPTEMBER 2015.

P.C.:

Advocate for the MHADA has taken out the praecipe dated 2 September 2015 for seeking extension of the time limit to file affidavit as required by the order dated 29 July 2015.

2. In para 23 of the judgment, in 5/6th line the words "within a period of three weeks" shall be substituted by words "by 30 September 2015".

3. The praecipe stands disposed of.

CHIEF JUSTICE

(A. K. MENON, J.)

wadhwa

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Exhibit - MM

ITEM NO.7 COURT NO.1 SECTION IX

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C)..... of 2016
CC No(s). 533-539/2016

(Arising out of impugned final judgment and order dated 29/07/2015 and corrigendum orders dated 03.09.2015 in CS No. 172/2007 in PIL No. 87/2006, CS No. 169/2015 in PIL No. 87/2006, MM No. 234/2015 in PIL 87/2006, WP No. 176/2015, WP No. 180/2015, WP No. 187/2015, WP No. 188/2015, WP No. 190/2015, WP No. 249/2015 and WP No. 251/2015 passed by the High Court Of Bombay)

THE BOMBAY ENVIRONMENT ACTION GROUP AND ANR. Petitioner(s)

VERSUS

STATE OF MAHARASHTRA AND ORS. ETC. ETC Respondent(s)

(with appln. (s) for permission to file SLP and office report)

Date : 20/01/2016 These petitions were called on for hearing today.

CORAM :
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MRS. JUSTICE R. BANUMATHI

For Petitioner(s) Ms. Madhvi Divan, Adv.
Mr. D.Bharat Kumar, Adv.
Mr. T.Bhaskar, Adv.
Mr. Vishal Arun,Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following

O R D E R

Permission to file the special leave petitions is granted.

We do not find any merit in these special leave petitions, which are hereby dismissed.

Signature Not Verified
Digitally signed by
Date: 20/01/2016
17:27:43 IST
Reason:

(Mahabir Singh)
Court Master

(Saroj Saini)
Court Master

Exhibit - NN

GOVERNMENT OF MAHARASHTRA

Tel. No.: 22793132

No. ENV-2017/Legal/CR-18
Environment Department,
Mantralaya, Mumai-400 032.

Dated : 05th March, 2018.

CIRCULAR

Sub : Clarification in respect of mangrove buffer found in developed / Municipal limits - Order passed by Hon'ble High Court of Judicature at Bombay dtd. 29.7.2015.

The Hon'ble High Court of Judicature at Bombay has passed an order dtd. 29.7.2015 in Chamber Summons No. 172 of 2007 in PIL No. 87 of 2006 filed by the BEAG V/s S.o.M. & Ors. with W.P. No. 176 of 2015, 180 of 2015, 187 of 2015, 188 of 2015, 190 of 2015, 249 of 2015, 251 of 2015 & 273 of 2015 with Notice of Motion No. 234 of 2015 in PIL No. 87 of 2006 with Chamber Summons No. 169 of 2015 in PIL No. 87 of 2006 by rejecting the prayer for stay. The relevant portion of the order is reproduced hereunder :-

I) para 16 :

" We find considerable substance in the submissions made by the learned counsel for MHADA and the learned counsel appearing for the writ petitioners and for the applicants in Chamber Summons that CRZ Notification has to be read as a whole. An analysis of the classification of coastal regulation zone into CRZ-I and CRZ-II in sub-clauses (i), (ii) and (v) of Clause – 7 of the CRZ Notification dated 6.01.2011 r.w. Annexure-I thereto indicates that :-

(i) *area will fall in CRZ-I, if the area is covered by mangroves of more than 1000 sq.mtrs. Mangroves generally grow on the land between Low Tide Line and High Tide Line (also known as inter-tidal zone);*

(ii) *Areas upto or close to the shoreline will fall in CRZ-II, if the areas which are within municipal limits (or in other existing legally designated urban areas) and are developed i.e. are substantially built-up and have been provided with drainage and approach roads and other infrastructural facilities, such as water supply and sewerage mains, with a ratio of built-up plots to that of total plots being more than 50%.*

(iii) *The dispute is about the classification of the buffer area of 50 meters from the mangroves.*

*It is necessary to note that definition of CRZ-II as the areas that have been developed upto or close to the shoreline, does not provide that such developed areas must be at a distance of 50 meters from the shoreline. If the contention of PIL petitioner were correct, the Government of India would have indicated that CRZ-II areas are those which are at a distance of 50 meters from the shoreline and developed etc. Obviously, "**the areas that have been***

*developed **upto or close to the shoreline**" could be within 50 meters of the mangroves area which (mangroves area) has more than 1,000 sq.mtrs. of mangroves. The Notification specifically mentions in Clause – 7 (v) that the CRZ areas falling within the municipal limits of Greater Mumbai require special consideration. Hence, the definition of CRZ-II in Caluse-7 (ii) of Notification specifically uses the words **"the areas that have been developed upto or close to the shoreline"** could be within 50 meters of the mangroves area which (mangroves area) has more than 1,000 sq.mtr. of mangroves. The Notification specifically mentions in Clause-7(v) that the CRZ areas falling within the municipal limits of Greater Mumbai require special consideration. Hence, the definition of CRZ-II in clause -7(ii) of Notification specifically uses the words **"the areas that have been developed upto or close to the shoreline."** The Government of India, therefore, knew that there were developed areas within the municipal limits in Greater Mumbai which were upto or close to the shoreline. Hence, we are unable to accept the submission of learned counsel for the PIL petitioner that the area of 50 meters from the mangrove area, can never fall in CRZ-II, even if such areas are developed areas within the existing municipal limits of Greater Mumbai. Accepting the PIL petitioner's contention would render the words "up to or close to the shoreline" in clause 7 (ii) redundant. Of course, where the buffer zone area of 50 meters from the mangrove area does not have any developed area as defined in Clause-7(ii), it would fall in CRZ-I as per Clause-7 (i).*

II) Specific attention is drawn to Para 28 of the order that :

" ..... Since the restriction is now incorporated in the Notification dated 6 January 2011, as per interpretation placed by us on CRZ Notification dated 6 January, 2011, where plot of land falls in 50 meters buffer zone but it was already part of an approved layout with infrastructure facilities within a municipal area or in an existing legally designated urban area as on 6 January 2011, then it would have to be treated as falling in CRZ-II, provided the area was substantially developed as per explanation given in CRZ Notification and as explained in this order. "

Consequently, the Environment Department, G.o.M. has obtained confirmation of the Law and Judiciary Department on the above referred interpretation of the CRZ Notification dtd. 06.01.2011 by the Hon'ble High Court. The Law and Judiciary Department has commented on the interpretation of a judgement that :

Para 8 : As the issue before the Hon'ble High Court was restricted only to the plots involved in the Writ Petitions, Chamber Summons rather, a general issue, the orders of Hon'ble High Court dtd. 29.7.2015 is applicable to the plots involved in the said matters only.

Para 9 : As the Hon'ble High Court has interpreted the CRZ Notification dtd. 6th January, 2011, in its present order dtd. 29th July, 2015, unless the said order of Hon'ble High Court is varied or set aside by the appropriate forum, the interpretation of the CRZ Notification dtd. 6th January, 2011 put by the Hon'ble High Court, be taken help of by the authorities, of course, subject to the observations of the Hon'ble High Court in the said order. The Department may examine the individual matters before it, in the

light of the interpretation put by the Hon'ble High Court to the CRZ Notification dtd. 6th January, 2011, then by applying \the said interpretation to the individual matter, the authority may take appropriate decision."

Considering above, it is directed that all Concerned Authorities shall take cognizance of the aforementioned decision of the Hon'ble High Court and the interpretation confirmed by the Law & Judiciary Department while making recommendations of such cases to the MCZMA. The MCZMA shall act on the basis of the opinion given by the Law & Judiciary Department while taking decision in such cases.

Above action will be subject to any other subsequent order/s passed or being passed by any superior Court/s.

(Satish M. Gavai)
Addl. Chief Secretary,
Environment Department

Copy forwarded to :

1) Addl. Chief Secretary to Chief Minister, Maharashtra State – for information.
2) P.S. to Hon'ble Minister (Environment) – for information.
3) P.S. to Hon'ble State Minister (Environment) – for information.

Copy to :

1) Addl. Chief Secretary, Revenue Department – for information – It is requested to forward the above Circular to the Concerned Authorities under your jurisdiction.
2) Principal Secretary – I / II, Urban Development Department – for information – It is requested to forward the above Circular to the Planning Authorities under your jurisdiction.
3) Divisional Commissioner – Konkan – for information and necessary action
4) Municipal Commissioner – Municipal Corporation of Greater Mumbai / Navi Mumbai Municipal Corporation / Thane Municipal Corporation / Ulhasnagar Municipal Corporation/ Kalyan Dombivali Municipal Corporation / Bhiwandi-Nijampur Municipal Corporation / Mira-Bhyandar Municipal Corporation / Panvel Municipal Corporation – for information and necessary action.
5) Managing Director, CIDCO – for information and necessary action
6) Metropolitan Commissioner, Mumbai Metropolitan Region Development Authority – for information and necessary action
7) Collector – Mumbai / Thane / Palghar / Raigad / Sindhudurg / Ratnagiri - for information and necessary action.
8) Member Secretary, Maharashtra Coastal Zone Management Authority, 15th Floor, New Administrative Building, Mantralaya – for information and necessary action.

Exhibit - OO

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

PUBLIC INTEREST LITIGATION NO.87 OF 2006

Bombay Environmental Action Group
and another. … Petitioners.
V/s.
The State Of Maharashtra and others. … Respondents.

WITH
WRIT PETITION NO.2741 OF 2017

Rajhans Estates And 5 Others. … Petitioner
V/S
Union Of India And Ors. … Respondents

WITH
WRIT PETITION NO.2208 OF 2004

Maharashtra Manav Seva Sangh … Petitioner
V/S
The Tahasildar and Ors. … Respondents

Mr. Navroz Seervai, Sr. Counsel a/w Jai Chhabria & Ms. Shreya Parikh & Ms. Gulnar Mistry i/b. M/s M.V. Jayakar And Co. for the Petitioner in PIL/87/2006.
Mr. Saket Mone a/w Mr.Subit Chakrabarti a/w Mr. Vishesh Kalra and Ms. Neha Joshi i/b Vidhi Partners for the Petitioner in WP/2741/2017 & the Applicant in NMW/145/2018.
Mr. Rajshekhar V. Govilkar for the Respondent No.3 in PIL/87/2006,
Ms. Sharmila Deshmukh for the Respondent No.5 in WP/2741/2017
Mr. S.S. Pakle a/w Ms. Pallavi Thakar for the Respondent - BMC.
Mr. Musharaf Shaikh i/b. Ms. Kiran Bagalia for the Respondent No.7.
Ms. Geeta Shastri, Addl. G. P for the Respondent - State in PIL/87/2006
Mr. Rui Rodrigues a/w Mr. Upendra Lokegaonkar and Mr.N.R. Prajapati for the Respondent -UOI in PIL/87/2006.
Mr. Abhishek Patil for the Applicant in CHSW/196/2007.
Ms. Uma Palsule-Desai, AGP for the Respondent-State in NMW/372/

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2012 & NMW/344/2012.
Mr. S.B. Gore, AGP for the Respondent - State in WP/2741/2017.
Ms. Pooja Tated & Ms. Raksha Thakkar i/by ALMT Legal for Third Party No. 5.
Mr. M.S. Bharadwaj a/w Mr. A.M.Sethna for the Respondent No.5 in WP/2208/2004.
Mr. Abhijeet Rane for the Respondent No. 15 & 16, 18 & 19.
Mr. Amol Desai a/w Mr. Avinash K. Jalisatgi for the Respondent No.11.
Mr. G.S. Hegde i/b. M.V. Kini And Co. for the Applicant in NMWL/171/2018.
Mr. S.D. Shetty a/w Mr. Rakesh Singh i/b. M.V. Kini and Co. in NMW/555/2017 for the Applicant.
Mr.Kunal Chheda with N.R.Bubna in NMW/145/2018 for the Applicant.
Ms. Lata Desai a/w Ms. Pallavi Divekar and Mr. Salil Dabke i/b. Divekar and Co. in NMW/31/2018 for the Applicant.

CORAM : A.S. OKA AND RIYAZ I. CHAGLA, JJ.

DATE ON WHICH SUBMISSIONS WERE LASTLY HEARD : **02.08.2018**

DATE ON WHICH JUDGMENT IS PRONOUNCED : **17.09.2018**

JUDGMENT : (PER A.S. OKA, J.)

MANGROVES

1 This Public Interest Litigation (PIL) concerns the issue of destruction of mangroves in the entire State of Maharashtra. The word "Mangrove" is considered to be a combination of the Portuguese word "Mangue" and the English word "grove". Mangroves are salt-tolerant plants of tropical and subtropical intertidal regions of the world. The specific regions where these plants occur are termed as 'mangrove ecosystem'. These are highly productive but extremely sensitive and fragile. It is said about the mangroves that they are living life on the edge, with one foot on land and one in the sea. They survive in a harsh environment, adapting well to the scorching heat, deep mud and saltwater that would otherwise kill other plants. Yet they are tenacious and very useful for the environment. The occasion for filing the main

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PIL is that the importance of very tenacious mangroves for the benefit of the mankind is ignored and mangroves are being destructed in the State on a very large scale.

FACTUAL ASPECTS AND PRAYERS IN PIL 87 OF 2006

2 The first petitioner is a society registered under the Societies' Registration Act, 1860. It is the case of the first petitioner that it is committed to protection and preservation of environment. It is pointed out that the State of Maharashtra has a coastline of 720 kilometers which is indented by numerous rivers, estuaries, creeks, small bays, rocky shores and muddy beaches. It is pointed out in the petition that there are 18 major estuaries along with coastline of Maharashtra harboring some of the biologically richest patches of mangroves along the entire western coast of India. It is stated that there are 52 creeks in the State along the coast which are covered by mangroves. The petitioners have relied upon a map annexed at Exhibit-A which is titled as “Mangroves Status 1997” which is said to be a satellite image of coast of Greater Mumbai in the year 1997. Basically, the petition is filed for inviting attention of the Court to the large scale destruction or denudation of mangroves. The petition seeks a declaration that the areas covered by mangroves in the State of Maharashtra in addition to those covered by mangroves forest should be declared as mangroves protection area.

3 In paragraph (i)4 of the petition, mangroves have been described. Paragraph (i)4 reads thus :-

> “(i) What are 'mangroves'?
>
> 4. **Mangroves are intertidal (growing between the high tide and low tide line) evergreen forests growing on the soft marshy lands of a creek, estuary or a bay in the tropical and sub tropical regions. The expression**

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'**mangrove' does not apply to a single species of plants, but to a complete ecosystem which is a conglomeration of several species of flora, fauna and biotic features in an area, and their interaction with each other.** Mangroves are a peculiar habitat because they are found on the boundary between the land and the sea. They are found almost entirely in the tropical and sub tropical regions, that is, between 30 degrees north and 30 degrees south latitude, and are an extension of the tropical rain forests towards the sea. They are found largely in the estuarine regions where a river meets the sea, the intertidal regions of shallow bays and creeks. As extensions of the tropical rain-forests in to the sea, mangroves are functionally as important as the tropical rain-forests. Moreover, they are additionally important for the protection of the seashores from erosion, wave action, high-winds and cyclones. Mangroves being intertidal forests are equal to tropical forests, however their importance is not merely in their forest value but due to their strategic location between the land and the sea. Mangroves are the life line of any coastal area and perform invaluable protective functions for the environment. The importance of mangroves is set out below:"

(emphasis added)

4 The petition sets out the functions and importance of mangroves which can be briefly summarized as under :-

A] The mangroves play important role in protecting sea shores from erosion, high winds and cyclone;

B] Mangroves are strategically located between the land and sea and therefore, their importance is not merely in their forest value. The mangroves act as a buffer between the land and sea and play a very important role in fighting tidal erosion. The presence of mangroves does away with the need for expensive sea walls. The loss of mangroves endangers the stability of the land;

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C] The mangroves facilitate reclamation of land from the sea;

D] Sometimes mangroves act as flood control by absorbing excess water from the sea;

E] Similarly, mangroves protect the land from storms and hurricanes;

F] Apart from the fact that mangroves act as natural sewage water filter systems, the same act as natural pollution coastal checks. They absorb natural waste;

G] The presence of mangroves on the fringes of the city like Mumbai which has one of the lowest open space ratios in the world ensures that some open spaces are kept open;

H] The mangroves are breeding grounds for a number of marine organism, such as shrimps, crabs and fish. The presence of mangroves keeps the fish relatively free from industrial and other pollution; and

I] The mangroves are also centres of biodiversity and are the most productive ecosystems. In Maharashtra, they house panthers, otters, jackals, wild cats, reptiles and birds of numerous varieties. It is pointed out that Thane creek is a home to about 1.5 million birds of 206 different species.

5 It is pointed out that Maharashtra has about 18 species of mangroves out of total 55 found in India. It is pointed out that out of 5 coastal districts Mumbai, Thane (now Thane and Palghar), Raigad, Ratnagiri and Sindhudurg, the mangroves in Thane district have undergone maximum destruction. It is pointed out that though comparatively there is no destruction of mangroves in District Sindhudurg, the said district is less favourable to the growth of

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mangroves because of its geological condition. It is pointed out that in Mumbai also there has been a large destruction of mangroves. It is pointed out that city of Mumbai has been reclaimed from the sea by joining seven islands and it is consistently under pressure from surrounding sea. It is pointed out as to how mangroves in Mumbai have vanished. It is pointed out that in dumping grounds at Gorai and Deonar, water supply to mangroves has been blocked which resulted in destruction of mangroves. It is pointed out that rapid erosions have been noticed in the said area.

