



**BEFORE THE NATIONAL GREEN TRIBUNAL**

**WESTERN ZONE BENCH PUNE**

**Original Application No. 64/2021 (WZ)**

**Zoru Darayus Bathena**

**---Applicant (s)**

**Versus**

**State of Maharashtra and ors**

**-----Respondents**

**Affidavit on behalf of Respondent No. 3 i.e. Maharashtra Coastal Zone Management Authority (hereinafter referred as MCZMA)**

I, Narendra Devidas Toke, Age 47 years, Occ. Service, Director, Environment and Climate Change Department, Government of Maharashtra having my office at 15th Floor, New Administrative Building Mantralaya, Mumbai do hereby beg to state on solemn affirmation as under:



*Narendra Devidas Toke*

1. I say that at present the tenure of the Respondent No. 3 i.e. MCZMA has expired on 6<sup>th</sup> July, 2021 and reconstitution of the same is under progress by the Ministry of Environment, Forest and Climate Change, New Delhi. I have perused the papers and proceedings of the above matter. I am conversant with the facts of the case and am able to depose the same. I am filing the present Affidavit as per directions of this Hon'ble Tribunal vide its order dated 8.11.2021 to place on record the approval from CRZ point of view granted to proposal of anti-sea erosion bund from Sagar Kutir to Hindu Smashanbhumi at Versova, Mumbai. I crave leave to file an additional Affidavit, if so required at a later stage.

2. I say and submit that in exercise of the powers conferred on the Central Government under clause (d) of sub rule (3) of Rule 5 of the Environment Protection Rules, 1986, the Central Government issued the Coastal Regulation Zone Notification, 1991 ("CRZ Notification, 1991") on 19<sup>th</sup> February, 1991. The CRZ Notification, 1991 declared the coastal stretches of seas, bays, estuaries, creeks, rivers and backwaters which are influenced by tidal action and thereby

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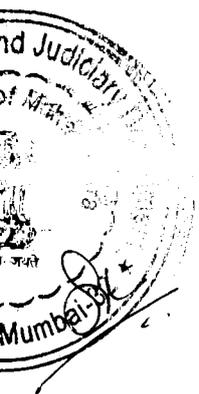


regulated development in the coastal stretches. The said CRZ Notification, 1991 was superseded by CRZ Notification, 2011 which came into effect from 6<sup>th</sup> January, 2011. At present, the CRZ Notification, 2011 is superseded by the new CRZ Notification dated 18<sup>th</sup> January, 2019 published by Ministry of Environment, Forest and New Delhi, New Delhi.

3. I say and submit that the Ministry of Environment and Forests has constituted the Maharashtra State Coastal Zone Management Authority (hereinafter referred to as "MCZMA") in exercise of powers conferred by sub-section (1) and (3) of Section 3 of the Environment (protection) Act, 1986 (29 of 1986). The Authority is responsible for monitoring and enforcement of the provisions of the Notification dated 19<sup>th</sup> February, 1991, 6<sup>th</sup> January, 2011 and 18<sup>th</sup> January, 2019 is empowered to examine all projects proposed in the Coastal Regulation Zone area and give their recommendations from CRZ point of view.

4. I say that the Public Works Department (PWD), GoM vide letter dated 27.12.2016 submitted the proposal of

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construction of anti-sea erosion bund from Sagar Kutir to Hindu Smashanbhumi at Versoval, Mumbai suburban. The said proposal was deliberated in 115<sup>th</sup> meeting of the MCZMA held on 17<sup>th</sup> & 18<sup>th</sup> January, 2017, wherein the PWD officials presented the proposal before the Authority. It was presented that the Sea side portion of the premises in this region is threatened by the wave action. To safeguard premises along the coastline from further damages caused by the tidal action, it is necessary to protect the shore by constructing anti sea erosion bund. Total area of project is 48000sqm and approx. length is 1200 m. As per the approved Coastal Zone Management Plan (CZMP) of the Mumbai, the site falls in CRZ I (B) and CRZ II area. During the deliberations, the Authority observed that there should be combination of hard and soft solutions for arresting the sea erosion at Versova beach stretch. Combination of Sea wall along with Plantation, creepers etc. along the Versova beach would be more ecologically friendly solution in the matter. Considering this, the PWD was asked to revise the proposal incorporating soft engineering solution and revert. Copy of

