

COMMITTEE REPORT

**Original Application No. 02 of 2023 (WZ)
Sunil S. Mulye & Ors. V/s. Union of India, through MoEF & Ors.**

PREAMBLE:

Original Application No. 02 of 2023 (WZ) has been filed by Sunil S. Mulye & Ors before Hon'ble National Green Tribunal, Western Zone Bench, Pune. The matter pertains to status of the burial ground at survey Nos. 176/A/1/A and 177 situated at village: Divanman, Taluka: Vasai, District: Palghar from Wetland point of view.

The Hon'ble National Green Tribunal Western Zone Bench, Pune has passed an Order dated 18.05.2023 in the matter with following directions:

"12. We deem it appropriate to constitute a Joint Committee comprising one member each of (i) Member Secretary, State Wetlands Authority, (ii) Member Secretary, Maharashtra Coastal Zone Management Authority (MCZMA), (iii) District Collector, Palghar, (iv) Chief Engineer, Irrigation Department and (v) Commissioner, Vasai-Virar Municipal Corporation. MCZMA will be the Nodal Agency of the Committee. The Committee shall visit the spot after giving notice to the applicants at the earliest and following will be the Terms of Reference (ToR) for the Joint Committee:

- 1) *Visit the site after intimating applicant and all other respondents*
- 2) *Find out status of site as per National Wetland Atlas 2010*
- 3) *Find out if the site meets definition of wetland as per the Wetlands (Conservation and Management) Rules, 2017 ("wetland" means an area of marsh, fen, peatland or water; whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six meters, but does not include river channels, paddy fields, human-made water bodies/tanks specifically constructed for drinking water purposes and structures specifically constructed for aquaculture, salt production, recreation and irrigation purposes).*
- 4) *Find out if the site meets definition of wetland as per MOEFCC Guidelines for implementing Wetlands (Conservation and Management) Rules, 2017.*
- 5) *Find out maximum depth of water at the central portion of the site during peak monsoon based on past records.*
- 6) *If the site meets definition of wetland –*

- I. *Demarcate wetland boundary supported by accurate digital maps with coordinates in consultation with revenue and irrigation department.*
- II. *Demarcate its zone of influence and land use and land cover*
- III. *Describe Ecological character of the site – flora and fauna found at the site and its importance.*
- IV. *Recommend if proposed activity can be permitted within the wetland and/or in its zone of influence.*

A report of the Committee shall be submitted before us by the MCZMA within one month, by e-mail at ngt-pune@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.”

CONSTITUTION OF COMMITTEE:

In compliance of the directions dated 18.05.2023 of Hon'ble National Green Tribunal, a Joint Committee has been constituted vide order dated 29.05.2023.

The said Joint Committee comprises of Shri. Chandrakant Vibhute, Dy. Secretary, Environment & Climate Change Dept as Representative of Wetland Authority; Dr. Mahesh Shindikar, Expert Member, MCZMA; Representative of District Collector, Palghar; Chief Engineer, Irrigation Dept and Municipal Commissioner, Vasai Virar Municipal Corporation. Copy of the Joint Committee order is attached as **Annexure I**

SITE VISIT OF COMMITTEE

The site visit of the Joint Committee was scheduled on 19.06.2023 at 11.30 am. The MCZMA vide email dated 16.6.2023 communicated the same to all members and applicant.

Accordingly, the Joint Committee visited the site on 19.6.2023 along with Applicant Shri Sunil S. Mulye & representative of Suncity Association. The VVMC officials showed the said site of burial ground which is situated at Survey Nos. 176/A/1/A and 177 situated at Village: Divanman, Taluka: Vasai, District: Palghar. Latitude & Longitude of the location is 19°23'10.19"N, 72°48'57.89"E.

List of Members/ officials/ representatives present for the site visit attached as **Annexure-II**

Taking into consideration the Terms of Reference (TOR) prescribed by the Hon'ble NGT, observations of the Committee is as below:

1) Visit the site after intimating applicant and all other respondents

The Joint Committee visited the site on 19.06.2023 at 11.30 am with applicant Shri Sunil S. Mulye & representative of Suncity Association.