6 The prayers in prayer clause (a) of PIL are relevant which read thus:

> "(a) That this Hon'ble Court be pleased to pass a writ of mandamus or a writ in the nature of mandamus, or an other appropriate writ, order or direction directing the Respondents :
> (i) to declare the areas covered by mangrove forests in the area of Greater Mumbai as per the 1997 satellite plan annexed hereto as Exhibit 'A' as a specifically designated "mangrove protection area" with such modifications as this Hon'ble Court may deem fit.
> (ii) to forthwith forbear from permitting any destruction or denudation of mangroves in the aforesaid mangrove protection area, inter alia, by dumping, obstructing water supply, cutting of mangroves or by any other method.
> (iii) to forthwith remove all existing obstructions blocking water supply to mangroves in the mangrove protection area.
> (iv) to forthwith remove all encroachments in the mangrove protection area as per the plan annexed as Exhibit 'A';
> (v) to restore mangroves in the mangrove protection area in accordance with the aforesaid 1997 plan by re-plantation thereof;
> (vi) to take steps for the preservation of the aforesaid mangrove protection area throughout, inter alia, the establishment of eco-tourism parks on the lines

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mentioned more particularly in Paragraph 4(ii) of this petition.

(vii) to earmark a special mangrove restoration fund for the preservation of the mangrove protection area.

(viii) to carry out a monthly satellite study to monitor any change of land use within the mangrove area.

(ix) to account for the application of funds received by the 1st Respondent from the 2nd Respondent's National Committee on Mangroves & Coral Reefs for the preservation of mangroves in Maharashtra."

7 PIL refers to various statutory provisions. It also refers to Ramsar Convention which is an Inter-Governmental Treaty on Wetlands which requires the State to promote conservation of wetlands habitats in the territories.

DESTRUCTION OF MANGROVES

8 In paragraph 24 of the petition, it is pointed out that there is a systematic pattern adopted in destruction of mangroves. It is pointed out that the mangroves are either set on fire or cut down and the areas occupied by mangroves are cleared for settlements. The other method is by blocking water supply to mangroves by dumping debris and constructing embankments. If water supply to mangroves is blocked, it ensures that the mangroves do not survive. It is pointed out in the petition that though large number complaints are being made regarding the destruction of mangroves, none of the authorities have taken any cognizance of the complaints.

INTERIM ORDER OF 6TH OCTOBER 2005

9 On 6th October 2005, this Court passed a detailed order. Paragraphs 7 to 13 of the said order are relevant which read thus :

"7. **The Maharashtra State using Satellite Remote Sensing is directed to prepare Phase-II of the**

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mapping for carrying out mangroves study using high resolution satellite data of 65 cms. Spatial resolution/one meter spatial resolution for detailed mapping of mangroves with a view to identify more precisely mangrove areas. After receiving the satellite data, transfer of mangrove details on city survey/village maps (cadestral map) would be done. According to the learned Advocate General, this exercise is likely to take about six months. It has become imperative to pass interim order to protect the mangroves during the interregnum. We direct that this order shall not apply to all those cases which are specifically governed by injunction or stay order passed by the Courts of law before this date.

8. The State Government is directed to designate a Senior Officer not below the rank of concerned District Magistrate and Collector and Deputy Commissioner of Police/Superintendent of Police to oversee the implementation of the following directions. They would entertain complaints from citizens in respect of mangrove destruction. The name, address and contact information of such officers shall be advertised prominently in one English newspaper and two Marathi newspapers, apart from the official websites of the Maharashtra Government and the Forest Department.

(i) **That there shall be a total freeze on the destruction and cutting of mangroves in the entire State of Maharashtra.** We take note of the fact that in T.N. Godavarman Thirumulkpad vs. Union of India and Ors. etc. [Writ Petition (C)No. 202 of 1995 and 171 of 1996], an affidavit was filed on behalf of the State of Maharashtra by the Chief Conservator of Forests (Administration), in which on the basis of a report of an Expert Committee, it was stated that in the Mumbai Urban Area alone, 1,534 hectares of land were, inter alia, classified as mangrove areas;

(ii) **All construction and rubble/garbage dumping on the mangrove areas shall be stopped forthwith;**

(iii) Regardless of ownership of the land, all construction taking place within 50 metres on all sides of all mangroves shall be forthwith stopped;

(iv) No development permission whatsoever shall be

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issued by any authority in the State of Maharashtra in respect of any area under mangroves;

(v) The Municipal Commissioner of Greater Mumbai shall forthwith issue the necessary directions to the Municipal Corporation of Greater Mumbai Building Proposals Department not to entertain any applications for development (as defined in the Maharashtra Regional and Town Planning Act, 1966) on or in respect of the mangrove lands, regardless of the nature of ownership;

(vi) The State Government and the Maharashtra Coastal Zone Management Authority (MCZMA) are directed to file monthly report on the above action plan to this Court. The first report will be submitted within four weeks from today. The report shall specifically state, in addition to the progress/action taken,

(a) the number of complaints received, if any,

(b) the action taken thereon, if any,

(c) the number of offenders named, and

(d) the details of prosecutions/ action launched/ taken against such offenders.

(vii) The State of Maharashtra is directed to file in Court and furnish to the petitioners copies of the maps referred to in paragraph 10 of the affidavit dated 16th August, 2005, filed by Mr. Gajanand Varade, Director, Environment Department, State of Maharashtra (Page 346 on the record), within four weeks from today;

(viii) The areas shown as mangrove area in the satellite study report "Mapping of mangroves in the Maharashtra State using Satellite Remote Sensing" dated August, 2005, prepared by the Maharashtra Remote Sensing Application Centre (MRSAC) for the MCZMA which was submitted to this Court on 29th August, 2005, form part of Phase I of the mapping by MRSAC. The MRSAC will, in Phase-II, carry out mangroves study using high resolution for detailed mapping of mangroves with a view to identify more precisely mangrove areas in Mumbai and Navi Mumbai. After receiving the said satellite data, transfer of mangrove details on city survey/village maps (cadastral map) will be carried out within a period of 6 months from today;

(ix) **After the aforesaid process in clause (viii) is completed, the areas so identified which are government owned shall be declared and notified as**

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"protected forests" in accordance with law after carrying out ground survey etc. The areas so identified that are privately owned shall be declared and notified as "forests" in accordance with law, after carrying out ground survey etc. The said declaration/notification will be completed within a period of 8 weeks of the completion of Phase-II mapping;

(x) The mangrove areas that are on government owned lands will be handed over to the Forest Department within a period of 12 weeks from the declaration of the same as "protected forests";

(xi) **From the list of "mangrove areas" so identified, Government owned lands will automatically be declared/notified as "protected forests". Likewise, privately owned lands from the list of mangrove areas so identified, the same will be declared/notified as "forests";**

(xii) The Secretary, Revenue Department, shall from the said date of taking over possession of the Government owned land by the Forest Department, update all the revenue records to ensure that the said Government lands are shown as "protected forests" in the said revenue records within a period of 12 weeks from the same being declared as "protected forests". In the case of lands that are private owned, the secretary, Revenue Department, shall update all the revenue records to ensure that the said private lands are shown as "forests" in the said revenue records within a period of 12 weeks of completion of the steps in clause (x) above;

(xiii) In respect of Government lands, the Forest Department and other authorities of the State of Maharashtra shall take the following necessary steps of protection, conservation and regeneration of the areas that would be declared/notified as "protected forests: in terms of clause (x) above;

(a) Removal of all obstructions that are impeding the growth of mangroves as also the impediments which restrict the flow of sea water in the mangrove areas;

(b) Wherever mangrove growth is found to be sparse and denuded (i.e. with forest density less than 0.4 which means canopy less than

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40%) within these identified areas, taking necessary steps for rejuvenation;

(c) On identification of the areas as forest, the Municipal Corporation of Greater Mumbai would remove garbage and debris within these areas within a period of three months as per the instructions of the Forest Department. These areas shall be rejuvenated with mangroves;

(d) The Forest Department is directed to take necessary action against the offenders in accordance with law for damaging or destroying mangroves.

9. The Officers so designated in paragraph 8 above shall submit a report on the above action plan every three months to this Court. The first of such reports shall be submitted within four weeks from the date of declaration/notification as "protected forest". In addition to the progress/action taken, the reports shall specifically state the action taken as regards (a) number of complaints received, if any, (b) the action taken thereon, if any, (c) the number of offenders named, and (d) the details of the prosecutions/action launched/taken against such offenders.

10. The State Government shall provide the necessary staff and funds for implementing the aforesaid directions to all concerned departments of the State.

11. The Principal Secretaries of (i) Environment, (ii) Revenue and (iii) Forest Departments, Government of Maharashtra, shall be overall in-charge of ensuring total compliance of this order.

12. This order shall partly modify the order dated 9th June, 2004 of this Court passed in Writ Petition No. 2208 of 2004.

13. The Chief Secretary of the State of Maharashtra is directed to send a circular to all concerned Collectors/ Deputy Commissioners of Police/Superintendents of Police and all other concerned officials to ensure meticulous compliance of this order."

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THE STATUS OF COMPLIANCE WITH THE INTERIM DIRECTIONS IN THE ORDER DATED 6TH OCTOBER 2005

10 For reporting compliance with the said directions, the State Government has filed an affidavit of Shri Milind Panditrao, Divisional Forest Officer, Mumbai Mangrove Conservation Unit. The said affidavit records that by a circular dated 21st October 2005, the State Government issued various directions in terms of the orders dated 6th October 2005. Under the said circular, the Divisional Commissioner, Konkan Division was appointed as the officer responsible to oversee the implementation of the aforesaid directions issued by this Court. It is pointed out that from the year 2005, the Divisional Commissioner has submitted 147 monthly "Action Taken Reports" to this Court. It is pointed out that 695 complaints were received by the Divisional Commissioner for various violations out of which 575 have been disposed of and 120 are pending. It is pointed out that the Maharashtra Remote Sensing and Satellite Application Centre (for short "MRSAC") carried out the mapping of mangroves areas of Mumbai and Navi Mumbai. Based on this exercise, 5469 Hectares of mangroves on Government land in Mumbai were notified as forests and the said notified forest areas have been handed over to the Forest Department. It is stated that similar exercise of mapping of mangroves in the remaining coastal areas of Maharashtra was carried out by MRSAC. It is stated that in 7 coastal districts (Mumbai, Mumbai Suburban, Thane, Palghar, Ratnagiri, Sindhudurg and Raigad), 15,087.57 Hectares of mangroves on Government lands have been notified as "Reserved Forests" under Section 4 of the Indian Forest Act, 1927 (for short "the said Act of 1927"). Out of this area, total area of 12,263.72 Hectares constituting approximately 81.28% of the total area declared as a Reserved Forest

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has been transferred to the Forest Department. It is stated that in case of Thane and Mumbai Districts, the said percentage is 100% and in case of Mumbai Suburban and Ratnagiri Districts, it is more than 99%. It is pointed out that mangroves area of 1775 Hectares on private lands in Mumbai Suburban District has been declared as a "forest". In the said affidavit, certain difficulties have been expressed about the implementation of the direction of this Court to notify mangroves on private land as forests. We are dealing with the said issue in detail in the subsequent part of the judgment. It is submitted that the mangroves, irrespective of their ownership, receive protection under the Environment Protection Act, 1986 (for short "the said Act of 1986") and the Forest (Conservation) Act, 1980 (for short "the said Act of 1980"). Therefore, it was submitted that the failure to declare private lands as private forests within the meaning of the Maharashtra Private Forest (Acquisition) Act, 1975 (for short "the Private Forest Act") has not led to any adverse consequences.

11 Apart from the aforesaid statements made regarding the compliance with the directions issued under the order dated 6th October 2005, in the said affidavit, the following relevant steps taken by the State Government have been highlighted :-

1) So far approximately 541 Hectares of degraded mangrove areas have been brought under plantation;
2) On 5th January 2012, a dedicated unit called the "Mangrove Cell" was established for the protection and conservation of mangroves in Maharashtra. The officer of the rank of the Chief Conservator of Forests is heading the Mangrove Cell. From April 2017, this post has been upgraded to the level of the Additional Principal Chief Conservator of Forests;
3) For protection of mangroves in Mumbai and adjacent urban areas, the State Government has created Mumbai Mangrove Conservation Unit (MMCU) on 17th May 2013 which is headed by a Divisional Forest Officer who is

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assisted by several employees of the Forest Department. Six patrolling vehicles and two patrolling boats have been provided to MMCU. It is stated that 91 personnel from Maharashtra Security Corporation have been deployed in 3 shifts round the clock in various vulnerable mangroves areas in Mumbai;

4) Over 3800 illegal structures constructed on mangroves land in different parts of Mumbai have been removed and offences have been registered;

5) Action has been taken against the vehicles involved in dumping of debris in mangrove areas. It is stated that District Collectors have lodged FIRs in respect of mangrove areas on non-forest land under the provisions of the said Act of 1986;

6) An area of 1690 Hectares having a rich cover of mangroves on the western bank of Thane Creek has been notified as Thane Creek Flamingo Sanctuary under Section 18 of the Wildlife Protection Act, 1972 with effect from 6th August 2015;

7) On 20th September 2017, the State Government has initiated a new scheme of Mangrove Conservation and Livelihood Generation in all coastal districts of Maharashtra;

8) It is claimed that in a report published by Forest Survey of India in the year 2015, it is stated that the mangrove cover in Maharashtra up to 2013 was having an area of 186 sq. km which jumped to 222 sq. km by 2015. District wise break-up of the growth of mangrove cover between 2013 and 2015 has been set out in the affidavit.

12 By the said affidavit, the State Government has sought time of six months for completing the transfer of remaining notified Reserved Forest land admeasuring about 2823.84 Hectares (of Government land) to the Forest Department.

13 There are other affidavits placed on record from time to time. There are large number of orders passed on Notices of Motion taken out granting permission for carrying out the work on mangroves

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land. There is a detailed additional affidavit filed to the Notice of Motion (L) No.303 of 2015 on behalf of the petitioners by Shri Debi Goenka.

SUBMISSIONS

14 The learned senior counsel appearing for the petitioners has taken us through the averments made in the petition, the affidavits on record as well as other material on record. He has taken us through a chart containing the details of the extent of the implementation so far made with the directions contained in the order dated 6th October 2005. As regards the direction to transfer mangroves areas to the Forest Department, it is pointed out that the City and Industrial Development Corporation of Maharashtra Limited (for short "CIDCO") and the Mumbai Metropolitan Region Development Authority (for short "MMRDA") have not transferred mangroves land in their possession to the Forest Department. He also pointed out various aspects set out in the action taken reports. He pointed out that due to the failure in taking immediate action in respect of the destruction of mangroves, violators have not been identified and First Information Reports (for short "FIRs") have been filed against unknown persons. He also pointed out from the action taken reports that there is a frequent and rampant destruction of mangroves and dumping of garbage as well as debris in the mangroves area. He has relied upon statements made in various affidavits on record.

15 He further submitted that the FIRs are not taken to its logical end as the procedure under Section 19 of the said Act of 1986 is not being followed in most of the cases. He pointed out that as per the direction issued in clause 8(vi), MCZMA has not submitted any report. He stated that copies of the maps referred in the affidavit dated 16th

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August 2005 of Shri Gajanan Varade have not be supplied to the petitioners. He pointed out that there is no compliance with the direction contained in clause (xiii).

16 The learned senior counsel submitted that a direction should be issued to hand over all Reserved forests to the Forest Department within a time bound schedule. He submitted that remaining action of notifying mangroves areas as forests should be also completed in a time bound schedule. He submitted that there are certain mangrove areas which are vulnerable to encroachment. Such areas must be protected by constructing a fencing/ boundary wall at a distance of 50 meters of the mangroves on its landward side. He invited our attention to wetland maps of Maharashtra prepared by MRSAC which are very useful for detection of destruction of mangroves. He pointed out several violations of the directions issued by this Court on 6th October 2005. He submitted that penal provisions under the said Act of 1986 have been rarely invoked. He also addressed the Court on the need for restoration and re-forestation. He submitted that there is a need to show mangroves areas in all Development Plans and Regional Plans along with 50 buffer zones. He made various suggestions as regards the working of the mangroves cell. He invited our attention to CRZ notifications as well as order of the Central Government approving the Coastal Zone Management Plan of Maharashtra (for short “CZMP”). The learned counsel appearing for the petitioner has also addressed us on the contents of the affidavit of Shri Milind Panditrao.

17 He invited our attention to the Judgment and Order dated 29th July 2015 in Chamber Summons No.172 of 2007 and other connected Notices of Motion. His basic submission is that the said Judgment and order does not lay down any proposition of law and

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considering the peculiar facts of the case, certain plots in the layout in respect of which environmental clearance was granted in the years 2003 to 2005 were exempted from the operation of 50 meters buffer zone requirement. He urged that while approving CZMP, a condition was imposed by the Central Government of keeping 50 meter buffer zone and therefore, the said condition was in existence from the year 1996. He submitted that it is not correct to say that the requirement of having 50 meter buffer zone was brought into picture for the first time by the interim order dated 6th October 2005. He also pointed out as to how the condition of maintaining the buffer zone was in existence even prior to the order dated 6th October 2005.

18 The learned senior counsel appearing for the petitioner also addressed us on implementation of the directions contained in clause (ix) regarding declaring privately owned lands having mangroves as forests in accordance with law. He also invited our attention to the issue of implementation of the directions contained in last part of clause (xi) as well as last part of clause (xii). Firstly, he invited our attention to the decision of the Apex Court in the case of ***T.N. Godavarman Thirumulkpad vs Union Of India & Ors.***[1]. He submitted that the Apex Court has given purposive interpretation to the said Act of 1980 by holding that any forest irrespective of its ownership or its classification is entitled to protection of the provisions of the said Act of 1980. He pointed out that the Apex Court while recording the said finding has held that the word "forest" must be understood according to its dictionary meaning and the term "forest land" occurring in Section 2 of the said Act of 1980 will not only include the word "forest land" in dictionary sense but also any area recorded as a forest in the

[1] (1997) 2 SCC 267

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Government record. He urged that considering the dictionary meaning of "forest" it will cover lands with mangroves and therefore, effect will have to be given to the the directions issued by the Apex Court in the case of ***T.N. Godavarman Thirumulkpad vs. Union Of India & Ors***. in case of privately owned lands having mangroves. He submitted that on such lands, non-forest activity is completely prohibited without seeking permission of the requisite authorities.

