

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
(WESTERN ZONE BENCH), PUNE

O.A. NO. _____ /2023 [WZ]

The Goa Foundation and Anr.

...Applicants

vs.

**The Ministry of Environment,
Forest & Climate Change and Anr.**

...Respondents

Compilation – I

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PLACE – MAPUSA, GOA

DATE – 27.01.2023



Advocate for the Applicants

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SYNOPSIS AND LIST OF DATES AND EVENTS

The Coastal Regulation Zone Notification of 1991 was issued under the provisions of the Environment Protection Act, 1986 ('EPA') with the aim to provide comprehensive measures for the protection and conservation of the country's coastline. Thereafter, the 1991 CRZ Notification was replaced by the 2011 CRZ Notification, bringing the fishing community as a legitimate actor with rights to residence and livelihood in the coastal areas and expanding the coverage of water upto 12 nautical miles in addition to land.

The impugned Coastal Regulation Zone Notification 2019 introduces drastic changes in the law regulating development in coastal areas. It is the Applicants' case that several of these changes militate against the very purpose of the Environment (Protection) Act, 1986, and are uncanalized, arbitrary and contrary to science. Moreover, several of the impugned provisions of the Notification, which are detrimental to the protection of coastal area, were in fact not recommended by the Shailesh Nayak Committee, or were recommended by the Committee with qualifications and conditions, which Committee was an Expert Body constituted by the Ministry of Environment, Forests & Climate Change to review issues regarding the CRZ Notification, 2011.

The Applicants are *inter alia* aggrieved by provisions of the impugned Notification which arbitrarily decrease the extent of the Coastal Regulation Zone in case of the open coast (200 to 50 metres from the HTL and bays) and creeks and tidal influenced water bodies (from 100 to 50 metres). The obvious result would be that large populations will now be encouraged to move closer to the sea, for which there can be no justification whatsoever, particularly in the era of severe climate change and sea level rise that we currently live in. Importantly, the focus on welfare of the fishing community and other local communities that have lived by the sea for hundreds of years, and ensured zero damage to its ecological sensitivity, has been diluted in favour of people who have no specific need to settle along the coast. It is by now well-recognised that every citizen has a fundamental right to a healthy environment and ecology under Article 21 of the Constitution. It is submitted that the impugned provisions will wreak irreversible ecological and environmental destruction on the country, and if the impugned provisions are sustained, there is a very high likelihood that beaches across India will turn into concrete zones, thus eliminating the very idea of sandy beaches for the coming generations. In addition, they will place large numbers of people at risk. Hence, the instant Application has been filed challenging the CRZ Notification 2019 and its provisions.

CHRONOLOGY OF DATES AND EVENTS

Sr. No.	Date	Particulars of events or documents if any	Annexure and page
1.	19.02.1991	CRZ Notification 1991 Notified	Ann. 1, at pgs. 35-48
2.	18.04.1996	Hon’ble Supreme Court strikes down/ modifies certain amendments made to the CRZ Notification 1991 as being arbitrary and contrary to E.P. Act, 1986, including reduction of NDZ from 200 m to 50m.	Pgs. 235 - 258

3.	06.01.2011	CRZ Notification 2011 notified	Ann. 2, at pgs. 49-76
4.	17.06.2014	Ministry of Environment, Forests & Climate Change constitutes a Committee to examine issues regarding CRZ Notification 2011	
5.	2015	Shailesh Nayak Committee submits its report to MOEF & CC	Ann. 4, at pgs. 105-214
6.	18.04.2018	New Draft CRZ Notification published by MOEF & CC	
7.	16.06.2018	Applicant No. 1 submits objections and suggestions to MOEF & CC regarding new Draft CRZ Notification	Ann. 6, at pgs. 223-226
8.	18.01.2019	CRZ Notification 2019 Notified	Ann. 3, at pgs. 77-104
9.	13.03.2019	P.I.L. W.P. 21/2019 filed by Applicants in Hon'ble High Court of Bombay at Goa, <i>inter alia</i> impugning CRZ Notification 2019	
10.	03.01.2023	Hon'ble High Court of Bombay at Goa disposes P.I.L. W.P. 21/2019; gives Applicants 4 weeks to approach this Hon'ble Tribunal with grievances concerning CRZ Notification 2019	Ann. 7, at pgs. 227-234
11.	27.01.2023	Instant Application is filed	

PLACE – MAPUSA, GOA

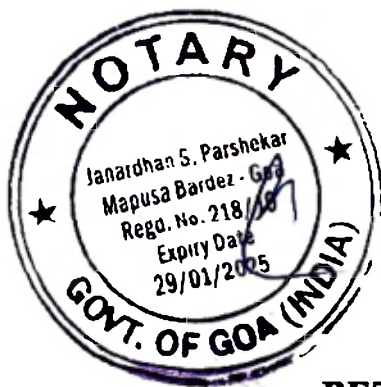
DATE – 27.01.2023



Advocate for the Applicants

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
(WESTERN ZONE BENCH), PUNE

O.A. NO. _____ OF 2023 [WZ]



*(Under Sections 14, 15 and 18 of the
National Green Tribunal Act 2010)*

BETWEEN:

1. **THE GOA FOUNDATION,**
 through its secretary, Dr. Claude Alvares,
 age 74 years, having Regd. Office at
 Room No 7, Above Mapusa Clinic,
 Mapusa, Goa - 403507,
 Reg.No. - 23/Goa/86,
Email id: goafoundation@gmail.com,
 Contact No. – 8007558624.

2. **THE COLVA CIVIC AND CONSUMER FORUM,**
 through its President, Judith Almeida,
 with address at H. No. 257/1,
 Ward 3, Bagdem, Colva,
 Salcete, Goa – 403708,
 Reg. No. – 268/GOA/2009,
Email id: judith.almeida1707@gmail.com,
 Contact No. – 9823085206.

...APPLICANTS

AND

1. **THE MINISTRY OF ENVIRONMENT, FOREST &
CLIMATE CHANGE,** through its Secretary,
 Indira Paryavaran Bhavan,
 Jor Bagh Rd, New Delhi - 110003,
Email id – mefcc@gov.in,
 Contact no. – 011 - 24645586.

2. THE STATE OF GOA,
through its Chief Secretary,
Secretariat, Porvorim, Goa - 403521,
Email id: cs-goan@nic.in,
Contact No. - 0832-2419402 .

...RESPONDENTS

(Above addresses are registered addresses of parties)



**THIS APPLICATION MOST RESPECTFULLY
SHOWETH:-**

1. The address of the Applicants' counsel is given below for the service of notices of this Application.
2. The addresses of the Respondents are given above for the service of notices of this Application.
3. This Application deals with a "substantial question relating to the environment," viz., whether several specific provisions of the CRZ Notification 2019 need to be reviewed, quashed and set aside on the grounds made out in this OA as they are destructive of the natural environment and livelihoods dependent on it.

ISSUES BEFORE THE HON'BLE TRIBUNAL

4. The issues raised before this Hon'ble Tribunal are the following and they fall within the jurisdiction of this Hon'ble Tribunal under both Sections 14 and 15 of the NGT Act:



- a) Whether the impugned provisions of the CRZ Notification 2019 need to be set aside as they are *ultra vires* Articles 14, 21, 39, 48A and 51A(g) of the Constitution of India; the Environmental Protection Act, 1986 and the Environmental Protection Rules, 1986 made thereunder and are for these reasons unsustainable?
- b) Whether the changes made in the CRZ 2011 notification in the form of the CRZ 2019 notification meet the ends of environment protection or take the environmental and ecological clock backwards?

c) Whether grave, irreparable and incalculable harm, injury and prejudice will be caused to the public and to the environment, unless the impugned provisions of the notification are restrained from taking effect pending the hearing and the final disposal of this application?

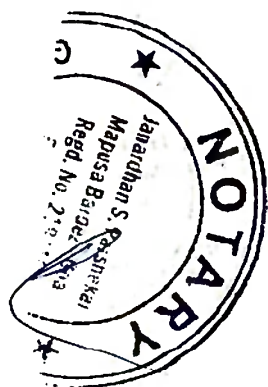
d) The CRZ notification is a notification that restricts activity on environmental grounds and has been issued under provisions of the EPA, 1986 and Rules which enable restrictions to be imposed. Whether in such circumstances the Central Government can now issue the impugned notification that in fact enables large number of activities when the environment instead demands restrictions?

FACTS OF THIS CASE

5. The Applicants state that in February 1991, Respondent No.1 issued the Coastal Regulation Zone Notification, 1991 ("CRZ 1991") under the provisions of the Environment Protection Act, 1986 ("EPA") with the aim to provide comprehensive measures for the protection and conservation of the country's coastline. CRZ 1991 provided for the establishment of a Coastal Regulation Zone ("CRZ") upto 500 m on the landward side of the High Tide Line ("HTL"). Annexure I to CRZ 1991 classified coastal zones on the mainland as well as on the islands of Andaman and Nicobar and Lakshadweep into Coastal Regulation Zones I, II, III and IV. It further defined the nature and extent of each of these CRZ zones and also listed the norms for the regulation of activities in these areas. Annexure II to CRZ 1991 provided guidelines for the development of beach resorts/hotels in designated areas of CRZ III for temporary occupation of tourist/visitors, with prior approval of the erstwhile



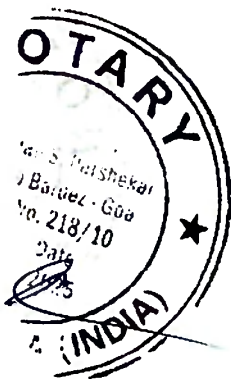
Ministry of Environment & Forest. CRZ 1991 further provided for the preparation of Coastal Zone Management Plans (“**CZMP**”) classifying the areas according to zones specified in Annexure I and prescribed authorities and the procedure for obtaining permissions for projects and activities allowed in CRZ areas. CRZ 1991 was amended 25 times during the course of the 20 years that it regulated development and conservation of the coastal areas of the country. Despite these amendments, most of which set out to dilute the notification, it is widely accepted that the CRZ notification brought some measure of regulation and necessary controls over developments in the country’s 6,500 km stretches of the coast. The Coastal Regulation Zone Notification, 1991 has been annexed hereto and marked as **Annexure 1**. A detailed judgement of the Supreme Court on the need to strictly implement its provisions was delivered on 18.04.1996 [*Indian Council for Enviro-Legal Action v. Union of India* [(1996) 5 SCC 281]. Coastal Zone Management Plans for the various coastal regions were prepared and conditionally approved on 27.9.1996, and Coastal Zone Management Authorities were set up pursuant to the judgement. They continue to be in existence even today.



6. On January 6th, 2011, vide S.O. 19(E), the MoEF&CC issued a new CRZ notification to replace the 1991 CRZ notification *“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.”* The unique amendment to the objectives of the CRZ 2011 was that it sought to bring in the fishing community as a legitimate actor with rights

to residence and livelihood in the coastal areas of the country. This focus was missing in CRZ 1991. The 2011 notification also sought to extend the CRZ well into the coastal waters as well.

7. The CRZ Notification 2011 categorized various areas as CRZ based on environmental and ecological sensitivity, vulnerability and for conserving and protecting coastal areas and marine waters into CRZ-I, CRZ-II, CRZ-III and CRZ-IV. Each category of land area, and water area up to twelve nautical miles, has varying degrees of protection attributed to each zone and as with the CRZ 1991, only a limited number of projects and activities are allowed in each zone. The Notification further elaborately prescribed the process for the preparation of Coastal Zone Management Plans (CZMPs), the relevant authorities (the *MoEF&CC*); the State Environment Impact Assessment Authority ("*SEIAA*"); the National Centre for Sustainable Coastal Management ("*NCSCM*") and the State Coastal Zone Management Authority ("*CZMA*") and the procedure for obtaining permissions and environmental clearances for projects in designated CRZs. It can safely be said that while the CRZ 1991 notification was based on strong consciousness of the need to protect coastal ecosystems based on the famous letter of then Prime Minister Mrs Indira Gandhi issued to coastal states in 1981, CRZ 2011 sought to compensate for the lack of focus on fishing communities and their inherent rights as local inhabitants of the CRZ in CRZ 1991 in addition to water bodies extending upto 12 nautical miles. The Coastal Regulation Zone Notification, 2011 has been annexed hereto and marked as **Annexure 2.**



8. The Impugned Notification, 2019, which was issued on 18 January 2019, however, takes several steps backwards from these avowed objectives, involving both protection

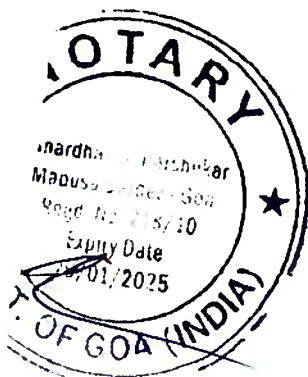
of ecology and rights of fishing communities, in order to favour and advantage industrial, commercial and intensive urbanisation – and interests benefitting from or connected with these. While such development might be endorsed under other laws, it cannot be carried out by issuing notifications under the Environment Protection Act, 1986, under provisions of the EPA Act and Rules specifically requiring the “imposition of restrictions” on environmental grounds. If such restrictions were imposed in the past, there is an obligation to give reasons why those restrictions are now sought to be eliminated. If not, the action becomes arbitrary and unreasonable. The impugned notification, in fact, seeks to install an unsustainable development model on an admittedly fragile ecosystem. It continues the classification of the CRZ, but now further sub-divides CRZ-III into unworkable CRZ-IIIA and CRZ-IIIB. In fact, it practically abandons the coastal areas demarcated as CRZ II and III. The Impugned Notification does this by making significant changes in the activities that shall be permitted in the previously held ecozones, the relevant authorities and the procedure for obtaining environmental clearances for activities in such designated CRZs. In the case of Goa, it abandons turtle nesting beaches by dropping their names and it abandons the khazan system, a unique ecological feature of Goa linked to tidal action. A copy of the Coastal Regulation Zone Notification of 2019 (the “Impugned Notification”) under challenge in this application has been annexed hereto and marked as Annexure 3.



9. The principal basis for coming out with the impugned CRZ notification is the Shailesh Nayak Committee report. The Applicants are enclosing a copy of the Shailesh Nayak committee report at Annexure 4 of these proceedings, as many of the amendments are sought to be justified on the grounds that they were recommended by the Nayak

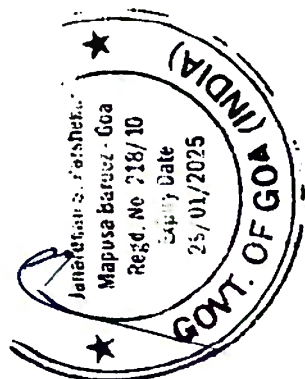
Committee. However, this is strictly not true. Several clauses in the 2019 Notification which are detrimental to the protection of the coastal area were, in fact, not recommended by the Shailesh Nayak Committee or recommended with qualifications and conditions. The Applicants make the following observations concerning the said Nayak report:

- a) The Nayak report's focus appears to be affording protection to the 11 ecologically sensitive areas listed in the 2011 notification, which includes turtle nesting sites, mud flats, sand dunes, mud flats etc. Similarly, there is an effort to focus protection on CRZ IV areas, which include mainly the open seas and water bodies, and the sea bed and river beds.
- b) The Nayak Committee has taken a decision to abandon effective ecosystem protection to CRZ II (Urban) and CRZ III (Rural) areas. This has been done on the basis of state governments insisting that it is difficult to enforce CRZ regulations. This cannot be a ground. Also, these complaints came in from only three states. However, based on these complaints, the Nayak report decided that it is a problem faced by all. It therefore recommends that in these areas only state town and country planning regulations will apply, even though it knows very well that these regulations enable dense construction in terms of enhanced FAR, height, floors, etc. It also recommends that the latest town and country planning regulations as on the date of the notification (18.1.2019) will apply and not the date on which the original CRZ notification (19.2.1991) came into force, which has been the norm from 1991 to 2019. In all the three zones (CRZ I, II and III), serious effort is made to reduce the extent of the NDZ.



c) The net effect of these changes which essentially relax or extinguish ecological safeguards of 1991/2011 CRZ notifications – and for which no environmental grounds are provided – is to open up the security of the country and the integrity of its landmass to considerable damage from unnecessary and unjustified anthropogenic activity. Worse, the exercise is being carried out with full knowledge that large populations will now be encouraged to move closer to the sea in the era of Climate Change and Sea Level Rise, for which there can be no justification whatsoever.

10. The Applicants have carried out a comprehensive comparative analysis between the CRZ 2011 and CRZ 2019 notifications which is annexed to this application at **Annexure 5**. From the analysis carried out by the Applicants [**Annexure 5**], the following are among the detrimental features of the impugned notification (2019), as they are contrary to and militate against the declared objectives for which the Notification has been issued:



a) **Reduction of the NDZ along sea-coast to 50 metres:**

i) There are significant relaxations of the norms regulating or prohibiting development in the ecologically sensitive areas of the coast. For the first time in 38 years, the Central Government has reduced the NDZ in coastal areas from 200 metres from the High Tide Line to 50 metres. This is unacceptable in view of sea level rise, ingress of sea water into coastal areas resulting in erosion of sections of the coast, floods etc. [Para 2.3.1 - CRZ-III A]

(ii) Development activity along mainland and inland islands is now restricted to only 20 metres from the HTL. [Para 10.2, cl.(ii)]

b) Reduction of CRZ along rivers to 50 metres

The Central Government is once again seeking to relax the NDZ for rivers, creeks and other water bodies affected by tidal action from 100 metres from the HTL to 50 metres. Despite enormous pollution of tidal rivers by industrial and residential sources, development activity will now be taken closer to the creeks and rivers upto 50 metres from the HTL. [Para 1, cl. (ii) & Para 2.3.3] Such blanket relaxation along tidal rivers and creeks has not been recommended by the Shailesh Nayak committee. (Similar blanket relaxation was also made in the 1994 amendment to the 1991 CRZ notification, but was struck down by the Supreme Court of India as being without sufficient justification in 1996 - (1996) 5 SCC 281)



c) Several activities permitted in NDZ

i) The CRZ 1991 notification had significant No Development Zones. CRZ I was wholly NDZ for 500 metres from HTL; CRZ III had an NDZ of 200 metres from HTL and 100 metres of HTL along rivers; CRZ II had an NDZ in front of the line of existing authorised constructions. However, the NDZ in the impugned notification is now a nomenclature without any meaning. A vast amalgam of activities are now permitted in CRZ I, II, CRZ III and CRZ IV areas.

(ii) The intertidal zone is now no longer an NDZ, which is a hazardous and incredulous proposal in

our era of confirmed Sea Level Rise. A list of 18 activities is allowed now in the intertidal zone.

[Para 5.1.2 - CRZ IB]

(iii) Mining (both manual and mechanized) will now be permitted in the NDZ of CRZ III areas.

[Para 5.3 (ii) (h)]

(iv) Roads, as public utilities, will be permitted in NDZ, and activities will be permitted on both sides of such roads. These will include resorts and hotels & associated tourism facilities on the landward side of such roads and toilets, changing rooms etc. on the seaward side **[Para 5.3 (ii) (f)]**

(v) Temporary tourism facilities are permitted on the beaches in both CRZ II and CRZ III at a distance of mere 10 metres from the HTL. Such facilities will include shacks, toilets, washrooms, walkways, seating arrangements etc. **[Para 5.2 (vi) - CRZ II and Para 5.3 (ii) (g) - CRZ III]**.

(vi) Eco-tourism activities including setting up of tree huts for tourists to reside in are permitted in the CRZ IA. The CRZ Notification does not permit new residences in the CRZ except for fisherfolk who are bound to live close to the sea. **[Para 5.1.1 (i)]**

(vii) Sand dunes, wherever they may occur in the coastal area, have always received full protection under the CRZ Notification (1991 & 2011). More particularly, the first line of dunes, which generally lie within the 200m NDZ. However, the 2019 Notification protects only 'active' sand dunes as it prohibits only dressing or altering of active sand dunes. Active is not defined. It may be noted that active or shifting sand dunes later stabilise. The



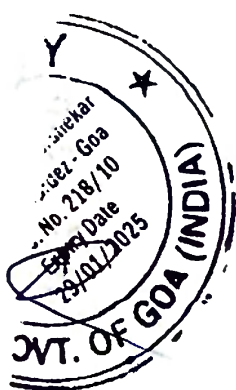
Notification does not protect stabilised sand dunes. [Para 4 (ix)].

(viii) Temporary tourism activities such as walkways, tents etc, are also permitted on sand dunes although described as eco-sensitive areas [Annexure I, Para 1.9 (b)]. Permitting tourists to reside in tents on sand dunes or tree huts in the NDZ is sure-fire destruction of the dunes / ESAs. It is totally unnecessary for people to be permitted to live on the dunes, which is nature's first line of defence in coastal areas and must be accorded maximum protection.

d) Development encouraged in CRZ IIIB - populous areas

(i) Despite the imperatives placed on the Central Government to prepare for climate change and Sea Level Rise, CRZ IIIB (with population density of 2161 per sq km. as per 2011 census) will bring large populations closer to the sea and its impending dangers, with an NDZ of 50 metres. There is no rationale as to the significance of this figure of 2161 persons. [Para 2.3.1]

(ii) In the CRZ II, old limitations on nature of construction under the notification are replaced with local town and country planning regulations in force as of 18.1.2019 (and not 1991). This will have huge repercussions since in most cases, the FSI/FAR in the local laws has been increased and will continue to change. [Para 5.2 (iii), (iv)] A similar relaxation is also granted with respect to CRZ-III areas [Para 5.3 (iii) (b)].



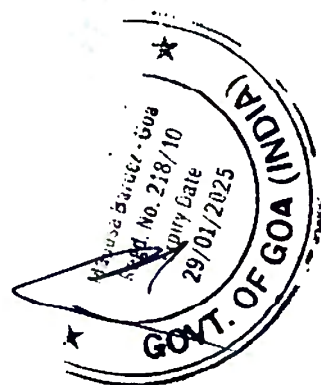
e) Norms for Beach Resorts (Annexure III)

(i) Most of the critical curbs governing construction of beach resorts issued under the 1991 notification and continued with the 2011 reiteration, are now deleted in the impugned notification including distance from HTL, nature of construction, plot size. This is bound to lead to large-scale increase in construction of thousands of small and tiny hotels, completely choking the coast with dense development, thus frustrating the original intent of the CRZ notification to restrict and prohibit activity in the coastal segments of the coastal states. The following are two critical curbs which are deleted in the CRZ 2019 Notification:

- The minimum plot size for hotels, which was 4000 sq mts.
- Hotels were not permitted within the 200 mts NDZ.

f) Hazard Line Rendered Innocuous Despite Sea Level Rise Devastations (Annexure IV)

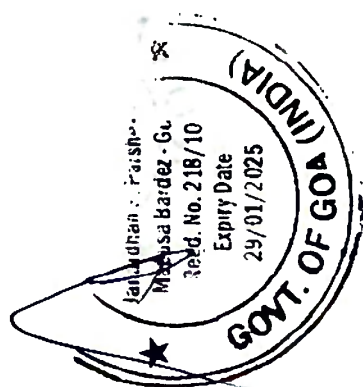
(i) The 2011 notification required that development in future should respect the “Hazard Line” (HL) which was introduced to protect coastal populations from the Sea Level Rise line, in line with the Precautionary Principle. The HL is a composite line of the shoreline changes (including sea level rise) due to climate change, tides and waves and is based on science and hard data. The HL was a major recommendation of the Swaminathan Committee, of which Shailesh Nayak was a member. This strong recommendation of the Swaminathan Committee in this connection needs to be quoted in full to understand its full import:



“Introduce policies to cope and adapt to future dangers from sea level rise and increased vulnerability of the coasts.

“The [Swaminathan] Committee is of the opinion that the coastal areas of the country face a danger due to sea level rise in future and the projected increase in frequency of storms and tidal surges. These developments would not only endanger inhabitants of coastal areas, but also have an adverse impact on the coastal ecosystem which provides livelihood support to millions. It is imperative that the Ministry undertakes a project to demarcate the vulnerability and hazard line along the coast. This will take into account present and future risks because of projected sea level rise and other threats. Once done, the demarcated vulnerability and hazard line must be incorporated into the CRZ 1991. This will initiate steps to improve protection of critical infrastructure and thickly populated areas. The study will also provide policy directions for adaptation strategies in our coastal areas. It is clear that the coast will need more protection measures and investment in adaptation to cope with the coming devastations.”

[Emphasis added]



(ii) The Impugned Notification does away with the requirement of a ‘Hazard Line’ for demarcating ecologically sensitive area in addition to the Coastal Regulation Zones. The scheme of protection under the CRZ 2011 envisaged regulation of land-use, keeping in mind the hazard zones demarcated. The mapping of the HL and the land area within this territory was to be considered at the time of making of the CZMPs for each State as well as the Disaster

Management Plan at the National, State and District Levels. While the concept of the HL was brought into the CRZ 2011 for the first time, it has now been reduced only to a tool to be included in disaster management plans for coastal environments and for planning adaptive and mitigation measures, with present development left unregulated or prohibited. This is a major change and should not be permitted, as it is not only against science, but common sense.

(iii) In several places, in available CZMPs, the Hazard Line falls outside the CRZ line, on the landward side, exposing existing structures falling between CRZ limits and HL to risk of sea level rise. The impugned notification fails to provide any safeguards for such constructions except that they are to be dealt with in the same way as those existing structures that fall in various zones of CRZ as per the notification. A case in point is the case of Beach resorts / hotels and tourism related development projects as mentioned in Annexure-III of the Impugned Notification. The requirement (which was in the CRZ 2011 Notification) that beach resorts / hotels may be constructed beyond the HL or 200m from the HTL, whichever is greater has been removed in the impugned Notification and hotels / resorts can now be constructed in CRZ-II and CRZ-III NDZ areas as well. It is therefore contended that if existing structures / projects falling between the CRZ limits and HL are to be dealt with in the same way as structures falling in the various CRZ zones, especially those in CRZ-II, CRZ-III A and CRZ-IV A & B, then the Impugned Notification itself undermines the importance of the HL, thereby endangering all development activities, structures and populace residing by exposing them



to the vagaries of Sea Level Rise. It is submitted that no new development activity/ project should be allowed in areas between CRZ limits and HL unless such activities essentially require foreshore facilities and all provisions should be made for the safeguarding of all existing structures/ facilities.