Google image of the site visit along with site photographs as **Annexure III**

2) Find out status of site as per National Wetland Atlas 2010 –

The Committee noted that the National level wetland inventory was carried out by the Space Application Centre (SAC), Ahmedabad using multi-date IRS-LISS-III Data of 2006-07 timeframe on 1:50,000 scale under project "National Wetland Inventory and Assessment (NWIA)" funded by MoEF&CC, New Delhi.

The Committee observed that the maps are available in the scale of 1:50,000 scale, which is small scale. Considering the small scaling of the said map, just by observing the map, it is difficult to ascertain & confirm the status of the land from wetland point of view. Hence, the Committee referred the website of MoEF&CC and SAC, Ahmedabad for further details.

The Committee observed that certain more details are available on the website of SAC, Ahmedabad <https://vedas.sac.gov.in/> with respect to wetlands. Under the tab Applications - Wetlands, the wetland polygon (1:50k) (2006-2007) of the site in question (19°23'10.19"N, 72°48'57.89"E) is available. As per the said source, the subject site is shown in Dark Brown colour and termed as "*Coastal Wetlands- man made- Salt pans*"

Moreover, the Committee consulted the Planning Authority VVMC officials, as per them also, the site in question is shown as Wetland in National Wetland Atlas, 2010.

The Copy of the SAC atlas map in 1:50000 scale along with extract from above said SAC website showing the site in question shown as Dark Brown Colour is attached as **Annexure IV**

- 3) Find out if the site meets definition of wetland as per the Wetlands (Conservation and Management) Rules, 2017 (“wetland” means an area of marsh, fen, peatland or water; whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six meters, but does not include river channels, paddy fields, human-made water bodies/tanks specifically constructed for drinking water purposes and structures specifically constructed for aquaculture, salt production, recreation and irrigation purposes) –

The Committee noted the definition of the wetland as per Wetlands (Conservation and Management) Rules, 2017:

“wetland” means an area of marsh, fen, peatland or water; whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six meters, but does not include river channels, paddy fields, human-made water bodies/tanks specifically constructed for drinking water purposes and structures specifically constructed for aquaculture, salt production, recreation and irrigation purposes;

The Committee during the site visit observed that, the site in question is not an area of marsh, fen, peatland or water. Presently, the subject site of burial ground is vacant and protected by a compound wall. It was also observed that grass dominated ground cover with sporadic thorny bushes at site.

During the visit, the VVMC submitted as per Development Plan site in question is reserved for burial ground. VVMC further stated that S. No. 176 of village Diwanman, area of 14.83.0 sqm is classified as Wetland out of 47.50.0 sq. m total area by Revenue dept. However, S. No. 177 at village Diwanman is not classified as Wetland of Palghar District. During the visit, the VVMC showed the map which is attached herewith as **Annexure V**

During the site visit, Applicant stated that water gets logged at site during rainy seasons. Further, he has claimed that this land was traditionally used as saltpan and used by the local fishermen to access the creek.

The Committee from the observing the site prima facie opined that the site in question doesn’t exhibit the features, as stipulated in the

definition of “wetland” as per Wetlands (Conservation and Management) Rules, 2017.

However, the Committee further noted the modalities prescribed & stipulated in the Wetland Rules of 2017 for identifying and notifying the wetland under the said Rules. As per the said Rules, under para 5, the State Wetland Authority is constituted. Further the State Government is empowered to notify & prepare brief document for wetlands following the procedure/ modalities as stipulated in sub para (a) to (g) of para 7 (1) of Wetland Rules, 2017. Moreover, as per para 7(2) of said rules, *“Based on the Brief Document, the Authority shall make recommendations to the State Government or Union Territory Administration for notifying the wetlands”*

Thus, the said Rules has stipulated in details the modalities / procedure to be followed by the State Government & State Wetland Authority in order to identify and notify the wetland in accordance Wetland Rules, 2017. Hence, the Committee felt that applicability of the said Wetland Rules for the site in question is the subject matter of State Government & State Wetland Authority.