19 Thereafter, he invited our attention to the provisions of the Private forest Act and definition of "forest" in clause (c-i) of Section 2 of the Private Forest Act. He pointed out that the said definition is an inclusive definition. Inviting our attention to the definition of "private forest" in clause (f) of Section 2, he urged that even the said definition is inclusive which includes any forest which is not the property of the State Government. He would, therefore, submit that private lands having mangroves will be a private forest within the meaning of the Private Forest Act. He would, therefore, submit that by virtue of sub-section (1) of section 3 of the Private Forest Act, all such lands will vest in the State of Maharashtra irrespective of any other provisions of law.

20 He also made submissions on the basis of the Wetlands (Conservation and Management) Rules, 2017 and definition of wetlands. He urged that in addition to the interim orders issued which are already in force, directions as contended by him may be issued apart from issuing direction regarding setting criminal law in motion against the offenders.

21 The learned Additional Government Pleader Ms. Geeta Shastri has taken us through the affidavit of Shri Milind Panditrao,

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Divisional Forest Officer, Mumbai Mangrove Conservation Unit and submitted that almost all interim directions have been complied with in substance. As regards the direction sought by the learned senior counsel appearing for the petitioner as regards the mangroves on private forests, she submitted that recourse will have to be taken to Section 21 of the Private Forests Act which will involve acquisition of privately owned properties having mangroves. She pointed out that Sections 34 to 37 of the Forest Act which provide for Control and Management of Forest Lands not being property of the Government have been repealed for the State of Maharashtra on coming into force of the Private Forest Act. She submitted that except the said direction, the State Government has shown willingness to implement all the other directions. We have also heard the various learned counsel representing various respondents including MCZMA as well as the learned counsel appearing for the parties in the connected petitions. Though we are disposing of Writ Petition 2741 of 2017 by a separate order, we have heard the learned counsel appearing in the said petition on certain issues especially relating to the buffer zone. The learned counsel appearing for the Petitioners in Writ Petition 2741 of 2017 made submissions in support of the order dated 29th July 2015 in Chamber Summons No. 172 of 2007. He pointed out that the said order finally concludes the issue of 50 meter buffer zone. He pointed out that the said order has been confirmed by the Apex Court by order dated 20th January 2016. He pointed out the circular issued by the State Government on the basis of the order dated 29th July 2015.

CONSIDERATION OF SUBMISSIONS

22 We have given careful consideration to the submissions. We have perused the affidavits and compilation of documents on record.

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THE INDIAN FOREST ACT , 1927

23 Firstly, the legal position will have to be dealt with. Section 3 of the said Act of 1927 reads thus :-

> "3. **Power to reserve forests**. - The State Government may constitute any forest-land or waste-land which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest-produce of which the Government is entitled, a reserved forest in the manner hereinafter provided."

24 The word forest has not been defined under the said Act of 1927. In the case of ***Laxman Ichharam Vs. Divisional Forest***[2], a Division Bench of the erstwhile Nagpur High Court held that the word forest has been used in its widest significance. The Division Bench observed in paragraph 13 :-

> "13. The term 'forest' has not been defined anywhere in the Forest Act. **In the absence of such a definition the word 'forest' must be taken in its ordinary dictionary sense.** The *Shorter Oxford English Dictionary*, Vol. I, gives the following meaning to it:
>
> '1. **An extensive tract of land covered with trees and undergrowth, sometimes intermingled with pasture** …….
>
> 2. Law. A woodland district, usually belonging to the king, set apart for hunting wild beasts and game etc.,……
>
> 3. A wild uncultivated waste.'"
>
> (emphasis added)

25. The definition of a tree in sub-section (7) of Section 2 is inclusive. Therefore, a land covered by mangroves will be a forest land within the meaning of Section 3 of the said Act of 1927. Section 3 confers a power on the State Government to declare a forest land which is the property of the Government as a Reserved forest. Section 4

[2] AIR 1953 Nag 51

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contemplates a notification to be issued to constitute any land as a Reserved forest. Before issuing the notification, the procedure prescribed by chapter II of the said Act of 1927 is required to be followed. Section 23 provides that no right of any description shall be acquired in or over a Reserved forest except by succession or under a grant or contract in writing made by or on behalf of the Government or some person in whom such right was vested when the notification under section 20 was issued. Section 20 contemplates a publication of a notification declaring a forest to be a Reserved forest from the date fixed by the notification. Section 26 of the said Act 1927 imposes several prohibitions in case of a Reserved forest.

26 Sections 29 and 30 of the said Act of 1927 read thus:

> "**29. Protected forests. -** (1) The State Government may, by notification in the Official Gazette, declare the provisions of this Chapter applicable to any forest-land or waste-land which,, is not included in a reserved forest but which is the property of Government, or over which the Government has proprietary rights, or to the whole or any part of the forest produce of which the Government is entitled.
>
> (2) The forest-land and waste-lands comprised in any such notification shall be called a "protected forest".
>
> (3) No such notification shall be made unless the nature and extent of the rights of Government and of private persons in or over the forest-land or waste-land comprised therein have been inquired into and recorded at a survey or settlement, or in such other manner as the State Government thinks sufficient. Every such record shall be presumed to be correct until the contrary is proved:
>
> Provided that, if, in the case of any forest-land or waste land, the State Government thinks that such inquiry and record are necessary, but that they will occupy such length of time as in the meantime to endanger the rights of Government, the State Government may, pending such inquiry

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and record, declare such land to be a protected forest, but so as not to abridge or affect any existing rights of individuals or communities.

30. Power to issue notification reserving trees, etc. - The State Government may, by notification in the Official Gazette,

(a) declare any trees or class of trees in a protected forest to be reserved from a date fixed by, the notification;

(b) declare that any portion of such forest specified in the notification shall be closed for such term, rot exceeding thirty years, as the State Government thinks fit, and that the rights of private persons, if any, over such portion shall be suspended during such terms, provided that the remainder of such forest be sufficient, and in a locality reasonably convenient, for the due exercise of the right suspended in the portion so closed; or

(c) prohibit, from a date fixed as aforesaid, the quarrying of stone, or the burning of lime or charcoal, or the collection or subjection to any manufacturing process, or removal of, any forest-produce in any such forest, and the breaking up or clearing for cultivation, for building, for herding cattle or for any other purpose, of any land in any such forest."

27 The direction in clause 8(ix) of the order dated 8th October 2005 is to declare identified mangrove areas as "protected forest" within the meaning of section 29 of the said Act of 1927. The said direction has been accepted by the State Government. However, in a given case, the State Government can always declare a mangroves area as a reserved forest.

THE CONCEPT OF "FOREST" UNDER THE FOREST (CONSERVATION) ACT , 1980

28 The said Act of 1980 is also very material and in particular Section 2 thereof which reads thus :-

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"2. Restriction on the dereservation of forests or use of forest land for non-forest purpose. -

Notwithstanding anything contained in any other law for the time being in force in a State, **no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing, -**

(i) that any reserved forest (within the meaning of the expression "reserved forest" in any law for the time being in force in that State) or any portion thereof, shall cease to be reserved;

(ii) **that any forest land or any portion thereof may be used for any non-forest purpose;**

(iii) that any forest land or any portion thereof may be assigned by way of lease or otherwise to any private person or to any authority, corporation, agency or any other organisation not owned, managed or controlled by Government;

(iv) **that any forest land or any portion thereof may be cleared of trees which have grown naturally in that land or portion, for the purpose of using it for re-afforestation.**

[Explanation. - For the purposes of this section "non-forest purpose" means the breaking up or clearing of any forest land or portion thereof for -

(a) the cultivation of tea, coffee, spices, rubber, palms, oil-bearing plants, horticulture crops or medicinal plants;

(b) any purpose other than re-afforestation,

but does not include any work relating or ancillary to conservation, development and management of forests and wild-life, namely, the establishment of check-posts, fire lines, wireless communications and construction of fencing, bridges and culverts, dams, waterholes, trench marks, boundary marks, pipelines or other like purposes."

(emphasis added)

29 Section 2 thereof imposes a complete ban on the State Government or any other authority except with the prior approval of the

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Central Government making any order for the use of any forest land or any portion thereof for non-forest purposes. Similarly, the State Government or any other authority cannot pass any order except with the approval of the Central Government permitting any forest land or any portion thereof to be cleared of all trees which have been grown naturally in that land or any portion for the purpose of using it for re-afforestation. The concept of forest in the said Act of 1980 is of a widest amplitude.

CONCEPT OF FOREST: THE DECISION IN THE CASE OF T.N. GODAVARMAN

30 In the decision in the case of *T.N. Godavarman* (supra), paragraph 4 dealt with the concept of forest under the said Act of 1980. Paragraph 4 of the said decision reads thus :-

> "4. **The Forest Conservation Act, 1980 was enacted with a view to check further deforestation which ultimately results in ecological imbalance; and therefore, the provisions made therein for the conservation of forests and for matters connected therewith, must apply to all forests irrespective of the nature of ownership or classification thereof. The word "forest" must be understood according to its dictionary meaning. This description covers all statutorily recognised forests, whether designated as reserved, protected or otherwise for the purpose of Section 2(*i*) of the Forest Conservation Act. The term "forest land", occurring in Section 2, will not only include "forest" as understood in the dictionary sense, but also any area recorded as forest in the Government record irrespective of the ownership. This is how it has to be understood for the purpose of Section 2 of the Act. The provisions enacted in the Forest Conservation Act, 1980 for the conservation of forests and the matters connected therewith must apply clearly to all forests so understood irrespective of the ownership or classification thereof.** This aspect has been made abundantly clear in the decisions of this

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Court in *Ambica Quarry Works* v. *State of Gujarat* [(1987) 1 SCC 213], *Rural Litigation and Entitlement Kendra* v. *State of U.P.* [1989 Supp (1) SCC 504] and recently in the order dated 29-11-1996 (*Supreme Court Monitoring Committee* v. *Mussoorie Dehradun Development Authority* [WP (C) No 749 of 1995 decided on 29-11-1996]). The earlier decision of this Court in *State of Bihar* v. *Banshi Ram Modi* [(1985)3 SCC 643] has, therefore, to be understood in the light of these subsequent decisions. We consider it necessary to reiterate this settled position emerging from the decisions of this Court to dispel the doubt, if any, in the perception of any State Government or authority. This has become necessary also because of the stand taken on behalf of the State of Rajasthan, even at this late stage, relating to permissions granted for mining in such area which is clearly contrary to the decisions of this Court. It is reasonable to assume that any State Government which has failed to appreciate the correct position in law so far, will forthwith correct its stance and take the necessary remedial measures without any further delay."

(emphasis added)

31 Various directions were issued under the said judgment and order. Paragraph 5 of the said decision reads thus :-

"5. We further direct as under:-

I. General

1. **In view of the meaning of the word "forest" in the Act, it is obvious that prior approval of the Central Government is required for any non-forest activity within the area of any "forest". In accordance with Section 2 of the Act, all on-going activity within any forest in any State throughout the country, without the prior approval of the Central Government, must cease forthwith**. It is, therefore, clear that the running of saw mills of any kind including veneer or plywood mills, and mining of any mineral are non-forest purposes and are, therefore, not permissible without prior approval of the Central Government. Accordingly, any such activity is prima facie violation of the provisions of the Forest Conservation Act, 1980. Every State Government must

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promptly ensure total cessation of all such activities forthwith.

2. In addition to the above, in the tropical wet evergreen forests of Tirap and Changlang in the State of Arunachal Pradesh, there would be a complete ban on felling of any kind of trees therein because of their particular significance to maintain ecological balance needed to preserve bio-diversity. All saw mills, veneer mills and plywood mills in Tirap and Changlang in Arunachal Pradesh and within a distance of 100 kms from its border, in Assam, should also be closed immediately. The State Governments of Arunachal Pradesh and Assam must ensure compliance of this direction.

3. The felling of trees in all forests is to remain suspended except in accordance with the working plans of the State Governments, as approved by the Central Government. In the absence of any working plan in any particular State, such as Arunachal Pradesh, where the permit system exists, the felling under the permits can be done only by the Forest Department of the State Government or the State Forest Corporation.

4. There shall be a complete ban on the movement of cut trees and timber from any of the seven North-Eastern States to any other State of the country either by rail, road or waterways. The Indian Railways and the State Governments are directed to take all measures necessary to ensure strict compliance of this direction. This ban will not apply to the movement of certified timber required for defence or other Government purposes. This ban will also not affect felling in any private plantation comprising of trees planted in any area which is not a forest.

5. **Each State Government should constitute within one month an Expert Committee to:**

   (*i*) Identify areas which are "forests", irrespective of whether they are so notified, recognised or classified under any law, and irrespective of the ownership of the land of such forest;

   (*ii*) identify areas which were earlier forests but stand degraded, denuded or cleared; and

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(*iii*) identify areas covered by plantation trees belonging to the Government and those belonging to private persons.

6. Each State Government should within two months, file a report regarding:

(*i*) the number of saw mills, veneer and plywood mills actually operating within the State, with particulars of their real ownership;

(*ii*) the licensed and actual capacity of these mills for stock and sawing;

(*iii*) their proximity to the nearest forest;

(*iv*) their source of timber.

7. Each State Government should constitute within one month, an Expert Committee to assess:

(*i*) the sustainable capacity of the forests of the State qua saw mills and timber-based industry;

(*ii*) the number of existing saw mills which can safely be sustained in the State;

(*iii*) the optimum distance from the forest, qua that State, at which the saw mill should be located.

8. The Expert Committee so constituted should be requested to give its report within one month of being constituted.

9. Each State Government would constitute a Committee comprising of the Principal Chief Conservator of Forests and another Senior Officer to oversee the compliance of this order and file status reports."

(emphasis added)

32 If a reference is made to Cambridge dictionary, the meaning of forest therein is "a large area of land covered with trees and plants usually larger than the wood or trees and plants themselves". Considering the wide meaning given to "forest" by the Apex Court, a land covered by mangroves irrespective of its ownership is a forest within the meaning of the said Act of 1980. Hence, the embargo imposed by Section 2 of the said Act of 1980 and the directions issued

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by the Apex Court will apply with all the force to mangroves areas. It will apply to mangrove areas irrespective of the fact that the lands are privately owned. That is very clear from paragraph 5(i) above. Therefore, it is obvious that prior approval of the Central Government is required for doing any non-forest activity within the area of mangroves. In accordance with Section 2 of the Act, all ongoing non- forest activity within any mangroves area without the prior approval of the Central Government, must cease forthwith.

THE ENVIRONMENT (PROTECTION) ACT , 1986

33 Another important statute with which we are concerned is the said Act of 1986. Clause (a) of sub-section (2) of the said Act of 1986 defines "environment" which reads thus :-

> "(a) "environment" includes water, air and land and the inter-relationship which exists among and between water, air and land, and human beings, other living creatures, plants, micro-organism and property;"

Hence, the definition of environment is very wide which includes not only water, air and land but also plants and micro-organism. Thus, it will include mangroves as well.

34 Section 3(1) of the said Act of 1986 reads thus:

> **"3. POWER OF CENTRAL GOVERNMENT TO TAKE MEASURES TO PROTECT AND IMPROVE ENVIRONMENT**
>
> **(1) Subject to the provisions of this Act, the Central Government, shall have the power to take all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of the environment and preventing controlling and abating environmental pollution."**
>
> (emphasis added)

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CRZ NOTIFICATION OF 1991

35 A notification dated 19th February 1991 was issued by the Government of India which is known as CRZ notification of 1991 in exercise of powers under Section 3(1) and Section 3(2)(v) of the said Act of 1986. The notification lays down what constitutes a "Coastal Regulation Zone" (for short "CRZ"). The material part of the said CRZ notification declaring CRZ reads thus :-

> "Now, therefore, in exercise of the powers conferred by Clause (d) of sub-rule (3) of Rule 5 of the Environment (Protection) Rules, 1986, and all other powers vesting in its behalf, the Central Government hereby declares the coastal stretches of seas, bays, estuaries, creeks, rivers and backwaters which are influenced by tidal action (in the landward side) upto 500 metres from the High Tide Line (HTL) and the land between the Low Tide Line (LTL) and the HTL as Coastal Regulation Zone; and imposes with effect from the date of t his Notification, the following restrictions on the setting up and expansion of industries, operations or processes etc. in the said Coastal Regulation zone (CRZ). For purposes of this Notification, the High Tide Line (HTL) will be defined as the line upto which the highest high tide reaches at spring tides."

36 Clause 3 provides that all other activities except those which are prohibited will be regulated as provided therein. Annexure-I to the CRZ notification deals with Coastal Area Classification and Development Regulations. CRZ-I is defined thus :-

> "Category I (CRZ-I) :
> (i) Areas that are ecologically sensitive and important, such as national parks marine parks, sanctuaries, reserve forests, wildlife habitats, **mangroves**, corals coral reefs, ares close to breeding and spawning grounds of fish and other marine life, areas of outstanding natural beauty historical 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 or the

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concerned authorities at the State/ Union Territory level from time to time.

(ii) Area between the Low Tide Line and the High Tide Line."

(emphasis added)

37 Thus, mangroves fall in CRZ-I category. Annexure-I further lays down that no new structure shall be permitted within 500 meters from the High Tide Line (HTL) and no construction activities except as listed in sub-clause (xii) of clause 2 of the CRZ notification are permitted in CRZ-I area. Sub-clause (xii) of clause 2 reads thus :-

"(xii) ..... facilities for carrying treated effluents and waste water discharges into the sea, facilities for carrying sea water for cooling purposes, oil, gas and similar pipelines and facilities essential for activities permitted under this Notification; and"

38 The CRZ notification of 1991 was further amended by a notification dated 18th August 1994. The relevant modification is in clause (a) which reads thus :

"(a) in paragraph 1, for the portion beginning with the words "For purposes of this notification, the High Tide Line" and ending with the words "width of the creek, river or back water whichever is less", the following shall be submitted, namely :-

"For the purposes of this notification, the High Tide Line means the line on the land upto which the highest water line reaches during the spring tide and shall be demarcated uniformly in all parts of the country by the demarcating authority so authorised by the Central Government in consultation with the Surveyor General of India.