**g) Demarcation of the High Tide Line (HTL)
(Annexure IV)**

While Annexure-I of CRZ 2011 lays down the method of demarcating HTL and LTL and all factors to be considered for such marking, including the scale of maps etc., the corresponding Annexure-IV in the Impugned Notification states that the HTL and LTL as demarcated by NCSCM, and HL [*Hazard Line*] as demarcated by SOI shall be applicable for all purposes of this notification. Annexure-IV does not reveal the process, the methodology adopted, the factors influencing the demarcation of HTL and LTL by NCSCM or of HL by SOI.

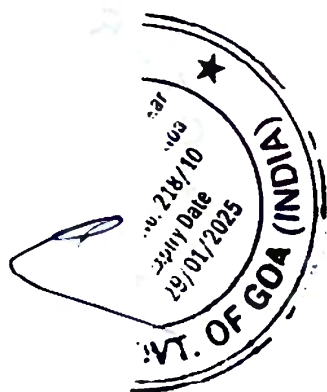


**h) Special Status for Goa deleted: Khazans and
Named Turtle Nesting Beaches Deleted**

Goa was granted special status as per demand of the Goa governments due to its unique ecology and traditions. Special areas like khazan lands in Goa were declared NDZ. Beaches were listed by name as turtle nesting sites. The khazans of Goa are now dropped from the impugned notification itself and so have the names of the 4 major turtle nesting beaches of the State. The special status is now deleted. Only the city of Mumbai has been given special privileges.

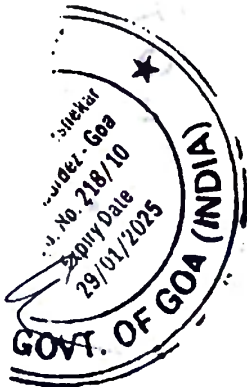
11. For the reasons and objections enumerated and explained by the Applicants above, it is therefore submitted that certain provisions of the impugned CRZ Notification 2019 need to be deleted/modified, and certain provisions ought to be reintroduced/added to the Notification, as specified hereunder:

Provisions to be deleted	Ground / Issue raised in O.A.
Para 2.3.1	CRZ reduced to 50 m in CRZ III-A on the basis of population density (2161 persons per sq.km)
Para 1(ii); Para 2.3.3	CRZ reduced to 50m along rivers
Para 5.1.2	Activities permitted in intertidal zone
Para 5.2.1	Activities permitted in CRZ - II areas
Para 5.3.1	Activities permitted in CRZ - III areas
Para 5.3(ii)(h)	Mining permitted in the NDZ of CRZ III
Para 5.3 (ii) (f)	Resorts and other activities permitted on both sides of roads in the NDZ
Para 5.2(vi)	Tourism facilities (temporary) permitted within 10m of HTL in CRZ II
Para 5.2 (iii), (iv)	Construction / Reconstruction in CRZ-II areas subject to local town and country planning laws [FAR, height etc]
Para 5.3 (iii) (b)	Construction/ Reconstruction in CRZ-III areas subject to local town and country planning laws except for height restriction of 9 mts
Para 5.3 (ii) (g)	Tourism facilities (temporary) permitted within 10m of HTL in CRZ III
Para 5.1.1 (i)	Eco-tourism activities (tree huts) permitted in CRZ-IA



Para 4(ix)	Protection for active sand dunes only
Annex. I, Para 1.9(b)	Activities (tents, walkways) permitted on sand dunes (ESAs)
Para 5.2 (iii)	Buildings in CRZ II subject to local town planning laws
Para 10.2 (ii)	CRZ w.r.t islands reduced to 20 mts. from HTL

Provisions recommended to be added in CRZ 2019	Description/ Particulars
In Para 10.1	Khazans in Goa to be restored as CVCA under 3.1 4 beaches to be named as Turtle Nesting beaches, i.e. Morjim, Mandrem, Agonda and Galgibag
In Annexure III	Minimum plot size (4000 sq. Mts) for hotels to be restored
In Annexure IV; and Para 1	Hazard line to be restored in the Notification



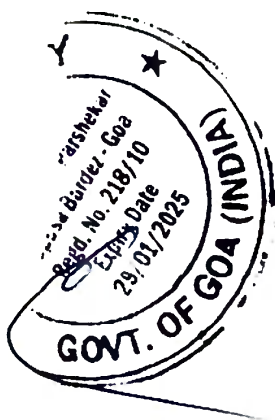
GROUND

12. It is under the circumstances aforesaid that the Applicants are constrained to approach this Hon'ble Tribunal, following the Precautionary Principle and Principle of Intergenerational Equity, challenging specific provisions of the CRZ Notification dated 18th January, 2019 on the following grounds amongst others, which are independent of and without prejudice to one another:

A. That the MOEF&CC has introduced changes in the CRZ 2019 notification which have not been recommended by the Shailesh Nayak Committee Report. Some changes are not as per

Recommendations of the said committee's report. The Apex Court in 1996 struck down changes made in the CRZ notification of 1991 on the grounds that they were not made by the then B.B. Vohra Committee report. The CRZ notification is a technical legislation based everywhere on science, scientific data and expert recommendations. The MOEF&CC by setting up the Vohra, Swaminathan and Nayak Committees conceded it did not have the necessary technical competence in this area. Hence it cannot now cherry pick and choose expert committee recommendations, or distort them especially when the impact of these changes is going to lead to destruction of the coastal environment.

- B. That the Impugned Notification arbitrarily decreases the extent of the Coastal Regulation Zone in case of the open coast (200 to 50 metres from the HTL and bays) and creeks and tidal influenced water bodies (from 100 to 50 metres).



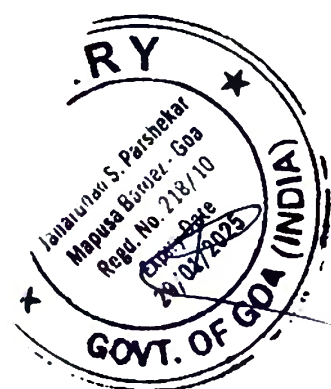
First, it is absolutely unacceptable at the present level of knowledge of the coastal zone, to allow for any reduction of coastal development from 200 to 50 metres. If at all, the setback from the waterfront ought to be the hazard line notified under the 2011 notification. However, the hazard line has been divested of any regulatory control by the impugned notification.

- C. The 200 metre zone is a sacrosanct zone as it is the only real buffer that stands between sea and land. This zone is the zone of the primary sand dunes that provide for the first line of defence against the sea. This area is required for the sea to play with the land without unduly damaging it. In fact, the area upto 500 metres belongs to the sea rather than to human

beings. The sandy beach is created by nature to absorb tidal action 24x7. Tampering with this zone is ecological nonsense, scientifically depraved, unacceptable under the Precautionary Principle especially in view of apprehended (and already occurring) sea level rise, tsunamis, cyclones and earthquakes. Relaxing this zone is seriously undermining the security of the country. It cannot be allowed under any circumstances.

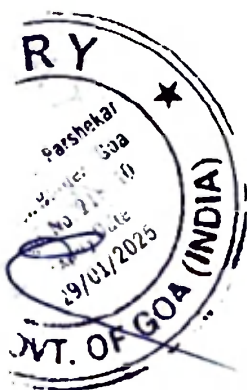
D. The relaxation made on the ground of population density is not an ecological criterion and therefore has no place in an environmental regulation. The blanket relaxation of the NDZ from 200 to 50 metres sacrifices all sand dunes in these areas. The primary sand dune system occurs mainly in the 200 metre NDZ. Further, the exercise is impractical and unimplementable, leaving vast scope for arbitrariness. It discriminates against communities and populations in the same area. It will induce more development in less developed areas so that they too can claim the same relaxation. Further, the conditions laid down by the Nayak Committee for the relaxation are not incorporated in the final notification and for these reasons, the creation of CRZ-IIIA and III is B without necessary and required safeguards.

E. The hazard line drawn up by the Swaminathan Committee has been marginalised in the impugned notification without cause, exposing coastal populations to the very devastations predicted by the said committee. This is in complete violation of the Precautionary Principle which is law of the land and the recommendation of the Nayak Committee, which has not recommended the provisions now introduced relating to the hazard line.



F. The NDZ for rivers, creeks and backwaters which was 100 metres from HTL has, by the impugned Notification, been relaxed to 50 metres. The main Notification does not apply to all the rivers. It applies only to tidal rivers which are part of the coastal environment. This reduction from 100 metres to 50 metres is arbitrary and there is no scientific basis offered for the reduction in this limit. The Shailesh Nayak Committee report in its Proposed Draft CRZ Notification keeps the extent of CRZ in case of tidal influenced water bodies at 100m from HTL or width of the creek, whichever is less. It is submitted that this change seeks to legitimise erstwhile illegal structures built within the CRZ zone and shall adversely impact the fragile ecosystems of tidal influenced water bodies.

G. That the Hon'ble Supreme Court in the case of *Indian Council for Enviro-Legal Action v. Union of India* [(1996) 5 SCC 281] had on a previous occasion examined an amendment notification dated 18th August, 1994 that made six amendments to the Coastal Regulation Zone Notification, 1991. These amendments were made after the receipt of the report of a committee which had been set up by the Central Government (B.B. Vohra Committee). Amongst others, these amendments related to relaxation in the No Development Zone (200m from HTL) and arbitrary reduction in the extent of NDZ from 100m to 50m in case of tidal influenced water bodies. In respect of both these amendments it was observed by the Hon'ble Court that they were not made in consonance with the recommendations of the committee, were arbitrary and gave unbridled powers to the central government to relax the requirements of NDZs not just for the specific case



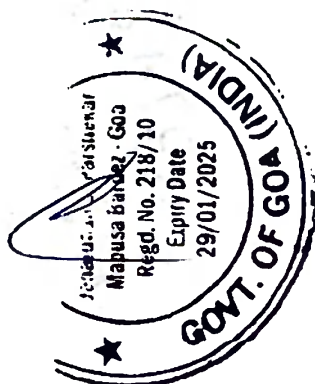
which was represented before the committee, viz., relaxation for hotels and tourism industry, but generally, for any type of industry. It stated that both these amendments were made contrary to the object of the EP Act, had not been made for any valid reason and were not in larger public interest. The specific paras of the judgement dated 18.4.1996 are quoted hereunder in full:

“(Para 33): According to the Union of India, while implementing the main Notification, certain practical difficulties were faced by the concerned authorities. There was a need for having sustainable development of tourism in coastal areas and that amendments were effected after giving due consideration to all relevant issues pertaining to environment protection and balancing the same with the requirement of development. It has been specifically averred that a Committee headed by Mr. B.B. Vohra was set-up by the Government in response to the need for examining the issues relating to development of tourism and hotel industry in coastal areas and to regulate the same keeping in view the requirements of sustainable development and the fragile coastal ecology. According to the Union of India, the Committee also included three environmentalist members who had expressed their views and that the Government had accepted the recommendations of the Vohra Committee with slight modifications. According to it, there has been no blanket relaxation in any area as alleged and adequate environmental safeguards have been provided in the 1994 Notification.



“34. In this background, we now deal with each of these six amendments separately: (i) According to the main Notification, distance of 200 metres from

the HTL was no-development zone (hereinafter referred to as 'NDZ'). The representation of the Hotel and Tourism Industry was that the existing 200 metres depth of NDZ constituted a serious handicap in the said industry competing with the beach hotels of other countries where there were no such restrictions. It was represented that a reduction of the NDZ would not be ecologically harmful and there was no convincing scientific reason for fixing 200 metres as the appropriate width for the NDZ. It was also stated before the Committee that according to its projection, the Hotel Industry in India would at the most require only about 20-30 KMs. of coastline for the construction of sea-side resorts over the next 15 years or so. If this requirement was viewed in the context of the fact that the total coastline of the country was over 6,000 K.Ms. in length, the industry represented that relaxation with regard to this limited area would not pose any big threat to the country's ecology. The Vohra Committee in its recommendations observed that certain Members of the Committee had felt that a blanket provision of 200 metres in the case of sandy beaches would lead to difficulties and there should be provision for relaxation to be made in suitable cases, but the consensus that emerged was that the present regulations should not be disturbed. The Committee, however, recommended that relaxations in 200 metres rule may be made in a case to case basis with regard to such stretches of the coastline which were rocky or hilly, but the relaxations should be made after carrying out necessary impact assessment studies. Furthermore, this relaxation should be made by the Ministry of Environment & Forest and not by the State Government concerned. In the 1994 Notification,



there is a clear departure from the recommendations of the Vohra Committee. The Notification now provides that for reasons to be recorded, the Central Government may permit any construction within the said 200 metres NDZ subject to such conditions and restrictions as it may deem fit. In the written submissions filed by the Union of India in this Court on 29.9.1995, this amendment has been sought to be justified and explained by it in the following words:

As regards the developmental activities upto the High Tide Line, the Central Government may for reasons recorded in writing permit construction in any particular case taking into account the geographical features and other relevant aspects. This is necessary as providing of 200 metres of no development zone all along was not possible in the coastal line in an uniform way on account of wide variations in geographical features, existing human settlements and developmental activities requiring fore shore facilities etc. The relaxation with regard to NDZ was sought by the Hotel and Tourism Industry and they desired concession only with regard to 20-30 K.Ms. of coastline; By the amended Notification, power had been given to the Central Government to make such relaxation with regard to any part of the 6,000 K.M.s long coastline of India. The Central Government has, thus, retained the absolute power of relaxation of the entire 6,000 K.Ms. long coastline and this, in effect, may lead to the causing of serious ecological damage as the said provision gives unbridled power and does not contain any guidelines as to how or when the power is to be exercised. The said provision is capable of abuse. The Central Government also did not confine the relaxation to the extent as specified by the Vohra Committee. No satisfactory reason has been given



by the Union of India as to why it departed from the opinion of the expert Committee and that too in such a manner that the concession which has now been given is far in excess of what was demanded by the Hotel and Tourism Industry. We, accordingly, hold that the newly added proviso in Annexure III in paragraph 7 in sub-paragraph (1) (item i) which gives the Central Government arbitrary, uncanalized and unguided power, the exercise of which may result in serious ecological degradation and may make the NDZ ineffective is ultra vires and is hereby quashed. No suitable reason has been given which can persuade us to hold that the enactment of such a proviso was necessary, in the larger public interest, and the exercise of power under the said proviso will not result in large scale ecological degradation and violation of Article 21 of the citizens living in those areas."



H. Similarly, the nature and contents of the Impugned Notification are in contravention to the objects of the Environment Protection Act 1986; are distinct from the report of the Shailesh Nayak Committee; are made without any valid reason, and shall lead to large scale, irreversible environmental degradation. The Supreme Court allowed the IA filed by the Goa Foundation and quashed the relaxation in the case of *Indian Council for Enviro-Legal Action v. Union of India* [(1996) 5 SCC 281]. No fresh reasons are provided for the relaxation once again with the impugned notification. It is therefore bound to be set aside on the same grounds as earlier.

I. That the Environment (Protection) Act, 1986 was enacted to give effect to the decisions taken at the United Nations Conference on the Human Environment held at Stockholm in June, 1972, in

which India participated, to take appropriate steps for the protection and improvement of the human environment. It is now settled law that the Precautionary principle, the Principle of Sustainable Development and Intergenerational Equity are fundamental concepts of Indian law recognised under Article 21, 48-A and 51-A(g) of the Constitution. They are integral to the scheme of protection of environment as envisaged under the Environment (Protection) Act, 1986. Unless excluded, these principles form part of the substantive as well as all delegated legislations under this Act. That, the nature of content of the Impugned Notification is opposed to the principles of Sustainable Development, Intergenerational Equity and the Precautionary Principle and also in direct opposition to its own stated purpose. Para 1 of the Impugned Notification states the purpose of the notification as,

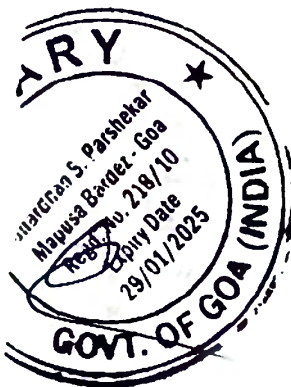


"the Central Government, with a view to conserve and protect the unique environment of coastal stretches and marine areas, besides livelihood security to the fisher communities and other local communities in the coastal areas and to promote sustainable development based on scientific principles taking into account the dangers of natural hazards, sea level rise due to global warming..."

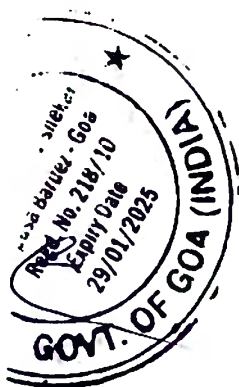
Whereas, the Impugned Notification instead prescribes an increased number of hazardous activities in coastal areas and a relaxation in the norms for grant of environmental clearance to several activities that undermine its stated purpose and intent. The wilful reduction and dilution in the protections guaranteed vide the Coastal Regulation

Zone Notification, 2011 to coastal environments, is an arbitrary, uncanalized and therefore illegal exercise of power conferred upon the Central Government under Section 3 (2)(v) read with Rule 5 of the Environment (Protection) Act, 1986 and the Environment Protection Rules, 1986, respectively.

- J. The legislative scheme in EPA, 1986 provides under Section 3 of EPA that the Central Government may take measures for the purposes of protecting, improving the quality of the environment, preventing, controlling and abating environmental pollution. Section (3)(1) clearly states that all measures taken by the Central Government will be subject to the provisions of the E.P. Act, 1986. Section 3(2) (v) in particular states that this power may be exercised to lay down restrictions of areas in which any industries, operations or processes or class of industries or operations or processes shall not be carried out or shall be carried out subject to certain safeguards. Rule 5 of the Environment Protection Rules, 1986 specifically deals with prohibition and restriction on the location of industries and the carrying on of processes and operations in different areas. It does not provide for the removal of prohibitions or restrictions imposed. However, Respondent No.1 has used these provisions to remove restrictions and prohibitions on industries, projects and operations and has introduced provisions that run directly contradictory to the object and purpose of the Act of 1986. It is therefore perverse that the Respondent No.1 is using these provisions of the EPA and the rules framed thereunder to dilute protections granted under the Act and Rules. In the current context, when the environmental crisis has only increased, together



with the accompanying risks, such a grave and impactful dilution of the statutory protections and safeguards by Respondent No. 1, without any explanations whatsoever, is questionable and defies logic. The Respondent No. 1 has failed to explain why instead of implementing the legal provisions, strengthening existing provisions and amending laws to the advantage of the environment, such adverse statutory changes have been introduced. The impugned notification runs contradictory to both the Act and the Rules and is ex-facie ultra vires the same. The impugned notification is in violation of multiple provisions under the E. P. Act, 1986 and seeks to dilute the regime of environmental protection. The actions of the first respondent are *mala fide* and colourable and amount to a gross and flagrant misuse and abuse of its rule making powers. On this ground also the impugned notification is ultra vires of the Environmental Protection Act, 1986 and is liable to be set aside.

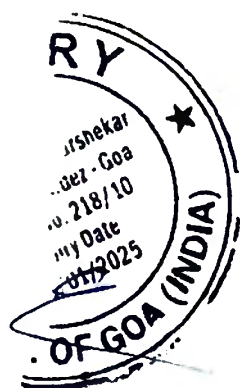


K. The Notification introduces a very complicated classification of zones: CRZ-1A and CRZ-1B; CRZ II; CRZ IIIA and CRZ IIIB, CRZ IVA and CRZIVB. The original 4 zones are now subdivided into 7, which is bound to make implementation a nightmare and a hopeless exercise, thus defeating the purpose of the notification. If a simpler notification of 4 zones was half-heartedly implemented as the authorities claimed it was difficult to implement, it is difficult to conceive more effective implementation or regulation with 7 zones.

L. The Notification results in reduced differentiation of protection in 3 principal zones. The activities permitted in CRZ IB will now be permitted in CRZ

II and CRZ IIIB zones. Thus all the three zones, with entirely different ecological features and characteristics, will now be considered the same for the purpose of the activities permitted.

M. Under International law, the Doctrine of Non-Regression is an accepted norm. It is founded on the idea that environmental law should not be modified to the detriment of environmental protection. Environmental law is facing a number of threats such as deregulation, a movement to simplify and at the same time diminish, environmental legislation perceived as too complex and an economic climate which favours development at the expense of protection of environment. While the doctrine of progressive realization of rights was recognised, its obverse, the doctrine of non-regression of laws is also now recognised under Indian law vide the judgment of the National Green Tribunal in Society for Protection of Environment & Biodiversity v. Union of India (2017 SCC Online NGT 981, O.A No. 677 of 2016; M.A. No. 148 of 2017) delivered on 8th December, 2017. The attempt at dilution of environmental protections by Respondent No. 1 is therefore a colourable exercise of power and a fit case for the application of the doctrine. The Impugned Notification is therefore contrary to law and invalid.



N. Respondent No.1 is duty bound by the Directive Principles of State Policy provided in the Constitution of India to protect and improve the environment. Articles 39 and 48A imposes a duty on the State to act in a fair and just manner, to protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures. Under Article 51A(g) every citizen has the fundamental duty to protect the environment. Under Article 21 of the Constitution, every citizen has a fundamental right to healthy environment and ecology.

- O. The impugned notification completely violates the Precautionary Principle. It also violates the Principle of Intergenerational Equity, as it will ensure that beaches turn into concrete zones, thus eliminating the very idea of sandy beaches for the coming generations to which they have a right.
- P. That provisions relating to Areas Requiring Special Consideration in Para 8 (V) of CRZ 2011 have also been considerably weakened in the Impugned Notification. Provisions relating to Khazan Lands in Goa have been completely removed without giving reasons and those relating to development on inner backwater/ inland islands weakened. Further, although both notifications provide for Critically Vulnerable Coastal Areas ("CVCA"), these areas are yet to be notified.
- Q. The focus on welfare of the fishing community and other local communities that have lived by the sea for hundreds of years and ensured zero damage to its ecological sensitivity has been diluted in favour of interests who have no specific need to settle along the coast since they do not conduct business or livelihood traditionally along the coast.



REPRESENTATIONS MADE TO AUTHORITIES

13. The Applicants submitted a detailed list of objections to the draft of the impugned notification during the period set aside for the purpose. However, the final notification is almost the same as the draft and the MOEF&CC has simply refused to consider public suggestions. The issue of the draft notification was therefore in the nature of a charade. A copy of the detailed representation dt. 16.06.2018 is enclosed at **Annexure 6** to this application.

LIMITATION

14. The issues raised in this Application were first raised before the Hon'ble High Court of Bombay at Goa in the form of P.I.L. W.P. 21/2019. *Vide* its order dt. 03.01.2023 [enclosed at Annexure 7], the Hon'ble High Court has disposed of the said P.I.L, and has granted the Applicants liberty to raise its contentions before this Hon'ble Tribunal. The Hon'ble High Court was pleased to direct that the grievance of the Applicants would be considered on merits without the issue of limitation being raised, if the Applicants approached this Hon'ble Tribunal within a period of 4 weeks from the date of the order. This Application has accordingly been filed within the stipulated 4 week time period, and as such, there is no delay in the filing of this OA.



PRAYERS

15. The Applicants therefore pray for the following reliefs in public and environmental interest:

- a) That this Hon'ble Tribunal be pleased to quash and set aside the CRZ notification no. G.S.R. 37(E) dated 18.01.2019;

Or, in the alternative:

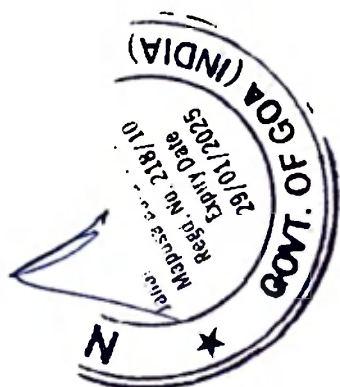
- b) i) this Hon'ble Tribunal be pleased to quash and set aside the impugned provisions of the Notification, 2019 (*Annexure "3" hereto*) as set out in paragraph 11 of this Application;

and

- ii) direct the Respondent No. 1 to reintroduce/add provisions to the CRZ Notification 2019, as set out in paragraph 11 of this Application;

Interim reliefs:

- c) That pending the hearing and final disposal of this Application, this Hon'ble Tribunal be pleased to stay the operation, effect and implementation of the impugned provisions of the CRZ Notification, 2019 (*Annexure "3" hereto*) as set out in paragraph 11 of this Application;
- d) That this Hon'ble Tribunal be pleased to restrain the Respondents by themselves, their servants, agents, and / or subordinates from in any manner whatsoever implementing and / or acting pursuant to the said impugned provisions of the Notification, 2019 (*Annexure "3" hereto*) as set out in paragraph 11 of this Application;
- e) Pending hearing and final disposal, that this Hon'ble Tribunal may further grant stay of any change in land use in the Khazan areas of the State of Goa;
- f) Pending hearing and final disposal, that this Hon'ble Tribunal may further grant stay of any development on the turtle nesting beaches of Morjim, Mandrem, Agonda and Galgibag;
- g) For costs;
- h) For such other and further reliefs as this Hon'ble Tribunal may deem fit and proper and as the nature and circumstances of the present case may require.



For the above reliefs, the applicants are very grateful.

Place : MAPUSA, GOA
Date : 27.01.2023

Through:

Adv. Om D'costa,
G-8, St Brittos Apts,
Mapusa, Goa - 403507
[dcostaom@gmail.com, 8007558624]



Applicant No. 1



Applicant No. 2

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
(WESTERN ZONE BENCH), PUNE

O.A. NO. _____ /2023 [WZ]

The Goa Foundation and Anr.

...Applicants

vs.