4) Find out if the site meets definition of wetland as per MOEFCC Guidelines for implementing Wetlands (Conservation and Management) Rules, 2017.

The Committee perused the guidelines issued by the MoEF&CC for implementing Wetlands (Conservation and Management) Rules, 2017. These guidelines have been drafted to support the State Governments / Union Territory (UT) Administrations in the implementation of the Rules for providing guidance on various aspects such as preparing the list of wetlands in State, identifying & deli nearing the wetland, preparation of brief document, determining ‘wise use’ and ecological character etc.

The Committee noted that as per para 4 of the said Guidelines,

“All wetlands, irrespective of their location, size, ownership, biodiversity, or ecosystem services values, can be notified under the Wetlands Rules, except:

a) River channels;

b) Paddy fields;

c) Human-made waterbodies specifically constructed for drinking water purposes;

d) Human-made waterbodies specifically constructed for aquaculture purposes;

- e) *Human-made waterbodies specifically constructed for salt production purposes;*
- f) *Human-made waterbodies specifically constructed for recreation purposes;*
- g) *Human-made waterbodies specifically constructed for irrigation purposes;*
- h) *Wetlands falling within areas covered under the Indian Forest Act, 1927; Forest (Conservation) Act, 1980; State Forest Acts and amendments thereof;*
- i) *Wetlands falling within areas covered under the Wildlife (Protection) Act, 1972 and amendments thereof;*
- j) *Wetlands falling within areas covered under the Coastal Regulation Zone Notification, 2011 and amendments thereof”*

The Committee noted that para 23 of the said Guidelines which is as follows:

The National Wetlands Atlas prepared by Space Application Center under the National Wetlands Inventory and Assessment project, and available at https://vedas.sac.gov.in/vedas/downloads/atlas/Wetlands/NWIA_National_atlas.pdf has spatial data on wetlands for each State and UT.

The Committee observed during the site visit that the site of burial ground is not an area of marsh, fen, peatland or water but a vacant area enclosed by a compound wall. There are no mangroves or associate species observed on this land.

The Committee noted that applicability of the said Wetland Rules for the site in question is the subject matter of State Government & State Wetland Authority, in accordance with Wetland Rules, 2017 and Guidelines prescribed thereunder. It is noted that the State Government is in process of preparation of brief document.

5) Find out maximum depth of water at the central portion of the site during peak monsoon based on past records.

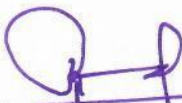
The Committee during the site visit observed that the site is dry and covered with grass & thorny shrubs. During the site visit, the applicant informed that 3 – 4 feet rainwater accumulates therein during rainy season as in all adjacent areas of the site.

6) If the site meets definition of wetland -

- I. Demarcate wetland boundary supported by accurate digital maps with coordinates in consultation with revenue and irrigation department.**
- II. Demarcate its zone of influence and land use and land cover**
- III. Describe Ecological character of the site - flora and fauna found at the site and it's importance.**
- IV. Recommend if proposed activity can be permitted within the wetland and/or in its zone of influence.**

As stated above, the Committee during the site visit observed that, the site in question is not an area of marsh, fen, peatland or water. Presently, the subject site of burial ground is vacant with a compound wall. Grass dominated ground cover with sporadic thorny bushes at site. The Committee from the observing the site, prima facie opined that the site in question doesn't exhibit the features, as stipulated in the definition of "wetland" as per Wetlands (Conservation and Management) Rules, 2017.

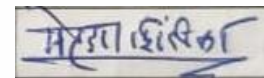
As Stated above, State Government is empowered to prepare brief document for identified wetlands following the procedure/ modalities as stipulated in sub para (a) to (g) of para 7 (1) of Wetland Rules, 2017. It came to know that the State Government is in process of preparation of brief document for wetlands in the State. If the site in question meets the definitions of 'wetland' as per Wetland Rules, 2017, and applicability of further modalities like demarcation, preparation of brief document, regulation of activity etc, is the subject matter of State Government & State Wetland Authority, under Wetland Rules of 2017.