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the minutes of 115<sup>th</sup> meeting of the MCZMA held on 17<sup>th</sup> & 18<sup>th</sup> January, 2017 is attached herewith as **EXHIBIT A**

5. I say that taking into consideration, the decision of the Authority, the PWD vide letter dated 23.1.2017 submitted the opinion of Central Water and Power Research Station (CWPRS). The matter was taken up by the Authority for deliberations in its 116<sup>th</sup> meeting held on 22<sup>nd</sup> & 23<sup>rd</sup> March, 2017, wherein recommendations of the CWPRS was noted. The CWPRS recommends that, in view of the higher waves, high tidal range and limited sediment movement, a soft solution in the form of sand nourishment or provision of sand dune or use of geo textile solution of plantation / vegetation will not be suitable for these types of densely populated areas. Furthermore these soft solutions are recurring type and may last only for a short period.

Considering the CWPRS recommendations, the PWD has once again requested to consider the proposal to provide a long term solution provided by CWPRS earlier.

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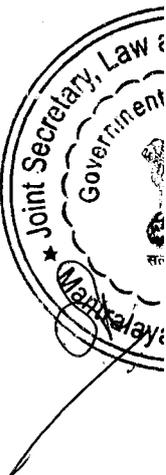


I further say that the Authority during deliberations felt that proposed bund could be constructed using mix of soft solutions and hard structures. Repair of existing retaining walls can be undertaken. After deliberation, the Authority directed PWD to submit the detail design of the Anti-Sea Erosion bund considering the mix of soft solutions and hard structures and also submit details of time series data considered by CWPRS for drawing the conclusion. Copy of the minutes of 116<sup>th</sup> meeting of the MCZMA held on 22<sup>nd</sup> & 23<sup>rd</sup> March, 2017 is attached herewith as **EXHIBIT B**

6. I say that the PWD submitted the comments of CWPRS and revised section of for the protection work. The Authority once again deliberated the matter in its 119<sup>th</sup> meeting held on 28<sup>th</sup> & 30<sup>th</sup> June, 2017 wherein, the comments of the CWPRS was once again noted:

*"In view of the higher waves, high tidal range and limited sediment movement, a soft solution in the form of sand nourishment of provision of sand dune or use of geo textile*

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*solutions or soft solutions or plantations / vegetation will not be suitable for these types of densely populated areas. Furthermore these soft solutions are recurring types and may last only for short period. In view of above it is once again recommended to provide a long term solution provided by CWPRS earlier. This recommendation by CWPRS was accepted by MCZMA Committee during the meeting on 22/03/2017”*

7. I say that during the 119<sup>th</sup> meeting, the PWD officials further informed that there is danger to existing buildings present near the beach area. At present, buildings have their own compound wall for protection. In high tide and monsoon, sea water reaches to the wall. Hence, the bund is a requirement in the said stretch of the beach in order to protect the existing residential buildings along the beach. Considering the possible coastal hazards in the area, the Authority felt that only retaining wall for protection is required. However, walkway on the retaining wall cannot be allowed in CRZ I area, which is prohibited activity. After deliberation, the Authority recommended the proposal of reconstruction of



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existing anti-sea erosion wall to SEIAA subject to compliance of certain conditions as stipulated therein. As per the conditions, PWD should follow the recommendation of CWPRS for reconstruction/ redevelopment of wall. Location / design of the bund should be in such way that there would be minimum reclamation on the beach. Walkway is not permitted on the anti- sea erosion bund as it is not permissible activity in CRZ I intertidal area I further say that pursuant to CRZ recommendations from MCZMA, the project has got CRZ clearance from SEIAA on 18<sup>th</sup> September, 2018.

Copy of the minutes of 119<sup>th</sup> meeting of the MCZMA held on 28<sup>th</sup> & 30<sup>th</sup> June, 2017 is attached herewith as **EXHIBIT**  
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8. I say that as per para 4(i) (f) of the CRZ Notification, 2011 which is applicable at present, erosion control measures is a permissible activity. Considering the coastal hazards, protection of existing residential buildings along the coast and permissibility of the activity, the MCZMA granted the

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CRZ recommendation to the proposal of reconstruction of existing anti-sea erosion wall subject to certain conditions. It is binding on the PWD to carry out the activities within the framework of the CRZ clearance granted to the project.