**The Ministry of Environment,
Forest & Climate Change and Anr.**

...Respondents

AFFIDAVIT

I, Dr. Claude aged 74, Indian national, Secretary – Goa Foundation, the Applicant No. 1 organization abovenamed, do hereby solemnly affirm and state as under:



1. That I am the secretary and authorized representative of Goa Foundation, i.e. the Applicant No. 1, and I am aware of the present case, and as such am competent to swear this affidavit.
2. That I have read and understood the accompanying Application which has been drafted on my instructions and the instructions of the Applicant No. 2.
3. I verify that the contents of paras 1, 2, 3(p), 5(p), 6, 7, 8(p), 9(p), 10(p), 11(p), 12(p), 13(p), and 14(p) of the accompanying application are in the nature of facts which are true to my own knowledge and as per official documents/records, and that the contents of paras 3(p), 4, 5(p), 8(p), 9(p), 10(p), 11(p), 12(p), 13(p), 14(p), and 15 are my submissions based on legal advice

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
(WESTERN ZONE BENCH), PUNE

O.A. NO. _____/2023 [WZ]

The Goa Foundation and Anr. ...Applicants

vs.

**The Ministry of Environment,
Forest & Climate Change and Anr.** ...Respondents

Compilation – II

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PLACE – MAPUSA, GOA

DATE – 27.01.2023



Advocate for the Applicants

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 3rd October 2001)

S.O.114 (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 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 this Notification, the following restrictions on the setting up and expansion of industries, operations or processes, etc. in the said Coastal Regulation Zone (CRZ). 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 authorised by the Central Government, in accordance with the general guidelines issued in this regard.**^{1,6.}

Note: -The distance from the High Tide Line **shall¹ apply to both sides¹** 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* (*This provision has been struck down by the Supreme Court)** 100 metres or the width of the creek, river or backwater whichever is less.


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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.¹

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 and **(b) Projects of Department of Atomic Energy;¹⁰**
- (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 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

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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 modernisation or expansion** 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:
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 water front and foreshore facilities.
- (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 Defence** requirements for which foreshore facilities are essential such as. slipways, jetties, wharves, quays; except for classified operational component of defence 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;
 - (ii) Operational constructions for ports and harbours and light houses and constructions for activities such as jetties, wharves, quays and slipways, **pipelines, conveying systems including transmission lines;**
 - (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

- (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 1 of the notification.**

- (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


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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 metres 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 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.

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

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 and (c) facilities that are essential for activities permissible under CRZ-I. 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-paragraph (ii) of paragraph 2, and (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

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 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 approved in the Coastal Zone Management Plan) which are constructed on the seaward side of an existing road.

- (ii) Reconstruction of the authorised 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 metres from the High Tide Line is to be earmarked as 'No Development Zone'. 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, **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.** However, the following uses may be permissible in this zone – agriculture, horticulture, gardens, pastures, parks, play fields, forestry and salt manufacture from sea water.
- (ii) Development of vacant plots between 200 and 500 metres 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.
- (iii) Construction/reconstruction of dwelling units between 200 and 500 metres of the High TideLine 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 metres 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 authorised building permitted subject to (i) to (iii) above.

CRZ-IV

Andaman & Nicobar Islands:

- (i) No new construction of buildings shall be permitted within 200 metres of the HTL;
- (ii) The buildings between 200 and 500 metres 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 metres;
- (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


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- (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, in consultation with the experts 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;
- (ii) The buildings within 500 metres 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 metres;
- (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 DESIGNATED 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.

- (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. 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 metres and the

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- 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 metres width shall be provided between any two hotels/beach resorts; and in no case shall gaps be less than 500 metres 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.


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(To be published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (ii) of dated the 6th January, 2011)

**COASTAL REGULATION ZONE NOTIFICATION
MINISTRY OF ENVIRONMENT AND FORESTS
(Department of Environment, Forests and Wildlife)**

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 supercession, 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 sea front.
- (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).

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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.

(iv) land area between HTL and Low Tide Line (hereinafter referred to as the LTL) which will be termed as the intertidal zone.

(v) 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 water bodies.

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.

(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, and such as meant for defence and security purpose and for other facilities that are essential for activities permissible under the notification;
 - (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 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, fly

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ash 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.

(x) Mining of sand, rocks and other sub-strata materials except,-

- (a) those rare minerals not available outside the CRZ area,
- (b) exploration and exploitation of Oil and Natural Gas.

(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.

(xi) 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.

(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;


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- (d) Construction involving more than 20,000sq mts built-up area in CRZ-II shall be considered 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 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;

(ii) the following activities shall require clearance from MoEF, namely:-

- (a) those activities not listed in the EIA notification, 2006.
- (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 para 4;
- (g) Mining of rare minerals as listed by the Department of Atomic Energy;
- (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, (ii) heritage buildings; and buildings under public use which means buildings such as for the purposes of worship, education, medical care and cultural activities;

4.2 Procedure for clearance of permissible activities.- All projects attracting this notification shall 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;

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- (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;
- (iii) MoEF or SEIAA shall consider such projects for clearance based on the recommendations of the concerned CZMA within a period of sixty days.
- (vi) 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.
- (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.
- (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.
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


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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;
- (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 alongwith its recommendations on the CZMP within a period of six months after incorporating the suggestions and objections received from the stakeholders;
- (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.

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 SCZMA s;
- (b) The composition, tenure and mandate of NCZMA and State Government or the Union territory CZMA s have already been notified by MoEF in terms of Orders of Hon'ble

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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-
 - (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.

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:-

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- (a) exploration and extraction of natural gas;
- (b) construction of dispensaries, schools, public rainshelter, 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.

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:
- (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 paragraph 3;
- (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 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


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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;
- (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 subparagraph (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 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 200mts to 500mts,-

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

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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.

(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 the CRZ area.

(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 REHABILITATION 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 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, CESSSED 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

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(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 tenant 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.

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- (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.

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 50mts 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 50mts 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;
- (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;
- (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

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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).

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 fisher folk;-
- (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 interalia 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.


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ANNEXURE I**GUIDELINES FOR PREPARATION OF COASTAL ZONE MANAGEMENT PLANS****I. A. Demarcation of High Tide Line**

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 X 7.5minutes
Numbering	:	Survey of India Sheet Numbering System
Horizontal Datum	:	Everest or WGS 84
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.

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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 500mts or 100mts 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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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 200mts 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 the 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 200metre of the High Tide Line; within the 200metre 500metre 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 500metres of the High Tide Line;

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- (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.
- 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

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?		


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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

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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
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)		

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE**NOTIFICATION**

New Delhi, the 18th January, 2019

G.S.R. 37(E).—Whereas by notification of the Government of India in the erstwhile Ministry of Environment and Forests number S.O.19 (E), dated the 6th January, 2011 (hereinafter referred to as the Coastal Regulation Zone Notification, 2011), the Central Government declared certain coastal stretches as Coastal Regulation Zone (hereinafter referred to as the CRZ) under section 3 of Environment (Protection) Act, 1986 (29 Of 1986);

And Whereas, the Ministry of Environment, Forest and Climate Change has received representations from various coastal States and Union territories, besides other stakeholders, regarding certain provisions in the Coastal Regulation Zone Notification, 2011 related to management and conservation of marine and coastal ecosystems, development in coastal areas, eco-tourism, livelihood options and sustainable development of coastal communities etc.;

And Whereas, various State Governments and Union territory administrations and stakeholders have requested the Ministry of Environment, Forest and Climate Change to address the concerns related to coastal environment and sustainable development with respect to the Coastal Regulation Zone Notification, 2011;

And Whereas, the Ministry of Environment, Forest and Climate Change had constituted a Committee under the Chairmanship of Dr. Shailesh Nayak to examine various issues and concerns of coastal States and Union territories and various stakeholders, relating to the Coastal Regulation Zone Notification 2011 and to recommend appropriate changes in the said Notification;

And Whereas, the report submitted by Dr. Shailesh Nayak Committee has been examined in the Ministry and consultations have been held with various stakeholders in this regard;

And Whereas, a draft Coastal Regulation Zone Notification, 2018 was issued and hosted in the website of the Ministry of Environment, Forest and Climate Change on the 18th April, 2018 seeking comments and suggestions from all concerned;

And Whereas, objections and suggestions received in response to the above mentioned draft Coastal Regulation Zone Notification, 2018 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) and in supersession of the Coastal Regulation Zone Notification 2011, number S.O. 19(E), dated the 6th January, 2011, except as respects things done or omitted to be done before such supersession, the Central Government, with a view to conserve and protect the unique environment of coastal stretches and marine areas, besides livelihood security to the fisher communities and other local communities in the coastal areas and to promote sustainable development based on scientific principles taking into account the dangers of natural hazards, sea level rise due to global warming, do hereby, declares the coastal stretches of the country and the water area up to its territorial water limit, excluding the islands of Andaman and Nicobar and Lakshadweep and the marine areas surrounding these islands, as Coastal Regulation Zone as under:-

- (i) The land area from High Tide Line (hereinafter referred to as the HTL) to 500 meters on the landward side along the sea front.

Explanation. - 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, as demarcated by the National Centre for Sustainable Coastal Management (NCSCM) in accordance with the laid down procedures and made available to various coastal States and Union territories.

- (ii) CRZ shall apply to the land area between HTL to 50 meters 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 five parts per thousand (ppt)

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measured during the driest period of the year and distance up to which tidal effects are experienced shall be clearly identified and demarcated accordingly in the Coastal Zone Management Plan (hereinafter referred to as the CZMP):

Provided that the CRZ limit of 50 meters or width of the creek whichever is less, shall be subject to revision and final approval of the respective CZMPs as per this notification, framed with due consultative process, public hearing etc. and environmental safeguards enlisted therein, and till such time the CZMP to this notification is approved, the limit of 100 meters or width of the creek whichever is less, shall continue to apply.

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 that are connected to the sea.

- (iii) The “intertidal zone” means land area between the HTL and the Low Tide Line (hereinafter referred to as the LTL).
- (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 water bodies.

2.0 Classification of CRZ. – For the purpose of conserving and protecting the coastal areas and marine waters, the CRZ area shall be classified as follows, namely: -

2.1 CRZ-I areas are environmentally most critical and are further classified as under:

2.1.1 CRZ-I A:

- (a) CRZ-I A shall constitute the following ecologically sensitive areas (ESAs) and the geomorphological features which play a role in maintaining the integrity of the coast viz.:
 - (i) Mangroves (in case mangrove area is more than 1000 square meters, a buffer of 50 meters along the mangroves shall be provided and such area shall also constitute CRZ-I A);
 - (ii) Corals and coral reefs;
 - (iii) Sand dunes;
 - (iv) Biologically active mudflats;
 - (v) 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), Forest (Conservation) Act, 1980 (69 of 1980) or Environment (Protection) Act, 1986 (29 of 1986), including Biosphere Reserves;
 - (vi) Salt marshes;
 - (vii) Turtle nesting grounds;
 - (viii) Horse shoe crabs’ habitats;
 - (ix) Sea grass beds;
 - (x) Nesting grounds of birds;
 - (xi) Areas or structures of archaeological importance and heritage sites.
- (b) A detailed environment management plan shall be formulated by the states and Union territories for such ecologically sensitive areas in respective territories, as mapped out by the National Centre for Sustainable Coastal Management (NCSCM), Chennai based on guidelines as contained in **Annexure-I** to this notification and integrated with the CZMP.

2.1.2 CRZ-I B:

The intertidal zone i.e. the area between Low Tide Line and High Tide Line shall constitute the CRZ-I B.

2.2 CRZ-II:

CRZ-II shall constitute the developed land areas up to or close to the shoreline, within the existing municipal limits or in other existing legally designated urban areas, which are substantially built-up with a ratio of built-up plots to that of total plots being more than 50 per cent and have been provided with drainage and approach roads and other infrastructural facilities, such as water supply, sewerage mains, etc.

2.3 CRZ-III:

Land areas that are relatively undisturbed (viz. rural areas, etc.) and those which do not fall under CRZ-II, shall constitute CRZ-III, and CRZ-III shall be further classified into following categories: -

2.3.1 CRZ-III A:

Such densely populated CRZ-III areas, where the population density is more than 2161 per square kilometre as per 2011 census base, shall be designated as CRZ-III A and in CRZ-III A, area up to 50 meters from the HTL on the landward side shall be earmarked as the 'No Development Zone (NDZ)', provided the CZMP as per this notification, framed with due consultative process, have been approved, failing which, a NDZ of 200 meters shall continue to apply.

2.3.2 CRZ-III B:

All other CRZ-III areas with population density of less than 2161 per square kilometre, as per 2011 census base, shall be designated as CRZ-III B and in CRZ-III B, the area up to 200 meters from the HTL on the landward side shall be earmarked as the 'No Development Zone (NDZ)'.

2.3.3:

Land area up to 50 meters from the HTL, or width of the creek whichever is less, along the tidal influenced water bodies in the CRZ III, shall also be earmarked as the NDZ in CRZ III.

Note: The NDZ shall not be applicable in the areas falling within notified Port limits.

2.4 CRZ- IV:

The CRZ- IV shall constitute the water area and shall be further classified as under:-

2.4.1 CRZ- IVA:

The water area and the sea bed area between the Low Tide Line up to twelve nautical miles on the seaward side shall constitute CRZ-IV A.

2.4.2 CRZ- IVB:

CRZ-IV B areas shall include the water area and the bed area between LTL at the bank of the tidal influenced water body to the LTL on the opposite side of the bank, extending from the mouth of the water body at the sea up to the influence of tide, i.e., salinity of five parts per thousand (ppt) during the driest season of the year.

3.0 Areas requiring special consideration in the CRZ.- Following coastal areas shall be accorded special consideration for the purpose of protecting the critical coastal environment and difficulties faced by local communities: -

3.1 Critically Vulnerable Coastal Areas (CVCA):

Sundarban region of West Bengal and other ecologically sensitive areas identified as under Environment (Protection) Act, 1986 such as Gulf of Khambat and Gulf of Kutchh in Gujarat, Malvan, Achra-Ratnagiri in Maharashtra, Karwar and Coondapur in Karnataka, Vembanad in Kerala, Gulf of Mannar in Tamil Nadu, Bhitarkanika in Odisha, Coringa, East Godavari and Krishna in Andhra Pradesh shall be treated as Critical Vulnerable Coastal Areas (CVCA) and managed with the involvement of coastal communities including fisher folk who depend on coastal resources for their sustainable livelihood.

3.2 CRZ for inland Backwater islands and islands along the mainland coast.**3.3 CRZ falling within municipal limits of Greater Mumbai.**

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4. Prohibited activities within CRZ.- The following activities shall be prohibited, in general, within the entire CRZ and exceptions to these and other permissible and regulated activities in specific CRZ categories viz. CRZ-I, II, III and IV, shall be governed by the provisions of paragraph 5:-

- (i) Setting up of new industries and expansion of existing industries, operations or processes.
- (ii) Manufacture or handling of oil, storage or disposal of hazardous substances as specified in the notification of the Ministry of Environment, Forest and Climate Change number G.S.R.395 (E), dated the 4th April, 2016.
- (iii) Setting up of new fish processing units.
- (iv) Land reclamation, bunding or disturbing the natural course of seawater except for the activities permissible under this notification and executed with prior permission from the competent authority.
- (v) Discharge of untreated waste and effluents from industries, cities or towns and other human settlements.
- (vi) Dumping of city or town wastes including construction debris, industrial solid wastes, fly ash for the purpose of land filling.
- (vii) Port and harbour projects in high eroding stretches of the coast.
- (viii) Mining of sand, rocks and other sub-strata materials.
- (ix) Dressing or altering of active sand dunes.
- (x) In order to safeguard the aquatic system and marine life, disposal of plastic into the coastal waters shall be prohibited and adequate measures for management and disposal of plastic materials shall be undertaken in the CRZ.
- (xi) Drawal of ground water.

5. Regulation of permissible activities in CRZ:

5.1 CRZ-I:

5.1.1. CRZ-IA:

These areas are ecologically most sensitive and generally no activities shall be permitted to be carried out in the CRZ-I A area, with following exceptions:-

- (i) Eco-tourism activities such as mangrove walks, tree huts, nature trails, etc., in identified stretches areas subject to such eco-tourism plan featuring in the approved CZMP as per this notification, framed with due consultative process, public hearing, etc. and further subject to environmental safeguards and precautions related to the Ecologically Sensitive Areas, as enlisted in the CZMP.
- (ii) In the mangrove buffer, only such activities shall be permitted like laying of pipelines, transmission lines, conveyance systems or mechanisms and construction of road on stilts, etc. that are required for public utilities.
- (iii) Construction of roads and roads on stilts, by way of reclamation in CRZ-I areas, shall be permitted only in exceptional cases for defence, strategic purposes and public utilities, subject to a detailed marine or terrestrial or both environment impact assessment, to be recommended by the Coastal Zone Management Authority and approved by the Ministry of Environment, Forest and Climate Change; and in case construction of such roads passes through mangrove areas or is likely to damage the mangroves, a minimum three times the mangrove area affected or destroyed or cut during the construction process shall be taken up for compensatory plantation of mangroves.

5.1.2 CRZ-I B - The inter tidal areas:

Activities shall be regulated or permissible in the CRZ-I B areas as under:-

- (i) Land reclamation, bunding, etc. shall be permitted only for activities such as,-

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- (a) foreshore facilities like ports, harbours, Jetties, wharves, quays, slipway, bridges, hover ports for coast guard, sea links, etc;
- (b) projects for defence, strategic and security purposes;
- (c) road on stilts, provided that such roads shall not be authorised for permitting development on the landward side of such roads, till the existing High Tide Line:
 Provided that the use of reclaimed land may be permitted only for public utilities such as mass rapid or multimodal transit system, construction and installation of all necessary associated public utilities and infrastructure to operate such transit or transport system including those for electrical or electronic signaling system, transit stopover of permitted designs; except for any industrial operation, repair or maintenance;
- (d) measures for control of erosion;
- (e) maintenance and clearing of waterways, channels, ports and hover ports for coast guard;
- (f) measures to prevent sand bars, installation of tidal regulators, laying of storm water drains or for structure for prevention of salinity ingress and freshwater recharge.
- (ii) Activities related to waterfront or directly needing foreshore facilities such as ports and harbours, jetties, quays, wharves, erosion control measures, breakwaters, pipelines, lighthouses, navigational safety facilities, coastal police stations, Indian coast guard stations and the like.
- (iii) Power by non-conventional energy sources and associated facilities.
- (iv) Transfer of hazardous substances from ships to Ports, terminals and refineries and vice versa.
- (v) Facilities for receipt and storage of petroleum products and liquefied natural gas as specified in Annexure-II to this notification, 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 the Ministry of Environment, Forest and Climate Change, provided that such facilities are for receipt and storage of fertilizers and raw materials required for fertilizers, like ammonia, phosphoric acid, sulphur, sulphuric acid, nitric acid, etc.
- (vi) Storage of non-hazardous cargo i.e. edible oil, fertilizers and food grains in notified Ports.
- (vii) Hatchery and natural fish drying.
- (viii) Existing fish processing units may utilise 25% additional plinth area for modernisation purposes (only for additional equipment and pollution control measures) subject to the following:-
 - (a) Floor Space Index of such reconstruction not exceeding the permissible Floor Space Index as per prevalent town and country planning regulations;
 - (b) additional plinth area is constructed only to the landward side.
 - (c) approval of the concerned State Pollution Control Board or Pollution Control Committee.
- (ix) Treatment facilities for waste and effluents and conveyance of treated effluents.
- (x) Storm water drains.
- (xi) Projects classified as strategic, defence related projects and projects of the Department of Atomic Energy, Government of India.
- (xii) Manual mining of atomic mineral(s) notified under Part-B of the First Schedule to the Mining and Minerals (Development and Regulation) Act, 1957(67 of 1957) occurring as such or in association with one or other minerals in the intertidal zone by such agencies as authorised by the Department of Atomic Energy, Government of India as per mining plan approved by the Atomic Mineral Directorate for Exploration and Research:


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Provided that the manual mining operations shall be carried out only by deploying persons using baskets and hand spades for collection of ore or mineral within the intertidal zone and as per approved mining plan, without deploying or using drilling and blasting or Heavy Earth Moving Machinery in the intertidal zone.

- (xiii) Exploration and extraction of oil and natural gas and all associated activities and facilities thereto;
- (xiv) Foreshore requiring facilities for transport of raw materials, facilities for intake of cooling water, intake water for desalination plants, etc, and outfall for discharge of treated wastewater or cooling water from thermal power plants in conformity with the environmental standards notified by Ministry of Environment, Forest and Climate Change and relevant directions of Central Pollution Control Board (CPCB) or State Pollution Control Board (SPCB) or Pollution Control Committee (PCC), as the case may be.
- (xv) Pipelines, conveying systems including transmission lines.
- (xvi) Weather radar for monitoring of cyclones prediction, ocean observation platforms, movement and associated activities.
- (xvii) Salt harvesting and associated facilities.
- (xviii) Desalination plants and associated facilities.

5.2 CRZ-II:

- (i) Activities as permitted in CRZ-I B, shall also be permissible in CRZ-II, in so far as applicable.
- (ii) Construction of buildings for residential purposes, schools, hospitals, institutions, offices, public places, etc. shall be permitted only on the landward side of the existing road, or on the landward side of existing authorised fixed structures:

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.

- (iii) Buildings permitted as in (ii) above, shall be subject to the local town and country planning regulations as applicable from time to time, and the norms for the Floor Space Index (FSI) or Floor Area Ratio (FAR) prevailing as on the date of this Notification, and in the event that there is a need for amendment of the FSI after the date of publication of this notification in the official Gazette, the Urban Local Body or State Government or Union territory Administration shall approach the Ministry of Environment, Forest and Climate Change through the concerned State Coastal Zone Management Authority (SCZMA) or Union Territory Coastal Zone Management Authority, as the case may be and the SCZMA shall forward the proposal to the National Coastal Zone Management Authority (NCZMA) with its views in the matter, and the NCZMA shall thereafter examine various aspects like availability of public amenities, environmental protection measures, etc., and take a suitable decision on the proposal and it shall be the responsibility of the concerned Town Planning Authority to ensure that the Solid Wastes are handled as per respective Solid Waste Management Rules and no untreated sewage is discharged on to the coast or coastal waters.
- (iv) Reconstruction of authorised buildings shall be permitted, without change in present land use, subject to the local town and country planning regulations as applicable from time to time, and the norms for the Floor Space Index or Floor Area Ratio, prevailing as on the date of publication of this notification in the official Gazette and in the event that there is a need for amendment of the FSI after the said date of this notification, the Urban Local Body or State Government or Union territory Administration shall approach the Ministry of Environment, Forest and Climate Change through the concerned State Coastal Zone Management Authority (SCZMA) or Union Territory Coastal Zone Management Authority, as the case may be and the CZMA shall forward the proposal to the National Coastal Zone Management Authority (NCZMA) with its views in the matter, and the NCZMA shall thereafter examine various aspects like availability of public amenities, environmental protection measures etc., and take a suitable decision on the proposal and it shall be the responsibility of the concerned Town Planning Authority to ensure that the Solid Wastes are


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handled as per respective Solid Waste Management Rules and no untreated sewage is discharged on to the coast or coastal waters.

- (v) Development of vacant plots in designated areas for construction of beach resorts or hotels or tourism development projects subject to the conditions or guidelines at **Annexure-III** to this notification.
- (vi) Temporary tourism facilities shall be permissible in the beaches which shall only include shacks, toilets or washrooms, change rooms, shower panels; walk ways constructed using interlocking paver blocks, etc, drinking water facilities, seating arrangements, etc. and such facilities shall however be permitted only subject to the tourism plan featuring in the approved CZMP as per this notification, framed with due consultative process or public hearing, etc. and further subject to environmental safeguards enlisted in the CZMP, however, a minimum distance of 10 meter from HTL shall be maintained for setting up of such facilities.

5.3 CRZ-III:

- (i) Activities as permitted in CRZ-I B, shall also be permissible in CRZ-III, in so far as applicable.

(ii) Regulation of activities in NDZ:

Following shall be permissible and regulated in the NDZ:-

- (a) No construction shall be permitted within NDZ in CRZ III, except for repairs or reconstruction of existing authorised structure not exceeding existing Floor Space Index, existing plinth area and existing density and for permissible activities under this notification including facilities essential for activities and construction or reconstruction of dwelling units of traditional coastal communities including fisher folk, incorporating necessary disaster management provisions and proper sanitation arrangements.
- (b) Agriculture, horticulture, gardens, pastures, parks, playfields and forestry.
- (c) 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 Coastal Zone Management Authority (CZMA).
- (d) Construction of units or auxiliary thereto for domestic sewage, treatment and disposal with the prior approval of the concerned Pollution Control Board or Committee.
- (e) 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.
- (f) Wherever there is a national or State highway passing through the NDZ of CRZ-III areas, temporary tourism facilities such as toilets, change rooms, drinking water facility and temporary shacks can be taken up on the seaward side of the road.

On landward side of such roads in the NDZ, resorts or hotels and associated tourism facilities shall be permitted and such facilities shall, however, be permitted only subject to the incorporation of tourism plan in the approved CZMP as per this notification and the conditions or guidelines at Annexure-III, to this notification as applicable.

- (g) Temporary tourism facilities shall be permissible in the NDZ and beaches in the CRZ-III areas and such temporary facilities shall only include shacks, toilets or washrooms, change rooms, shower panels, walk ways constructed using interlocking paver blocks, etc, drinking water facilities, seating arrangements etc., and such facilities shall, however, be permitted only subject to the tourism plan featuring in the approved CZMP as per this notification subject to maintaining a minimum distance of 10 meters from HTL for setting up of such facilities.
- (h) Mining of atomic minerals notified under Part-B of the First Schedule to Mining and


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Minerals (Development and Regulation) Act, 1957 (67 of 1957) occurring as such or in association with one or other minerals by such agencies as authorised by the Department of Atomic Energy, Government of India, as per mining plan by the Atomic Mineral Directorate for Exploration and Research.