NOTE :-

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> The distance from the High Tide Line shall apply to both sides in the case of rivers, creeks and back waters and may be modified on a case by case basis for reasons to be recorded while preparing the Coastal Zone Management Plans. However, this distance shall not be less than 50 metres or the width of the creek, river or back-water whichever is less. The distance upto which development along rivers, creeks and back-waters is to be regulated shall be governed by the distance upto which the tidal effect of sea is experienced in rivers, creeks or back-waters, as the case may be, and should be clearly identified in the Coastal Zone Management Plans."

39 Sub-clause (3)(i) of clause 3 of the CRZ notification of 1991 mandated that all coastal States shall prepare a Coastal Zone Management Plan (for short "CZMP") identifying and classifying CRZ areas within their respective territories in accordance with Annexures - I and II to the CRZ notification. Accordingly, CZMP for Maharashtra was submitted to the Government of India on 22nd November 1995. By a letter/ order dated 27th September 1996, the Ministry of Environment and Forest of the Government of India communicated to the Chief Secretary of the Government of Maharashtra grant of approval to the CZMP subject to conditions incorporated therein. Condition No.(xiii) reads thus :-

> "(xiii) All mangroves with an area of 1000 square metres or more would be classified as CRZ-I with a buffer zone of at least 50 metres."

The Mangroves were already included in CRZ-I in the CRZ notification of 19th February 1991. By the aforesaid order dated 27th September 1996, in case of mangroves with an area of 1000 square metres or more, a buffer zone of at least 50 metres along the mangroves was ordered to be included in CRZ-I in addition to mangroves.

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40 An order was issued on 19th January 2000 by the Government of India providing that 50 meter buffer zone around mangroves of area of 1000 square meters and above, will not be required on the landward side, provided a road abutting such mangroves was constructed prior to February, 1991. Thus, under the 1991 notification, mangroves were included in CRZ-I. In the CRZ notification of 1991, there was no provision for a buffer zone. The said provision came for the first time by virtue of the order dated 27th September 1996 which was amended by the order dated 9th January 2000.

CRZ NOTIFICATION OF 2011

41 The CRZ notification of 6th January 2011 was issued under section3(1) of the said Act of 1986 which superseded the earlier CRZ notification of 1991. Relevant part of paragraph 7 reads thus:

> "7. Classification of the CRZ – For the purpose of conserving and protecting the coastal areas and marine waters, the CRZ area shall be classified as follows, namely:-
>
> (i) CRZ-I,–
>
> A. The areas that are ecologically sensitive and the geomorphological features which play a role in the maintaining the integrity of the coast,-
>
> **(a) Mangroves, in case mangrove area is more than 1000 sq mts, a buffer of 50 meters along the mangroves shall be provided;**
>
> (b) Corals and coral reefs and associated biodiversity;
>
> (c) Sand Dunes;
>
> (d) Mudflats which are biologically active;
>
> (e) National parks, marine parks, sanctuaries....."
>
> (emphasis added)

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Clause (xi) of paragraph 3 provides that all construction activities in CRZ-I are prohibited activities except those specified in paragraph 8. Paragraph 8 lays down the norms for regulation of the activities permissible in CRZ that:

> "I. CRZ-I,-
>
> (i) no new construction shall be permitted in CRZ-I except,-
> (a) projects relating to Department of Atomic Energy;
> (b) pipelines, conveying systems including transmission lines;
> (c) facilities that are essential for activities permissible under CRZ-I;
> (d) installation of weather radar for monitoring of cyclones movement and prediction by Indian Meteorological Department;
> (e) construction of trans harbour sea link and without affecting the tidal flow of water, between LTL and HTL.
> (f) development of green field airport already approved at only Navi Mumbai;
>
> (ii) Areas between LTL and HTL which are not ecologically sensitive, necessary safety measures will be incorporated while permitting the following, namely:-
>
> (a) exploration and extraction of natural gas;
> (b) construction of dispensaries, schools, public rain-shelter, community toilets, bridges, roads, jetties, water supply, drainage, sewerage which are required for traditional inhabitants living within the biosphere reserves after obtaining approval from concerned CZMA.
> (c) necessary safety measure shall be incorporated while permitting such developmental activities in the area falling in the hazard zone;
> (d) salt harvesting by solar evaporation of seawater;
> (e) desalination plants;
> (f) storage of non-hazardous cargo such as edible oil, fertilizers and food grain within notified ports;
> (g) construction of trans harbour sea links, roads on stilts or pillars without affecting the tidal flow of water."

In the Guidelines for preparation for CZMP incorporated in the said notification of 2011, it is stated thus:

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"3. Buffer zone along mangrove areas of more than 1000 sq mts shall be stipulated with a different colour distinguishing from the mangrove area.
4. The buffer zone shall also be classified as CRZ-I area."

42 In 1991 CRZ notification, it was provided that all mangrove areas will fall in CRZ-I. By virtue of the order dated 27th September 1996, in case of mangrove areas of 1000 square meters or more, 50 meter buffer zone abutting it was also included in CRZ-I. By order dated 9th January 2000, it was provided that 50 meter buffer zone will not be required to be maintained, provided a road abutting the mangroves was constructed prior to February 1991 (prior to the date on which CRZ notification of 1991 was issued). Under the 2011 notification, all mangroves area fall in CRZ-I irrespective of its area and in case the said area is 1000 square meters or more, even a buffer zone of 50 meters along the said area shall be a part of CRZ-I. Thus, the buffer zone of 50 meters abutting mangroves having an area of 1000 square meters or more was also included in CRZ-I from 27th September 1996.

43 The CRZ notifications are in the nature of orders or directions issued under the said Act of 1986. Hence, if there is any violation of the provisions of the CRZ notifications regarding mangroves area or its buffer zone or if there is any failure to comply with the same , it will attract the penal provisions under Section 15 of the said Act of 1986 which is attracted in case of the failure to comply with the provisions of orders or directions issued under the said Act of 1986. The conditions imposed in the the letter dated 27th September 1996 will have to be construed as an order or direction under the said Act of 1986 as CZMP is required to be approved by the Central government in

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view of the clause 3(i) in the CRZ notification of 1991. Hence, if there is any violation of the condition in the letter dated 27th September 1996 about the 50 meter buffer zone, it will attract penal provision of Section 15 of the said Act of 1986."

EFFECT OF THE DIRECTIVE PRINCIPLES OF STATE POLICYAND THE FUNDAMENTAL DUTIES OF CITIZENS

44 Article 48-A in Chapter IV under the title Directive Principles of State Policy of the Constitution of India reads thus :-

> "48-A. Protection and improvement of environment and safeguarding of forests and wild life.—**The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.**"
>
> (emphasis added)

45 Article 48-A lays down that it is the duty of the State to make an endeavour to protect and improve environment and to safeguard forests. As stated earlier, environment includes plants. Mangroves are essential part of the environment. The land covered by mangroves is be covered by the concept of forest. Under Article 51(A)(g) of the Constitution, it is the fundamental duty of every citizen of India to protect and improve the natural environment including forests, rivers and wildlife and to have compassion for living creatures. In view of the constitutional mandate under Article 51(A)(g), it is the fundamental duty of every citizen to protect and improve natural environment including forest which will include mangroves. If this is the obligation of every citizen, the public bodies which are constituted by the citizens are bound by the fundamental duties under Article 51(A). Thus, it is the duty of the State and citizens to ensure that the mangroves are preserved and protected.

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PUBLIC TRUST DOCTRINE

46 In the case of ***Nature Lovers Movement vs State of Kerala***[2a], in paragraph 2, the Apex Court observed thus:

> **"2.** The Indian society has, for many centuries, been aware and conscious of the necessity of protecting environment and ecology. Sages and saints of India lived in forests. Their preachings contained in vedas, upanishads, smritis, etc. are ample evidence of the society's respect for plants, trees, earth, sky, air, water and every form of life. The main motto of social life is to live in harmony with nature. **It was regarded as a sacred duty of everyone to protect them. In those days, people worshipped trees, rivers and sea which were treated as belonging to all living creatures. The children were educated by elders of the society about the necessity of keeping the environment clean and protecting earth, rivers, sea, forests, trees, flora, fauna and every species of life."**
>
> (emphasis added)

47 In the case of ***Association for Environment Protection vs. State of Kerala***[2b], the Apex Court observed thus:

> **"2.** The ancient Roman Empire developed a legal theory known as the "doctrine of the public trust". It was founded on the premise that certain common properties such as air, sea, water and forests are of immense importance to the people in general and they must be held by the Government as a trustee for the free and unimpeded use by the general public and it would be wholly unjustified to make them a subject of private ownership. **The doctrine enjoins upon the Government to protect the resources for the enjoyment of the general public rather than to permit their use for private ownership or commercial exploitation to satisfy the greed of a few."**
>
> (emphasis added)

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[2]a (2009)5 SCC 373

[2]b (2013)7 SCC 226

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48 In the case of ***M.C. Mehta Vs. Kamal Nath and Ors***.[3]*,* in paragraph 34 and 35, the Apex Court held thus :

> "34. **Our legal system – based on English common law – includes the public trust doctrine as part of its jurisprudence. The State is the trustee of all natural resources which are by nature meant for public use and enjoyment. Public at large is the beneficiary of the sea-shore, running waters, airs, forests and ecologically fragile lands.** The State as a trustee is under a legal duty to protect the natural resources. These resources meant for public use cannot be converted into private ownership.
>
> 35. We are fully aware that the issues presented in this case illustrate the classic struggle between those members of the public who would preserve our rivers, forests, parks and open lands in their pristine purity and those charged with administrative responsibilities who, under the pressures of the changing needs of an increasingly complex society, find it necessary to encroach to some extent upon open lands heretofore considered inviolate to change. The resolution of this conflict in any given case is for the legislature and not the courts. If there is a law made by Parliament or the State Legislatures the courts can serve as an instrument of determining legislative intent in the exercise of its powers of judicial review under the Constitution. But in the absence of any legislation, the executive acting under the doctrine of public trust cannot abdicate the natural resources and convert them into private ownership, or for commercial use. **The aesthetic use and the pristine glory of the natural resources, the environment and the ecosystems of our country cannot be permitted to be eroded for private, commercial or any other use unless the courts find it necessary, in good faith, for the public good and in public interest to encroach upon the said resources."**
>
> (emphasis added)

[3] (1997) 1 SCC 388

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49 In the case of ***Fomento Resorts & Hotels Limited and Anr. vs. Minguel Martins and Ors***.[4], in paragraphs 53 to 55 and 65, the Apex Court held thus :

> "53. **The public trust doctrine enjoins upon the Government to protect the resources for the enjoyment of the general public rather than to permit their use for private ownership or commercial purposes. This doctrine puts an implicit embargo on the right of the State to transfer public properties to private party if such transfer affects public interest, mandates affirmative State action for effective management of natural resources and empowers the citizens to question ineffective management thereof.**
>
> 54. **The heart of the public trust doctrine is that it imposes limits and obligations upon government agencies and their administrators on behalf of all the people and especially future generations.** For example, renewable and non-renewable resources, associated uses, ecological values or objects in which the public has a special interest (i.e. public lands, waters, etc.) are held subject to the duty of the State not to impair such resources, uses or values, even if private interests are involved. **The same obligations apply to managers of forests, monuments, parks, the public domain and other public assets. Professor Joseph L. Sax in his classic article, "The Public Trust Doctrine in Natural Resources Law : Effective Judicial Intervention" (1970), indicates that the public trust doctrine, of all concepts known to law, constitutes the best practical and philosophical premise and legal tool for protecting public rights and for protecting and managing resources, ecological values or objects held in trust.**
>
> 55. **The public trust doctrine is a tool for exerting long-established public rights over short-term public rights and private gain.** Today every person exercising his or her right to use the air, water, or land and associated natural ecosystems has the obligation to secure for the

[4] (2009) 3 SCC 571

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rest of us the right to live or otherwise use that same resource or property for the long-term and enjoyment by future generations. To say it another way, a landowner or lessee and a water right holder has an obligation to use such resources in a manner as not to impair or diminish the people's rights and the people's long-term interest in that property or resource, including down slope lands, waters and resources.

65. **We reiterate that natural resources including forests, water bodies, rivers, seashores, etc. are held by the State as a trustee on behalf of the people and especially the future generations. These constitute common properties and people are entitled to uninterrupted use thereof.** The State cannot transfer public trust properties to a private party, if such a transfer interferes with the right of the public and the court can invoke the public trust doctrine and take affirmative action for protecting the right of people to have access to light, air and water and also for protecting rivers, sea, tanks, trees, forests and associated natural ecosystems."

(emphasis added)

50 Public at large has a right to enjoy and have a benefit of our forests including mangroves forest. The pristine glory of such forests must be protected by the State. The mangroves protect our environment. Therefore, apart from the provisions of various statutes, the doctrine of public trust which is very much applicable in India makes it obligatory duty of the State to protect and preserve mangroves.

PRECAUTIONARY PRINCIPLE

51 In the case of ***M.C.Mehta (Badhkal and Surajkund Lakes matter) vs Union of India***[5], the Apex Court held thus:

"10. In *M.C. Mehta* v. *Union of India* [(1987) 4 SCC 463] this Court held as under:

[5] (1997) 3 SCC 715

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> "The financial capacity of the tanneries should be considered as irrelevant while requiring them to establish primary treatment plants. Just like an industry which cannot pay minimum wages to its workers cannot be allowed to exist, a tannery which cannot set up a primary treatment plant cannot be permitted to continue to be in existence for the adverse effects on the public. Life, public health and ecology have priority over unemployment and loss of revenue problem."
> **The "Precautionary Principle" has been accepted as a part of the law of the land. Articles 21, 47, 48-A and 51-A(*g*) of the Constitution of India give a clear mandate to the State to protect and improve the environment and to safeguard the forests and wildlife of the country.** It is the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures. **The "Precautionary Principle" makes it mandatory for the State Government to anticipate, prevent and attack the causes of environment degradation.** We have no hesitation in holding that in order to protect the two lakes from environmental degradation it is necessary to limit the construction activity in the close vicinity of the lakes."
>
> (emphasis added)

52 It is not disputed by the State and it is also borne out from the material including the action taken reports on record submitted on behalf of the State Government that there have been instances of destruction of mangroves in the State. The photographs produced on record clearly show that there is a large scale destruction. The precautionary principle will apply to the destruction of mangroves and therefore, the State is under an obligation to anticipate, attack and prevent the reclamation of mangrove areas. It is duty bound to prevent degradation of mangroves.

ROLE OF RAMSAR CONVENTION

53 The 8th meeting of the contracting parties (which includes

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India) to the Convention on Wetlands at Ramsar in Iran in the year 1971, was held in Spain in November 2002. In the said meeting, a resolution was passed as regards the mangroves which reads thus:

> "Resolution VIII.32: Conservation, integrated management,and sustainable use of mangrove ecosystems and their resources
>
> 1. **RECOGNIZING the major importance of the wide range of ecological goods and services provided by mangrove ecosystems, including their vital role in acting as spawning and nursery areas for many species of economic importance, and the economic, social and environmental importance of mangroves for, *inter alia*, fishing, biodiversity, coastal protection, recreational activities, education, and coastal and shelf water quality;**
> 2. **ALSO RECOGNIZING that the survival of a large number of local communities and indigenous peoples depends upon the productivity and health of mangrove ecosystems;**
> 3. RECOGNIZING FURTHER that mangrove ecosystems are important for regulation of natural processes and maintaining biological diversity in the coastal zones of the countries in which they occur, and that many species, notably, *inter alia*, fish, molluscs, crustaceans, migratory and resident waterbirds, and aquatic mammals, as well as threatened species, are ecologically dependent upon mangroves and their surrounding areas;
> 4. AWARE that healthy mangrove ecosystems, in conjunction with their associated coral reefs, seagrass beds, and intertidal flats, can play an important role in mitigating climate change and sea-level rise, including through carbon sequestration and the buffering of sea-level rise and storms, particularly in view of the current extent of coral bleaching and Intergovernmental Panel on Climate Change (IPCC) predictions of future increase in coral bleaching, as is recognized in document COP8 DOC. 11 and Resolution VIII.3;
> 5. **CONCERNED that, despite this widely-recognized importance of mangrove ecosystems, the area of mangrove ecosystems continues to decrease in many countries as the result of destruction and degradation through human activities that use mangroves and**

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their surrounding areas, or that disrupt the flow of freshwater or tidal flows to mangrove ecosystems, without appropriate planning, management and control mechanisms;

6. **AWARE of the increasing availability of knowledge about practices related to the sustainable use of mangrove ecosystems by the ancestral communities of users and that experiences and technical knowledge about the conservation and sustainable use of these ecosystems should receive wide dissemination at the national and global levels;**
7. TAKING NOTE of the need to strengthen at the global level the mechanisms for exchanging good practices and technical knowledge about mangrove ecosystems and to benefit from those exchanges, while at the same time promoting and strengthening these activities among local communities, with the cooperation, where appropriate, of local people and national or international organizations with knowledge or interest in the sustainable use of the biological diversity of mangrove ecosystems;
8. AWARE that Contracting Parties to this Convention have concluded through Action 6.2.3 of its Strategic Plan 1997-2002 that mangrove ecosystems are under-represented in the List of Wetlands of International Importance, and that guidance on the identification and designation of mangrove ecosystems has been adopted by this meeting of the Conference of the Parties (Resolution VIII.11);
9. RECOGNIZING that mangrove ecosystems are dependent on ecological processes and influenced by socio-economic processes that occur in river basins and the wider coastal zones in which they occur, and that their capacity to continue to provide their values and functions depends upon sustainable land-use management at the wider scale, as is recognized by Resolution VII.18 concerning river basin management and the guidance adopted by this meeting concerning site-based management planning (Resolution VIII.14), water allocation and management (Resolution VIII.1), and integrated coastal zone management (Resolution VIII.4);
10. RECALLING Resolution VII.21, which specifically refers to mangrove ecosystems as an integral part of intertidal