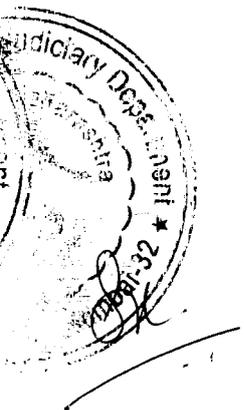
Place: Mumbai

  
(Narendra Devidas Toke)

Date: 2/12/2021

Deponent

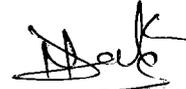
Director, Environment &CC, GoM



**VERIFICATION**

I, Narendra Devidas Toke, Age 47, Director, Environment & CC, having my office address at 15<sup>th</sup> floor, New Administrative Building, Mantralaya, Mumbai-400 032, do hereby verify and declare that the statements made in the aforesaid Para's are true and correct to the best of my knowledge and information and I believe the same to be true and that nothing material has been concealed therefrom.

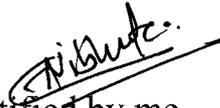
Solemnly affirmed on this 2<sup>nd</sup> day of the December, 2021 at  
Mumbai.



(Narendra Devidas Toke)

Deponent

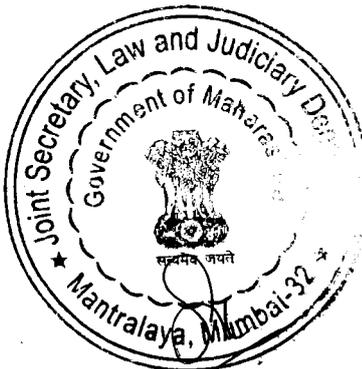
Director, Environment &CC, GoM



Identified by me  
(Chandrakant A Vibhute)

Under Secretary,  
Environment &CC, GoM

SOLEMNLY AFFIRMED  
BEFORE ME BY THE DEPONENT  
SHRI NARENDRA DEVIDAS TOKE  
TO WHOM I PERSONALLY KNOW



  
Mumbai, Joint Secretary  
Law and Judiciary Department  
Dated 02-12-2021.  
& Oath Officer Appointed  
under oaths Act, 1969

Minutes of the 115<sup>th</sup> meeting of Maharashtra Coastal Zone Management  
Authority held on 17<sup>th</sup> & 18<sup>th</sup> January, 2017

the disturbance to the benthos, a cable laying plough will be employed to a depth of 0.6m to 1.2m.

After deliberation, the Authority decided to recommend the project from CRZ point of view to MoEF subject to compliance of following conditions:

1. The proposed activity should be carried out strictly as per the provisions of CRZ Notification, 2011 (as amended from time to time) and guidelines/clarifications given by MoEF from time to time.
2. The Environment Management Plan (EMP) & Environment Monitoring Plan should be implemented in letter and spirit and it should be inconsonance with the surrounding ecosystem.
3. Natural course of sea water and tidal regime should not be hampered due to proposed activities.
4. No destruction of mangroves is allowed.
5. All other required permissions from different statutory authorities should be obtained prior to commencement of work.

**Item No. 11:** Proposed convention centre for Maharashtra University of Health Sciences, Nashik on plot no. 18, sector no. 10 A, Airoli, Navi Mumbai by PWD, Mumbai

The Authority noted that proposal details. The proposal is for Convention Centre for Maharashtra University of Health Sciences, Nashik on plot bearing Sector no. 10 A, plot no. 18 at Airoli, Navi Mumbai. The Authority observed that there should be remarks of NMMC on the proposal regarding permissibility of the proposal from planning point of view. The Authority after discussion decided to defer the proposal.