(iii) **Regulation of activities for CRZ-III areas beyond NDZ:**

- (a) Development of vacant plots in designated areas for construction of beach resorts or hotels or tourism development projects subject to the conditions or guidelines at Annexure-III to this notification.
- (b) Construction or reconstruction of dwelling units, so long it is within the ambit of traditional rights and customary uses such as existing fishing villages, etc. and building permission for such construction or reconstruction will be subject to local town and country planning rules, with an overall height of construction not exceeding 9 meters and with only two floors (ground + one floor).
- (c) The local communities including fishermen may be permitted to facilitate tourism through 'home stay' without changing the plinth area or design or facade of the existing houses.
- (d) Construction of public rain shelters, community toilets, water supply drainage, sewerage, roads, bridges, etc.
- (e) Limestone mining:
Selective mining of limestone minerals may be permitted in specific identified areas under the mining plans, which are adequately above the height of HTL, based on the recommendations of reputed National Institutes in the mining field such as Council of Scientific and Industrial Research (CSIR), Central Mining Research Institute etc., provided that the extraction of minerals shall be carried out not below a height of 1 meter above the HTL and an adequate barrier shall be created so as to safeguard against saline water incursion and subject to appropriate safeguards related to pollution of coastal waters and prevention of coastal erosion.
- (f) Mining of atomic minerals notified under Part-B of the First Schedule of Mining and Minerals (Development and Regulation) Act, 1957 (67 of 1957) occurring as such or in association with one or other minerals by such agencies as authorised by Department of Atomic Energy, Government of India, as per mining plan by the Atomic Mineral Directorate for Exploration and Research.

- (iv) Drawing of groundwater and construction related thereto shall be prohibited within 200 meters of HTL except for the use of local communities in areas inhabited by them and in the areas between 200 to 500 meters of the HTL, groundwater withdrawal may be permitted only through manual means from ordinary wells for drinking, horticulture, agriculture and fisheries, etc. where no other source of water is available and restrictions for such drawal may be imposed by the designated Authority by State Government or Union territory Administration in the areas affected by sea water intrusion, however, for horticulture and agriculture purpose, micro irrigation promoted by Government welfare schemes shall be permitted.
- (v) Development of airports in wastelands and non-arable lands in CRZ-III areas with adequate environmental safeguards.

5.4 CRZ-IV:

Activities shall be permitted and regulated in the CRZ IV areas as under:-

- (i) Traditional fishing and allied activities undertaken by local communities.
- (ii) Land reclamation, bunding, etc to be permitted only for activities such as.-
 - (a) foreshore facilities like ports, harbours, Jetties, wharves, quays, slipway, bridges, sea links and hover ports for coast guard ,etc;
 - (b) projects for defence, strategic and security purpose including coast guard;


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- (c) measures for control of erosion;
- (d) maintenance and clearing of waterways, channels and ports;
- (e) measures to prevent sand bars, installation of tidal regulators, laying of storm water drains or for structure for prevention of salinity ingress and freshwater recharge.
- (iii) Activities related to waterfront or directly needing foreshore facilities, such as ports and harbours, jetties, quays, wharves, erosion control measures, breakwaters, pipelines, navigational safety facilities and the like.
- (iv) Power by non-conventional energy sources and associated facilities such as offshore wind, wave energy, ocean thermal energy conversion, etc.
- (v) Transfer of hazardous substances from ships to Ports.
- (vi) Storage of non-hazardous cargo like edible oil, fertilizers and food grains in notified Ports.
- (vii) Facilities for discharging treated effluents into the water course.
- (viii) Projects classified as strategic and defence related projects including coast guard coastal security network.
- (ix) Projects of department of Atomic Energy.
- (x) Exploration and extraction of oil and natural gas and all associated activities and facilities thereto.
- (xi) Exploration and mining of atomic minerals notified under Part-B of the First Schedule of the Mining and Minerals (Development and Regulation) Act, 1957 (67 of 1957), occurring as such or in association with other mineral(s) and of such associated mineral(s).
- (xii) 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, and 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, in conformity with the environmental standards notified by Ministry of Environment, Forest and Climate Change and relevant directions of the Central Pollution Control Board or State Pollution Control Board or Pollution Control Committee.
- (xiii) Pipelines, conveying systems including transmission lines.
- (xiv) Weather radar for monitoring of cyclone prediction, ocean observation platforms, movement and associated activities.
- (xv) Construction of memorials or monuments and allied facilities by the concerned State Government in CRZ-IV (A) areas, in exceptional cases, with adequate environmental safeguards, subject to the following, namely: -
 - (a) the concerned State Government shall submit justification for locating the project in CRZ-IVA area along with details of alternate sites considered and weightage matrix on various parameters including environmental parameters, to State Coastal Zone Management Authority who will examine the project and make recommendation to the Central Government (Ministry of Environment, Forest and Climate Change) 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 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 (EIA) notification number S.O. 1533(E), dated the 14th September, 2006;

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- (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 MoEF&CC;
- (d) The Central Government may, if it considers necessary so to do, dispense with the requirement of public hearing referred to in sub-clause (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.

5.5 Requirement for Clearance from Department of Atomic Energy installations:

Prior to undertaking any developmental activity including construction of new structures, falling in the boundary limits specified by Atomic Energy Regulatory Board (AERB) guidelines, prior clearance shall be obtained from Department of Atomic Energy installations.

6. Coastal Zone Management Plan (CZMP)

- (i) All coastal States and Union territory administrations shall revise or update their respective coastal zone management plan (CZMP) framed under CRZ Notification, 2011 number S.O. 19(E), dated 6th January, 2011, as per provisions of this notification and submit to the Ministry of Environment, Forest and Climate Change for approval at the earliest and all the project activities attracting the provisions of this notification shall be required to be appraised as per the updated CZMP under this notification and until and unless the CZMPs is so revised or updated, provisions of this notification shall not apply and the CZMP as per provisions of CRZ Notification, 2011 shall continue to be followed for appraisal and CRZ clearance to such projects.
- (ii) The CZMP may be prepared or updated 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 Ministry of Environment, Forest and Climate Change and in consultation with the concerned stakeholders.
- (iii) The coastal States and Union territories shall prepare draft CZMP in 1:25,000 scale map identifying and classifying the CRZ areas within the respective territories in accordance with the guidelines given in **Annexure-IV** to this notification, which involve public consultation.
All developmental activities listed in this notification shall be regulated by the State Government, Union territory administration, the local authority or the concerned Coastal Zone Management Authority within the framework of such approved CZMP, as the case may be, in accordance with provisions of this notification.
- (iv) The draft CZMP shall be submitted by the State Government or Union territory to the concerned Coastal Zone Management Authority for appraisal, including appropriate consultations, and recommendations in accordance with the procedure(s) laid down in the Environment (Protection) Act, 1986 (29 of 1986).
- (v) The Ministry of Environment, Forest and Climate Change shall thereafter consider and approve the respective CZMP of concerned State Governments or Union territory administrations.
- (vi) The CZMP shall not normally be revised before a period of five years after which, the concerned State Government or the Union territory may consider undertaking a revision.

7. CRZ clearance for permissible and regulated activities- Delegation:

- (i) All permitted or regulated project activities attracting the provisions of this notification shall be required to obtain CRZ clearance prior to their commencement.
- (ii) All development activities or projects in CRZ-I and CRZ-IV areas, which are regulated or permissible as per this notification, shall be dealt with by Ministry of Environment, Forest and Climate Change for CRZ clearance, based on the recommendation of the concerned Coastal Zone Management Authority.


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- (iii) For all other permissible and regulated activities as per this notification, which fall purely in CRZ-II and CRZ-III areas, the CRZ clearance shall be considered by the concerned Coastal Zone Management Authority and such projects in CRZ -II and III, which also happen to be traversing through CRZ-I or CRZ-IV areas or both, CRZ clearance shall, however be considered only by the Ministry of Environment, Forest and Climate Change, based on recommendations of the concerned Coastal Zone Management Authority.
- (iv) Projects or activities which attract the provisions of this notification as also the provisions of EIA notification, 2006 number S.O. 1533(E), dated the 14th September, 2006, shall be dealt with for a composite Environmental and CRZ clearance under EIA Notification, 2006 by the concerned approving Authority, based on recommendations of the concerned Coastal Zone Management Authority, as per delegations i.e., State Environmental Impact Assessment Authority (hereinafter referred to as the SEIAA) or the Ministry of Environment, Forest and Climate Change for category 'B' and category 'A' projects respectively.
- (v) In case of building or construction projects with built-up area less than the threshold limit stipulated for attracting the provisions of the EIA Notification, 2006 these shall be approved by the concerned local State or Union territory Planning Authorities in accordance with this notification, after obtaining recommendations of the concerned Coastal Zone Management Authority.
- (vi) Only for self-dwelling units up to a total built up area of 300 square meters, approval shall be accorded by the concerned local Authority, without the requirement of recommendations of concerned Coastal Zone Management Authority and such authorities shall, however, examine the proposal from the perspective of the Coastal Regulation Zone notification before according approval.

8. Procedure for CRZ clearance for permissible and regulated activities:

- (i) The project proponents shall apply with the following documents to the concerned State or the Union territory Coastal Zone Management Authority for seeking prior clearance under this notification:-
 - (a) Project summary details as per Annexure-V to this notification.
 - (b) Rapid Environment Impact Assessment (EIA) Report including marine and terrestrial component, as applicable, except for building construction projects or housing schemes.
 - (c) Comprehensive EIA with cumulative studies for projects, (except for building construction projects or housing schemes with built-up area less than the threshold limit stipulated for attracting the provisions of the EIA Notification, 2006 number S.O 1533(E), dated 14th September, 2006) if located in low and medium eroding stretches, as per the CZMP to this notification.
 - (d) Risk Assessment Report and Disaster Management Plan, except for building construction projects or housing schemes with built-up area less than the threshold limit stipulated for attracting the provisions of the EIA Notification, 2006 number S.O 1533(E), dated 14th September, 2006).
 - (e) CRZ map in 1:4000 scale, drawn up by any of the agencies identified by the Ministry of Environment, Forest and Climate Change vide its Office Order number J-17011/8/92-IA-III, dated the 14th March, 2014 using the demarcation of the HTL or LTL, as carried out by NCSCM.
 - (f) Project layout superimposed on the CRZ map duly indicating the project boundaries and the CRZ category of the project location as per the approved Coastal Zone Management Plan under this notification.
 - (g) The CRZ map normally covering 7 kilometre radius around the project site also indicating the CRZ-I, II, III and IV areas including other notified ecologically sensitive areas.
 - (h) "Consent to establish" or No Objection Certificate from the concerned State Pollution Control Board or Union territory Pollution Control Committee for the projects involving treated discharge of industrial effluents and sewage, and in case prior consent of

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Pollution Control Board or Pollution Control Committee is not obtained, the same shall be ensured by the proponent before the start of the construction activity of the project, following the clearance under this notification.

- (ii) The concerned Coastal Zone Management Authority shall examine the documents in clause (i) above, in accordance with the approved Coastal Zone Management Plan and in compliance with this notification and make recommendations within a period of sixty days from date of receipt of complete application as under: -
 - (a) For the projects or activities also attracting the EIA Notification, 2006 number S.O. 1533(E), dated 14th September, 2006, the Coastal Zone Management Authority shall forward its recommendations to Ministry of Environment, Forest and Climate Change or SEIAA for category 'A' and category 'B' projects respectively, to enable a composite clearance under the EIA Notification, 2006 number S.O. 1533(E), dated 14th September, 2006, however, even for such Category 'B' projects located in CRZ-I or CRZ-IV areas, final recommendation for CRZ clearance shall be made only by the Ministry of Environment, Forest and Climate Change to the concerned SEIAA to enable it to accord a composite Environmental Clearance and CRZ clearance to the proposal.
 - (b) Coastal Zone Management Authority shall forward its recommendations to the Ministry of Environment, Forest and Climate Change for the projects or activities not covered in the EIA notification, 2006, but attracting this notification and located in CRZ-I or CRZ-IV areas.
 - (c) Projects or activities not covered in the aforesaid EIA Notification, 2006, but attracting this notification and located in CRZ-II or CRZ-III areas shall be considered for clearance by the concerned Coastal Zone Management Authority within sixty days of the receipt of the complete proposal from the proponent.
 - (d) In case of construction projects attracting this notification but with built-up area less than the threshold limit stipulated for attracting the provisions of the aforesaid EIA Notification 2006, Coastal Zone Management Authority shall forward their recommendations to the concerned State or Union territory planning authorities, to facilitate granting approval by such authorities.
- (iii) The Ministry of Environment, Forest and Climate Change shall consider complete project proposals for clearance under this notification, based on the recommendations of the Coastal Zone Management Authority, within a period of sixty days.
- (iv) In case the Coastal Zone Management Authorities are not in operation due to their reconstitution or any other reasons, then it shall be responsibility of the Department of Environment in the State Government or Union territory Administration, who are the custodian of the CZMP of respective States or Union territories, to provide comments and recommend the proposals in terms of the provisions of the said notification.
- (v) The clearance accorded to the projects under this notification shall be valid for a period of seven years, provided that the construction activities are completed and the operations commence within seven years from the date of issue of such clearance.
 The validity may be further extended for a maximum period of three years, provided 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 or Union territory Coastal Zone Management Authority.
- (vi) 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 the 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 Coastal Zone Management Authority.


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- (b) The compliance report shall also be displayed on the website of the concerned regulatory authority.
- (vii) To maintain transparency in the working of the Coastal Zone Management Authority, it shall be the responsibility of the Coastal Zone Management Authority 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 CZMP of the respective State Government or Union territory.

9. Enforcement of this notification:

- (i) For the purposes of implementation and enforcement of the provisions of this notification and compliance with conditions stipulated thereunder, the powers either original or delegated are available under Environment (Protection) Act, 1986 (29 of 1986) with the Ministry of Environment, Forest and Climate Change, State Government or the Union territory Administration, National Coastal Zone Management Authority and the State or Union territory Coastal Zone Management Authority;
- (ii) The composition, tenure and mandate of National Coastal Zone Management Authority and State Government or the Union territory Coastal Zone Management Authority have already been notified by the Ministry of Environment, Forest and Climate Change in terms of Orders of Hon'ble Supreme Court in Writ Petition 664 of 1993;
- (iii) The State Government or the Union territory Coastal Zone Management Authority 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 comprising at least three representatives of local traditional coastal communities including from fishermen, and the State Government may consider the enforcement of this notification to the level of respective District Magistrates.
- (iv) The dwelling units of the traditional coastal communities including fishermen, tribals as were permissible under the provisions of the Coastal Regulation Zone notification, 2011 number S.O. 19(E), dated the 6th January, 2011, but which have not obtained formal approval from concerned authorities under the said Notification shall be considered by the respective Coastal Zone Management Authority and the dwelling units shall be regularised subject to the following condition, namely: -
- (a) these are not used for any commercial activity;
- (b) these are not sold or transferred to non-traditional coastal community.

10. Areas requiring special consideration:

10.1 Critically Vulnerable Coastal Areas (CVCAs):

- (i) For all the CVCAs mentioned in sub-paragraph 3.1, Integrated Management Plans (IMPs) shall be prepared, which 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 guidelines for preparation of Coastal Zone Management Plan.
- (ii) Till such time the IMPs are approved and notified, construction of dispensaries, schools, public rain/cyclone 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 Coastal Zone Management Authority with due regards to the views of coastal communities including fisher folk.

10.2 CRZ for inland backwater islands and islands along mainland coast:

- (i) All the inland islands in the coastal backwaters and islands along the mainland coast shall also be covered under this notification.


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- (ii) In view of the unique coastal systems of backwater islands and islands along the mainland coast, along with space limitations in such coastal stretches, CRZ of 20 meters from the HTL on the landward side shall uniformly apply to such islands and activities shall be regulated as under:-
- (a) existing dwelling units of local communities may be repaired or reconstructed within 20 meters from the HTL of these islands, however, no new construction shall be permitted in this zone.
- (b) 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 in CRZ limits subject to due environmental safeguards.
- (iii) Integrated Island Management Plans (IIMPs), as applicable to smaller islands in Lakshadweep and Andaman & Nicobar, as per Island Protection Zone Notification, 2011 number S.O. 20(E), dated the 6th January, 2011, shall be formulated by respective States or Union territory for all such islands and submitted to Ministry of Environment, Forest and Climate Change and till the IIMPs are framed, provisions of this notification shall not apply and the CZMP as per provisions of CRZ Notification 2011 number S.O. 19(E), dated the 6th January, 2011, shall continue to apply.

10.3 CRZ areas falling within municipal limits of Greater Mumbai:

- (i) 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 categorised as No Development Zone and a Floor Space Index up to 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.
- (ii) Construction of sewage treatment plants in CRZ-I area 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 Coastal Zone Management Authority and approval by the Central Government and in case the construction of such plant is inevitable in a mangrove area, a minimum three times the mangrove area affected or destroyed or cut during the construction process shall be taken up for compensatory plantation of mangroves.

[F. No. 19-112/2013-IA-III]

RITESH KUMAR SINGH, Jt. Secy.

Annexure-I

CONSERVATION, PROTECTION AND MANAGEMENT FRAMEWORK FOR ECOLOGICALLY SENSITIVE AREAS

The coastal and marine Ecologically Sensitive Areas (ESAs) and the geo-morphological features play a vital role in maintaining the functions of the coast. Mangroves, beaches, coral reefs, etc., aid in controlling coastal erosion, shoreline change, saltwater intrusion and also serve as natural defence against coastal hazards such as storm surges, cyclones and tsunamis. The ESAs maintain the biological integrity of the coast by providing direct and indirect ecosystem services to the coastal livelihood. In addition, several invaluable archaeological and heritage sites are also located along the coast. Hence conservation and protection of the above areas, features and sites become necessary.

1. General measures

- (i) All ESAs shall be identified and boundary delineated by NCSCM using satellite data.
- (ii) The State Governments or Union territory Administrations through the authorised agencies shall prepare CZMP as per the guidelines contained in this notification highlighting the conservation and protection of the ESAs.
- (iii) Those activities permissible under this notification shall be included in the CZMP.


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Specific conditions shall be adopted for the conservation, protection and management of each of the ESAs as under: -

1.1 Mangroves:

- (i) Mangroves declared as forest under the Forest (Conservation) Act, 1980 (69 of 1980).

Notwithstanding anything contained in this notification, such mangroves declared by the concerned State Governments or Union territory Administrations or Central Government as forest land under the Forest (Conservation) Act, 1980 (69 of 1980) shall attract the provisions of the said Act.

- (ii) Mangroves not declared under Forest (Conservation) Act, 1980:

(a) Mangroves in Government land shall be protected based on a detailed plan to be prepared by the concerned State Governments or Union territory administrations, and in case the mangrove area is more than 1000 square meters, a buffer of 50 metre along the periphery of mangrove area shall be provided. This buffer zone of 50 metre may be utilised for public facilities for developing parks, research facilities related to mangrove biodiversity, facilities for conservation and the like.

(b) Mangroves in private land will not require a buffer zone.

1.2 Corals and coral reefs and associated biodiversity:

- (i) Destruction of coral and coral reefs and the surroundings is a prohibited activity.
- (ii) All coral and coral reefs shall be protected except for those small quantities required for research purposes.
- (iii) Coral and coral reefs transplantation activities shall be through recognised research institutions wherever required for regeneration after obtaining necessary approvals under Wildlife (Protection) Act 1972 (53 of 1972).
- (iv) The dead or destroyed or both coral areas shall be taken up for rejuvenation and rehabilitation. The conservation and protection of corals and coral reefs shall be taken up as follows:-
- (a) active and live coral and coral reefs identified and delineated shall be declared and notified as ESA under Environment (Protection) Act 1986 (29 of 1986);
- (b) it shall be ensured that no activities that are detrimental to the health of corals, coral reefs and its associated biodiversity, such as mining, effluent and sewage discharge, dredging, ballast water discharge, ship washings, fishing other than traditional non-destructive fisheries, construction activities and the like are taken up in and around the coral areas.

1.3 The National Parks, marine parks, Sanctuaries, reserve forests, wildlife habitats and other protected areas declared 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 shall be conserved and protected as follows:-

- (i) Conservation and protection of the above mentioned areas shall be as per the provisions of the respective Acts, notifications or guidelines as the case may be.
- (ii) Efforts shall be made to increase the forest area in the coastal region in order to prevent loss of life and property from increased storms, tides and floods.
- (iii) The concerned State Governments or Union territory administrations shall provide for adequate funds for such measures to undertake shelter belt plantation or bio-shields with planting material suitable to the location.

1.4. Salt marshes:

The conservation and protection of salt marshes shall be as follows:-

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- (i) The salt marsh areas shall be conserved and protected and efforts shall be made to promote the endemic biodiversity in the salt marshes.
- (ii) Only those activities required for overhead conveying or transmission of cables and underground laying of transmission line cables and so on, shall be permissible.
- (iii) Traditional fishing shall be permissible in salt marshes.
- (iv) Temporary tourism facilities around the salt marsh areas may be considered subject to adhering to norms laid down in the guidelines.
- (v) Certain salt marshes which have less biodiversity, identified by NCSCM and demarcated in Coastal Zone Management Plan can be considered for salt pan activities.

1.5 Turtle nesting grounds shall be protected and conserved as follows:-

- (i) Turtle nesting grounds identified by the concerned State Governments or Union territory administrations shall be protected as per Wildlife (Protection) Act of 1972.
- (ii) No activities shall be permitted in and around the turtle nesting ground including those causing light and sound pollution except for those required for conservation and protection of these sites.
- (iii) Strict management plans for protecting the turtle nesting grounds shall be undertaken and implemented by the concerned State or Union territory Authorities.

1.6 Horse shoe crabs habitats shall be protected and conserved as follows:-

- (i) The habitat identified shall be taken up for conservation and protection.
- (ii) No activities shall be taken up in and around these habitats which affect the horse shoe crab ecosystem.

1.7 Sea grass beds shall be protected and conserved as follows:-

- (i) Identified sea grass beds shall be conserved and protected.
- (ii) No developmental activities that have adverse effect on the sea grass bed shall be undertaken.
- (iii) Efforts shall be made to propagate sea grass beds along the coastal waters where ever possible by States or Union territories as it acts as a carbon sink.

1.8 Nesting grounds of birds shall be protected and conserved as follows:-

- (i) The nesting ground of birds including their local migratory route shall be protected. No developmental activities which have adverse impact on the nesting grounds and the migratory routes shall be undertaken including construction of wind mills, transmission lines and the like in the locality.
- (ii) Efforts shall be made to increase the forest cover and mangrove cover including enriching the biodiversity of salt marsh and other coastal water bodies so as to provide for suitable habitat for the avifauna.

1.9 Geo-morphologically Important Zones shall be protected and managed as follows:

- (i) **Sand dunes** identified shall be conserved and protected as follows:
 - (a) sand dunes identified shall be notified under Environment (Protection) Act 1986;
 - (b) no developmental activities shall be permissible except for providing eco-friendly temporary tourism facilities on stilts such as walkways, tents and the like;
 - (c) mining of sand from sand dunes shall be prohibited activity except for the removal of atomic minerals with proper replenishment using the tailings or other suitable sand;
 - (d) no activities on the sand dunes shall be taken up that would lead to erosion/destruction of sand dunes;
 - (e) afforestation, if any, on the sand dunes shall be done only with native flora;

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(f) the States or Union territory shall prepare management plans for the demarcated sand dunes.

(iii) **Sandy beaches:**

- (a) Mining of beach sand is prohibited except for manual mining of atomic minerals with proper replenishment using the tailings or other suitable sand.
- (b) When the permissible developmental activities are taken up on the beaches if loss of beach in the neighbourhood is predicted, necessary beach nourishment to compensate for the losses shall be undertaken by the project authorities and its long term maintenance shall be ensured by them.
- (c) The States or Union Territory shall prepare management plans for the demarcated beaches.

(iv) **Biologically active mudflats:**

- (a) Biologically active mudflats shall be identified by NCSCM in association with State Governments or Union territory administrations.
- (b) The States or Union territories shall prepare management plans for such demarcated biologically active mudflats.

1.10 Areas or structures of archaeological importance and heritage value sites:

- (i) State Archaeological agencies shall be responsible for conservation and protection of all archaeological structures and heritage sites identified by the Archaeological Survey of India, as per the provisions of the respective Acts, notifications or guidelines.
- (ii) No activities that are detrimental to the identified areas or structures of archaeological and heritage value shall be permitted.
- (iii) It shall be ensured that these structures or areas are preserved and activities undertaken without changing the façade/plinth of such structures. Such structures could be considered for use in accordance with the relevant norms after undertaking careful designing of the interiors without changing the exterior architectural design of the structure.

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;

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- (xiv) Liquefied Natural Gas;
- (xv) Fertilizers and raw materials for manufacture of fertilizers;
- (xvi) Acetic acid;
- (xvii) Mono ethylene glycol;
- (xviii) Paraxylene;
- (xix) Ethane;
- (xx) Butadine;
- (xxi) Methanol;
- (xxii) Caustic;
- (xxiii) Bitumen.

Annexure-III

GUIDELINES FOR DEVELOPMENT OF BEACH RESORTS, HOTELS AND TOURISM DEVELOPMENT PROJECTS IN THE DESIGNATED CRZ AREAS

1. CRZ-II

Construction of beach resorts or hotels in designated areas of CRZ-II for occupation of tourist or visitors shall be subject to the following conditions, namely: -

- (i) construction shall be permitted only to the landward side of an existing road or existing authorized fixed structures;
- (ii) 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;
- (iii) no flattening of sand dunes shall be carried out;
- (iv) no permanent structures for sports facilities shall be permitted except construction of goal posts, net posts and lamp posts;
- (v) 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 the flow of groundwater in that area;
- (vi) the State Ground Water Authority shall take into consideration the guidelines issued by the Central Government before granting such no objection certificate;
- (vii) 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 (29 of 1986);
- (viii) 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;
- (ix) if the project involves diversion of forest land for non-forest purposes, clearance as required under the Forest (Conservation) Act, 1980 (69 of 1980) shall be obtained and the requirements of other Central and State laws as applicable to the project shall be met with and approval of the State or Union territory Tourism Department shall be obtained.