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wetlands which have been lost and degraded due to unsustainable activities; and

11. ALSO RECALLING the Annex to Resolution VIII.11 which refers to the principal factors causing loss and damage to mangrove ecosystems worldwide as a result of unsustainable exploitation practices, such as habitat destruction, hydrological changes, pollution, and unsustainable aquaculture;

THE CONFERENCE OF THE CONTRACTING PARTIES

12. **REQUESTS Contracting Parties with mangrove ecosystems in their territories to review, and as appropriate to modify their national policies and strategies that could have harmful effects on these ecosystems, and to implement measures to protect and restore their values and functions for human populations, recognizing their rights, uses and traditional customs and the maintenance of biodiversity, and to cooperate at the international level to agree regional and global strategies for their protection;**
13. ALSO REQUESTS the Contracting Parties with mangroves ecosystems in their territories to promote their conservation, integrated management and sustainable use within the context of the national policies and regulatory frameworks, and in accordance with environmental and strategic assessments of the activities that could affect, directly or indirectly, the structure and function of the mangrove ecosystems;
14. **EXHORTS relevant Contracting Parties to update information on mangrove ecosystem cover and their conservation status, as well as the forms and levels of their use,** and to provide this information to the Ramsar Bureau and the Convention's Scientific and Technical Review Panel (STRP) so as to assist their work as called for in Resolution VIII.8 concerning status and trends in wetlands;
15. ALSO EXHORTS those Contracting Parties with mangrove ecosystems within their territories to exchange information relating to their conservation, integrated management, and sustainable use, especially where this involves the full participation of local communities and indigenous peoples;
16. REQUESTS the Ramsar Bureau and the STRP, as resources permit, and the Contracting Parties to

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contribute to the initiatives concerning the transfer of environmentally sound technologies for the sustainable management of mangrove ecosystems, and to make this available to the users;

17. ALSO REQUESTS Contracting Parties with mangrove ecosystems within their territories, including those of their dependent territories, according to their capacities and internal regulations, to designate mangrove ecosystems that fulfill the criteria for their inclusion in the List of Wetlands of International Importance, in order to create a coherent national and international network of designated Ramsar sites as called for in the Strategic Framework and Vision for the List of Wetlands of International Importance (Resolution VII.11), and in doing so to emphasize particularly those Ramsar sites which are important for local communities and indigenous peoples in terms of their subsistence and cultural values;
18. **ALSO REQUESTS all relevant Contracting Parties to recognize the importance of mangrove ecosystems for migratory and non-migratory birds, and to designate such areas as Ramsar sites that qualify under Criteria 4, 5, and 6 of the Strategic Framework adopted by Resolution VII.11,** in order to contribute to the establishment of coherent flyway-scale networks of Ramsar sites, in line, as appropriate, with the Joint Work Plan of the Ramsar Convention, Convention on Migratory Species, and African-Eurasian Migratory Waterbird Agreement (AEWA) as endorsed by Resolution VIII.5 and other conventions or related agreements;
19. ENCOURAGES all relevant Contracting Parties to take into account in their management planning for Ramsar sites with mangrove ecosystems, applying the *New Guidelines for management planning for Ramsar sites and other wetlands* and other guidance adopted by this meeting (Resolutions VIII.1, VIII.4, and VIII.14), the ecological and socio-economic factors that occur in river basins and coastal zones to which they are related, and to ensure that their wider land-use planning and management does not adversely affect their mangrove ecosystems, such as through the introduction of pollutants, modification of water flows, sediment inputs, and exotic species;

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20. ALSO ENCOURAGES all relevant Contracting Parties to recognize fully the important role mangrove ecosystems can play in mitigating climate change and sea-level rise, especially in low-lying areas and Small Island Developing States, and to plan their management, including required adaptation measures, so as to ensure that the mangrove ecosystems may respond to impacts caused by climate change and sea-level rise;
21. URGES all relevant Contracting Parties to identify the factors degrading their mangrove ecosystems and to seek to restore such ecosystems, using the guidance on this matter adopted by this meeting (Resolution VIII.16), so that they can deliver their range of values and functions; and
22. REQUESTS the Ramsar Bureau to make all possible efforts to secure financial resources and advance technical cooperation for promoting the conservation, integrated management, and sustainable use of mangrove ecosystems and their resources through appropriate existing partnerships and agreements with international and regional organizations."

(emphasis added)

54 The Government of India and the State Government will be under a duty to implement the aforesaid Covenants. Therefore, it is all the more necessary that both the State and Central Government to make all possible efforts to preserve and protect mangroves.

ARTICLE 21 VIOLATION

55 Mangroves ecosystems play a vital role in human life. In the subsequent part of this judgment, we have quoted a decision of the Apex Court which notes that the mangroves forests are of great ecological importance and are also ecologically sensitive. Considering the vital role played by the mangroves which can be seen from what is set out above, if a citizen is to lead a meaningful life as contemplated by Article 21 of the Constitution of India, the mangroves will have to be preserved and protected . Considering the drastic effects of destruction

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of mangroves on the environment, the destruction of mangroves and the failure of the State to take steps for its restoration will amount to violation of fundamental rights guaranteed by Article 21 of the Constitution.

CONTINUATION OF THE INTERIM DIRECTIONS AS THE FINAL DIRECTIONS

56 Now we turn to the interim directions contained in the order dated 6th October 2005. We have already quoted interim directions contained in the order dated 6th October 2005. One of the said direction is quoted by the Apex Court in its decision in the case of ***Krishnadevi Malchand Kamathia and ors. vs. Bombay Environmental Action Group***[5]. Paragraph 6 quotes direction No.(xii) regarding notifying mangroves areas on Government owned lands as protected forests. It refers to the notification dated 18th February 2009 issued by the Divisional Commissioner notifying the lands of the appellant before the Apex Court as such. In paragraphs 30 to 32, the Apex Court held thus :-

> "30. The CRZ Regulations define for regulating developmental activities, coastal stretches within 500 m of the landward side of the high tide line into four categories. Category I (CRZ-I) is defined as under:
>
> "(*i*) **Areas that are ecologically sensitive and important, such as, national parks/marine parks, sanctuaries, *reserved forests*, wildlife habitats, *mangroves*, corals/coral reefs, areas close to breeding and spawning grounds of fish and other marine life, areas of outstanding natural beauty/historical/heritage areas, areas rich in genetic diversity, areas likely to be inundated due to rise in sea level consequent upon global warming and other such areas as may be declared by the Central Government or the authorities concerned at the**

[5] 2011(3) SCC 363

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State/Union Territory level from time to time."

31. The regulation of *development* or *construction* activities in CRZ-I areas is to be in accordance with the following norms:

"CRZ-I *Between LTL and HTL in areas which are not ecologically sensitive and important*, the following may be permitted: (*a*) exploration and extraction of natural gas; (*b*) activities as specified under proviso of sub-paras (*i*) and (*ii*) of Para 2; (*c*) construction of dispensaries, schools, public rain shelters, community toilets, bridges, roads, jetties, water supply, drainage, sewerage which are required for traditional inhabitants of the Sunderbans Biosphere Reserve Area, West Bengal, on a case-to-case basis, by the West Bengal State Coastal Zone Management Authority; (*d*) *salt harvesting by solar evaporation of seawater*; (*e*) desalination plants; (*f*) storage of non-hazardous cargo such as edible oil, fertilisers and foodgrain within notified ports; (*g*) construction of trans-harbour sea links."

32. From the above, **it is evident that mangroves fall squarely within the ambit of CRZ-I. The Regulations allow for salt harvesting by solar evaporation of seawater in CRZ-I areas *only* where such area is not ecologically sensitive and important. In the instant case it has been established that mangrove forests are of great ecological importance and are also ecologically sensitive**. Thus, salt harvesting by solar evaporation of seawater cannot be permitted in an area that is home to mangrove forests."

(emphasis added)

57 The Apex Court observed that the mangroves forests are of great ecological importance and are also ecologically sensitive. This observation is made after observing that mangroves falls squarely within the ambit of CRZ-I. Thus, even if the area abutting the mangroves which were in existence when 1991 notification came into force was already developed, the mangroves area will fall in CRZ-I and not in CRZ-II. If there are mangroves in existence between the shoreline and the developed area, the mangroves will fall in CRZ-I under both

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the CRZ notifications. The Apex Court, therefore, did not permit salt harvesting activity on the mangroves areas. The Apex Court proceeded to issue several directions including the direction to restore *status-quo ante* against the appellant. It can be seen from the said decision that the Apex Court virtually approved the direction given by this Court in clause 8(xii) regarding mangroves areas on the Government owned lands to be declared as protected forests.

58 We must note here that none of the respondents have ventured to deny this factual statements made in the petition about the important role played by the mangroves eco-sytems. On the contrary, the affidavit of the State of Shri Milind Panditrao, Divisional Forest Officer shows that except for the directions regarding the mangroves on private lands, the State Government claims to have made a sincere effort to implement the directions issued by this Court under the order dated 6th October 2005. Whether the State has implemented all the directions issued or not is an altogether a different issue. What is important is that the State has shown willingness to abide by almost all directions including the direction regarding keeping buffer zone of 50 meters . Considering the applicability of the public trust doctrine and the statutory and constitutional duty of the State, the said direction for stopping all construction taking place within 50 meters on all sides of all mangroves will have to be maintained as this direction will protect the mangroves. If construction activity is permitted in the said buffer zone, it will inevitably cause damage to the mangroves. No construction/development permission can be granted in the buffer zone of 50 meters of mangroves having an area less than 1000 square meters, unless the concerned development authorities are fully satisfied that even if development is carried out, no damage whatsoever will be

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caused to the mangroves. As pointed out earlier, in case of mangrove area of 1000 square meters or more, 50 meter buffer zone will be a part of CRZ-I and such a buffer zone will be subject to all the restrictions provided in CRZ Regulations.

59 Therefore, there is no difficulty in continuing the directions issued in the order dated 6th October 2005 as final directions with certain modifications. As far as the directions contained in relation to mangroves on private properties are concerned, we propose to deal with the same separately.

MANGROVES ON PRIVATE LANDS

60 Now, we turn to the issue of mangrove areas forming a part of the private lands. For that purpose, it will be necessary to make a reference to the provisions of the Private Forest Act. We have already held that a mangroves forest on a private land will be a forest within the meaning of the said Act of 1980 and therefore, necessary consequences will follow. The question is whether such areas can be transferred to the Forest Department and for that reason, it is necessary to make a reference to the provisions of the Private Forest Act.

61 Clause (f) of Section 2 defines “Private Forest” which reads thus :

> “(f) “private forest” means any forest which is not the property of Government and includes, -
>
> (I) any land declared before the appointed day to be a forest under section 34A of the Forest Act;
> (ii) any forest in respect of which any notification issued under sub-section (1) of section 35 of the Forest Act, is in force immediately before the appointed day;
> (iii) any land in respect of which a notice has been issued under sub-section (3) of section 35 of the Forest Act,

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but excluding an area not exceeding two hectares in extent as the Collector may specify in this behalf;

(iv) land in respect of which a notification has been issued under section 38 of the Forest Act;

(v) in a case where the State Government and any other person are jointly interested in the forest, the interest of such person in such forest;

(vi) sites of dwelling houses constructed in such forest which are considered to be necessary for the convenient enjoyment or use of the forest and lands appurtenant thereto;"

62 Section 3 of the "Private Forest Act" is material which reads thus :-

"3.(1) Notwithstanding anything contained in any law for the time being in force or in any settlement, grant, agreement, usage, custom or any decree or order of any Court, Tribunal or authority or any other document, with effect on and from the appointed day, all private forests in the State shall stand acquired and vest, free from all encumbrances, in, and shall be deemed to be, with all rights in or over the same or appertaining thereto, the property of the State Government, and all rights, title and interest of the owner or any person other than Government subsisting in any such forest on the said day shall be deemed to have been extinguished.

(2) Nothing contained in sub-section (1) shall apply to so much extent of land comprised in a private forest as is held by an occupant or tenant and is lawfully under cultivation on the appointed day and is not in excess of the ceiling area provided by section 5 of the Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961, for the time being in force or any building or structure standing thereon or appurtenant thereto.

(3) All private forests vested in the State Government under sub-section (1) shall be deemed to be reserved forests within the meaning of the Forest Act."

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63 Sub-section (1) of Section 3 applies to a “private forest” defined under clause (f) of Section 2. Thus, vesting under sub-section (1) will apply only in case of a private forest within the meaning of clause (f) of Section 2 of the Private Forest Act. Therefore, only those lands which are covered by clause (f) of section 2 will vest in the State Government in accordance with section 3 of the Private Forest Act. Such vesting will be automatic in view of sub-section (1) of Section 3. Hence, such private mangroves lands which are covered by the definition under section 2(f) will vest in the State Government on the appointed day which is 30th August 1975.

64 The second part of the direction given in clause 8(ix) of the order dated 6th October 2005 is to declare the mangrove areas which are privately owned as forests. Clause (xi) further provides that from the list of mangrove areas so identified, the Government lands shall be declared/notified as protected forests and likewise, privately owned lands from the list of mangroves areas so identified shall be declared/notified as forests. In view of the definition of forest in clause (c-i) of Section 2, a land covered by mangroves will be a “forest”. But, no consequences as provided in section 3 will follow under the Private Forest Act unless such a land is a “private forest” under clause (f) of Section 2.

65 Continuation of the interim direction to declare privately owned mangrove area as forest and to transfer the same to Forest Department poses some difficulty. Under the said Act of 1927, there are two categories of forests which could be declared by the State Government. One is the protected forest under Section 29 to which we have already made a reference. The other is reserved forest. The power to declare reserved forest is under Section 3 of the said Act of 1927. A

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privately owned land cannot be declared as a protected forest or reserved forest over which the State Government has no proprietary rights. Moreover, sections 34A to 37 of the said Act of 1927 stand repealed for the State of Maharashtra by virtue of section 24 of the Private Forest Act with effect from 30th March 1975. Going back to the Private Forest Act, as observed earlier, every mangroves area which is privately owned will not fall in the definition of private forest in clause (f) of section 2. Another Section which is relevant in the Private Forest Act is Section 21. It confers a power on the State Government to declare a land which is not covered by clause (f) above as a private forest. Section 21 of the Private Forest Act reads thus :-

> "21. **Declaration of certain lands as private forests -** (1)Wherever it appears to the State Government that any tract of land not being the property of Government, contains trees and shrubs, pasture lands and any other land whatsoever, and that it should be declared in public interest and for furtherance of the objects of this Act. to be a private forest, the State Government shall publish a notification in the Official Gazette -
>
> (a) declaring that it is proposed to declare such tract of land to be a private forest; and (b) specifying, as nearly as possible, the situation and limits of such tract.
>
> (2) On the publication of such notification, the Collector or any other officer authorised in this behalf by the State Government shall issue a notice to the owner of such tract of land and to all other persons having an interest in such tract of land calling on them to show cause, within a reasonable period to be specified in such notice, why such declaration should not be made.
>
> (3) After hearing the objections if any, of the owner and other persons and considering any evidence that they may produce in support of the same, the Collector, or as the case may be, the authorised officer shall submit his report to the State Government, along with the objections, proceeding and his opinion whether the tract of land should or should not be declared to be a private forest.
>
> (4) After taking into consideration the objections,

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proceeding and report and the opinion of the Collector, or as the case may be of the authorised officer, the State Government shall decide, whether such tract of land or any part thereof should or should not be declared to be a private forest, and such decision shall be final.

(5) If the State Government decides to declare such tract of land or any part thereof to be a private forest, it shall publish such decision by a notification in the Official Gazette.

(6) Upon publication of the notification under sub-section (5), the tract of land in question or any part thereof shall be deemed to be private forest and thereupon, all the provisions of this Act shall apply thereto, subject to the modification that the appointed day in relation thereto shall be deemed to be the date of the issue and publication of the notification in the Official Gazette under sub-section (5) in relation thereto.

(7) If the State Government decides not to declare such tract of land or any part thereof to be a private forest, it shall communicate its decision to all persons interested in such tract of land or any part thereof.

(8) On the publication of a notification under sub-section (1) in respect of any tract of land, it shall not be lawful for the owner of such tract of land or any other person to do therein, except with the previous permission in writing of the Divisional Forest Officer, any of the following things, for a period of one year from the date of such publication, or till the date of the publication of the notification under sub-section (5), or as the case may be, till the date of communicating the decision under sub-section (7), whichever period expires earlier,namely :---

(a) the breaking up or cleaning of the land for cultivation;

(b) the pasturing of cattle;

(c) the filing or cleaning of the vegetation ;

(d) the girdling tapping or burning of any tree of the stripping off the bark or leaves from any tree;

(e) the lopping and pollarding of tree;

(f) the cutting, sawing, conversion and removal of trees and timber; or

(g) the quarrying of stone or the burning of lime or charccoal or the collection or removal of any forest

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produce or its subjection to any manufacturing process.

(9) If any person contravenes the provision of sub-section (8), he shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine or with both."

66 Under Section 21, a private land not covered by clause (f) of Section 2 can be declared as a private forest. Thus, if a privately owned mangrove land is to be declared as private forest, the procedure under Section 21 will have to be undertaken. It cannot be said that every private land containing trees and shrimps or pasture lands should be declared as a private forest by exercising power under Section 21. It is ultimately left to the State Government to take recourse to Section 21. Therefore, a writ of mandamus cannot be issued directing the State Government to exercise the power under Section 21 of the Private Forest Act of declaring every privately owned mangrove area as a private forest. However, as held earlier, whether such area is declared as a private forest under Section 21 or not, it is a forest as held by the Apex Court in the case of ***T.N. Godavarman*** *(supra)* and therefore, the same cannot be used by the owner thereof for non-forest purposes. There is one more aspect of the matter. In case of a private forest which vests in the State Government under sub-section (1) of Section 3 of the Private Forest Act, certain amounts become payable to the owners under Section 7 of the Private Forest Act as compensation. Therefore, in case of a land in respect of which the power under Section 21 of the Private Forest Act is exercised, compensation will be payable by the State Government. Therefore, we are of the view that a blanket direction to declare private mangrove areas as a private forest under the Private Forest Act cannot be issued. However, the Government will have

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to be directed to consider the cases where Section 21 deserves to be invoked and initiate action to invoke Section 21 in accordance with law.