Shri. Anilkumar Pawar,
Municipal Commissioner,
VVMC



Shri. Chandrakant
Vibhute,
Dy. Secretary,
Environment & Climate
Change



Dr. Mahesh Shindikar,
Expert Member,
MCZMA



Shri. Milind Naik,
CE, Irrigation Dept



Shri. Shekhar Ghadge,
SDO, Vasai

Date: 01.11.2023

MAHARASHTRA COASTAL ZONE MANAGEMENT AUTHORITY

Tel. No. : 22029388
E-mail : dir1.mev-mh@nic.in
Website: <https://mczma.gov.in/>

No. OA 2023 / CR 10 / TC - 4
Office of the -
Maharashtra Coastal Zone Management Authority,
Environment & Climate Change Department,
15th floor, New Administrative Building,
Mantralaya, Mumbai- 400 032.
Date: 29.5.2023

ORDER

SUB: Original Application NO. 2 of 2023 before Hon.ble National Green Tribunal (WZ) Sunil S. Mulay & ors Versus Union of India & Ors

Ref: Hon'ble NGT order 18.5.2023 passed in subject matter

An Original Application No. 2 of 2023 has been filed before Hon'ble National Green Tribunal, Pune. The matter pertains to the site bearing S. No. 176 & 177 of Vasai Virar, District Palghar from Wetland point of view.

2. The Hon'ble NGT in its order dated 18.5.2023 has passed following directions:

"We deem it appropriate to constitute a Joint Committee comprising one member each of (i) Member Secretary, State Wetland Authority (ii) Member Secretary, MCZMA (iii) District Collector, Palghar (iv) Chief Engineer, Irrigation Department and (v) Commissioner, Vasai Virar Municipal Corporation

MCZMA will be nodal agency of the Committee. The Committee shall visit the spot after giving notice to the applicants at the earliest and following will be the Terms of Reference (TOR) for the Joint Committee.

1. *Visit the site after intimating applicant and all other respondents*
2. *Find out status of site as per National Wetland Atlas 2010*
3. *Find out if the site meets definition of wetlands (Conservation and Management Rules), 2017 ("wetland" means an area of marsh, fen peatland or water; whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six meters, but does not include river channels, paddy fields, human made water bodies / tanks specifically constructed for drinking water purposes and structures specifically constructed for aquaculture, salt production, recreation and irrigation purposes)*
4. *Find out if the site meets definition of wetland as per MoEFCC guidelines for implementing Wetlands (Conservation and Management) Rules, 2017*
5. *Find out maximum depth of water at the central portion of the site during peak monsoon based on past records*
6. *if the site meets definition of wetland-*
 - I. *Demarcate wetland boundary supported by accurate digital maps with coordinates in consultation with revenue and irrigation department*

- 440**
- II. Demarcate its zone of influence and land use and land cover
 - III. Describe ecological character of the site –flora and fauna found at the site and its importance
 - IV. Recommend if proposed activity can be permitted within the wetland and / or in its zone of influence.

A report of the Committee shall be submitted before us by the MCZMA within one month, be email at ngt-pune@gov.in preferably in the form of searchable PDF/ OCR support PDF and not in the form of image PDF”

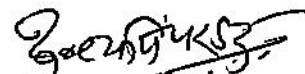
3. Accordingly, a Committee is hereby constituted as follows:

Sr No.	Member	Organization
(i)	Mr. Chandrakant Vibhute, Deputy Secretary, Env&CC – Representative, MS, State Wetland Authority	State Wetland Authority
(ii)	Dr. Mahesh Shindikar, Expert Member, MCZMA/ Sanjay Sandanshiv, Under Secretary, Environment &CC Department, State of Maharashtra – Representative, MS, MCZMA	MCZMA
(iii)	District Collector, Palghar	District Collector
(iv)	Chief Engineer, Irrigation Department	Irrigation Department
(v)	Municipal Commissioner, Vasai Virar Corporation	Vasai Virar Municipal Corporation

4. As per the Hon’ble NGT order, The Committee shall visit the spot after giving notice to the applicants at the earliest. Terms of Reference (TOR) for the Joint Committee is prescribed as below as stated in the Hon’ble NGT order. A report of the Committee shall be submitted to MCZMA within one month so that the said report could be mailed to Hon’ble NGT. Copy of the above said order dated 18.5.2023 of the Hon’ble NGT is attached herewith.