2. CRZ-III

Construction of beach resorts and hotels in designated areas of CRZ- III for occupation of tourists or visitors shall be subject to the following conditions, namely: -

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- (i) 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;
- (ii) no flattening of sand dunes shall be carried out;
- (iii) no permanent structures for sports facilities shall be permitted except construction of goal posts, net posts and lamp posts;
- (iv) 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 the flow of groundwater in that area;
- (v) the State Ground Water Authority shall take into consideration the guidelines issued by the Central Government before granting such no objection certificate;
- (vi) 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;
- (vii) the total covered area on all floors shall not exceed 33 per cent 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;
- (viii) the construction shall be consistent with the surrounding landscape and local architectural style;
- (ix) the overall height of construction up to the highest ridge of the roof, shall not exceed 9 metres and the construction shall not be more than two floors (ground floor plus one upper floor);
- (x) groundwater shall not be tapped within 200 metre of the High Tide Line; and within the 200 to 500 metre zone it can be tapped only with the concurrence of the Central or State Ground Water Board;
- (xi) extraction of sand, leveling or digging of sandy stretches, except for structural foundation of building or swimming pool, shall not be permitted within 500 metres of the High Tide Line;
- (xii) 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 (29 of 1986);
- (xiii) 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;
- (xiv) to allow public access to the beach, at least a gap of 20 metres width shall be provided between any two hotels or beach resorts; and in no case shall gaps be less than 500 metres apart; and
- (xv) If the project involves diversion of forestland for non-forest purposes, clearance as required under the Forest (Conservation) Act, 1980 (69 of 1980) shall be obtained and the requirements of other Central and State laws as applicable to the project shall be met with; and approval of the State or Union territory Tourism Department shall be obtained.

Note: Construction of beach resorts or hotels shall not be permitted 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 Government or State Government or Union territory administrations).

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ANNEXURE -IV**GUIDELINES FOR PREPARATION OF COASTAL ZONE MANAGEMENT PLANS****1. Demarcation of High Tide Line and Low Tide Line:**

Demarcation of High Tide Line (HTL) and Low Tide Line (LTL) as carried out by NCSCM for the entire coastline of the country, has been made available to the Coastal States or Union territories and only such demarcation of HTL and LTL shall be applicable for all purposes of this notification.

2. Hazard Line:

A 'Hazard line' has been demarcated by the Survey of India (SOI) taking into account the extent of the flooding on the land area due to water level fluctuations, sea level rise and shoreline changes (erosion or accretion) occurring over a period of time. The hazard line mapped by SOI has been shared with the coastal States or Union territories through NCSCM. The hazard line shall be used as a tool for disaster management plan for the coastal environment, including planning of adaptive and mitigation measures. With a view to reduce the vulnerability of the coastal communities and ensuring sustainable livelihood, while drawing the CZMP, 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.

3. Preparation of CZM Maps:

- (i) 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 X 7.5 minutes

Numbering : Survey of India Sheet Numbering System

Horizontal Datum : Everest or WGS 84

Vertical Datum : Mean Sea Level (MSL)

Topography : Topography in the SOI maps will be updated using latest satellite imageries or aerial photographs

- (ii) Coastal Zone Management (CZM) Maps of scale 1:25,000 shall be got prepared by any of the agencies identified by the Ministry of Environment, Forest and Climate Change vide its Office Order number J-17011/8/92-IA-III dated the 14th March, 2014 using the demarcation of the High Tide Line or LTL, as carried out by NCSCM.
- (iii) Various regulatory lines viz. at a distance of 20 metres, 50 metres, 200 metres and 500 metres from HTL respectively, as applicable in various CRZ categories, and the Hazard line shall be demarcated and transferred to the CZM maps.
- (iv) HTL, LTL and CRZ boundaries, as applicable, shall also be demarcated in the CZM maps along the banks of tidal influenced inland water bodies.
- (v) Classification of different coastal zones shall be done as per the CRZ notification and Standard national or international colour codes shall be used.

4. Local level CZM Maps:

- (i) Local level CZM Maps are for the use of local bodies and other agencies to facilitate implementation of the Coastal Zone Management Plans.
- (ii) Cadastral (village) maps in 1:3960 or the nearest scale, as available with revenue authorities shall be used as the base maps.
- (iii) HTL, LTL, other CRZ regulatory lines and the Hazard line shall be demarcated in the cadastral maps and classifications shall be transferred into local level CZM maps.

5. Classification of CRZ areas:

- (i) The CZM Maps shall clearly demarcate the land use plan of the area and map out the Ecologically Sensitive Areas (ESAs) or the CRZ-IA areas as per mapping made available by NCSCM to coastal State or Union territories. All such ESAs shall be appropriately demarcated with colour codes.
- (ii) Buffer zone along mangrove areas of more than 1000 square metres shall be stipulated with a different colour distinguishing from the mangrove area. The buffer zone shall also be classified as CRZ-I area.
- (iii) 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 and Union territories 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.
- (iv) The water areas of CRZ-IV shall be demarcated and clearly demarcated if the water body is sea, lagoon, backwater, creek, bay, and estuary and for such classification of the water bodies the terminology used by Naval Hydrographic Office shall be relied upon.
- (v) The fishing Zones in the water bodies and the fish breeding areas shall be clearly marked.
- (vi) In CVCAs, the land use maps shall be superimposed on the Coastal Zone Management Plan clearly demarcating the CRZ-I, II, III, IV.
- (vii) The existing authorised developments on the seaward side shall be clearly demarcated.
- (viii) 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.
- (ix) Construction of buildings or other activities shall be permitted under the CZMP provided adequate arrangements are made for proper management and disposal of solid and liquid wastes in accordance with the environmental standards, rules and statutes, and under no circumstances, untreated effluents shall be disposed off in the coastal waters.

6. Public consultations on CZMP:

- (i) The draft CZMP prepared shall be given wide publicity and suggestions and objections received in accordance with the Environment (Protection) Act, 1986. Public hearing on the draft CZMP shall be held at district level by the concerned CZMA.
- (ii) Based on the suggestions and objections received the CZMPs shall be revised and approval of Ministry of Environment, Forest and Climate Change shall be obtained.
- (iii) The approved CZMP shall be put up on the website of Ministry of Environment, Forest and Climate Change, concerned website of the State or Union Territory Coastal Zone Management Authority and hard copy made available in the Panchayat Office and District Collector Office.

7. Revision of Coastal Zone Management Plans:

- (i) 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.
- (ii) If required, the rectified map shall be submitted to Ministry of Environment, Forest and Climate Change for consideration.



ANNEXURE-V**PROJECT INFORMATION DETAILS****1. PROJECT DETAILS**

- A. Project Name
- B. Survey No./ Village/ Co-ordinates
- C. District
- D. State
- E. Whether the proposal is for (Select relevant field)
 - (i) Fresh Clearance under CRZ
 - (ii) Amendment to an already issued CRZ clearance
 - (iii) Extension of validity of an already issued CRZ clearance
- F. Name of the Applicant
- G. Address of the Applicant
- H. Contact details (Telephone nos. and e-mail address)
- I. Cost of the project (Rs in crores)

2. BENEFITS OF THE PROJECT

- A. Details of Project Benefits
- B. Employment Likely to be Generated (Yes/No)
 - If Yes
 - (i) Total Manpower Requirement
 - (ii) Permanent Employment (Numbers)
 - (iii) Temporary Employment (Numbers)
 - (iv) Temporary Employment- During Construction (Numbers)
 - (v) Temporary Employment- During Operation (Numbers)

3. DESCRIPTION OF THE PROJECT UNDER CONSIDERATION (Select the Category of the project):**A. Resort / Buildings / civic amenities**

- (i) Total area/Built-up area (in sqm.)
- (ii) Height of structure
- (iii) FSI ratio
- (iv) Name of concerned town planning authority/ Panchayat etc.
- (v) Details of provision of car parking area

B. Coastal Roads / Roads on Stilt

- (i) Area of land reclamation
- (ii) Estimated quantity of muck/earth for reclamation
- (iii) Traffic carrying capacity
- (iv) Dimensions of road

C. Pipelines from thermal power blow down

- (i) Length of pipeline
- (ii) Length traversing CRZ area


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- (iii) Depth of excavation
- (iv) Width of excavation
- (v) Length of pipeline from seashore to deep sea
- (vi) Depth of outfall point from surface of sea water
- (vii) Temperature of effluent above ambient at disposal point

D. Marine Disposal of Treated Effluent through pipelines

- (i) Location of intake/ outfall
- (ii) Depth of outfall point
- (iii) Length of pipeline
- (iv) Length traversing CRZ area
- (v) Depth of excavation
- (vi) Width of excavation
- (vii) Length of pipeline from shore to deep sea/creek
- (viii) Depth of outfall point from surface of water
- (ix) Depth of water at disposal point
- (x) BOD, COD, TSS, oil and grease, heavy metals in the effluent

E. Facility for storage of goods/chemicals

- (i) Name of chemical
- (ii) End use of the chemical
- (iii) No. of tanks for storage
- (iv) Capacity of tanks

F. Offshore structures

- (i) Exploration or development
- (ii) Depth of sea bed
- (iii) No. of rigs
- (iv) No. of platform
- (v) Details of group gathering stations

G. Desalination Plant

- (i) Capacity of desalination
- (ii) Total brine generation
- (iii) Temperature of effluent above ambient at disposal point
- (iv) Ambient salinity
- (v) Disposal point

H. Mining of atomic minerals

- (i) Capacity of mining
- (ii) Type of mineral to be extracted
- (iii) End use of the mineral
- (iv) Government order for mining lease/exploration and approved mining plan details
- (v) Extent of mining lease area

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I. Sewage Treatment Plants

- (i) Capacity
- (ii) Total area of construction
- (iii) Compliance of effluent parameters as laid down by cpcb/spcb/other authorised agency
- (iv) Whether discharge is in sea water/creek?
 - If yes
 - Distance of marine outfall point from shore/from the tidal river bank
 - Depth of outfall point from sea water/river water surface
 - Depth of seabed/riverbed at outfall point

J. Lighthouse

- (i) Total ground area of foundation/platform
- (ii) Height of the structure

K. Wind Mills

- (i) Capacity (MW)
- (ii) Height of the windmill
- (iii) Diameter of the windmill
- (iv) Length of blade
- (v) Speed of rotation
- (vi) Transmission lines (overhead or underground)

L. Others

- (i) Please specify with salient features
- (ii) Upload relevant Documents (upload PDF only)

4. PROJECT LOCATION AS PER CRZ CLASSIFICATION (If project site falls in different/multiple CRZ categories the same may also be elaborated)

5. CLAUSE OF CRZ NOTIFICATION UNDER WHICH PROJECT IS A PERMISSIBLE /REGULATED ACTIVITY

6. MANDATORY FIELDS FOR PROJECT ASSESSMENT

A. CRZ map in 1:4000 scale indicating HTL, LTL demarcation and distance of the nearest project boundary (in meters) from HTL to be stated

- (i) Upload Map (kml file)

B. Project layout superimposed on CRZ Map 1:4000 scale with classification of project location including other notified ESAs prepared

- (i) Upload Map (kml file)

C. CRZ map 1:25000 scale covering 7 km radius around Project site

- (i) Upload Map (kml file)

7. PROJECT LOCATED IN (Select Type)

- (i) Non eroding Coast
- (ii) Low and Medium eroding coast
- (iii) High eroding Coast

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8. DETAILS OF FOREST/ MANGROVES LAND INVOLVED (YES/NO)**IF YES**

- (i) Detail of area diverted
- (ii) Forest clearance to be submitted (Upload document)
- (iii) No. of trees to be cut under the project
- (iv) Compensatory afforestation plan to be submitted (Upload document)

9. DISTANCE OF PROPOSED PROJECT FROM ESA/MARINE PARK/ WILD LIFE SANCTUARY

- (i) Within 10 kilometre radius from the project site (Yes/No)

If YES

- Permission from NBWL to be submitted (Upload document)

10. NOC OR CONSENT TO ESTABLISH FROM STATE/UT POLLUTION CONTROL BOARDS OBTAINED (YES/NO)**If YES**

- (i) Copy of NOC to be provided (Upload document)
- (ii) Conditions imposed to be stated (Upload document)

11. Environment Impact Assessment (EIA) studies (relevant fields to be filled)**A. Terrestrial studies:**

- (i) Summary details of EIA (Terrestrial) Studies
- (ii) Upload Recommendation made in EIAs (Upload document)
- (iii) State period of Study

B. Marine Studies

- (i) Summary details of EIA (Marine) Studies
- (ii) Upload Recommendation made in EIAs (Upload document)
- (iii) State period of Study

12. DISASTER MANAGEMENT PLAN / NATIONAL OIL SPILL DISASTER CONTINGENCY PLAN (if applicable)**13. PROJECT INVOLVING DISCHARGE OF LIQUID EFFLUENTS:**

- (i) Capacity of Sewage Treatment Plant
- (ii) Quantity of effluent generated
- (iii) Quantity of effluent treated
- (iv) Method of treatment and disposal

14. PROJECT INVOLVING DISCHARGE OF SOLID WASTE:

- (i) Type of solid waste
- (ii) Quantity of solid waste generated
- (iii) Method of disposal
- (iv) Mode of transport

15. WATER REQUIREMENT in kilo litres per day (KLD)

- (i) Quantity of water required
- (ii) Source of water

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- (iii) If Ground water (Upload a copy of approval from Central Ground Water Authority or other authorised body)
- (iv) If other Source (Upload a copy of permission from competent authority)
- (v) Mode of transport
- (vi) Commitment of water supply (Upload document)

16. DETAILS OF WATER TREATMENT AND RECYCLING (If any) (Multiple Entries Allowed)

Type/ Source	Quantity of Waste Water Generated (Kilos Litre per Day)	Treatment Capacity (Kilos Litre per Day)	Treatment Method	Mode of Disposal	Quantity of Discharged Water (Kilos Litre per Day)	Quantity of Treatment Water used in Recycling/Reuse (Kilo Litre per Day)

17. DETAILS OF RAINWATER HARVESTING

- (i) No. of Storage tanks
- (ii) Total capacity of tanks
- (iii) No. of Recharge Pits
- (iv) Capacity of pits

18. ENERGY REQUIREMENT AND SOURCES

- (i) Total Power Requirements (kwh)
- (ii) Source
- (iii) Upload Copy of Agreement (upload pdf only)
- (iv) Stand by Arrangement (Details)

19. ENERGY EFFICIENCY/SAVING MEASURES

- (i) Source/Mode
- (ii) Details of savings

20. RECOMMENDATION OF STATE COASTAL ZONE MANAGEMENT AUTHORITY

- (i) Upload Copy of CZMA recommendations (Upload pdf only)
- (ii) Compliance status of the Conditions Imposed

21. WHETHER PROPOSAL ATTRACTS EIA NOTIFICATION, 2006. (Yes/No)

If YES,

- (i) the category thereof
- (ii) Status of proposal for EC (as applicable)

22. SOCIAL AND ENVIRONMENTAL ISSUES AND MITIGATIONS MEASURES SUGGESTED INCLUDING BUT NOT LIMITED TO R&R, WATER, AIR, HAZARDOUS WASTES, ECOLOGICAL ASPECTS, ETC. (Brief Details to be Provided)

23. DETAILS OF COURT CASES Whether there is any Court Cases pending against the project and/or land in which the project is proposed to be set up? (Yes/No)

If Yes, Pending or Disposed (Select relevant)

- (i) Name of the Court (Supreme Court, High Court, National Green Tribunal)
- (ii) Case No.

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- (iii) Case Details
- (iv) Orders/Directions of the court, if any and its relevance with the proposed project
(Upload document)

24. ADDITIONAL INFORMATION, If any

UNDERTAKING: It is certified that the information given above are true to the best of my knowledge and belief and nothing contravening the provisions of CRZ Notification, 2011 has been concealed therefore.

Name and Signature of the applicant:

Date:

True Copy

Report of the Committee to
Review the Issues Relating to
the Coastal Regulation Zone
Notification, 2011

Report of the Committee
to Review the Issues Relating to the
Coastal Regulation Zone Notification, 2011

[Report of the Committee
to Review the Issues relating to the
Coastal Regulation Zone Notification 2011]

Information under Art, 2011
Done 15/6/16
(CPGO-CRZ)
MSEPC

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List of key abbreviations

CESS	Centre for Earth Science Studies (now designated as National Centre for Earth Science Studies)
CIDCO	City Industrial Development Corporation
CPDAC	Coastal Protection and Development Advisory Committee
CRZ	Coastal Regulation Zone
CVCAs	Critical Vulnerable Coastal Areas
CZMA	Coastal Zone Management Authority
CZMP	Coastal Zone Management Plan
DCR	Development Control Rules
DP	Development Plan
E(P)A 1986	Environment (Protection) Act, 1986
ESA	Ecologically Sensitive Area
FSI	Floor Space Index
HTL	High Tide Line
ICZMP	Integrated Coastal Zone Management Plan
IMBL	International Maritime Boundary Line
IMP	Integrated Management Plan
IPZ	Island Protection Zone
LTL	Low Tide Line
MoEF&CC	Ministry of Environment, Forests & Climate Change
MoES	Ministry of Earth Sciences
NCSCM	National Centre for Sustainable Coastal Management
NCZMA	National Coastal Zone Management Authority
NMMC	Navi Mumbai Municipal Corporation
NDZ	No Development Zone
SCZMA	State Coastal Zone Management Authority
SEIAA	State Environmental Impact Assessment Authority
SICOM	Society of Integrated Coastal Management
SLR	Sea Level Rise
SoI	Survey of India
UT	Union Territory

Executive Summary

The MoEF (now designated as MoEF&CC) constituted a six-member Committee on 17 June 2014 under the Chairmanship of Dr. Shailesh Nayak, Secretary, MoES to examine the issues of coastal States/UT Governments relating to CRZ Notification, 2011 and to examine the errors or inconsistencies and procedural simplification in the said Notification. The other members of the Committee were Shri Shashi Shekhar, Additional Secretary, MoEF&CC, Prof. R. Ramesh, Director, NCSCM, Dr. M. Baba, Former Director, CESS, Shri Hardik Shah, Member Secretary, Gujarat CZMA and Dr. A. Senthil Vel, Additional Project Director, SICOM, the Member Secretary of the Committee.

The Committee examined the issues posed by coastal States/UTs with regard to CRZ Notification, 2011. The correspondences, communications and presentations made by the States/UTs are annexed. The Committee had sittings with the Governments of Maharashtra, Karnataka and Kerala in Mumbai, Bangalore and Thiruvananthapuram, respectively. Later, all the States and UTs were invited to Delhi and the Committee heard the representations. A summary of the presentations on the issues and suggestions of the States/UTs and the Committee's analysis of the same are given in detail in this report. The Committee also critically examined the CRZ Notification, 2011 with respect to the errors/inconsistencies and discussed the ways and means for procedural simplification.

After examining all the issues detailed by the State Governments and taking into consideration the implications of CRZ Notification, 2011 the Committee is of the opinion that the coastal zone management policy in the country should focus upon the following six principles:-

- (i) Keeping in view the importance and incomparable values of ESAs, the geomorphological features, archaeological and heritage sites, the CRZ Notification should primarily focus on protection and conservation of such areas/features in the coastal areas. The protection and conservation including

- The present CRZ Notification, 2011 has many ambiguities with regard to High Tide Line (HTL)/Low Tide Line (LTL) mapping, CRZ boundary demarcation and so on, which are prerequisites for CZMP, the preparation of which is considerably delayed. It is also observed that the Environment Departments of the States/UTs are extremely under-staffed to meet the challenges of coastal zone management (CZM). The existing staff in the States/UTs is mostly involved in addressing approvals and issues relating to CRZ-II and III. There have been very few instances where States/UTs have taken proactive steps in CRZ-I and CRZ-IV areas, the conservation of the ecosystems in it, combating pollution understanding the changes in the coastal areas and their impact and taken corrective steps in improving the general environmental quality of the coast. Hence, the Committee is of the opinion that the Environment Departments of the States/UTs and MoEF&CC should be sensitized to address CRZ-I and CRZ-IV issues and in turn as a part of decentralization and empowering the local bodies and provide such regulations that facilitate the States/UTs to undertake developmental activities that are ecologically sustainable.

Protection and conservation of Ecologically Sensitive Areas

- It has clearly emerged that the ecologically sensitive areas along the coastal and in the marine areas are extremely important to maintain the biodiversity of the marine life and also to maintain the functional integrity of the coast. Over a period of time the conservation and protection of ESA have been neglected and are under tremendous pressure due to increase in population and the developmental activities undertaken to meet the economic aspiration of the growing population. The destruction of ecosystems is a matter of concern and in several cases it is irreversible. The coastal ecosystems are important as they play a crucial role in the proliferation of marine fauna on which the local communities depend for livelihood. They reduce the vulnerability of coastal communities to natural disasters and play a crucial role in maintaining the functions of the coast including acting as a carbon sink. Hence, the Committee suggests that the Government should strengthen existing mechanisms, infrastructure, expertise and institutions at various levels to conserve and protect

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the coastal ecosystems. The Government in this context may, in the larger interest of the country take appropriate steps in conservation, protection of ecosystems, while taking into consideration the basic requirements of the growing population.

Economic development along the coastal area

- The Committee is also of the opinion that new opportunities and initiatives need to be taken to address the economic and social development of coastal communities. Most of the traditional coastal communities that live on the resources from the coastal areas, especially fishing, need to be provided with adequate opportunities for economic development. In this regard, the Committee is of the opinion that while the ecosystems are being conserved and protected by the Governments, the local communities should also play an important role in the conservation and protection of the ecosystems. The local communities should be provided with an opportunity to take up tourism, artisanal fisheries such as traditional aquaculture and ornamental fish culture, in such ecosystem areas for their economic improvement. The Governments should work in this area, which will address both conservation and economic development of the communities thereby, reducing pressure on the already depleting fishery resources.
- The Committee has serious concern on the growing coastal pollution from industrial waste and sewage, dumping of solid waste, non-point source pollution from the agricultural areas, and so on. With the growing infrastructure in the coastal areas, especially in the cities and municipalities pollution levels are bound to increase. This is a serious issue which needs to be addressed by the respective State/UT Governments on a mission mode by preparing effective CZMP and ICZMP.
- Another matter of concern which the Committee has noted is the changes in the shoreline. The shoreline change is mostly due to anthropogenic activities. In this context, certain initiatives have been taken by the MoEF&CC through the NCSCM wherein the shoreline changes are being mapped and studied. These studies need to be taken into consideration while undertaking foreshore developmental activities (CZMP and ICZMP). The studies need to be carried on

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further to ascertain the exact reasons of shoreline change so as to implement remedial measures.

Impacts of climate change and initiatives to address the coastal vulnerability

- The Committee appreciates the initiatives taken by MoEF&CC in setting up exclusive Centres for coastal management such as National Centre for Sustainable Coastal Management (NCSCM), Society of Integrated Coastal Management (SICOM) and State-level Project Management Units (SPMUs) including strengthening of the consortium institutions in each of the coastal States/UTs. These agencies could be further developed for undertaking research and development in the area of coastal management and also to address the social needs of the coastal communities in the States/UTs.
- The Committee after detailed examination of all issues raised by the State/UT Governments and taking into account the current international scenario in the area, including the emerging scientific technologies in the field of coastal and marine management, is of the clear view that the MoEF&CC should embark upon new initiatives for protecting and conserving the coastal and marine areas, which are endowed with rich but fragile ecosystems. While taking up conservation and management of ecosystems, the MoEF&CC shall also identify/assess development of technologies/infrastructure that would have minimum impact on the coastal and marine environment and also address to the economic aspirations of the growing population of the country.

The Committee after examination of the issues raised by the coastal States/UTs and its own analysis, which are detailed out in the subsequent chapters of this report has proposed a revised CRZ Notification in supersession of the existing CRZ Notification, 2011, the draft of which also forms a part of this report. The Committee suggests that the Government should examine the above-mentioned draft notification carefully and may also take into account any another emerging area/issues before considering it for implementation.

Composition of the Committee

As per the Office Order No. 19-112/2013-IA-III dated 17 June 2014, the composition of the Committee constituted to review the issues relating to CRZ Notification, 2011 is as follows:

1)	Dr. Shailesh Nayak Secretary Ministry of Earth Science	Chairman
2)	Shri Shashi Shekhar, Additional Secretary MoEF, New Delhi	Member
3)	Prof. R. Ramesh, Director, National Centre for Sustainable Coastal Management, Chennai	Member
4)	Dr. M. Baba, Former Director, CESS Former Member, NCZMA	Member
(5)	Shri Hardik Shah, Member Secretary, Gujarat Coastal Zone Management Authority	Member
(6)	Dr. A. Senthil Vel, Additional Project Director, SICOM, New Delhi	Member Secretary

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Terms of Reference of the Committee

1. The broad Terms of Reference (ToR) of the Committee are:
 - a) to examine issues relating to Maharashtra raised by the State Government vide letters dated 27.08.2013 and 23.12.2013;
 - b) to examine issues relating to Karnataka raised by the State Government vide letters dated 16.08.2013, 28.02.2014 and 18.02.2014;
 - c) to examine issues relating to Kerala raised by the State Government vide letters dated 10.02.2014;
 - d) to examine errors/inconsistencies in the CRZ Notification, 2011 and procedural simplification and
 - e) to examine any other issues raised by the State Government(s) during their interaction with the Committee.
2. The Committee may interact with the State/ UT Governments, if necessary.