**Item No. 12:** Proposed construction of Anti Sea Erosion bund from Sagar Kutir to Hindu Smashanbhumi at Versova in Mumbai Suburban by PWD, Mumbai

The officials from the PWD presented the proposal before the Authority. The proposal is for construction of Anti Sea Erosion bund from Sagar Kutir to Hindu Smashanbhumi at Versova in Mumbai Suburban. The PWD officials presented that the Sea side portion of the premises in this region is

  
Member Secretary

  
Chairman

**Minutes of the 115<sup>th</sup> meeting of Maharashtra Coastal Zone Management  
Authority held on 17<sup>th</sup> & 18<sup>th</sup> January, 2017**

threatened by the wave action. To safeguard premises along the coastline from further damages caused by the tidal action, it is necessary to protect the shore by constructing anti sea erosion bund. Total area of project is 48000sqm and approx. length is 1200 m. As per the approved CZMP of the Mumbai, the site falls in CRZ I (B) and CRZ II area.

The Authority deliberated the proposal and observed that there should be combination of hard and soft solutions for arresting the sea erosion at Versova beach stretch. Combination of Sea wall along with Plantation, creepers etc. along the Versova beach would be more ecologically friendly solution in the matter. Considering this, the PWD need to revise the proposal incorporating soft engineering solution and revert. The Authority after discussion decided to defer the proposal.

**Item No. 13:** Proposed reconstruction of bridge at lagoon road over Mahakali Nalla and Malvani Nalla, Malad (W) in P/N ward, Mumbai by MCGM

The Chief Engineer, MCGM presented the proposal before the Authority. The proposal is for reconstruction of bridge at Lagoon Road over Mahakali Nalla, & Malvani Nalla, Malad (W), in P/N ward, Mumbai.

The existing bridge at Mahakali Nalla is having width of 13.02 m. approx at across Malvani Nalla in P/North ward. The lagoon road is widened to its width of 36.60 m. Existing bridge is in dilapidated condition which will be demolished & New vehicular bridge will be constructed.

The existing bridge over Malvani Nalla, Malad (W) in P/N ward, Mumbai. The bridge is in dilapidated condition which will be demolished. The new bridge is proposed for 25m length & 36.60m width. The CE, MCGM presented that both the sites are in CRZ II area as per the approved CZMP of Mumbai.

After deliberation, the Authority decided to recommend the project from CRZ point of view to SEIAA subject to compliance of following conditions:

1. The proposed activity should be carried out strictly as per the provisions of CRZ Notification, 2011 (as amended from time to time) and guidelines/clarifications given by MoEF from time to time.

  
Member Secretary

  
Chairman

Minutes of the 116<sup>th</sup> meeting of Maharashtra Coastal Zone Management Authority held on 22<sup>nd</sup> & 23<sup>rd</sup> March, 2017

The Authority after deliberation and discussion decided to reject the proposal.

**Item No.12:** Proposed construction of anti-sea erosion bunds at 1) Citizen Apts to Hinduja Hospital, Mahim, 2) Haji Ali Dargah, 3) Priyadarshni Park, Malbar, 4) Kalikamata to Bangunga, Walkeshwar, 5) Geeta Nagar Breakwaters, Colaba, 6) Radio Club to Apollo Bundar in Mumbai City by Harbour Sub Division, Mumbai.

The Authority noted that, the proposal for construction of antisea erosion bunds at 1) Citizen Apts to Hinduja Hospital, Mahim, 2) Haji Ali Dargah, 3) Priyadarshni Park, Malbar, 4) Kalikamata to Bangunga, Walkeshwar, 5) Geeta Nagar Breakwaters, Colaba, 6) Radio Club to Apollo Bundar in Mumbai City by Harbour Sub Division, Mumbai. The site under reference falls in CRZ I area. PP has submitted the Rapid EIA report for the project.

The Authority noted that the MCGM has proposed the coastal road along the Mumbai seafront starting from Nariman point to Kandiwali. Coastal road will involve the reclamation at certain places. The Authority suggested MMB to check the alignment of Coastal road, in order to examine the feasibility and necessity of proposed anti-sea erosion bund at 6 locations of Mumbai seafront.

After deliberation, the Authority decided to defer the proposal.