This issues with the approval of competent Authority.

Yours,



Director, Environment &CC and MS, MCZMA

To,

- 1) Mr. Chandrakant Vibhute, Deputy Secretary, Env&CC – Representative, MS, State Wetland Authority

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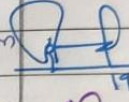

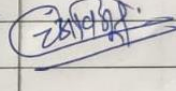
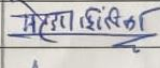
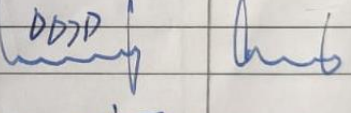
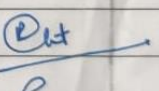
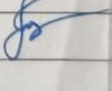

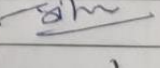
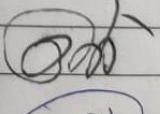
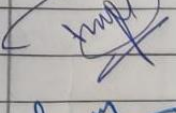
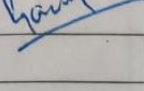
- 2) Dr. Mahesh Shindikar, Expert Member, MCZMA/ Sanjay Sandanshiv, Under Secretary, Environment & CC Department, State of Maharashtra – Representative, MS, MCZMA
- 3) District Collector, Palghar
- 4) Chief Engineer, Irrigation Department
- 5) Municipal Commissioner, Vasai Virar Municipal Corporation

Copy for information to:

1. Principal Secretary, Environment & CC, Environment & CC Dept, Room No. 217, Annexe Building, Mantralaya, Mumbai.
2. Director, Environment & CC, Environment & CC Dept, 15th floor, New Administrative Building, Mantralaya, Mumbai.
3. Select File- TC 4

Annexure-IIATTENDANCE

आज दि. १९/०६/२०२३ रोजी सकाळी ११.३० वा.
 का. राष्ट्रीय हॉटेल नवाहो पुणे यांचे दि. १९/०६/२०२३ OA 2/23
 रोजीच्या सुनावणी उपदेशानुसार वसत्र विराय बाहेर महानगर
 पालिकेच्या हॉटेलमधील अंजे दिवाणामान येथील सवेळ १९०६ व
 १७७ संबंधित जागतिक सर्वधर्मिय दफनभूमी च्या जागेची
 स्थळ पाहणी करणेसाठी खालील प्रकारे अधिकारी (कमिटी)
 उपास्थित होते

क्र. क्र	नाव	पद	सही	मा. नं. वा.
१)	श्री अनिलकुमार पवार	प्रशासक तथा आयुक्त (व निवाडा)		
२)	श्री. शेखर घाडगे	उप विभागीय दंडी वसत्र		
३)	श्री. चंद्रकांत विठ्ठले	उप सचिव, पुरातन विभाग		
४)	डॉ. अरुण शिंदेकर			
५)	वाय. एस. रेड्डी			
६)	प्र. व. बोरसे	अ. अ. जलसंपदा विकास विभाग		
७)	पंकज दामिरे	स. अ. ज. कं. व. कं.		
८)	स्मिता वायस.	पर्यावरण व वातावरण वर्तन		
९)	इतानंद विलमाडे	पर्या. व वा. व. कं.		
१०)	अनिल सुब्बे			
११)	सनसिरी लक्ष्मो. व. प. देवेंद्र जेजा. १			१८३३१६४५१
१२)	किशोर रावस			