Sittings of the Committee

The Committee in accordance with the ToR had the following meetings:

- 8 July 2014 at Mumbai – to examine the issues relating to Maharashtra,
- 21 August 2014 at Bengaluru – to examine the issues relating to Karnataka,
- 22 August 2014 at Thiruvananthapuram – to examine the issues relating to Kerala,
- 27 October 2014 at New Delhi – to examine the issues of West Bengal, Odisha, Tamil Nadu, Puducherry, Goa, Daman & Diu, Gujarat, Andhra Pradesh and
- 18 December 2014 at New Delhi – meeting of the Committee to draft the Report.
- 9 January 2015 at New Delhi – meeting of the Committee to finalize the draft Report.
- The report will be submitted in the third week of January, 2015

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Chapter 1

Introduction, Approach and Methodology adopted by the Committee

1.1 Introduction

India's mainland coast extends to 5500 km and a total of more than 7500 km including the Andaman & Nicobar (A&N) and Lakshadweep Islands with nearly one-fourth of the country's population living within 50 km of the coast. A wide range of coastal ecologically sensitive areas such as mangroves, sea grass, coral reefs, tidal flats, estuaries, lagoons, sand dunes and salt marshes occur along the coast. A number of rivers flow into the Bay of Bengal on the east coast and into the Arabian Sea on the west coast, carrying large quantities of sediment. The east coast is dominated by large river deltas and sandy beaches, while the west coast consists of an intricate network of estuaries, backwaters and predominantly rocky coastline.

1.1.1 Importance of Coastal ESAs

Coastal habitats alone account for approximately one-third of all marine biological productivity and estuarine ecosystems (i.e., salt marshes, sea grasses, mangrove forests) are among the most productive regions. Coastal ESAs are home to unique flora and



fauna. Coral reefs constitute less than 1% of the ocean floor but support over 25% of the marine biodiversity. Mangroves, beaches and coral reefs aid in controlling coastal erosion, shoreline change and also serve as a natural defense against coastal hazards such as storm surges, cyclones and tsunamis. The submerged

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vegetation of these shallow habitats serve important functions as traps of suspended sediment, important winter forage for migratory birds and nursery areas for juvenile finfish and shellfish. While reefs, mangroves and sea grasses are important breeding and feeding grounds for shellfish and finfish, sand dunes and beaches play a major role as interface between sea and land by preventing erosion due to storm waves. In view of the immense value of the ESAs indicated here, including its contribution in maintaining the biological integrity of the coastal habitats for vast coastal biodiversity representing different levels in the food chain, it is imperative that necessary protection and conservation measures are put in place at the earliest. These sensitive ecosystems provide various ecosystem services, which provide livelihood avenues to millions of coastal population, directly and indirectly.

Coastal ecosystems are also very efficient **carbon sinks** and have a major role in sequestering atmospheric carbon dioxide. India has about 3,703,970 hectares of coastal wetlands, which accounts for ~25% of the total wetland areas of the country. Among these wetland ecosystems, mangroves occupy 4628 km², salt marshes ~1611 km², inter-tidal mud flats ~24,136 km², coral reefs ~1420 km² and sea grass ~360 km². These coastal/ marine ecosystems are the most productive ecosystems of the world with a large potential for carbon sequestration. Overall, Indian mangroves are able to sequester about 1.5 metric tons of carbon per hectare per year. Recent data estimate that sea grasses together with salt marshes and mangroves are responsible for capturing up to 70% of the organic carbon in the marine realm making them one of the most intense carbon sinks on the planet.

In recent times, coasts have become a zone with multiple activities and stakeholders competing for coastal resources. However, coasts are also intensely prone to cyclones, storm surges, erosion and flooding. A combination of a contested space and a highly vulnerable environment means that coastal populations live in a high-risk landscape. The extent of erosion largely due to developmental activities along the coast is rapidly increasing. According to a recent study (2011) by the National Centre for Sustainable Coastal Management (NCSCM), almost 40% of the Indian coast is subject to coastal erosion. This figure is higher than earlier estimates by the Coastal Protection and Development Advisory Committee (CPDAC), which had

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reported in 2004 that about 22% of the coast was undergoing erosion and it had increased to almost 30% by 2010. Studies have indicated that loss of beach space has a serious impact on fishing communities in India, because much of the small-scale fishery is beach based and the houses of fishermen are located close to the shoreline.

1.1.2 Coastal Pollution

The coastal/ marine ecosystems are often considered the last receptacle of wastes. With increasing demographic pressure and activities along the coast, without a simultaneous increase in the treatment facilities available for the wastewater generated, pollution of coastal waters is rapidly increasing and is a matter of great concern. Major land-based pollution to the coast primarily includes domestic sewage – discharged directly into the sea or through the rivers, solid wastes dumped into waterways along the coastline, industrial effluents – untreated/partially treated and oil and grease – from land-based sources, marine sources such as ships, submarine seepage and refinery wastes. Municipal sewage is the main single source of pollution to the coastal waters due to land-based activities¹.

Key Issues along the Coast

- Destruction of coastal ecosystems for economic use or settlements
- Vulnerability to cyclones and storm surges
- Coastal erosion
- Pollution caused by industries, sewage discharge and agriculture in the drainage basin
- Overpopulation and settlements built at unsafe place or in wetlands
- Threatened food (e.g. fisheries) security
- Shortage in freshwater supply due to salt water intrusion.

It is estimated that 120 Class-I cities and Class-II towns of coastal areas generate about 6835 million liters per day (MLD) of wastewater per day, out of which, only 1492 MLD of wastewater undergoes various levels of treatment. The remaining is discharged directly to the coastal waters without any kind of treatment. This means that on an average 5343 MLD of untreated wastewater from municipal sources reach coastal waters; which is equivalent to 5.343 million m³ per day or 1.9 billion m³ per year. This figure is

¹ <http://www.cpcb.nic.in/comaps.php> accessed 8 December 2014

almost five times the earlier estimate of $0.41 \times 10^9 \text{ m}^3$ (De Sa²). The disposal of solid waste generated by 120 coastal cities and towns are disposed in landfill sites, partly dumped openly and partly composted. About 16,734 tons per day of Municipal Solid Waste (MSW) was generated by 11 major coastal cities in 2011 (Status report on Municipal Solid Waste Management, CPCB, 2013). Some of the industries have adequate treatment facilities up to secondary/tertiary level.

In the case of small-scale industrial units and industrial clusters, treatment of wastewater is carried out by establishing Common Effluent Treatment Plants (CETPs). In Gujarat and Maharashtra, 24 CETPs discharge treated effluent to the coastal waters. Most of the CETPs comply with effluent standards. A first compilation of quantum of pollutants into the coastal ecosystem of India was given by De Sa (undated)² as follows:

S. No.	Input/pollutant	Quantum (annual)
1.	Sediments	1600 million tons
2.	Industrial effluents	$50 \times 10^6 \text{ m}^3$
3.	Sewage – largely untreated	$0.41 \times 10^9 \text{ m}^3$
4.	Garbage and other solids	$34 \times 10^6 \text{ tons}$
5.	Fertilizer – residue	$5 \times 10^6 \text{ tons}$
6.	Synthetic detergents – residue	1,30,000 tons
7.	Pesticides – residue	65,000 tons
8.	Petroleum hydrocarbons (tar balls residue)	3500 tons
9.	Mining rejects, dredged spoils and sand extractions	$0.2 \times 10^6 \text{ tons}$

A conservative figure for the quantum of sewage currently reaching the coast is $1.95 \times 10^9 \text{ m}^3$ per year.

1.1.3 Coastal/Marine Fisheries:

The nature of fisheries in India is constantly changing with the emergence of new technologies and techniques in fishing, fuelled by local and global demand as access

²Present state of the coastal environment in India. <http://www.teriin.org/teri-wr/coastin/papers/paper2.htm> accessed 9 December 2014

to markets improves. The estimated marine resource potential of the Indian EEZ is about 4.24 million metric tons at current exploitation levels. As the following graph shows, there has been an increasing trend in marine fish catch in the last 60 years.

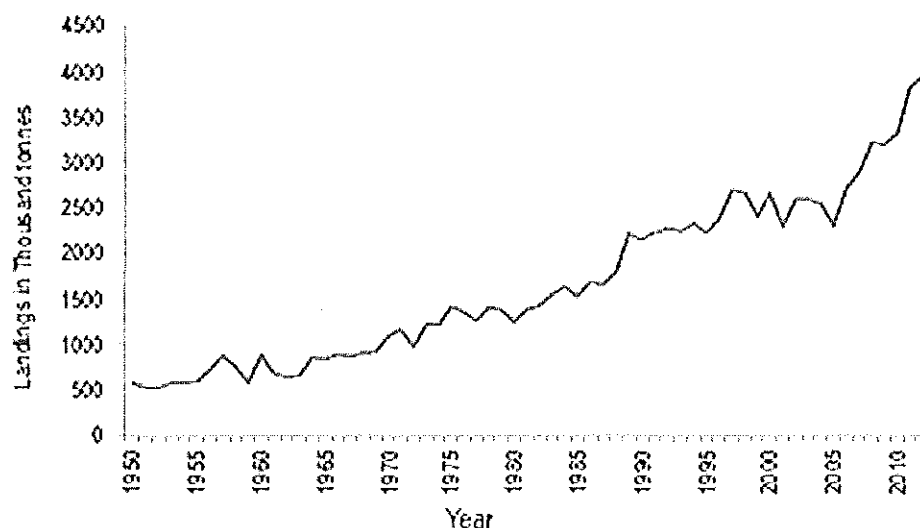


Fig. 1: Estimated marine fish landings in India from 1950 to 2012 (Source:CMFRI Annual Report 2012–2013)

However, CMFRI attributes the increase largely to a few species such as oil sardines, perches and penaeid prawns. However, catch of fishes such as Hilsa and Mackerel have declined. According to CMFRI (2011), inshore waters have been almost exploited to unsustainable levels. Many reasons have been attributed to the reduction in the fish catch in the near-shore area apart from overfishing. These include habitat destruction especially of coastal habitats such as mangroves and other wetlands including estuaries, resulting in the loss of safe nursery areas for spawning and juveniles, pollution from municipal and industrial sources due to large-scale coastal development, construction of aquaculture farms in coastal areas and so on.

In India, according to CMFRI Census (2010), there are 3288 marine fishing villages and 1511 marine fish landing Centres in the maritime States and UTs. The total marine fisher population was about 4 million comprising 864,550 families. About 38% of the marine fishers were engaged in active fishing with 85% of them having full

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time engagement. About 63.6% of the fishers were engaged in fishing and allied activities.

1.1.4 Assessment of Coastal and Marine Ecosystem Goods and Services

Coastal regions provide most of the identified ecosystem services and account for highest value on per hectare basis for any ecosystem. The goods from the coastal ecosystems generate provisioning services which include food, salts, minerals and oil resources, construction materials and biodiversity including genetic stock that has potential for various biotechnological and pharmaceutical applications. There are 13 major ports and 176 non-major ports along the India's 7500 km (including island territories). India is the sixth largest producer of fish with an annual potential yield of 3.92 million tons.

An estimated 200,000 traditional crafts carryout traditional fishing and about 35,000 mechanized fishing boats are enhancing their fishing capacity annually. Employment generation due to coastal ecosystem services may be categorized under heads such as marine fisheries, backwater fisheries, seaweed collection, salt production, coastal aquaculture/shrimp production and coastal tourism. Ecosystem based coastal and marine tourism provides huge employment opportunities, especially to the local communities. If the ESAs are managed properly and adequate tourism facilities provided, the tourism sector in this area can have tremendous employment opportunities.

Economic Evaluation of the Coast

- The total value of marine fisheries is estimated to be Rs. 32,844 crore for the year 2012–2013.
- The value of minerals found along the coastal/sandy beaches of the country is estimated to be around Rs. 1390 crore per year, based on annual extraction.
- The value of regulating function of mangroves and seagrass as sequesters of carbon has been estimated to be more than Rs. 600 crore per annum based on carbon values used in a previous MoEF&CC funded study on valuation of ecosystem services for forests in India.
- Dense and very dense mangroves account for 2368 km² (56% of the total mangroves cover), sparse mangroves account for 1514 km² (33%) and degraded mangroves account for 483 km² (10%).

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1.1.5 Best Practices of Conservation management

Globally, diverse management practices are being followed for the conservation of coastal/ marine ecosystems. The management regime recommended by the International Union for Conservation of Nature (IUCN) is taken as one of the best practices followed internationally. The IUCN model of conservation is based on public policy and increasing attempts are made to include local communities in the conservation agenda. IUCN's prime objective is to foster a balanced, holistic and integrated approach for managing coastal ecosystems in order to meet long-term ecological, economic and social interests³.

IUCN Asia's Coastal and Marine Programme supports sound policy and integrated coastal management interventions as a balanced response to coastal ecosystem issues and to help meet the long-term needs of the users of the coast. Knowledge management and capacity development are key focus areas, aimed at strengthening both marine and coastal management. The following are the main objectives:

- Achieve sustainable development of coastal and marine area
- Reduce vulnerability to natural hazards
- Maintain essential ecological processes, life support systems and biological diversity
- Strengthen institutional and governance capacity for Integrated Coastal Management
- Build sustainable financing opportunities for coastal management
- Capture and disseminate lessons in best practice, both locally and globally

IUCN's core principle asserts that thriving coastal ecosystems are fundamental for sustaining healthy livelihoods and act as a regional link in strengthening coastal management practices at the local, national and trans-boundary scales.

³Extracted from: <http://www.iucn.org/about/union/secretariat/offices/asia/elq/mcp/> on 16th January 2015

1.1.6 The Coastal Regulation Zone 2011 Notification – Legislations and policy guidelines to protect the coastal environment

To regulate the developmental activities and to protect the fragile coastal environment, India has implemented coastal regulatory frameworks: Coastal Regulation Zone (CRZ) Notification, 2011 and Island Protection Zone (IPZ) Notification, 2011. The background to the issue of CRZ 2011 and IPZ 2011 is as follows:

- a) To protect the Indian coastline, a directive was issued in 1981 from the Central Government advising all coastal States/UTs to take necessary precautions to keep the beaches clean and regulate developmental activities.
- b) The CRZ Notification, 1991 was issued under Environment (Protection) Act [E(P)A], 1986 to regulate all development activities in coastal areas.
- c) This Notification prohibited and regulated certain activities within 500 m from the HTL on the landward side and within 100–150 m from the HTL on the landward side along water bodies influenced by tidal activities such as creeks and estuaries. The CRZ area was classified as CRZ-I, CRZ-II, CRZ-III and CRZ-IV. This Notification of 1991 was amended nearly 25 times.
- d) Keeping in view the issues raised by coastal State/ UT Governments and stakeholders, several expert committees were constituted by the Central Government to examine these issues.
- e) The Ministry constituted a Committee in July 2004 under the Chairmanship of Prof. M. S. Swaminathan to review various reports on CRZ, international practices and suggest the scientific principles for an Integrated Coastal Zone Management (ICZM) policy best suited for the country – to define and enlist various coastal and marine resources and recommend methodology for their identification and the extent of safeguards required for the conservation and protection and to review the CRZ Notification, 1991. The Committee submitted its report in February 2005.
- f) A draft Coastal Management Zone [CMZ] Notification, 2008 was issued, which was later withdrawn based on the suggestions and objections raised by the stakeholders.

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- g) The Ministry constituted a Committee in June 2009 under the Chairmanship of Prof. M. S. Swaminathan to consider all the coastal issues and suggest the policy and legal framework for ICZM. The Committee submitted its report titled "Final Frontier" in July 2009. Based on the recommendations made in the report the Ministry issued two Notifications superseding the CRZ Notification, 1991: (i) CRZ Notification, 2011 and (ii) IPZ Notification, 2011.
- h) These two Notifications are being implemented and are monitored by the National Coastal Zone Management Authority (NCZMA) and State/UT level Coastal Zone Management Authorities (SCZMAs). The NCZMA and 13 SCZMAs have been notified under the E(P)A 1986.

1.1.7 ICZM Project implemented by MoEF&CC

To implement the National Environment Policy 2006, recommendations of "Final Frontier 2009", Public Accounts Committee (2009–2010) [PAC], and CRZ Notification, 2011 and IPZ Notification, 2011 regulatory framework with public participation, the Government of India (GoI) embarked upon the implementation of the Integrated Coastal Zone Management (ICZM) project. This project was approved by the Expenditure Finance Committee (EFC) and Cabinet Committee on Economic Affairs (CCEA) during 2010. The project is being taken up on a pilot scale with the assistance of the World Bank in the identified stretches in the States of Gujarat, Odisha and West Bengal. To implement this project, the MoEF&CC has set up the Society of Integrated Coastal Management (SICOM) located in New Delhi.

The objectives of the ICZM Project are as follows:

- a) To develop the capacity and institutions to implement the CRZ Notification, 2011 and achieve the objectives of integrated and sustainable coastal management as per the National Environmental Policy, 2006.
- b) To address the issues relating to climate change, which have a major implication on the coastal areas and coastal communities especially with respect to sea level rise (SLR) and increased frequency of cyclones and storm surges. Under the programme, an exercise of hazard mapping will be carried out to protect the coastal people and infrastructure located in the coastal regions.

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- c) To conserve and protect the fragile coastal ecosystems such as the mangroves, brackish water wetlands and coral reefs, including addressing the pollution of coastal waters and livelihood improvement of local communities.

1.1.8 Society for Integrated Coastal Management(SICOM)

SICOM was established under the Society Registration Act, 1986 by the MoEF&CC for implementing the World Bank Assisted ICZM Project in the country. SICOM is working as a National Project Management Unit for the project. In implementing the ICZM project, SICOM is coordinating with various Ministries, coastal State and UT Governments and SPMUs/Project Executing Agencies (PEAs) of the ICZM project. SICOM is also taking lead in designing the Phase II of the ICZM project which will include other coastal States and UTs. The major role and responsibilities of SICOM are as follows:

- (a) Act as a fulcrum between MoEF&CC, State Governments, NCSCM, other Ministries, research and academic bodies, NGOs and people.
- (b) To play a leading role in assisting MoEF&CC in implementing the CRZ and IPZ Notifications and preparing the CZMPs while coordinating with Sol, NCSCM and CZMAs.
- (c) To guide in the preparation of ICZMP factoring in the hazard line for identified areas in coordination with the State Governments.
- (d) To formulate Phase-II of the ICZM project wherein the other States/UTs would be included as approved in the EFC. Meanwhile, all the State/UT Governments which were not included in the Phase-I may be requested to form the SPMUs so that their capacity development process begins to help them in formulation of plan and their implementation.
- (e) To explore various possibilities of exchange programme in terms of visits, information exchange etc., with other countries especially in South East Asia, where similar environmental and demographic pressures exist.
- (f) To put in place monitoring systems for the three SPMUs independently to assess the implementation of the project.
- (g) To leverage NCSCM in ensuring preparation of appropriate ICZM Plan for identified areas, with NCSCM providing all the necessary technical inputs so

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that the concerned Government can undertake an ecologically compatible and sustainable development of the area.

- (h) To prepare a comprehensive capacity development plan for all the stakeholders like Ministry of Shipping, Tourism, Petroleum, Agriculture, Fisheries etc., and execute them.
- (i) SICOM will also play a leading role with NCSCM in identifying the areas which have been destroyed/undergone serious damages due to various human interventions and take up steps through NCSCM and State Government to take up restoration and management of such sites.
- (j) To immediately create a web platform and link with similar facilities with coastal States/UTs, SPMUs for exchange of ideas, best practices, knowledge etc.

To accomplish the above scope of work and to take up the work assigned under the proposed notification, SICOM may build adequate capacity with skilled manpower. The role of SICOM is crucial as it would play a leading role in coordinating with as indicated at 1.1.8(a) to (j) above. Further, SICOM will be instrumental in facilitating capacity building and institutional strengthening in the area of coastal zone management in the country.

1.1.9 National Centre for Sustainable Coastal Management

NCSCM was established by SICOM under the MoEF&CC in 2010 with the vision of promoting sustainable coasts through increased partnerships, conservation practices, scientific research and knowledge management for the benefit of current and future generations and assist MoEF&CC and States in implementing the provisions of CRZ Notification. NCSCM has established six multi-disciplinary Divisions in the Centre to undertake research and development in the area of CZM practice through the development and provision of cutting-edge science, knowledge and networking with relevant national and international institutes of repute. These are being realized through inter- and trans-disciplinary scientific research, advisory capacities and by imparting knowledge into a seamless, holistic decision support system for effective implementation of CRZ Notification.

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Fourteen institutions have formed a consortium with NCSCM, with Anna University Chennai as the Hub. It would guide and coordinate the implementation of CZM approaches leading to enhanced conservation of coastal resources and sustainable development along the coast of India through applied and futuristic research. The Centre would develop a central repository of information and knowledge on CZM practices in India and elsewhere. The outputs from research at NCSCM would aid in the better protection, conservation and management of the coast. The following are the specific roles and responsibilities of NCSCM:

1. Preparation of HTL / LTL for the entire coast using ortho-imageries
2. Preparation of CRZ I boundary maps (including ESAs, geomorphologically important zones and areas or structures of archaeological importance and value sites) in 1: 10,000 scale by acquiring the ecosystem maps and boundaries of marine protected areas from national agencies identified by the Ministry.
3. Validation of cadastral maps prepared by State/ UT Governments
4. Preparation of State of Coast Report, which would include assessment of the extent of change in coastal ecosystems
5. Development of a comprehensive digital coastal database to help in policy decisions
6. Monitoring mechanism: Pre- and post-monitoring of major coastal projects as directed by MoEF&CC
7. Develop guidelines to aid in effective implementation of the provisions of the CRZ and IPZ notifications
8. Develop guidelines for ICZM projects for the purpose of conservation of coastal areas and to involve local communities in decision making
9. Assessment of carbon sequestration potentials of major coastal ecosystems
10. Building capacity at all levels in coastal management along with SICOM


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1.1.10 Recent Initiatives in Coastal Management by MoEF&CC

a. Use of space application and IT technology for coastal mangement

Since the implementation of the CRZ Notification, 1991, MoEF&CC has been relying upon satellite imagery for mapping vital coastal resources. The satellite imagery and data obtained by aerial photography undertaken by Sol shall be used for preparing CZMP, which would include HTL, LTL, land use (Fig. 2), demarcation of ESA etc. Further, these technologies can be used extensively for estimation of primary productivity, ocean resources and fishery resources, pollution monitoring, detecting algal blooms and for oil spill mitigation.



Fig. 2: Decadal Changes in land use pattern

b. National Shoreline Change Assessment

Based on directions by MoEF&CC, NCSCM undertook the study of shoreline change for the entire coast of India in order to identify coastal areas where significant erosion and accretion have occurred and continue to occur, quantify the rates of erosion/accretion, analyze the impacts of coastal structures on the shoreline, create a national database for coastal erosion and accretion with 1972 as the base year and contribute to an understanding and prediction of future shoreline positions. Earlier, shoreline mapping and analysis were carried out by a manual cartographic techniques, which since early 1980s has been changed to a highly sophisticated geographic information system (GIS). A GIS database has been created with layers such as base shoreline, historical shorelines, erosion rates and critical erosion maps by State for the entire coastline of mainland India (Fig.3).