MONITORING COMMITTEE TO BE CONSTITUTED

67 In paragraph 8 of the order dated 6th October 2005, a direction was issued by the State Government to designate a senior officer not below the rank of the District Magistrate and the Collector and Deputy Commissioner of Police to oversee the implementation of the directions issued. As per the circular dated 21st October 2005 issued by the State Government, the Divisional Commissioner, Konkan Division was entrusted with the responsibility of the implementation of the directions of this Court.

68 In PIL No.218 of 2013, for the Navi Mumbai area in Thane District, a Committee headed by the Divisional Commissioner, Konkan Division has been constituted which has several members. The said Committee is entrusted with the task of coordinating the activity of protecting mangroves in the said area. The State Government by a letter dated 1st August 2018 (marked as "L 10 for identification") addressed to the learned Additional Government Pleader has agreed to constitute only one Committee headed by the Divisional Commissioner, Konkan Division for all the 7 coastal districts of Maharashtra. We accept the statements made in the said letter. It will be appropriate if such Committee consists of the District Collectors as suggested by the State Government, Nodal Police Officers for each District not below the rank of Deputy Superintendent of Police as may be nominated by the State Government, the Nodal Officers of appropriate higher rank appointed by all the Planning Authorities within the meaning of the Maharashtra Regional and Town Planning Act,1966 (for short "MRTP Act") which are having coastal areas within its jurisdiction, Higher

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officers of the Forest Department, Officers of Mangroves Conservation Units/ Mangroves Cell, Member Secretary of MCZMA, Regional officer/s of the Maharashtra Pollution Control Board, representatives of NGOs working in the field, the representatives of organizations of local fisher folk communities, experts in the field of conservation etc. The State Government may consider of including the Petitioners in this PIL and PIL no.218 of 2013 in the Committee. As stated in the letter of the State Government, the Committee shall be responsible for coordinating the activity of protection and conservation of mangrove areas in all the coastal districts. Naturally, the same Committee should be given responsibility of monitoring the implementation of the directions issued by this Court for protection and conservation of mangroves and restoration of destructed mangroves. The function of the Committee will be to ensure that various agencies/ authorities/ officers who are vested with the statutory powers act promptly and effectively. The State Government shall establish a secretariat of the said Committee with a central control room to receive complaints and immediate action thereon. All the infrastructure and necessary funds should be provided to the Committee as per the requisitions issued by the Committee from time to time. The Divisional Commissioner will have to be authorised to constitute sub-committees at District/Taluka level. The Committee will have to submit quarterly action taken and compliance reports to this Court. The first report shall be submitted on 1st December 2018. The Committee shall be entitled to seek further directions by filing an application through the Government Pleader. The Committee shall regularly hold meetings. It will be open to hold meetings by use of video conferencing facility. The minutes of the meeting shall be published on the web site of the Commissioner or of the Committee.

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SETTING UP GRIEVANCE REDRESS MECHANISM

69 The State Government will have to create a Grievance Redress Mechanism for enabling the members of the public to lodge complaints about the activity of destruction /removal /cutting of the mangroves or causing damage to a mangroves area. An opportunity must be made available to file complaints about any acts or omissions which may ultimately result in destruction or causing damage to the mangroves area. The State Government shall make arrangements for receiving complaints on dedicated website, on toll free numbers and in physical form to the officers or offices nominated by the State Government in all coastal districts and especially in the areas where there are mangroves. A facility shall be made available for uploading the photographs by e-mail and by whats app or similar media by use of cell phone. The State Government must also create machinery to ensure that the said complaints are immediately transferred to the Committee headed by the Divisional Commissioner. The Committees will ensure that immediate action is taken of stopping the illegal destruction or acts amounting to causing damage to the mangrove areas, if necessary with the police help. Necessary register shall be maintained of the complaints received and action taken thereon. The State Government must lay down methodology by which the complainant is kept posted about the action taken on his or her complaint. On the request made by the complainant, the identity of the complainant shall be masked and the names of the complainant shall not be disclosed to violators of law.

DEVELOPMENT PLAN UNDER MRTP ACT

70 Now it will be necessary to refer to the provisions of the MRTP Act. The said Act contemplates preparation of Regional and Development Plans. The Regional Boards established under the said Act are entrusted with the responsibility of preparation of Regional Plans

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and making periodical revision of such plans. Section 14 provides for contents of a Regional Plan which reads thus:

> "**14. Subject to the provisions of this Act and any rules made thereunder for regulating the form of a Regional plan and the manner in which it may be published, any such Regional plan shall indicate the manner in which the Regional Board propose that land in the Region should be used, whether by carrying out thereon development or otherwise,the stages by which any such development is to be carried out,** the net-work of communications and transport, the proposals for conservation and development of natural resources, and such other matters as are likely to have an important influence on the development of the Region; and any such plan in particular, may provide for all or any of the following matters, or for such matters thereof as the State Government may direct, that is to say—
>
> (*a*) allocation of land for different uses, general distribution and general locations of land, and the extent to which the land may be used as residential, industrial, agricultural, or as forest, or for mineral exploitation ;
>
> (*b*) **reservation of areas for open spaces, gardens, recreation, zoological gardens, nature reserves, animal sanctuaries, dairies and health resorts**;
>
> (*c*) transport and communications, such as roads, highways, railways, waterways, canals and airports, including their development ;
>
> (*d*) water supply, drainage, sewerage, sewage disposal and other public utilities, amenities and services including electricity and gas ;
>
> (*e*) reservation of sites for new towns, industrial estates and any other large scale development or project which is required to be undertaken for proper development of the Region or new town ;
>
> (*f*) **preservation, conservation and development of areas of natural scenery, forest, wild life, natural resources, and land-scaping**;
>
> (*g*) preservation of objects, features, structures or places of historical, natural, architectural or scientific interest and educational value ;
>
> *(h)* areas required for military and defence purposes ;
>
> *(i)* prevention of erosion, provision for afforestation, or

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> reforestation, improvement and redevelopment of water front areas, rivers and lakes ;
> (*j*) proposals for irrigation, water supply and hydro-electric works, flood control and prevention of river pollution ;
> *(k)* providing for the relocation of population or industry from over- populated and industrially congested areas, and indicating the density or population or the concentration of industry to be allowed in any areas.
> …….
> …….”
>
> (emphasis added)

71 Every Planning Authority under the MRTP Act is under a mandate to make a Development Plan and to make a revision at periodical intervals. The contents of the Development Plan are provided in section 22 which reads thus:

> **“22. Contents of Development plan.— A Development plan shall generally indicate the manner in which the use of land in the area of a Planning Authority shall be regulated, and also indicate the manner in which the development of land therein shall be carried out.** In particular, it shall provide so far as may be necessary for all or any of the following matters, that is to say,—
>
> (*a*) proposals for allocating the use of land for purposes, such as residential, industrial, commercial, agricultural, recreational;
>
> (*b*) proposals for designation of land for public purpose, such as schools, colleges and other educational institutions, medical and public health institutions, markets, social welfare and cultural institutions, theaters and places for public entertainment, or public assembly, museums, art galleries, religious buildings and government and other public buildings as may from time to time be approved by the State Government;
>
> (*c*) **proposals for designation of areas for open spaces, playgrounds, stadia, zoological gardens, green belts, nature reserves, sanctuaries** and dairies;

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(*d*) transport and communications, such as roads, high-ways, park-ways, railways, water-ways, canals and air ports, including their extension and development;

(*e*) water supply, drainage, sewerage, sewage disposal, other public utilities, amenities and services including electricity and gas;

(*f*) reservation of land for community facilities and services;

(*g*) proposals for designation of sites for service industries, industrial estates and any other development on an extensive scale;

(*h*) preservation, conservation and development of areas of natural scenery and landscape;

(*I*) preservation of features, structures or places of historical, natural, architectural and scientific interest and educational value [and of heritage buildings and heritage precincts];

(*j*) proposals for flood control and prevention of river pollution;

(*k*) proposals of the Central Government, a State Government, Planning Authority or public utility undertaking or any other authority established by law for designation of land as subject to acquisition for public purpose or as specified in a Development plan, having regard to the provisions of Section 14 or for development or for securing use of the land in the manner provided by or under this Act;

(*l*) the filling up or reclamation of low lying, swampy or unhealthy areas or levelling up of land;

(*m*) provisions for permission to be granted for controlling and regulating the use and development of land within the jurisdiction of a local authority [including imposition of fees, charges and premium, at such rate as may be fixed by the State Government or the planning Authority, from time to time, for grant of an additional Floor Space Index or for the special permissions or for the use of discretionary powers under the relevant Development Control Regulations, and also for imposition of] conditions and restrictions in regard to the open space to be maintained about buildings, the percentage of

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> building area for a plot, the location, number, size, height, number of storeys and character of buildings and density of population allowed in a specified area, the use and purposes to which buildings or specified areas of land may or may not be appropriated, the sub-division of plots, the discontinuance of objectionable users of land in any area in reasonable periods, parking space and loading and unloading space for any building and the sizes of projections and advertisement signs and boardings and other matters as may be considered necessary for carrying out the objects of this Act."
>
> (emphasis added)

72 Thus, in a Development Plan, mangroves areas and buffer zones will have to be specifically shown in view of clause (c) of section 22. The Regulations framed as per clause (m) must provide for ban on construction on mangroves area and its buffer zones as laid down earlier. Mangroves areas have been already identified by using MRSAC. In any event, in view of Section 21, preparation of land use map is a condition precedent for preparation of a Development Plan. Section 14 deals with contents of a Regional Plan. Clause (b) of Section 14 is similar to clause (c) of Section 22 which provides for reservation for gardens, nature reserves etc. Therefore, The in a Regional Plan, mangroves areas and buffer zones will have to be specifically shown. The State Government will have to issue a direction under section 154 of the MRTP Act to all concerned Planning Authorities and Regional Boards, as the case may be, to implement the aforesaid directions while making or amending or revising Development Plans/Regional Plans.

RESTORATION OF MANGROVE AREAS

73 One more important issue is to restore mangroves areas which are illegally reclaimed. The said areas have to be restored to its

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original condition. That is the legal obligation of the State. In what manner restoration should be done should be decided by the Committee headed by the Divisional Commissioner after consulting experts in the field. It is necessary that the Committee identifies the vulnerable mangroves areas in the State and direct its constant surveillance either by the Police or Forest Guards or Security Guards of the Maharashtra Security Corporation. The Committee shall ensure that barricades are erected for entry of vehicles in such vulnerable area for preventing illegal dumping. The Committee shall also consider of installing CCTVs along the vulnerable stretches to keep a vigil. The Committee shall also cause to undertake satellite mapping of mangroves area at periodical intervals of not more than six months by using resolution as suggested in paragraph no.28 of the note submitted by the learned senior counsel appearing for the petitioner. Any changes seen shall be considered by the Committee and remedial measures shall be immediately taken. The State Government shall sanction necessary funds for that purpose.

EFFECT OF THE ORDER DATED 29th JULY 2015 IN CHAMBER SUMMONS NO.172 OF 2007

74 Now we must refer to the order dated 29th July 2015. The prayer made before this Court was that certain plots be excluded from the applicability of the direction contained in clause 8(iii) in the order dated 6th October 2005 regarding buffer zone of 50 meters. The said order dated 29th July 2015 is confirmed by the Apex Court. The order of the Apex Court dated 2oth January 2016 shows that it is a summary dismissal. Therefore, the issue whether the said order of this Court is a binding precedent remains open. We find that on the plots subject matter of the said order, permissions were granted prior to the year 1996 for making public housing. Environmental clearances were granted prior to the order dated 6th October 2005. Before passing the

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said order, the attention of the Court was not invited to the condition (xiii) imposed in the letter/order dated 27th September 1996 of the Central Government by which CZMP of the State of Maharashtra was sanctioned. The condition is that in case of mangroves with an area of 1000 square meters and more, a buffer zone of 50 meters will form a part of CRZ-I. Moreover, the CRZ notification of 2011 specifically provides that in case of mangroves with an area of 1000 square meters, a buffer zone of 50 meters will form a part of CRZ-I. Interim direction in clause 8(iii) is applicable to all mangroves area irrespective of its area. One of the reasons set out by us for confirming the said interim direction is that if construction activity is permitted within 50 meters of mangroves area, it will cause damage to the mangroves it being an ecologically fragile area. The area of 50 meters around mangroves area of less than 1000 square meters will not be a part of CRZ-I though such mangrove area will be a part thereof under the both 1991 and 2011 notifications. Only in case of mangroves lands having an area of 1000 square meters or more , it's 50 meter buffer zone will also be a part of CRZ-I.

75 The said order dated 29th July 2015 deals with the projects approved prior to the year 1996. The order ignores the provision regarding 50 meter buffer zone which was introduced on 27th September 1996. The said order dated 29th July 2015 was passed considering the peculiar facts in respect of the plots subject matter of the said order. By the said order, the issue of protecting mangroves was not finally decided. Hence, the said order cannot be held to be a binding precedent finally deciding the issue of buffer zone and CRZ classification. There is a circular/ order dated 5th March 2018 issued by the Department of Environment of the State Government on the basis of the order dated 29th July 2015. The learned Counsel for the Petitioners

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in the connected writ petition has placed on record the said circular. However, now what will prevail is this Judgment and not the said circular which is based on the legal opinion of the Law Department.

PROCEDURE REGARDING SETTING CRIMINAL LAW IN MOTION

76 Whenever the offences punishable under section 15 of the said Act of 1986 are committed, criminal law has to be set in motion in accordance with section 19 of the said Act of 1986. In many cases, it is found that the police are straight-away registering First Information Reports by ignoring the provisions of section 19 of the said Act of 1986 which reads thus :-

> "**19. COGNIZANCE OF OFFENCES**
>
> No court shall take cognizance of any offence under this Act except on a complaint made by--
> (a) the Central Government or any authority or officer authorised in this behalf by that Government, or
> (b) any person who has given notice of not less than sixty days, in the manner prescribed, of the alleged offence and of his intention to make a complaint, to the Central Government or the authority or officer authorised as aforesaid."

77 In the Judgment and Order dated 22nd December 2016 in PIL No.218 of 2013 in the case of ***Navi Mumbai Environment Preservation Society And Anr. Vs. Ministry Of Environment, Through the Secretary, Department of Environment and Ors.***, this Court considered the procedural aspects regarding section 19 of the said act of 1986. Paragraphs 5 to 13 of the said Judgment and Order dated 22nd December 2016 in PIL No.218 of 2013 read thus :-

> "5 As far as the officers authorised under clause (a) are concerned, a notification bearing No.394(E) has been issued by the Government of India under which the

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District Collectors have been appointed as authority under clause (a) of the Section 19 for their respective Districts. Chairpersons, Member-Secretaries and Regional Officers of the State Pollution Control Board who have been delegated powers under Section 24 of the Air (Prevention and Control of Pollution) Act, 1974 have been also nominated as authorities under clause (a) of Section 19. The Chairman and Member-Secretary of the State Board have jurisdiction all over the State. The jurisdiction of the Regional Officers is confined to the notified area.

6 It is brought to our notice that in certain cases, First Information Reports have been registered for the offences punishable under Section 15 of the said Act of 1986 by the Police. The question is whether the Criminal Court can take cognizance of the offence on the basis of charge sheet filed on the basis of First Information Report registered by the Police.

7 Complaint is defined under the Code of Criminal Procedure, 1973 (for short “the said Code”) under clause (d) of Section 2 which reads thus :-

> (d) "complaint" means any allegation made orally or in writing to a Magistrate, with a view to his taking action under this Code, that some person, whether known or unknown, has committed an offence, but does not include a police report.”

8 In the present case, only District Collectors and officers of the Maharashtra Pollution Control Board as set out above have been authorised under clause (a) of Section 19. It will be advisable if the information regarding commission of an offence punishable under Section 15 is immediately communicated to the District Collector or to the Regional Officers of the Maharashtra Pollution Control Board who are authorised officers under clause (a) of Section 19 who can set criminal law in motion. The question is whether registration of FIR at the instance of a person who is not authorised under clause (a) of Section 19 and the investigation carried out on the basis of the FIR becomes illegal.

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9 In this behalf, it will be necessary to make a reference to a decision of the Apex Court in the case of *State (NCT of Delhi) Vs. Sanjay*[6]. In the said case, the Apex Court was dealing with the issue of taking cognizance of offences punishable under the Mines and Minerals (Development and Regulation Act) 1957 (for short "the said Act of 1957"). Section 22 of the said Act of 1957 provides that no Court shall take cognizance of any offence punishable under the said Act or Rules made thereunder except upon a complaint in writing made by a person authorised in this behalf by the Central Government or the State Government. One of the challenges before the Apex Court was to the decisions of Delhi High Court and Gujarat High Court dealing with the issue of legality of the First Information Reports registered by the Police. Paragraphs 9 to 12 of the said decision read thus :-

"9. The Delhi High Court after referring various provisions on the MMDR Act vis-à-vis the Code of Criminal Procedure disposed of the application directing the respondent to amend the FIR, which was registered, by converting the offence mentioned therein under Section 379/411/120B/34 of IPC to Section 21 of the MMDR Act. The High Court in para 18 of the impugned order held as under:-

"18. In view of the aforesaid and taking into consideration the provisions contained under Section 21 (6) of the said Act I hold that:

(i) The offence under the said Act being cognizable offence, the Police could have registered an FIR in this case;

(ii) However, so far as taking cognizance of offence under the said Act is concerned, it can be taken by the Magistrate only on the basis of a complaint filed by an authorized officer, which may be filed along with the police report;

(iii) Since the offence of mining of sand without permission is punishable under Section 21 of the said Act, the question of said offence being an offence under Section 379 IPC does not arise because the said Act makes illegal mining as an offence only when there is no permit/licence for such extraction

[6] (2014) 9 SCC 772

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and a complaint in this regard is filed by an authorized officer.