Annexure –III

Google image indicating site of burial ground



Site Photographs

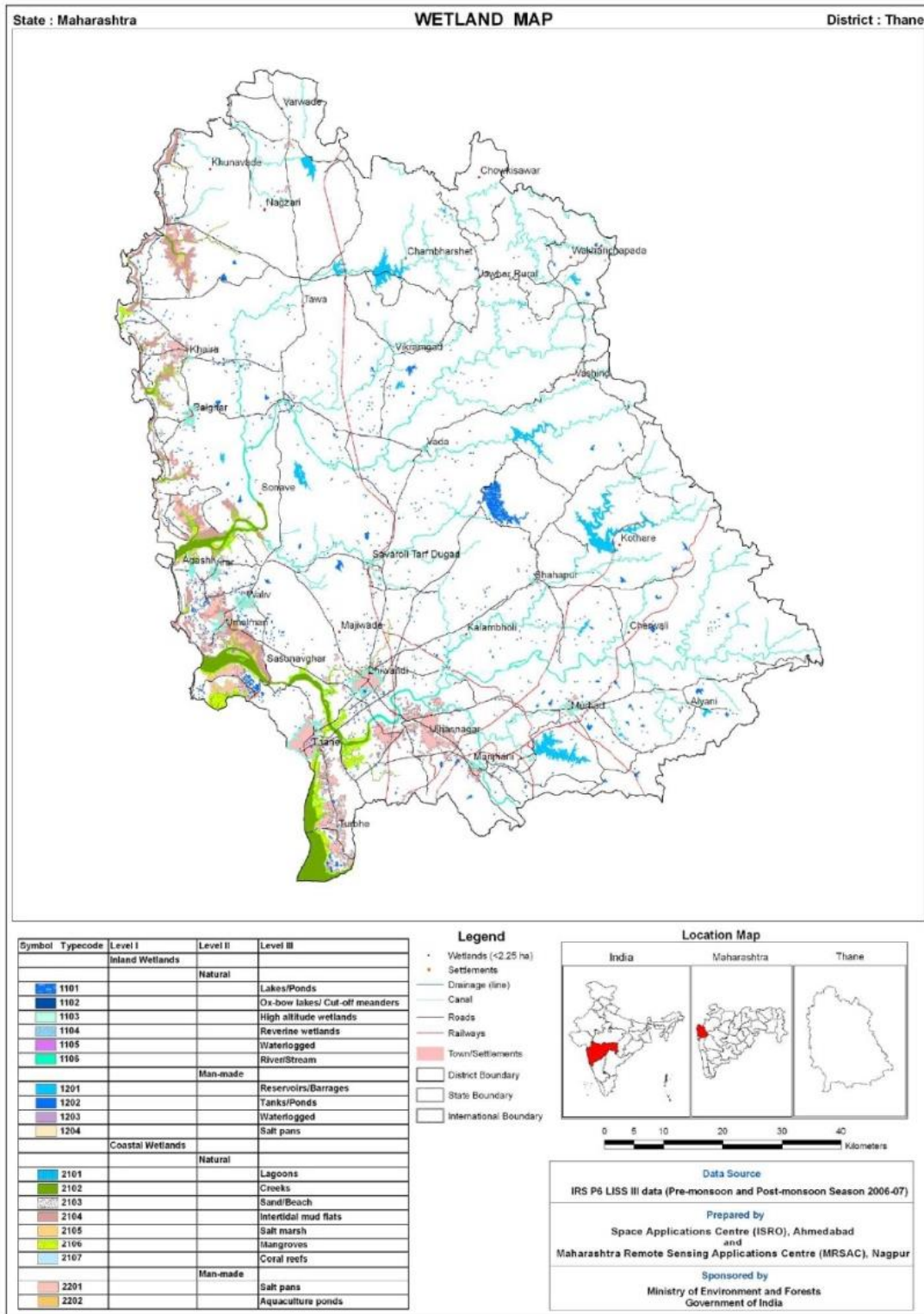






Annexure-IV

Map prepared by SAC & MRSAC Nagpur in 1:50,000 scale as per National Wetland Atlas 2010



Extract from Website of SAC, Ahmedabad <https://vedas.sac.gov.in/>

(site shown in Red Square)