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Report of the Committee to
Review the Issues Relating to
the Coastal Regulation Zone
Notification 2011


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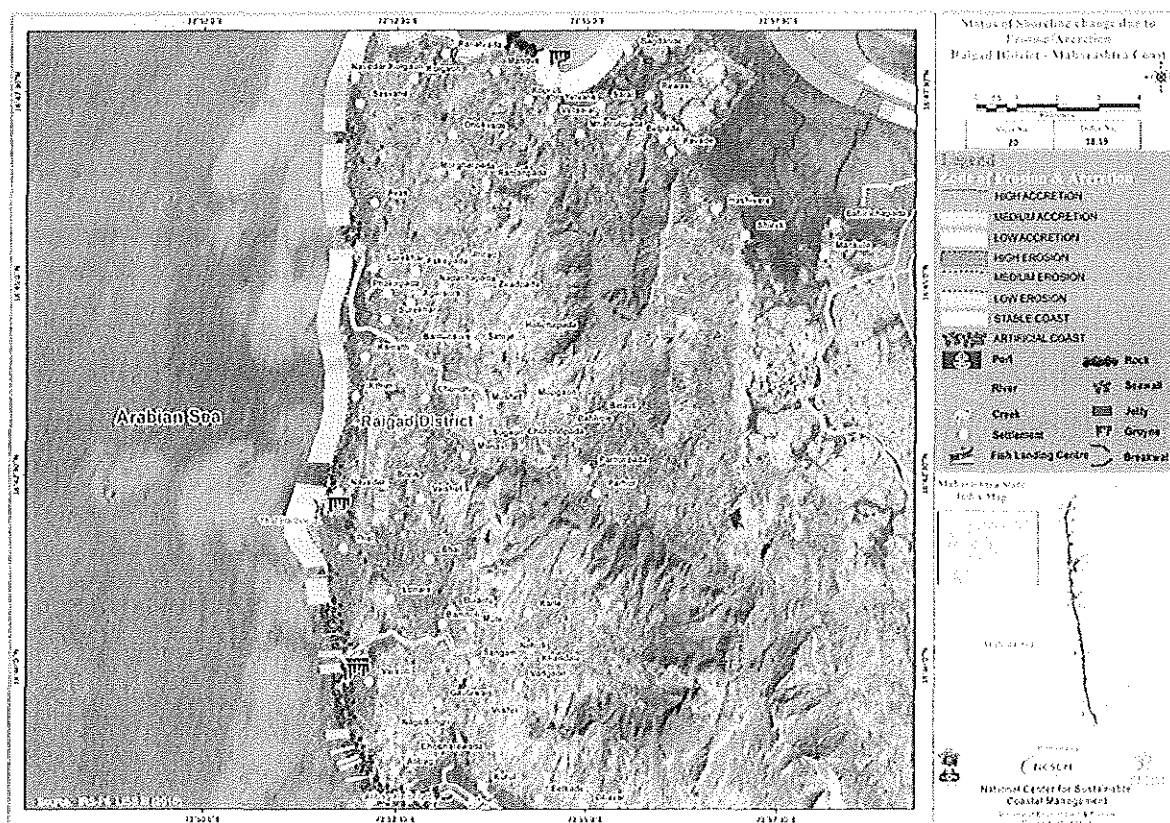


Fig. 3: Shoreline change along the coast of Maharashtra

c. Hazard Line mapping

As per the CRZ Notification, 2011 "the 'hazard line' denotes the line demarcated by MoEFF&CC through NCSCM, taking into account water level fluctuations, sea level rise (SLR) and shoreline changes". SICOM is implementing the hazard line (Hazard Line) mapping project through Sol. In this regard, MoU has been entered between MoS&T and MoEF&CC on 10 May 2010. The Hazard Line mapping involves:

- (i) Survey and preparation of digital terrain model of 0.5 m contour interval for the entire mainland coast based on aerial photography and photogrammetry;
- (ii) collection of historical tide gauge data and analyses to determine flood levels;
- (iii) analyses of maps and satellite imagery to determine historic erosion line;
- (iv) preparation of Hazard Line based on erosion and flood line;

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(v) transfer of the Hazard Line to topographic maps and to the ground for implementation of CRZ Notification, 2011.

d. HTL demarcation using ortho photos

Based on directions from MoEF&CC and SICOM, NCSCM is in the process of delineating the HTL as per the requirement of the CRZ Notification using ortho photos available at Sol.

e. Mapping of ESAs

ESAs, which are part of CRZ Notification such as mangroves, coral reefs, sand dunes, turtle nesting ground/horseshoe crab habitats/nesting grounds of birds and sea grass beds, are being identified, delineated and mapped by NCSCM.

f. Information technology and awareness in all sectors

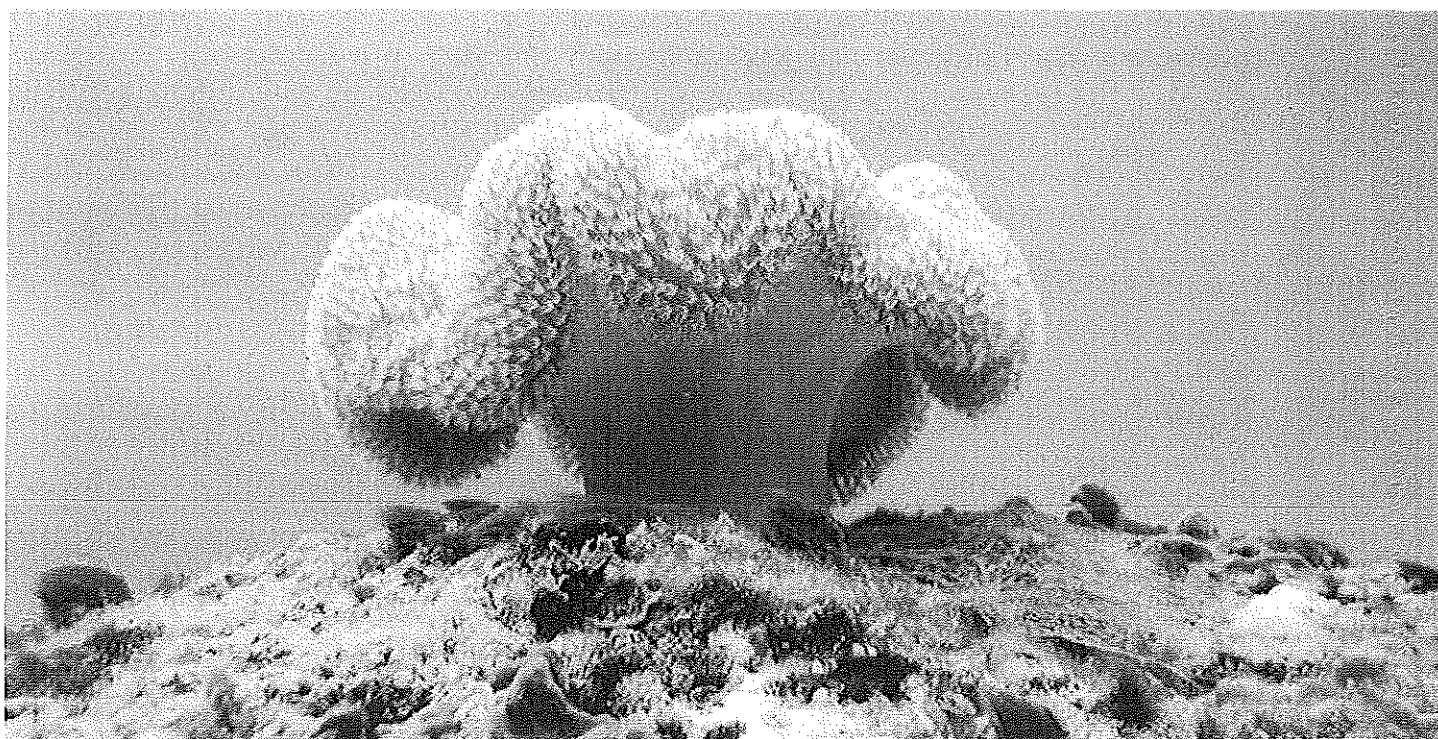
NCSCM is developing information and technological web map application tools that aid as decision support systems for policy makers. Such tools would also help communities address coastal issues and would eventually become one of the most-used resources in the coastal management community.



1.2 Approach and Methodology adopted by the Committee to address the ToRs

In view of the several representations received from the Governments of various coastal States/UTs, especially from the Governments of Karnataka, Kerala and Maharashtra requesting for amending the CRZ 2011, the Ministry constituted Committee to review the CRZ Notification, 2011 (Ref: No.19-112/2013-IA-III, dated 17 June 2014).

After constitution of the Committee, three meetings were held with the officials of the Governments of Maharashtra, Karnataka and Kerala on 8 July 2014, 21 August 2014 and 22 August 2014, respectively. Subsequently other States and UTs requested the Committee to present their issues with respect to the implementation of CRZ, 2011. Accordingly, a meeting was held with all coastal States and UTs on 27 October 2014 in MoES, Delhi. Copies of the presentation made and representations received are given in Volumes II and III of this report. Based on the issues raised by the respective coastal State/UT Governments and taking into account the provisions of the CRZ Notification, 2011 including the recent initiatives taken by the MoEF&CC towards coastal management, the Committee has addressed the ToRs listed in the Office Order and made its recommendations.



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Chapter 2

Issues and Representations made by the Coastal State/UT Governments as per ToRs

ToR-1(a) : "to examine issues relating to Maharashtra raised by the State Government vide letters dated 27.08.2013 and 23.12.2013".

TOR-1(b) : "to examine issues relating to Karnataka raised by the State Government vide letters dated 16.08.2013, 28.02.2014 and 18.02.2014".

TOR-1(c) : "to examine issues relating to Kerala raised by the State Government vide letters dated 10.02.2014".

(TOR-1(d) : to examine errors/inconsistencies in CRZ Notifications, 2011 and procedural simplification)

ToR-2 : The Committee may interact with the State Government, if necessary, and address any other issues raised by the State Government during their interaction with the Committee.

A. Specific issues indicated by the State/UT Governments

2.1 Maharashtra [ToR-1(a)]

Based on the above-mentioned ToR 1(a), the Committee visited Mumbai on 8 July 2014 and had discussions with the officials of various departments of Government of Maharashtra (GoM). The details of the issues raised and the suggestions/requests made by the various departments/agencies of GoM such as CIDCO, BMC, Slum Rehabilitation Authority (SRA) and State Tourism Department, are detailed in the following sections. The copies of the presentations along with the communications made to MoEF&CC vide the above-mentioned letters indicated in the ToR are in Volume II of this report:

2.1.1 Loss of buildable land due to demarcation of the HTL based on CRZ Notification, 2011

(a) Most of the lands in Navi Mumbai were below low tide level when it was acquired in 1971. Prior to acquisition, these coastal lands were under agriculture and salt pans. For undertaking agriculture, bunds were constructed to prevent the ingress of tidal waters. The bunds were constructed based on Dutch method. The development of Navi Mumbai was taken up in a phased manner by acquisition of land by CIDCO. The HTL being demarcated based on CRZ Notification, 2011, indicates that the total land loss could be around 1240 hectares of developable area. Further, additional land is to be provided to project affected people and R&R-related activities including providing 260 hectare of land for the development of Navi Mumbai Airport.

(b) The reasons for ingress of creek water into the land area were examined by the Committee in detail along with graphic presentations made by CIDCO. Over a period of time due to non-maintenance of the bunds and breaking of the bunds by locals for shallow water fishing, the seawater has ingressed into the land. Due to the salinity ingress, the HTL has further shifted landwards. In several of such areas

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where salinity ingress has taken place, mangroves have grown. On account of the shifting of the HTL on the landward side, it was indicated that approximately 744 hectares of net saleable land which is 60% of the total 1240 hectares that CIDCO would lose is estimated around Rs.37,200 crore (with an average price of Rs. 50,000/m²). Further, the land being allotted to the affected people due to the project, under the 'land for land' scheme would be coming under CRZ-I and CRZ-II. The people who have been affected by airport construction need to be located close to the creek as they are fishermen communities. On account of all these activities, CIDCO would lose further developable land area. In this regard, it was requested that the HTL as of 1991 should be retained.

(c) The Hon'ble High Court (HC) of Bombay in its Order dated 6 October 2005 has directed to observe total freeze on destruction of mangroves and to maintain an NDZ of 50 m width around any mangrove. Further, as per the above-mentioned Orders, no steps can be taken that would stop the ingress of saline water into areas with mangroves. Hence, CIDCO has stopped repairing the bunds and desilting of the ponds. The GoM has requested that the HTL demarcation as per CRZ Notification, 1991 should be allowed to continue.

(d) For the purpose of maintenance and desilting of Dronagiri holding ponds, CIDCO has again approached Hon'ble HC of Bombay. The Hon'ble HC directed MCZMA and MoEF&CC to decide whether holding ponds and channels fall in CRZ. It was indicated that MCZMA has submitted a report to MoEF&CC and MoEF&CC vide their letter dated 31 October 2013 have requested CIDCO to provide for five times compensatory mangrove afforestation in lieu of the mangroves along the holding ponds. The contention of the CIDCO is that none of the holding ponds and channels in Navi Mumbai falls in CRZ-I as they are not part of the creek. Some of the mangroves fall partly in CRZ-II as they are along the artificially created water bodies excavated out of the firm land. It was indicated that because the ponds were not desilted the water holding capacity in the ponds have decreased, thereby causing floods in the vicinity during monsoons.

2.1.2 Issues relating to slum redevelopment by SRA and redevelopment of dilapidated, cessed and unsafe building

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(a) The SRA Scheme is being implemented by GoM. It was indicated that large pockets of slums have settled along the seashore. About 291 slum pockets are present in CRZ-II, which houses 3.5 lakh huts with 15 lakh people living in such slums. It was indicated that in the CRZ-II areas the eligible Floor Space Index (FSI) within city is 1.67 while in suburbs it is 1.25 as against 3 or 4 FSI in the non-CRZ areas. The provisions of CRZ Notification, 2011 pertaining to slum rehabilitation scheme were explained in detail and the hardships faced by the slum dwellers and the environmental and social issues of slums explained.

(b) It was informed that as per the Notification, 2011, GoM had sought proposals on joint venture basis through wide publication in newspapers. It was also informed that not a single valid proposal was received even after repeated advertisements. On account of the provision in the CRZ Notification, 2011, the slum redevelopment in CRZ-II areas are languishing as the scheme indicated under the CRZ Notification, 2011 is not economically viable.

(c) The schemes with regard to the slum redevelopment in CRZ-II areas should be allowed to develop with current permissible FSI as prevailing outside CRZ. Further, no joint venture with Government organization should be made mandatory. The ratio of 51:49, Government:private party, as indicated in the CRZ Notification, 2011 be waived off and permitted to be developed by the proponent.

2.1.3 Municipal Corporation of Greater Mumbai on CRZ issues relating to redevelopment of dilapidated, cessed and unsafe building

(a) It was highlighted that the datum line of redevelopment of dilapidated, cessed and unsafe buildings is frozen as on 6 January 2011 by MoEF&CC vide corrigendum dated 29 March 2011 to the CRZ Notification, 2011. In this regard, it was indicated that declaration of dilapidated buildings is a continuous process based on ageing of structures. GoM declares buildings based on criteria as dilapidated. It was highlighted that the buildings which are now declared safe could become dilapidated in future. Hence, the Notification should provide for such dynamic situations. For undertaking redevelopment of dilapidated structures, the FSI/Floor Area Ratio (FAR) should not be frozen but enabling provision should be inserted in the notification for

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providing FSI and FAR on that particular date on which the redevelopment is accorded permission. It was suggested that it would be desirable to specifically incorporate permissibility of reconstruction/redevelopment in accordance with Town and Country Planning Regulations applicable as on the date on which such reconstruction is approved by competent authority.

(b) It was requested that the corrigendum may be modified as "*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.*"

2.1.4 Issues relating to Koliwadas and Goathans of Maharashtra

(a) It was also highlighted that in the CRZ Notification, 2011, Koliwadas and Goathans are classified as CRZ-III. It was indicated that presently there are 23 Goathans and 16 Koliwadas in Mumbai affected by CRZ. Declaring these Koliwadas and Goathans as CRZ-III would severely limit the development thereby defeating the objective of ensuring livelihood security to the fisher and other local communities in a sustainable manner. Further, it was indicated that there is no clarity in respect of availability of Town and Country Planning Regulations for redevelopment/reconsideration of dwelling units in Koliwadas/Goathans. In this regard, BMC requested that instead of CRZ-III these Koliwadas and Goathans be classified as CRZ-II and current DCR to be made applicable to facilitate development. Accordingly, Clause (g) of Sr. No.(8)(V)(iii) for the CRZ Notification, 2011 be modified.

2.1.5 Issues relating to the development of coastal road project by MCGM

(a) It was indicated in the presentation that in the present scenario where the majority of the public use north-south local train, there has been several incidents of accidents. It was indicated that due to increase in population and large number of commuters taking the local train the accident rate has increased to around 2000


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deaths in a year. In this regard, the GoM proposes to construct 36 km long coastal road from Colaba up to Malad-Kandivali Link Road. The proposed road would be 4+4 access controlled freeway. For the proposed road, there shall be no land acquisition and no R&R. The proposed road would protect the beaches and fishermen's villages without obstructing the natural course of seawater. It was also clarified that for the construction of the road project, no significant damage would be caused to the mangroves or beaches. The road will be on stilts and in places through the tunnels. For the road project, approximately 9.8 km reclamation is proposed in the sea with a total area of 160 hectares and about 8 km reclamation in the mangrove areas. It was also indicated that in the mangrove stretch of 3.45 km of the road would be constructed on stilts and wherever mangrove destruction would take place re-plantation of mangroves will be taken up with the Forests Department. It was indicated that by construction of the road there would be significant reduction of traffic congestion on the existing roads and reduction in travel time.

(b) To develop the above-mentioned road project, MCGM requested for amendment of para 3(iv) of the required in CRZ Notification, 2011 providing for "land reclamation for construction of coastal roads". In the reclaimed area, MCGM proposes to develop promenades, gardens and green spaces. It was indicated that no real estate development for commercial use shall be permitted and no relaxation of CRZ regulation on the landward side of the proposed road shall be sought.

2.1.6 With regard to new airport CIDCO vide their letter No. CIDCO/MD/2013/247, dated 23 December 2013 have sought for an in-principle approval for a proposal for development of islands airport in Thane creek, Navi Mumbai. As per the letter, the Navi Mumbai International Airport (NMIA) has obtained all necessary clearances including permission from the Hon'ble HC for removal of mangroves. The project involves 671 ha of private land and rehabilitation of 3500 families. The 3500 people affected by this project need to be rehabilitated. This is a serious issue that CIDCO is facing including escalating cost of airport development. In this regard, CIDCO intends to search for an alternative site for airport. CIDCO has proposed a development of an airport in an island in Thane creek which is west of existing NMIA site. As per the letter this islands airport in Thane creek would not require acquisition of private land and rehabilitation of any population. In the letter, CIDCO has

requested MoEF&CC, "I request MoEF&CC to look into the proposal of development of airport on a reclaimed island in Thane creek, Navi Mumbai and grant us "In-principle approval" for the same. Upon approval, CIDCO would initiate further necessary studies such as preparation of Detailed Project Report (DPR) and EIA report for obtaining Environment and CRZ clearance for the island airport proposal".

2.2 Karnataka [ToR-1(b)]

The Committee visited Bengaluru on 21 August 2014 and had discussion with the officials of Government of Karnataka (GoKA) which was represented by Chief Secretary, GoKA. The issues raised by GoKA are detailed later and the copy of the presentations and letters are provided in Volume III of this Report.

2.2.1 Fishermen issues in Karnataka

(a) Most of the fishermen villages are located on the sea coast, on account of the stipulations of 200 m NDZ the fisher folk are unable to undertake developmental activities especially the dwelling units and other infrastructure required for the protection of their life and livelihood. Therefore, the width of NDZ is to be reduced to 50 m as provided for the islands of Kerala instead of 200 m all along the sea coast and width of the river/creek with maximum of 50 m along the river/creek. Fisher folk need to build their dwelling units close to sea only for the convenience of earning their livelihood. Therefore, dwelling units should be permitted in the NDZ to enable accommodation for expansion of families of fisher folk and local inhabitants. Due to the restrictions the fisher folk and the local inhabitants are unable to avail the benefit of "MatsyaAshraya" and other housing schemes of Government. In view of the above, the state Government has requested amendment to the CRZ to provide for construction of new dwelling units be permitted within 100 meters from HTL.

2.2.2 Issues relating to tourism sector


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(a) A proposal has been forwarded to the MoEF&CC through the Ministry of Tourism (MoT), GoI by Department of Tourism (DoT), GoKA with reference to the report on CRZ submitted earlier by the Expert Committee headed by Prof. M. S. Swaminathan. The proposal sought amendments to the CRZ Notification, 2011 in line with the special provisions provided for the states of Kerala, Maharashtra and Goa and addressing various issues faced by local agencies in tourism development. Under the 12th Five-year plan MoT, GoI planned development of Tourist Circuits across India. DoT, GoKA for the year 2013–2014 had proposed development of Mega Coastal Tourism Circuit as a measure to boost coastal tourism in the State. The development comprises basic tourist amenities to be provided to the tourists in 23 beaches along the coast of Karnataka. To promote and enhance the tourism experience of tourists, DoT GoKA had submitted a proposal to the MoEF&CC seeking relaxation of CRZ norms by way of "Special Tourism Zones".

(b) The State has identified 41 beaches and 11 islands with good tourism potential. In Karnataka the coastal stretches very narrow because of the Western Ghats. In certain stretches the coastal areas are less than 100mts. On the average the coastal stretch is around 300mts. The national highway, and in some cases state highway, pass through this narrow stretch of CRZ, even within NDZ. The State Government of Karnataka requested for special relaxation to permit certain constructions of temporary nature on the seaward side of such road when the roads fall in NDZ for temporary tourism related activities. On the landward side of the road the tourism development as indicated in the CRZ Notification could be taken up subject to environmental conditions.


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2.3 Kerala [ToR-1(c)]

The Committee visited Thiruvananthapuram on 22 August 2014 and had discussions with the officials of GoK represented by Chief Secretary, GoK. The Chief Minister, GoK also met the Committee and he explained the hardships faced by the Government with regard to CRZ. The issues raised by GoK are detailed in the following sections and the copy of the presentations is provided in Volume III of this Report.

2.3.1 Issues relating to fishermen

- (a) Fishermen/traditional communities living by the sea and by the tidally influenced water bodies where CRZ-III is applicable currently are unable to construct houses/toilet/stores (for safe keeping of their implements). Being highly essential to live by the ecosystem for earning their livelihood, the above-mentioned activities need to be permitted in the NDZ of CRZ-III.
- (b) The space for constructing dwelling units in the CRZ area is limited. Hence, family members are not in a position to construct dwelling units in the land rightfully received as family right/share in the NDZs of CRZ-III. Moreover, in case of a local/fishermen community who buy a piece of land within the CRZ area are unable to build a house as per the present provisions. These are highly essential requirements for the traditional/fishermen community, the right for the same need to be reinstated in CRZ-II and CRZ-III area.
- (c) Kerala being criss-crossed with numerous inland water bodies under the purview of CRZ Notification, 2011 the CRZ area landward of HTL up to 100 m creates the same hurdle as above for traditional communities. The construction of dwelling units needs to be permitted on the banks of paddy fields/pokkali fields/aqua farms for their sustenance.
- (d) Considering the stress due to population on the banks of the tidally affected water bodies (majority of the area having density of population $>2000/\text{km}^2$), the NDZ of CRZ-III along the banks of inland water bodies may be reduced to 50 m from HTL (landward) from the present stipulation of 100 m.
- (e) The provision to permit reconstruction in the NDZ of CRZ-III area without

increase in existing plinth area, existing FSI and existing density may be modified as *permit reconstruction in the NDZ of CRZ-III without increase in existing plinth area or up to 100 m² in case of dwelling units of traditional community*. This would help the fishermen/local community to reconstruct small huts and dwelling units into a better place to live.

(f) Presently, construction in backwater islands is possible only beyond 50 m from the HTL. For the traditional/fishermen community, this may be amended to the extent that "residential construction can be permitted landward of existing authorized structures and approved roads".

(g) Construction of dwelling units of coastal community including fisher folk may be permitted leaving 50 m from HTL of sea except along the highly eroding sea coast and 10m from HTL of backwater or landward existing authorized structures or approved road whichever is less in CRZ-III.

(h) Considering the specific coastal settings of the State having numerous barrier beaches, spits and barrier islands with width less than 1 km separating the sea from the backwater the NDZ may be reduced to 20 m in those areas for traditional coastal communities including fisher folk for the construction of dwelling units and other livelihood essential facilities.

(i) Permission for the construction of 3–4 floor housing buildings under Government projects such as Rajiv Slum Development Project in CRZ-III area after leaving 100 m from HTL of sea. This is required for providing better dwelling facility for the fisherman community.

2.3.2 Tourism issues

(a) Tourism in Kerala has become a significant contributor to the sustainable development of the State. Tourism contributes about 10% to the GDP of the State. Tourism creates employment opportunity to more than 25 lakh individuals in the State. Tourism sector can further grow only with the active support of the Governments, both Central and the State, with favorable policies and creating enabling environment for attracting investment in tourism infrastructure. Even though CRZ Notification helps in conserving the beaches and tidal-influenced water bodies

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in a big way, it imposes limitations to tourism growth in the State, which heavily depends on the beaches and backwaters as its major tourism destinations.

(b) The Notification restricts the development of tourism infrastructure at the most potential tourism areas of the state such as beaches, backwaters and tidal-influenced water bodies. Hence, there is an urgent need for the reconsideration of the CRZ norms in the tourism potential areas in Kerala to facilitate controlled developments in tourism in a sustainable and responsible manner in the identified beach stretches in the State of Kerala. It is also essential to reconsider and modify the CRZ norms related to backwaters and tidal-influenced water bodies to enable environmental friendly tourism investments, as backwaters are the back bone of Kerala, creating large opportunity for employment and livelihood of the local population.

(c) Considerable number of tourism destinations that emerged in the State is in rural coastal areas and falls under CRZ-III, and hence no development is possible within 200 m of NDZ. This makes the destinations unattractive to the investors as well as the tourists. The NDZ for the tidal-influenced area for 100 m makes backwater-related tourism too restrictive and is unaffordable to the State as backwater tourism is the back bone of Kerala tourism industry.

(f) GoK suggested the following modifications to the CRZ rules in the case of Kerala state:-

(i) As per Section 8 (i) II of CRZ Notification, 2011, in CRZ-II, buildings shall be permitted on the landward side of the existing road, or on the landward side of the existing authorized structures. But as per Annexure III of the notification which describes the guidelines for the development of beach resorts for hotels, it is mentioned that the guidelines are for "designated areas of CRZ-III and CRZ-II". This imposes huge restrictions for tourism developments in CRZ-II area and is contradicting the statements in Section 8(i) II and III. In fact, Annexure III is referred only in Section 8(i) III which is meant for CRZ-III.

(ii) The NDZ for the beach stretches identified in rural areas falling in CRZ-III may be brought down to 100m instead of 200m. The same guidelines applicable as per Annexure III of the CRZ Notification, 2011 may be made


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applicable at the 100–500 m area from HTL. It may be noted that as per 8 (i) III (ii) of the CRZ Notification, 2011, construction of residential buildings for fisher folk is permitted from 100 m to 200 m of the NDZ and the proposal is only to extend this provision to tourism development with restrictive guidelines.

- (iii) For beaches falling in the urban area, the prevailing CRZ-II norms has been proposed to continue by removing CRZ-II from the applicability of the provisions in Annexure III regulations of CRZ Notification, 2011. It may be noted that the above provision is not available in CRZ Notification, 1991 and is included as a new provision in CRZ Notification, 2011. There is anomaly in this provision as the restriction is imposed only to tourism development and not to any kind of other uses such as residential or commercial developments.
- (iv) The backwaters of Kerala and houseboats are considered to be very important for the tourism industry of Kerala and contribute significantly to the local employment opportunity and foreign exchange earnings. The banks of these backwaters and river mouths are enchanting picnic spots. Stretched over a total expanse of 1500 km, the backwaters have a network of 44 rivers, lagoons and lakes from north to south. Alapuzha, Kumarakom and Ashtamudi are internationally known backwater destinations with world-class tourist facilities. Malabar backwaters in Kannur and Kasargod districts are developing fast and are emerging areas utilizing backwater potential for tourism investments. The 100 m NDZ for backwaters and tidal-influenced water bodies are imposing huge limitation in tourism investments. The 100 m wide NDZ is not viable to any investor. It may be noted that after the introduction of CRZ Notification, 2011 in 1991, 50 m NDZ was applicable for most of the period which is now made 100 m in CRZ Notification, 2011. Also the regulation applicable to backwater islands as per CRZ Notification, 2011 is only 50 m NDZ.