**Item No.13:** Regarding deletion of condition stipulated in Environment Clearance for construction of 4<sup>th</sup> container terminal and marine container terminal by M/s. JNPT

Officials from the JNPT presented the matter before the Authority. The Authority noted that, the JNPT is seeking the deletion of condition no. (vi) mentioned in CRZ clearance dated 29<sup>th</sup> July, 2008 granted by MoEF for development of Fourth Container Terminal and Marine Chemical Terminal. Validity of the said clearance has been subsequently extended in the year 2014.

Specific condition number (vi) of the Environmental Clearance dated 29<sup>th</sup> July, 2008 for the said project reads as, "The reclamation of the port area shall be

  
Member Secretary

  
Chairman



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

8	Darshet Umberpada	Palghar	Sparse mangroves are present in the stretch.
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The Authority noted that saline embankment is proposed along the creek front. As stated above, all the sites have mangroves vegetation. Impact of the bund on mangrove vegetation and flow of the creek water is not reported in the Rapid EIA/ EMP for the project. There is likely possibility that flow of the creek water would be hampered and will lead to damage to mangroves. High Court in its order in the matter WP No. 3246/2004 and PIL No. 86/2006 prohibits construction in Mangroves & 50m Mangroves Buffer Zone.

After deliberation, considering the aforesaid facts, Authority decided to reject the proposal for the reasons as stated above.

**Item No.13:** Proposed construction of Anti-Sea Erosion bund from Sagar Kutir to Hindu Smashanbhumi at Versova in Mumbai Suburban by PWD, Mumbai.

Officials of the PWD presented the proposal before the Authority. The Authority noted that the proposal is for construction of Anti-Sea Erosion bund from Sagar Kutir to Hindu Smashanbhumi at Versova in Mumbai Suburban. The Sea side portion of the premises in this region is threatened by the wave action. To safeguard premises along the coastline from further damages caused by the tidal action, it is necessary to protect the shore by constructing anti-sea erosion bund. The Authority noted that approx. length of the bund is 1200m and the site is situated in CRZ I (B) & CRZ II area.

The proposal was earlier considered in 115<sup>th</sup> and 116<sup>th</sup> meeting of MCZMA held on 17<sup>th</sup> & 18<sup>th</sup> January, 2016 and 22<sup>nd</sup> March, 2017 respectively, wherein the PP was requested to submit the detail design of the Anti-Sea Erosion bund considering the mix of soft solutions and hard structures and also submit details of time series data considered by CWPRS for drawing the conclusion.

The PWD submitted the comments of the CWPRS and revised section for the protection work. Remarks of the CWPRS was once again noted by the Authority which is as follows:

  
Member Secretary

  
Chairman

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

*In view of the higher waves, high tidal range and limited sediment movement, a soft solution in the form of sand nourishment or provision of sand dune or use of geo textile solutions or soft solutions or plantations / vegetation will not be suitable for these types of densely populated areas. Furthermore these soft solutions are recurring types and may last only for short period. In view of above it is once again recommended to provide a long term solution provided by CWPRS earlier. This recommendation by CWPRS was accepted by MCZMA Committee during the meeting on 22/03/2017.*

The PWD officials further informed that there is danger to existing buildings present near the beach area. At present, buildings have their own compound wall for protection. In high tide and monsoon, sea water reaches to the wall. Hence, the bund is a requirement in the said stretch of the beach in order to protect the existing residential buildings along the beach.

Considering the possible coastal hazards in the area, the Authority felt that only retaining wall for protection is required. However, walkway on the retaining wall cannot be allowed in CRZ I area, which is prohibited activity.

After deliberation, the Authority decided to recommend the proposal of reconstruction of existing anti-sea erosion wall to SEIAA subject to compliance of following conditions:

1. Proposed reconstruction of anti-sea erosion wall should be in accordance with provisions of the CRZ Notification, 2011 (amended from time to time)
2. Walkway is not permitted on the anti-sea erosion bund as it is not permissible activity in CRZ I intertidal area.
3. Recommendation of the CWPRS should be followed for the reconstruction / redevelopment of the wall.
4. Location / design of the bund should be in such way that there would be minimum reclamation on the beach (i.e. CRZ I area).
5. Construction debris should not be dumped in the beach area or in Mangroves area.
6. Suggestions/ objections of the residents of the proposed stretch may be considered, before starting the reconstruction / redevelopment work of wall.

  
Member Secretary

  
Chairman