10. On the other hand the Gujarat High Court formulated the following question for consideration:-
    (1) Whether Section 22 of the Act would debar even lodging an FIR before the police with respect to the offences punishable under the said Act and Rules made thereunder?
    (2) In Case such FIR's are not debarred and the police are permitted to investigate, can the concerned Magistrate take cognizance of the offences on a police report?
    (3) What would be the effect on the offences punishable under the Penal Code in view of the provisions contained in the Act?

11. The Gujarat High Court came to the following conclusion:-
    (I) **The offence under the said Act being cognizable offence, the Police could have registered an FIR in this case;**
    (ii) **However, so far as taking cognizance of offence under the said Act is concerned, it can be taken by the Magistrate only on the basis of a complaint filed by an authorized officer, which may be filed along with the Police report;**
    (iii) Since the offence of mining of sand without permission is punishable under Section 21 of the said Act, the question of said offence being an offence under Section 379 IPC does not arise because the said Act makes illegal mining as an offence only when there is no permit/licence for such extraction and a complaint in this regard is filed by an authorized officer.

12. The Gujarat High Court, therefore, held that:-
    1. **Section 22 of the Act does not prohibit registering an FIR by the police on information being given with respect to offences punishable under the said Act or the Rules made thereunder.**
    2. **It is however, not open for the Magistrate to**

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take cognizance of the offence punishable under the Act or the Rules made there under on a mere charge-sheet filed by the police. It would, however, be open for the officer authorized by the state or the Central Government in this behalf to file a complaint in writing before the Magistrate relying upon the investigating carried out by the police and the complaint may also include the papers of the police investigation.

3. With respect to offences punishable under the Penal Code, no such bar as indicated in para (2) would apply."

(emphasis added)

10 We must note here that the offence under Sub-Section (1) of Section 15 attracts imprisonment for a term which may extend to 5 years. Therefore, as per Part II of the First Schedule to the said Code, the offence will be cognizable and therefore, Police can register the same under Sub-Section (1) of Section 154 of the said Code. Perusal of the decision of the Apex Court in the aforesaid case shows that the Apex Court has not disturbed the view taken by the Delhi High Court and Gujarat High Court which we have quoted above. Therefore, if FIR is registered by the Police for the offences punishable under Section of Section 15 of the said Act of 1986, the registration of offence and investigation carried out by the Police is not *per se* vitiated. A complaint can be made/filed by authorised officer under clause (a) of Section 19 before the concerned Court. While filing complaint, the authorised officer can always rely upon the material collected by the Police during the investigation. The Complaint can include the material collected by the Police during the investigation carried out on the basis of the FIR.

11 Another issue is about of those cases where on the basis of the First Information Reports registered for the offences punishable under Sub-Section (1) of Section 15 of the said Act of 1986 and charge sheet filed by the Police, Criminal Courts have taken cognizance. The question is whether trial in such cases is vitiated. This issue is dealt with by the Apex Court in the case of *H.N.*

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Rishbud and Inder Singh Vs. State of Delhi[7]. Paragraphs 9 and 10 of the said decision read thus :-

"9. The question then requires to be considered whether and to what extent the trial which follows such investigation is vitiated. Now, trial follows cognizance and cognizance is preceded by investigation. This is undoubtedly the basic scheme of the Code in respect of cognizable cases. **But it does not necessarily follow that an invalid investigation nullifies the cognizance or trial based thereon. Here we are not concerned with the effect of the breach of a mandatory provision regulating the competence or procedure of the Court as regards cognizance or trial. It is only with reference to such a breach that the question as to whether it constitutes an illegality vitiating the proceedings or a mere irregularity arises. A defect or illegality in investigation, however serious, has no direct bearing on the competence or the procedure relating to cognizance or trial.** No doubt a police report which results from an investigation is provided in Section 190 of the Code of Criminal Procedure as the material on which cognizance is taken. But it cannot be maintained that a valid and legal police report is the foundation of the jurisdiction of the Court to take cognizance. Section 190 of the Code of Criminal Procedure is one out of a group of sections under the beading "Conditions requisite for initiation of proceedings. The language of this section is in marked contrast with that of the other sections of the group under the same heading, i.e. Sections 193 and 195 to 199. These latter sections regulate the competence of the Court and bar its jurisdiction in certain cases excepting in compliance therewith. But Section 190 does not. While no doubt, in one sense, clauses (a), (b) and (c) of Section 190(1) are conditions requisite for taking of cognizance, it is not possible to say that cognizance on an invalid police report is prohibited and is therefore a nullity. Such an invalid report may still fall either under clause (a)

[7] AIR 1955 SC 196

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or (b) of Section 190(1), (whether it is the one or the other we need not pause to consider) and in any case cognizance so taken is only in the nature of error in a proceeding antecedent to the trial. To such a situation Section 537 of the Code of Criminal Procedure which is in the following terms is attracted:

"Subject to the provisions hereinbefore contained, no finding, sentence or order passed by a Court of competent jurisdiction shall be reversed or altered on appeal or revision on account of any error, omission or irregularity in the complaint, summons, warrant, charge, proclamation, order, judgment or other proceedings before or during trial or in any enquiry or other proceedings under this Code, unless such error, omission or irregularity, has in fact occasioned a failure of justice".

If, therefore, cognizance is in fact taken, on a police report vitiated by the breach of a mandatory provision relating to investigation, there can be no doubt that the result of the trial which follows it cannot be set aside unless the illegality in the investigation can be shown to have brought about a miscarriage of justice. That an illegality committed in the course of investigation does not affect the competence and the jurisdiction of the Court for trial is well settled as appears from the cases in *Prabhu V. Emperor and Lumbhardar Zutshi V. King*. These no doubt relate to the illegality of arrest in the course of investigation while we are concerned in the present cases with the illegality with reference to the machinery for the collection of the evidence. This distinction may have a bearing on the question of prejudice or miscarriage of justice, but both the cases clearly show that invalidity of the investigation has no relation to the competence of the Court. **We are, therefore, clearly, also, of the opinion that where the cognizance of the case has in fact been taken and the case has proceeded to termination, the invalidity of the precedent investigation does not vitiate the result, unless miscarriage of justice has been**

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caused thereby.

10. It does not follow, however, that the invalidity of the investigation is to be completely ignored by the Court during trial. When the breach of such a mandatory provision is brought to the knowledge of the Court at a sufficiently early stage, the Court, while not declining cognizance, will have to take the necessary steps to get the illegality cured and the defect rectified, by ordering such reinvestigation as the circumstances of an individual case may call for. Such a course is not altogether outside the contemplation of the scheme of the Code as appears from Section 202 under which a Magistrate taking cognizance on a complaint can order investigation by the police. Nor can it be said that the adoption of such a course is outside the scope of the inherent powers of the Special Judge, who for purposes of procedure at the trial is virtually in the position of a Magistrate trying a warrant case. When the attention of the Court is called to such an illegality at a very early stage it would not be fair to the accused not to obviate the prejudice that may have been caused thereby, by appropriate orders, at that stage but to leave him to the ultimate remedy of waiting till the conclusion of the trial and of discharging the somewhat difficult burden under Section 537 of the Code of Criminal Procedure of making out that such an error has in fact occasioned a failure of justice. It is relevant in this context to observe that even if the trial had proceeded to conclusion and the accused had to make out that there was in fact a failure of justice as the result of such an error, explanation to Section 537 of the Code of Criminal Procedure indicates that the fact of the objection having been raised at an early stage of the proceeding is a pertinent factor. To ignore the breach in such a situation when brought to the notice of the Court would be virtually to make a dead letter of the peremptory provision which has been enacted on grounds of public policy for the benefit of such an accused. It is true that the peremptory provision itself allows an officer of a lower rank to make the

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> investigation if permitted by the Magistrate. But this is not any indication by the Legislature that an investigation by an officer of a lower rank without such permission cannot be said to cause prejudice. When a Magistrate is approached for granting such permission he is expected to satisfy himself that there are good and sufficient reasons for authorising an officer of a lower rank to conduct the investigation. The granting of such permission is not to be treated by a Magistrate as a mere matter of routine but it is an exercise of his judicial discretion having regard to the policy underlying it. In our opinion, therefore, when such a breach is brought to the notice of the Court at an early stage of the trial the Court have to consider the nature and extent of the violation and pass appropriate orders for such reinvestigation as may be called for, wholly or partly, and by such officer as it considers appropriate with reference to the requirements of Section 5-A of the Act. It is in the light of the above considerations that the validity or otherwise of the objection as to the violation of Section 5(4) of the Act has to be decided and the course to be adopted in these proceedings, determined."

12 Thus, in cases where charge sheets have been filed and the Courts have taken cognizance on the basis of Charge sheets, the proceedings of criminal case or trial will not *per se* stand vitiated. The same will stand vitiated only if there is a miscarriage of justice.

78 Thereafter, this Court proceeded to hold that registration of offences by the police under sub-section (1) of section 15 of the said Act of 1986 investigation carried out thereon is not *per se* illegal. While filing complaints, officers authorised under clause (a) of section 19 can always rely upon the material collected during the investigation and the material forming charge sheet prepared by the police. We concur with the view taken above. We must note here that the Committee headed

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by the Divisional Commissioner will have to ensure that recourse is promptly taken to section 19 for setting the criminal law in motion by the officers empowered under clause (a) of Section 19.

79 There is a need to hold regular awareness programs in schools and colleges and various educational institutions for making the students aware about the drastic effects of destruction of mangroves. The State shall take steps in that behalf for making the students aware about the dangers which may be caused to the ecology and environment in case the mangroves forests are destructed or damaged. To reiterate, the failure of the State and its agencies/ instrumentalities to maintain and conserve the mangrove areas will amount to violation of rights of the citizens under Article 21 of the Constitution of India apart from other consequences. Though we are not issuing a writ, we hope and trust that the State Government will take such initiatives.

80 The State Government has not placed any material on record to show that compliance with clause 8(vii) of order dated 6th October 2005 has been made. We propose to direct the State Government to do so within two months by providing copies to the petitioners.

81 The mangroves lands held by the public authorities like CIDCO, MMRDA are also governed by sub-clauses (ix) to (xi) of clause 8 of the aforesaid order. Therefore, they must transfer the lands in their possession to the Forest Department.

82 Considering the prayers in the Writ Petition No. 2208 of 2004, no separate order is required to be passed therein. We are passing a separate order in Writ Petition No. 2741 of 2017.

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SUMMARY OF IMPORTANT FINDINGS

83 The summary of some of the important conclusions read thus:

(i) A land regardless of its ownership on which there are mangroves, is a forest within the meaning of the said Act of 1980 and therefore, the provisions of Section 2 of the said Act of 1980 and the law laid down by the Apex Court in the case of *T.N. Godavarman* will squarely apply to such land;

(ii) A mangroves area on a Government land is liable to be declared as a protected forest or a reserved forest, as the case may be, within the meaning of the said Act of 1927;

(iii) All mangroves lands irrespective of its area will fall in CRZ-I as per both the CRZ notifications of 1991 and 2011;

(iv) In 1991 CRZ notification, it is provided that all mangrove areas will fall in CRZ-I. By virtue of the order dated 27th September 1996, in case of mangrove areas of 1000 square meters or more, 50 meter buffer zone abutting it was also included in CRZ-I. By order dated 9th January 2000, it was provided that 50 meter buffer zone will not be required, provided a road abutting the mangroves was constructed prior to February 1991. Under the 2011 notification, all mangroves lands fall in CRZ-I and in case the area of such land is 1000 square meters or more, even a buffer zone of 50 meters along the said area shall be a part of

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CRZ-I. But, the buffer zone of 50 meters which is required to be kept free of constructions in respect of the mangroves area of less than 1000 square meters will not be a part of CRZ-I.;

(v) if there is any violation of the CRZ notifications regarding mangroves area, it will attract penal provision under Section 15 of the said Act of 1986 which is attracted in case of the failure to comply with the provisions of orders or directions issued under the said Act of 1986. The conditions imposed in the the letter dated 27th September 1996 as amended will have to be construed as an order or direction under the said Act of 1986 as CZMP is required to be approved by the Central government in view of the clause 3(i) in the CRZ notification of 1991 which is an order or direction under the said Act of 1986. Hence, if there is any violation of the condition in the letter dated 27th September 1996 in respect of the 50 meter buffer zone, it will attract penal provision of Section 15 of the said Act of 1986.

(vi) The destruction of mangroves offends the fundamental rights of the citizens under Article 21 of the Constitution of India.

(vii) In view of the provisions of Articles 21, 47, 48A and 51A(g) of the Constitution of India, it is a mandatory duty of the State and its agencies and instrumentalities to protect and preserve mangroves;

(viii) In view of applicability of public trust doctrine, the State is duty bound to protect and preserve mangroves. The mangroves cannot be permitted to be destructed by the

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State for private, commercial or any other use unless the Court finds it necessary for the public good or public interest;

(ix) The Precautionary Principle makes it mandatory for the State and its agencies and instrumentality to anticipate and attack causes and consequences of degradation of mangroves.

84 As far as Writ Petition No.2741 of 2017 is concerned, we are deciding the same by a separate order. Writ Petition No.2208 of 2014 will stand disposed of in terms of this Judgment.

85 For the reasons recorded above, we dispose of the PIL by passing the following order :-

ORDER

(A) The following directions issued in the interim order dated 6th October 2005 shall continue to operate as final directions in following terms;

(I) That there shall be a total freeze on the destruction and cutting of mangroves in the entire State of Maharashtra;

(II) Dumping of rubble/garbage/solid waste on the mangrove areas shall be stopped forthwith;

(III) Regardless of ownership of the land having mangroves and the area of the land, all constructions taking place within 50 metres on all sides of all mangroves areas shall be forthwith stopped. The area of 50 meters shall be kept free of construction except construction of a compound wall/fencing for its protection.;

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(IV) No development permission whatsoever shall be issued by any authority in the State of Maharashtra in respect of any area under mangroves. All authorities including the Planning Authorities shall note that all mangroves lands irrespective of its area will fall in CRZ-I as per both the CRZ notifications of 1991 and 2011. In case of all mangrove areas of 1000 sq. meter or more, a buffer zone of 50 meters along the mangroves will also be a part of CRZ-I area. Though buffer zone of 50 meters in case of mangroves area of less than 1000 meters will not be a part of CRZ-I, it will be subject to above restrictions specified in clause III above;

(V) The State of Maharashtra is directed to file in this Court and furnish to the petitioner copies of the maps referred to in paragraph 10 of the affidavit dated 16th August, 2005, filed by Mr.Gajanand Varade, Director, Environment Department, State of Maharashtra (Page 346 on the record), within four weeks from today. The soft or hard copies of the maps be supplied to the Petitioner within the same period;

(B) The following direction issued in terms of clause 8(viii) of the order dated 6th October 1005 has been substantially complied with :

"The areas shown as mangrove area in the satellite study report "Mapping of mangroves in the Maharashtra State using Satellite Remote Sensing" dated August, 2005, prepared by the Maharashtra

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Remote Sensing Application Centre (MRSAC) for the MCZMA which was submitted to this Court on 29th August, 2005, form part of Phase I of the mapping by MRSAC. The MRSAC will, in Phase-II, carry out mangroves study using high resolution for detailed mapping of mangroves with a view to identify more precisely mangrove areas in Mumbai and Navi Mumbai. After receiving the said satellite data, transfer of mangrove details on city survey/village maps (cadastral map) will be carried out within a period of 6 months from today";

(C) The directions in sub-clauses(ix) to (xiii) of clause 8 of the order dated 6th October 2005 shall continue to operate as final directions in respect of mangrove areas only on the government lands and the lands held by Planning Authorities like CIDCO, MMRDA etc. In respect of the lands admeasuring 2823.8493 Hectares as stated in the affidavit dated 14th February 2018 of Shri Milind Panditrao, the direction regarding transfer of the lands to the Forest Department and consequential directions regarding making revenue entries shall be complied with within a period of three months from the date on which this Judgment and Order is uploaded. The State Government shall identify the mangroves lands which were vested in it by virtue of section 3(1) of the Private Forest Act and shall take appropriate steps in respect of such lands for transferring such lands to Forest Department within a period of 18 months from today. It will be also open for the State Government to take recourse to section 21 of the Private Forest Act in appropriate cases;

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(D) We direct the State Government to constitute a Committee headed by the Divisional Commissioner, as agreed by the State Government. The Committee and sub-committees shall be formed in accordance with the observations made in paragraph 68 above. The committee shall be responsible for the preservation and conservation of mangroves, for restoration of reclaimed mangroves areas set out in paragraph 73 above and for implementation of the directions in this Judgment. The Committee shall be constituted within a period of one month from today. The sub-committees as observed in paragraph 68 shall be constituted within two months from today. The Committee shall hold regular meetings and the minutes of the meeting shall be made available on public domain as observed in paragraph 68 above. As directed under the order dated 6th October 2005, the Principal Secretaries of (1) Environment, (2) Revenue and (3) Forest Department of the Government of Maharashtra shall be overall in-charge for ensuring total compliance with the directions issued under this Judgment and Order. They will monitor the working of the Committee headed by the Divisional Commissioner;

(E) The State Government shall create a Grievance Redress Mechanism for enabling the members of the public to lodge complaints about the activity of destruction /removal of the mangroves. An opportunity must be made available to file complaints about any acts or omission which may ultimately result in destruction or causing damage to the mangroves area. The State

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Government shall make arrangements for receiving complaints on dedicated website, on toll free numbers and in physical form to the officers or offices nominated by the State Government in all districts and especially in the areas where there are mangroves. A facility shall be made available for uploading the photographs of the affected area by e-mail and by whats app or similar media by use of cell phone. The State Government must also create a machinery to ensure that the said complaints are immediately transferred to the Committee headed by the Divisional Commissioner. The Committees will ensure that immediate action is taken of stopping the illegal destruction or acts amounting to causing damage to the mangrove areas, if necessary with the police help. Necessary register shall be maintained of the complaints received and action taken thereon. The State Government must lay down the procedure by which complainant is kept posted about the action taken on his or her complaint. On the request made by the complainant, the identity of the complainant shall be masked and the names of the complainant shall not be disclosed to the violators;

(F) The Grievance Redress Mechanism shall be set up within a period of three months from today. Adequate publicity shall be given to the availability of the Grievance Redress Mechanism in leading newspapers as well as local newspapers. Information about availability of the Grievance Redress Mechanism shall be prominently displayed in the offices of District Collectors, Sub-

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Divisional Officers, Tahasildar in the Coastal Districts as well as in the offices of the Maharashtra Pollution Control Board and the Maharashtra Maritime Board in the coastal districts. The information shall be displayed prominently in the offices of the Municipal Corporations/Municipal Councils provided any coastal area forms part of the limits of such Municipal Corporation or such Municipal Council. Publicity shall be given at regular intervals of at least six months to the details of the grievance redress mechanism in leading newspapers having good circulation in the coastal areas;

(G) We direct that it is the obligation of the State to replant destructed mangroves and to restore mangroves areas which are illegally reclaimed. The said areas shall be restored to its original condition. In what manner restoration shall be done must be decided by the Committee headed by the Divisional Commissioner after consulting experts in the field. The Committee shall identify the vulnerable mangroves areas in the State and direct its constant surveillance by the Police/Forest Guards/Security Guards of the Maharashtra Security Corporation. The Committee shall ensure that barricades are erected for preventing the entry of vehicles in such vulnerable area. The Committee shall also consider of installing CCTVs along the vulnerable stretches to keep a vigil. The Committee shall also cause to undertake satellite mapping of mangroves area in the state at periodical intervals of not more than six months by using resolution as suggested in paragraph no.28 of the note

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submitted by the learned senior counsel appearing for the petitioner. Any changes seen shall be considered by the Committee and remedial measures shall be taken. The State Government shall sanction necessary amount for that purpose;

(H) The State Government shall ensure that criminal law is set in motion against all those who commit offences punishable under section 15 of the said Act of 1986 as observed in the Judgment. The Committee shall monitor implementation of this direction;

(I) The State Government shall issue a direction under section 154 of the MRTP Act to all concerned Planning Authorities and Regional Boards under the MRTP Act to to show mangroves areas and 50 meter buffer zone around it while making or revising Development Plans/Regional Plans. Such a direction shall be issued within a period of three months from today;

(J) Quarterly Compliance reports shall be filed by the Committee reporting compliance with the aforesaid directions. The first of such reports shall be filed on or before 1st December 2018;

(K) Rule issued in PIL No.87 of 2006 is disposed of on above terms;

(L) For reporting compliance, PIL shall be listed on 1st December 2018. It will be appropriate if PIL is placed for

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monitoring the compliance before this Bench or a Bench of which one of us is a party. The Prothonotary and Senior Master shall seek appropriate directions in this behalf from Hon'ble the Chief Justice;

(M) Writ Petition No. 2208 of 2004 stands disposed of. No separate directions are required to be issued in this Petition. Writ Petition No. 2741 of 2004 stands disposed of by a separate order passed today;

(RIYAZ I. CHAGLA, J) **(A.S. OKA, J)**

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

PUBLIC INTEREST LITIGATION (L) NO. 83 OF 2018

Abha Singh and Anr. .. Petitioners

Vs.

The State of Maharashtra and Ors. .. Respondents

....

Mr. Aditya Pratap Advocate for Petitioners

Mr. Shardul Singh, Special Counsel a/w Mr. Abhay L. Patki Additional Government Pleader for Respondent Nos. 1 & 2

Mr. Sharan Jagtiani a/w Mr. Mutahar Khan, Mr. Mahernosh J. Humranwala, Ms. Kirtida Chandarana & Ms. Sonali Mehta for Respondent No.4

....

CORAM : PRADEEP NANDRAJOG, C.J. &
N.M. JAMDAR, J.

RESERVED ON : APRIL 11, 2019
DECLARED ON: APRIL 22, 2019

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HIGH COURT OF JUDICATURE AT BOMBAY

ORDER [PER PRADEEP NANDRAJOG, C.J.]:

1. The instant petition under Article 226 of the Constitution of India has been preferred by the petitioners as a 'Public Interest Litigation' laying challenge to the subsequent permission granted by the revenue authorities of State of Maharashtra in favour of India Film Combine Pvt. Ltd, to radically redevelop a leased tract of land for diverse commercial purposes which was initially demised with a circumscribed object of building and operating a 'Drive-In Theatre' along with certain specified amenities.

2. The petitioners contend that it was impermissible for the revenue authorities to have subsequently widened the purposes for which the leased land could be utilised. It is alleged that such concessions were sought by India Film Combine Pvt. Ltd. (hereinafter referred to as the 'lessee') upon addressing an application to the then Chief Minister and such permissions were doled out in haste. It is submitted that provisions of the Maharashtra Land Revenue Code, 1966 and Maharashtra Land Revenue (Disposal of Government Land Rules), 1971 do not support such exercise of power. It has further been submitted that the tract of land in question was liable to revert to the State owing to the alleged breaches

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committed by the 'lessee' and a fresh auction ought to have been conducted to fetch greater revenue or alternatively, the land ought to have been utlised for pressing public purposes such as construction of a new Court complex. It is urged that the 'lessee' is in breach of the terms of lease in view of the fact that the leased land has in effect been disposed by the 'lessee' on multiple occasions by wholesale alteration of its own share-holding pattern, without the requisite permission of the Government. The petitioners have also highlighted that the lease executed by the revenue authorities of the State in favour of the 'lessee' is not registered though compulsorily registrable in law and therefore, the 'lessee' is liable to be ousted on this count aswell.

3. Before we venture to endow our anxious consideration to the contentions canvassed on behalf of the petitioners, it would be apposite to succinctly trace the sequence of events leading to the subsequent permission granted by the State authorising the 'lessee' to utilise the demised land for purposes beyond those specified in the terms of lease.

4. On 31 July 1968 it was resolved by the Revenue and

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Forests Department, Government of Maharashtra that the land in question be reserved for developing a 'Drive-In Theatre'. Consequent thereto, Public Notice was issued in leading newspaper inviting tenders for a period of 99 years.

5. In response to the said public notice, tenders were received from two concerns, including the Respondent No.4. Since the bid of the fourth Respondent offered higher rate, the Government was pleased to accept his tender. The said fact was communicated to the Respondent vide letter dated 27 May 1969.

6. In pursuance thereof, possession of land was handed over to the fourth Respondent on 28 April 1971. The land is said to have been reclaimed as portions thereof were marshy. Sometime in the year 1977, the construction of the 'Drive-In Theatre' was completed and Certificate of Occupation was granted.

7. Records reveal that certain Show Cause Notices were issued by the authorities to the fourth Respondent for certain violations of Memorandum of Terms and Conditions. Suffice would it be to observe that the breaches alleged were in the

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nature of sub-letting. Vide Order dated 12 July 1989 the fourth Respondent was directed to make certain payments and rectify the breaches. As evidenced from the Affidavit submitted on behalf of State of Maharashtra/Respondent No.1, the said Order was duly complied by the fourth Respondent and the dispute on the said count did not precipitate further.

8. That ultimately on 19 October 1991 a formal lease agreement was executed between the Collector and the fourth Respondent.

9. Significantly, the Government of Maharashtra-Urban Development Department vide Notification No. TPB. 4391/1103/CR-53/92/UD-11 (RDP) dated 10 March 1992 expressed its policy to permit redevelopment of cinema theaters.

10. In terms of the redevelopment policy already in vogue, the 'lessee' sought requisite permission from the Government to redevelop the demised land with a view to operate, *inter-alia*, hotels, office spaces, shopping and recreational facilities upto 50% FSI whereas balance permissible FSI would be utilised for use permissible under the existing

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terms of the lease. It would be pertinent to highlight that the said application was preferred on 19 March 1999.

11. The request made by the 'lessee' in terms of already existing policy of the Government was acceded to and necessary orders were passed on 08/15 July 1999. As a consequence of the said permission, the 'lessee' was permitted to sub-lease the land alongwith buildings to any third parties/institutions after the land was developed for commercial purpose. Further, the 'lessee' was also permitted to mortgage its leasehold rights to financial institutions for raising funds for the purpose of redevelopment.

12. The MMRDA issued the first Commencement Certificate on 05 December 2001. Premium of ₹ 38.82 Crores was recovered from the 'lessee' for utilising approximately 50% FSI for other commercial purposes.

13. That a perusal of the records also reveals that on 17 October 2002 and certain subsequent occasions, Notices were issued by the Collector to the `lessee' highlighting the instances of complete transfer of shareholding of the 'lessee' company. It was indicated that such wholesale transfer of shares would

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tantamount to transfer of assets, including the demised land. Consequently, the 'lessee' was show caused as to why levy of 75% unearned income be not imposed.

14. Significantly, vide a detailed Order dated 26 September 2003 the Show-Cause Notice dated 17 October 2002 and further letters dated 16 November 2002, 02 December 2002 & 02 July 2003 were withdrawn upon taking into consideration the response tendered the 'lessee' and after having duly obtained Legal Opinion in this regard from Additional Solicitor General of India. The Order took note of the settled jurisprudential principles that a Company is a distinct juristic entity and the view expressed by various Courts of the land that sale of shares of a company does not amount to transfer of interest in the assets of the company. Reliance was placed upon the decisions of the Apex Court reported as (1999) 4 SCC 458 titled *Electronics Corporation of India Ltd. v. Secretary Revenue Department Government of Andhra Pradesh* and 1955 25 Co. Cases I titled *Mrs. Bacha F. Guzdar v. Commissioner of Income Tax, Bombay*. The Collector also noticed the authoritative pronouncements of the Apex Court wherein it was observed that shares of a company were freely transferable and were only subject to the restrictions comprised

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in the Articles of Association.

15. In view of the transfer of shareholding in the 'lessee' company on a subsequent occasion, another Notice dated 20 January 2006 came up to be issued. However, the same was also discharged vide Order dated 06 February 2006 for similar reasons as expressed on the earlier occasion.

16. In the interregnum the development works progressed and on 14 July 2008 four Office Buildings were granted Occupation Certificates by the municipal authorities. The 'lessee' entered into agreements for sale of office premises with different purchasers. Further, in the year 2011 ICICI sanctioned credit facility to the tune of ₹ 1600 crores in favour of the 'lessee' against security of part of the land and the construction to come up thereon. Requisite approvals were obtained before creating such mortgage. On 03 May 2013 MMRDA granted Full Occupancy Certificate in respect of an Office Building.

17. That on 30 January 2014 amendments to the Lease Deed were formally executed as necessitated by the Orders dated 08/15 July 1999. It would be pertinent to highlight that

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it is the admitted case as pleaded by the respondents that the two Lease Deeds were not registered, however requisite stamp duties were paid by the 'lessee'.

18. In the year 2017 Petitioner No.2 addressed representations to different quarters within the Government highlighting the perceived illegalities in grant of permissions. However, since the relevant authorities did not respond favourably, the Petitioners invoked the jurisdiction of this Court by instituting the instant Public Interest Litigation.

19. The grievances sought to be ventilated by the petitioners have been set out by us *in extensio* at the very outset before penning the factual narrative. One of the principal grievances voiced by the petitioners is that the subsequent permission granted by the authorities to substantially widen the scope of use of the demised land was arbitrary, fraught with illegality and impelled by extraneous considerations. However, the said submission clearly overlooks the attending circumstances enwombing the grant of such permission. As highlighted by us in the narrative, the Government of Maharashtra- Urban Development Department vide Notification No. TPB. 4391/1103/CR-53/92/UD-11 (RDP)

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dated 10 March 1992 itself promulgated a new policy to permit redevelopment of cinema theaters. It is not the case that concessions were granted to the 'lessee' as a stand alone case. As a matter of fact, it is only on 19 March 1999 that an application was made by the 'lessee' in terms of the policy of the Government already in place for many years. It is in this view of the matter that the permission was granted and necessary orders were passed on 08/15 July 1999. Thus, this Court finds no material to even *prima facie* entertain suspicion that the permission was processed with undue haste. Further, the petitioners have been unable to draw attention of this Court to any statutory provision or bye-law that imposes fetters upon the State; in capacity of a 'lessor' to subsequently widen the scope of use of a demised land. Rule 31 of Maharashtra Land Revenue (Disposal of Government Land Rules), 1971 cited by the petitioners mandates grants of government land for industrial or commercial purposes be made only in pursuance of a public auction or by inviting tenders, which was resorted to in the present case. It further prohibits the recipient from acting in any manner contrary to the purpose of such grant *unless approval of the State Government has been obtained*. It assumes significance that the said provision itself envisages necessary circumstantial flexibility that even after grant of

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government land, the State Government may in its wisdom choose to accord approvals for utilisation of land for purposes not contemplated at the time of grant. With efflux of time, policy considerations may undergo change and such evolution is often prompted by the conditions in society that could hitherto not be adequately visualised. It cannot be countenanced that there exists a *carte blanche* ban, as suggested by the petitioner, that the State Government is absolutely precluded from enlarging the scope of land use after having executed the lease. It is pellucid that in furtherance of its policy decision dating back to the year 1992, the revenue authorities granted permission to the 'lessee' to utilise the demised land for other commercial purposes not comprised in the original lease. As observed by us earlier, the permission was not in the nature of a concession in an individual stand alone case but in keeping with a general policy decision. We find no illegality or impropriety emerging on the face of record to hold that the permission accorded to the 'lessee', in furtherance of established policy directives, was improper. It assumes significance that no challenge has been made to the policy notification no. TPB. 4391/1103/CR-53/92/UD-11 (RDP) dated 10 March 1992 upon which the permission granted to the 'lessee' was essentially premised.

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20. The second plank of the petitioners contention is that the 'lessee' was guilty of committing repeated breaches of the Terms and Conditions, mandatorily binding the parties. Emphasis was placed on Clause 15 which expressly mandates that the lessee would not directly or indirectly transfer, assign, encumber, mortgage, or part with his interest under or the benefit of the agreement of lease or any part thereof in any manner without the previous consent in writing of the Government. It was submitted that the shareholding of the 'lessee' corporation underwent wholesale change on numerous occasions *sans* approval from the Government and the said exercise amounted to indirectly transferring the interest under the lease. Reference was also made to Clause 2(c) of the Lease Deed wherein such a similar covenant is postulated. We find that this perceived breach of the terms of lease also engaged the attention of the revenue authorities at different junctures, as pleaded by the petitioners themselves and noted by us in the preceding paragraphs. Show Cause Notices dated 17 October 2002 and 20 January 2006 were issued by the Office of the Collector to the 'lessee 'in this regard. However, the Notices were subsequently withdrawn upon taking into consideration the response tendered the 'lessee' and after having duly

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obtained Legal Opinion from Additional Solicitor General of India. As observed by us earlier, the detailed Order passed by the Collector took note of the settled jurisprudential principle that a Company is a distinct juristic entity and the authoritative pronouncements rendered by various Courts of the land that sale of shares of a company does not amount to transfer of interest in the assets of the company. Reference was made to the decisions of the Apex Court reported as (1999) 4 SCC 458 titled *Electronics Corporation of India Ltd. v. Secretary Revenue Department Government of Andhra Pradesh* and 1955 25 Co. Cases I titled *Mrs. Bacha F. Guzdar v. Commissioner of Income Tax, Bombay*. The Collector also noticed the decisions of the Apex Court wherein it had been observed that shares of a company were freely transferable and were only subject to the restrictions comprised in the Articles of Association.

21. We are pained to note that the petitioners before this Court selectively chose to annex the Show Cause Notice dated 17 October 2002, however found it convenient not to place for our consideration the detailed Order dated 26 September 2003 passed by the Collector discharging the said Show Cause Notice. The jurisdiction of Constitutional Courts of Judicature

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cannot be invoked by suppressing material facts that are germane to the cause sought to be espoused in such Public Interest Litigations. The only legitimate expectation Courts have from those reach its pedestals is full and complete disclosure, lest the stream of justice be sullied. The Supreme Court of India in its decision reported as (2011) 7 SCC 639 titled *State of M.P v. Narmada Bachao Andolan and Anr.* deprecated the sharp practise of suppressing material facts as the same tantamounts to playing fraud upon Courts.

22. Upon delving deep into the terms comprised under the Lease, we find no covenant which requires the 'lessee' corporation to obtain the consent of any authority before effecting any change in its share-holding pattern after grant of lease. There is no gain saying that the revenue authorities are well aware that often body corporates participate in such tender process and the successful bidder may turn out to be a Company. If the intent were to interdict such change in shareholding in future, such a covenant could have been expressly postulated. The unequivocal intendment of the covenants of the unamended Lease appears that it is impermissible for the 'lessee' to part away/alienate, directly or indirectly, the interest under the agreement in favour of another

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individual/entity; who would be an outsider to the agreement. However, significantly the covenants in question do not impose fetters upon prospective change of shareholding pattern/composition of the 'lessee' itself. In view of the fact that the revenue authorities have examined this issue threadbare and taken a considered view that the alteration in shareholding pattern of the 'lessee' does not offend the covenants comprised in the Lease, we do not find it necessary to review the merits of the said decision by exercising powers akin to an appellate authority.

23. Adverting to the residual issue of non-registration of the Lease Deeds, we find that the State of Maharashtra/ Respondent No. 1 has stated in its response Affidavit that the said issue is being examined by the Government. On behalf of 'lessee'/Respondent No. 4 reliance was sought to be placed upon the exemption engrafted under Section 90 of the Registration Act, 1908 to submit that such documents need not be registered.. We feel that since the the Government is in seisin of this matter, it would not be appropriate to adjudicate on this aspect at this stage in proceedings in the nature of a Public Interest Litigation. However, we hope and trust that the relevant authorities would earnestly examine this issue at the

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highest level and embark upon steps, as required under the law.

24. With these observations the present Public Interest Petition is disposed. There shall be no orders as to cost.

N.M.JAMDAR, J. CHIEF JUSTICE

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