2.3.3 Conservation of backwaters

The inclusion of Vembanad as a CVCA and the preparation of IMP for Vembanad

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are major issues still remaining unresolved due to lack of clear directions and guidelines from MoEF&CC. This is a major impediment in the protection of the Vembanad ecosystem and sustainable development of the region. Application of two environmental laws to the same area is another matter of concern. The Ashtamudi and Vembanad backwaters are Ramasar sites and hence the wetland (Conservation and Management) Rules 2010 are applicable, while the same areas are also under the purview of CRZ.

2.4 Suggestions and comments made by other States/UTS including general issues [ToR-1(e)]

The Committee interacted with officials of the other coastal States/UTs, namely Odisha, Andhra Pradesh, Tamil Nadu, Puducherry, Goa, Daman and Diu, Gujarat, West Bengal. Most of the issues indicated by the above States/UTs were general in nature. All these issues are listed below:-

2.4.1 HTL demarcation and CZMP preparation

- (a) It was indicated by the States/UTs that for effective implementation, physical demarcation of HTL on ground should be expedited.
- (b) Several States/UTs indicated that they have expertise and institutional mechanism for HTL demarcation and CZMP preparation. In this regard the States/UTs sought for authorizing the institutions in each of the States/UTs for undertaking HTL and CZMP preparation.
- (c) It was indicated that the CRZ boundary along tidal influenced water bodies based on salinity ingress is highly confusing and in several cases not practical due to various hydro dynamic and geomorphological features. The States/UTS requested for doing away with this kind of parameter for determining CRZ boundary.

2.4.2 Monitoring and enforcement

- (a) It was indicated that the provisions under E(P) Act, 1986 is not effective for dealing with violations.

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- (b) Several States/UTs sought for quicker redressal mechanisms for complaint and guidelines issued for taking action against violations.

2.4.3 Requirement of guidelines for implementation of various provisions of CRZ Notification.

- (a) Many States indicated that both CRZ Notification, 1991 and 2011 does not provide for guidelines especially for FSI/FAR restrictions, ESA management, etc., including a simplified procedure for implementation of the notification. Hence the local communities are put into hardship due to the ambiguities prevailing in the notification.
- (b) Simplified procedures for clearance for projects such as fishing jetties erosion control measures break waters, water pipelines and navigational facilities should be made available.
- (c) All States/UTs sought for a clear cut list of activities that are either permitted or prohibited so that there is no ambiguity. It was also indicated that a large list with exempting clause is highly confusing.

2.4.4 Disaster management and hazard line mapping

- (a) It was indicated by the States/UTs that the Hazard Line to be mapped by the MoEF&CC will lead to large areas getting covered in the States/UTs especially in the east coast as there is a gentle slope in the coastal areas. A large extent of flood-prone areas is likely to be covered under CRZ, and imposing restrictions on such areas may be difficult due to high population density.
- (b) It was indicated that there should be no height restriction for cyclone shelters in the NDZ of CRZ-III.
- (c) Development of projects in coastal areas is delayed due to lack of clarity in determining the high erosion, low erosion and medium erosion. Hence, this should be mapped at the earliest. Due to the deficit of the above-mentioned information, development of the port projects has been delayed considerably.

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2.4.5 Fishery related issues including fish processing

- (a) Many States/UTs raised the issue with regard to providing for safe handling of fish, landing centres require ice and storage plants in the CRZ areas. It was indicate that the fishery-related facilities should be made permissible in the NDZ including certain temporary constructions in the sand dunes.
- (b) The small UTs especially Daman and Diu sought for allocating abandoned salt pans for fishery related activities as there is acute shortage of land.
- (c) Setting up an expansion of fish-processing units including warehousing (excluding hatchery and natural fish drying) were prohibited, whereas existing fish-processing units for modernization purposes were permitted to utilize 25% additional plinth area required for additional equipment and pollution control measures only subject to existing FSI/FAR 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 PCB/PCC. However, the exemption clause with regard to utilization of additional plinth area is deleted in Para 3(iii) of CRZ Notification dated 6 January 2011. This is inhibiting the modernization of existing fish-processing units by adopting pollution control measures. The representatives of industry and public representatives of coastal districts have also demanded inclusion of the provision in the CRZ Notification, 2011.
- (d) The construction of building for livelihood activities such as peeling of prawns, fish-based small-scale non-polluting cottage industries/small shops and flour mills may be permitted in CRZ area other than CRZ-I and CRZ-IV. This will ensure jobs for the traditional community and will help to improve the livelihood of the local community.
- (e) In the fish landing centres approved by GoK 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 and jetties may be permitted by Grama Panchayat in the CRZ area.


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2.4.6 Protection of ESAs categorized as CRZ-I

- (a) Several States/UTs indicated their difficulties in management of mangrove area and in the absence of proper guidelines certain essential development required for larger public could not be taken up in the mangrove area. It was indicated that mangrove patches should be classified based on the area, and minimum area for classification as CRZ-I should be specified to avoid wrong classification of areas and unnecessary litigations.
- (b) It was indicated that Maharashtra has 30,000 hectares of mangroves of which there are 17,000 hectares in Government land and 13,000 hectares in private land. Of the total mangrove area of 30,000 hectare, 4000 hectares falls within protected forest. The Judgment of Hon'ble High Court (HC) of Bombay dated 6 October 2005 has imposed total ban on destruction and cutting of mangroves in the entire State including prohibition on dumping of solid waste in the mangrove area. This Judgment applies to all mangrove land irrespective of its ownership. Further, as per the same Judgment, no construction can be taken up within 50 m on all sides of mangroves. GoM has been directed not to issue any development permission in the mangrove area. Further, as per the directions of Hon'ble HC, mangroves in Government-owned land is to be notified as "protected forest" while mangrove areas in private land shall be notified as "forest". For the purpose of protecting mangroves, the GoM has set up a Mangrove Cell headed by CCF. The Mangrove Cell was established in January 2012 with a main focus for conservation of mangroves and to promote coastal biodiversity. Mangrove conservation projects with UNDP-GEF and GIZ are being taken up by the Forest Department. The most of the destruction of mangroves is taking place in private land. To prevent further destruction of mangroves and to empower the Forest Department to take action against violations, delegation of Section 23 of E(P)A 1986, to the Forest Department has sought.
- (c) It was also requested to the Committee to provide for suitable provisions in the CRZ Notification, 2011, to permit certain constructions which can be accorded clearance at the State level especially for the development of marine interpretation Centres, low-intensity traditional aquaculture and hatchery activities in the CRZ-III areas. Request was also made to permit construction of

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promenades at the edge of the mangroves so as to prevent felling and also to prevent solid waste dumping in the mangrove area. Clearing of mangroves and destruction of wildlife habitat in the CRZ-I areas should be explicitly declared as prohibited activity under CRZ-I. Based on the above-mentioned facts, GoM requested for the following:

- (i) to empower Section 23 of E(P)A 1986 to the State Forest Department to take punitive action against violations in CRZ-I areas;
 - (ii) to explicitly insert a provision under item CRZ-I of the CRZ Notification, 2011 that "Clearing of mangroves and destruction of wildlife habitat in CRZ-I areas as a prohibited activity";
 - (iii) to provide for construction of Marine Interpretation Centre in CRZ-III areas and construction of a walkway and research facilities in the mangrove area classified as CRZ-I. For undertaking the above-mentioned activities, the State Government shall be empowered to accord clearance under the Notification after due recommendations of the MCZMA.
- (d) Further, CIDCO for conserving 1471 hectares of coastal wetland, mudflats and mangroves, along with Forest Department proposes to construct a genetic resource conservation park and provide for raised broad walkway along with an information dissemination centre to be built in the adjoining land in the mangrove area. It was indicated that the CRZ Notification, 2011 does not provide for any incentive in undertaking certain development in CRZ-I for the purpose of promoting awareness and conservation of mangroves. CIDCO requested the Committee to consider development of such facilities for public use in the CRZ-I areas without destruction of the mangroves similar to the Forests Department's request indicated above.
- (e) In this regard, CIDCO explained in detail the legal provision pertaining to the inland mangroves and coastal mangroves as contained in the Forest (Conservation) Act [F(C)A], 1980, Maharashtra Felling of Trees (Regulation) Act, 1964, Maharashtra (Urban Areas) Preservation of Trees Act, 1975. It was requested that the Committee may distinguish between natural coastal mangroves and inland mangroves. Since, Navi Mumbai has inland mangroves mainly due to artificially created ingress of seawater the provisions applicable to

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coastal mangroves shall not apply on such inland mangroves. Request for permitting construction of walkway, interpretation centre, genetic research park and so on within CRZ-II/CRZ-III areas was sought.

- (f) In the CRZ-I area, there is a need for preservation of land between LTL and HTL and the mangroves which have a strong ecological rationale should be integrated within the new development plan. With regard to CRZ-II areas, the zone defined as already developed and with infrastructure should become integral part of development/redevelopment as envisaged in the Town and Country Planning Regulations as brought out from time to time. In this regard, the land use zoning and the FSI should be decided as per the current needs and not tied down to 1967 Rules. Since the new DP is under preparation, BMC requested for inserting the following clause in 8(V)(iii), *"In case the Development Plan and DCR revised by following due process of public consultation, the provisions of the same will become applicable even in CRZ, after the same is approved by MoEF&CC."* Hence, GoM has requested for applicability of the uniform DCR for entire Mumbai.
- (g) It was indicated that as per the Notification, Achra-Ratnagiri and Malvan-Sindhudurg has been declared as Critical Vulnerable Coastal Areas (CVCA), where Integrated Management Plans (IMPs) are to be prepared. In the absence of such IMPs, no developmental activities are being permitted. Hence, it is requested that MoEF&CC may provide guidelines for preparing the IMPs.
- (h) It was indicated that in CRZ-I there has been systematic landfill, reclamation, unauthorized encroachment, cutting of mangroves, and so on. In this regard, the local authorities should be empowered to take up eco-developmental programme by creating garden, open spaces and promenades for sustainable conservation of CRZ-I. This step would reduce encroachments and degradation of the costal environment.
- (i) It was mentioned that the mangroves in case of more than 10,000 m² are required to provide 50 m buffer. However, unfortunately, the buffer zone of 50 m has led to encroachment, illegal dumping, construction activity and slum redevelopment. Hence, it was requested that the 50 m buffer shall be maintained


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with green belt under social forestry or gardens. This would serve as a barrier to encroachment and also provide protection to mangroves.


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2.4.7 Tourism

- (a) Apart from the specific issues raised by the States of Kerala and Karnataka with regard to tourism several other States also sought relaxation of the CRZ provision or promoting tourism in the CRZ areas. It was indicated that temporary structures for beach resort should be made permissible in the NDZ.
- (b) Specially the UT of Puducherry indicated that there are several heritage buildings which are more than 70 years old are located along the white town which falls under CRZ-II and has greater building coverage than the present permissible levels. As per the Town Planning norms of 1991, building height varies with existing road width and the coverage varies with plot size and usage of building. Hence, construction and reconstruction in CRZ-II should be allowed as per the prevailing Town Planning norms as on date.



2.4.8 Clearance of projects

- (a) Several States/UTs indicated that there is considerable ambiguity in the clearance of projects. The procedures are complicated and time taking. It was also indicated that the form for seeking clearance of projects in CRZ Notification, 2011 is complicated and very elaborate. Several States/UTs sought for delegation of powers for according clearance to projects in the coastal areas.
- (b) The projects attracting EIA Notification should be permitted as per the said Notification and those not attracting the EIA Notification shall be dealt as per the norms of the State Government by the concerned authorities.
- (c) As per the CRZ Notification, 2011 prior NOC from SPCB is mandatory for projects which are discharging effluents, solid wastes and sewage. It was indicated that only prior approval under Water (Prevention and Control of Pollution) Act, 1974 for disposal of treated effluent in the coastal water body may be made mandatory for the projects.
- (d) The CRZ insists a rapid EIA report including marine and terrestrial component expect for construction project listed under 4(c) and 4(d). It is not clear whether rapid EIA is required for all projects expecting listed under 4(c) and 4(d).
- (e) CRZ suggest Comprehensive EIA with cumulative studies for projects in the stretches classified as low and medium eroding by MoEF&CC based on scientific studies and in consultation with the State Governments and UT Administration. Clarification was sought whether this is applicable for all kinds of projects and the availability of the data in this regard.
- (f) Whether Disaster Management Report, Risk Assessment Report and Management Plans are required for small projects such as hotels and guesthouse.
- (g) It was suggested that CRZ map indicating HTL and LTL demarcated by one of the authorized agency in 1:4000 scale is insisted in this regard standardization of cost for map preparation is required based on project cost.
- (h) No objection certificates from the concerned State Pollution Control Boards or UT Pollution Control Committees for the projects involving discharge of effluents, solid wastes, sewage and so on are required prior to CRZ clearance, this

procedure is difficult as no objection certificate from the Pollution Control Boards will not be issued by it prior to clearance by SCZMA.

- (i) In 4(ii), Activities [(a)–(i)] of the CRZ Notification, 2011 shall require clearance from MoEF&CC. Clarification is needed on the following: whether the recommendation of the project after appraisal by SCZMA is to be sent to MoEF&CC for clearance and whether the entire process is to be done by MoEF&CC.

2.4.9 Capacity building and institutional mechanism

- (a) Several States/UTs indicated that the CZMAs have no adequate capacity including funding. They requested for financing and providing technical assistance to the State Governments in the area of coastal management. The States/UTs sought for the ICZM Project which is presently being implemented by MoEF&CC through SICOM and NCSCM. The States/UTs sought for extending the expertise of SICOM and NCSCM to their States/UTs as well for the purpose of preparing ICZMPs including capacity building.

2.4.10 Regularization of the dwelling units constructed in violation of the CRZ Notification

- (a) Some of the States/UTs especially Goa indicated that several dwelling units of local communities have been constructed in violation of the CRZ Notification. Keeping in view the larger public interest the State sought regularization of dwelling units of traditional coastal communities including fisher-folk.
- (b) The GoM sought for regularization some of the large constructions in Navi Mumbai undertaken in violation of the CRZ Notification. However, it was indicated that these constructions had all other requisite approvals.

2.4.11 Mining of minerals

- (a) Some of the Stats/UTs sought for permitting mining of sand based on scientific analysis including their removal. The Government of Gujarat indicated that

certain stretches of the coastline have large reserve of high quality of limestone. It was indicated that the Gulf of Kachchh and Saurashtra have vast limestone reserves amounting to 10,000 million metric tons. This limestone has high calcium content (more than 92%) and is extremely valuable. Several industries especially cement industries in these areas use the limestone. Many of the industries have been set up prior to 1991 based on the limestone reserve. These industries have been affected due to the provision of the CRZ Notification. The State Government has sought relaxation of mining of limestone and has requested to make it a permissible activity outside eco-sensitive area with subject to the condition of proper mitigation measures, preservation of erosion, saline water incursion, pollution of coastal waters and so on.

- (b) There is a need for clear regulations on estuaries. Estuary is a point of meeting of a river and sea; this area is special because of unique salt-tolerant flora they harbor and distinct fauna dependent on such floral components. Estuary is cradle for various life forms including mangroves. Regulation on estuaries should clearly define the carrying capacity of various bio-resources being removed from estuaries, for example, the sand mining by the mechanized method to be stopped.

2.4.12 Disparity in DCR in CRZ and non-CRZ areas

- (a) It was also presented that there are several disparities in the DCR with respect to CRZ and non-CRZ areas. Some of which include, the DCR within the CRZ area is applicable as on 1967 while in the non-CRZ area the DCR applicability would be as per the present regulations. The applicability of DP & CR of 1967 is retrograde and against the principle of planning. Therefore, it was requested that there is a need to adopt a uniform DCR for entire Mumbai which has been already conveyed to Secretary, Environment and Principal Secretary, Urban Development on 9 March 2012 by BMC and the same has been forwarded to MoEF&CC. It was also mentioned that the Municipal Corporation of Greater Mumbai (MCGM) has undertaken the preparation work of revision of the development plan of 2014–2034 and it was pointed out that, out of 458.28 km²,


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109.24 km² is under CRZ which amounts to 25%. This 109.24 km² of CRZ area includes 52.61 km² as CRZ-I, 43.48 km² as CRZ-II and the rest 13.15 km² as CRZ-III. It was also mentioned that by 2034 the population of this city would increase from 12.44 million to 14.37 million as on 2011. The GoM indicated that this disparity among various norms has led to confusion and has restricted development. In order to resolve such conflicts between the construction norms and to get uniformity, the GoM requested the Committee to resolve this issue at the earliest. Reiterating this, it was indicated that the DCR of 1967 regulations inhibits development in the city and it would be unrealistic and anachronistic keeping in view the growing population.

2.4.13 CRZ-II and III related issues pertaining to Town and Country Planning norms

- (a) Further, as per the CRZ Notification open spaces/parks has been classified as CRZ-III where no development can take place. In such areas, slums have come up. The Hon'ble Court has held that no redevelopment can be taken up in such CRZ-III areas. Due to the stalemate, neither slums can be redeveloped nor the open space developed. Keeping in view such complex problems, BMC suggested that there needs to be a fresh approach of integrated planning of CRZ-I and CRZ-III with rest of the city. GoM has requested for to provide uniform FSI/FAR for the city of Mumbai as per the prevailing Town and Country Planning Regulations for undertaking development of slum redevelopment schemes, redevelopment of dilapidated buildings, cessed and unsafe buildings.
- (b) The CRZ Notification, 2011 provides for prior clearance for demolition and reconstruction of public use structures, such as education, workshops, medical care and cultural activities by MoEF&CC. It was requested that since most of the structures are Government projects involving public interest timely clearance is required. Hence, they may be permitted to be cleared at the state level. It was also requested that projects of public interest such as water sewerage pipeline, bridges and roads could be approved the state level instead of being referred to MoEF&CC which is presently followed.

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- (c) The Notification provides only for the traditional fishing activity. It is silent with regard to mechanized fishing activity that is being carried out even now. In view of the reduction in the fish catches and owing to the advanced technology available to take up coastal aqua culture and mariculture, there is a need to make provision for undertaking such activities in CRZ-IV and for the establishment of facilities required for such activities on the adjacent land. No norms are prescribed for regulated activities. In view of this, the GoKA has requested for "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" be modified as "The activities impugning on the sea and tidal-influenced water bodies will be regulated except for traditional fishing, coastal aquaculture and mariculture including facilities required for such activities on the adjacent land as well as related activities undertaken by local communities".
- (d) There are many riverine Islands and long stretches of rivers with tidal influence. Traditional fishermen as well as other inhabitants are there all along the river and islands. These traditional families are finding it difficult to expand the dwelling units due to family expansion. CRZ for the islands in the State of Karnataka is presently 100 m or width of the river/creek. Therefore, the CRZ limit in the islands of the state as well as all along the rivers also to be limited to 50 m or width of the river/creek whichever is less as provided for Kerala. The GoKA has requested for 50 m width from the HTL on the landward side as the CRZ area for the islands within the backwaters.
- (e) The fishermen villages are generally thickly populated in the coastal area with all the civic amenities provided by the Government. These fishermen are confined to the same area. Hence, the fishermen may be permitted for construction/reconstruction of their dwelling units and to enable other infrastructure facilities. According to the existing Provision, CRZ-II comprises areas that have been developed up to 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


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and other infrastructural facilities, such as water supply and sewerage mains.) The GoKA has requested for the fishermen villages that have been substantially built up and be included under the definition of "developed area" in the explanation, as is allowed in the case of CRZ-II in urban local bodies.

- (f) Buildings shall be permitted only on the landward side of the existing road or on the landward side of the existing authorized structures. Clarification was sought regarding the term "existing road": the type of road (metalled/non-metal/murum, etc.) and date/year of construction of road.

2.4.14 Foreshore requiring facilities

- (a) The CRZ restrictions are hindering the development of port-related activities. At present all the minor ports of the state have been classified under CRZ-III. But all the minor ports are situated on the shore line of developed areas within the municipal limits and already have created substantive built up area with other infrastructure facilities. As per the notification these ports should have been classified under CRZ-II. But unfortunately the minor ports of the state have been classified as CRZ-III. Thus, the resulting restrictions on the development of water front industries would seriously undermine the developments of the ports of the Karnataka state.
- (b) Development of ports is mainly dependent on the construction of infrastructure facilities on water front area of the coastline. Port-based industries are vital to the economic development of the State; therefore, it was requested by GoKA that the Karnataka ports either be classified under CRZ-II or be totally exempted from the preview of CRZ in the interest of the trade and economy of the State.
- (c) At present, the CRZ clearance authority is given to the MoEF&CC in respect of port-related projects. The Karnataka Port Department is of the opinion that, as the development of the ports of the country comes under the purview of the Ministry of Shipping and Road Transport, it is advisable to empower the Ministry of Shipping, Road Transport and Highways, GoI, New Delhi to grant CRZ clearances for port projects in the best interest of the comprehensive and speedy development of the port sector.

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- (d) As per the CRZ Notification, 2011 expansion of the existing ports is required to obtain the permission from SCZMA or MoEF&CC but expansion/infrastructure addition, up gradation of the existing port facilities is very essential and equally inevitable for efficient management of the ports. Hence, expansion of the existing minor ports may be exempted from the purview of the CRZ notification.

2.4.15 Inland islands in coastal waters and estuaries

- (a) The NDZ along backwaters, estuaries, creeks, and so on, of the state may be limited to 50 m instead of 100 m. It may be noted that in most of the period after the introduction of CRZ Notification, 1991, the NDZ applicable to backwaters was only 50 m. Also, as per CRZ Notification, 2011, the NDZ for backwater islands is only 50 m and the proposal is only to extend this provision to the entire backwaters and tidal-influenced water bodies.

2.5 Analysis of the CRZ Notification, 2011

(TOR-1(d) – to examine errors/inconsistencies in CRZ Notifications, 2011 and procedural simplification)

2.5.1 The Committee has examined the various issues raised by the coastal State Government and UTs vis-à-vis CRZ Notification, 2011. The Committee has also examined some of the relevant Court Orders in the matter. After taking into account the hardship faced by the people in the coastal areas especially due to the restrictions imposed on housing, road development and tourism development, the Committee is of the opinion that the present CRZ Notification, 2011 should be recast and a fresh notification shall be considered by the Government, which will supersede the CRZ Notification, 2011. This decision of the Committee is mainly founded on the premises that each of the coastal State/UT has well-laid Town and Country Planning Regulations including other developmental regulations which address most of the issues in the CRZ Notification, 2011. The imposition of the Notification by the Central Government on the State and UT Governments has restricted the housing development of the coastal communities. Although there is a need to protect the coastal environment, the housing need of the communities is equally important.

2.5.2 The Committee examined the CRZ Notification, 2011 and its implementation by the MoEF&CC and the coastal State/UT Governments. With regard to the Notification, the Committee observed that the objectives of the Notification are well laid out which takes into account the future issues of the coastal environment. With regard to the jurisdictions listed in the Notification at item (i) and (ii) (iv) and (v) of para 1, there are no issues.

2.5.3 In the para (iii) with regard to the Hazard Line, the Committee is of the opinion that at this stage, it is an excellent time worthy exercise embarked upon by MoEF&CC. However, the Committee observed that it would take a long time for actual demarcation on the ground. Further, the hazard line, which takes into account water-level fluctuations, elevation, SLR and shoreline changes shall also be considered along with the geological factors at a later stage (e.g. plate movement of the Indian subcontinent, as there is subduction in some areas and emergence of land in other parts of the country). Till such time, the zone between the HTL and the Hazard Line should be treated only as "hazard management zone" and not for any other regulatory purposes. However, if the Hazard Line falls below 500 m, then a minimum of 500 m will be under regulation.

2.5.4 The respective State Governments need to take into account the issues relating to hazard management within their Town and Country planning norms for developmental activities. Several State Governments have also raised the issue of Hazard Line and its implications and its demarcation on the ground. The Committee is of the opinion that the MoEF&CC through NCSCM should move forward with the demarcation of Hazard Line as these are crucial input generated with valuable scientific data generated through Sol through aerial photography, photogrammetry and ground verification and erosion mapping by NCSCM using time-series high-resolution satellite imagery. The delineation of Hazard Line would be useful for the country to prepare proper hazard mitigation measures in the coastal areas. Further, the data generated by the Sol which is one of kind in the world; need to be factored into other developmental activities of the coast. It will be the responsibility of the State/UT Governments to include the coastal hazard mitigation activities/facilities

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provided in the respective CZMPs. The State/UT Disaster Management Authorities shall be overall responsible to meet the challenges of disasters arising from coastal and marine areas.

2.5.5 With regard to **para 2** of the CRZ Notification 2011, the Committee observed that the HTL demarcation which was to be completed within one year has not been completed so far. The Committee was apprised of the efforts taken recently by the MoEF&CC, where the methodology was finalized for demarcation of HTL. It has been decided that the ortho maps generated by the Sol during the year 2011 under the hazard mapping component would be used to delineate and provide authentic HTL at best possible accuracy. NCSCM has been authorized to coordinate with the State/UT Governments and the Sol to complete the HTL and LTL demarcation within the stipulated time of 2015. NCSCM has taken necessary steps for expediting the task on time. Most State Governments and UTs have provided necessary inputs in completing the HTL and LTL demarcation. This exercise, when completed, would resolve several outstanding issues, which has also been noted in the report of the high level Committee which reviewed various Acts administered by the MoEF&CC under the Chairmanship of T. S. R. Subramanian Committee at para 9.18. Once the HTL and LTL are demarcated, the CRZ boundaries and their classifications would become easy for demarcation.

2.5.6 With regard to **Para 3**, titled 'prohibited activities', the Committee examined it in detail and observed that several of the activities listed under prohibited activities have exemptions, which have led to ambiguity among the stakeholders. Several State Governments have raised the issue with regard to lack of clarity on clearance procedures for according environmental clearance for the proposed activities. Further, the Committee also is of the opinion that several of the activities listed under the prohibited activities are not exhaustive. It is also felt by the Committee that some of the activities relating to industrial activities are governed by the respective Acts and legislations. In order to avoid duplication and overlap, it is the opinion of the Committee that those respective Acts and legislations, norms should be strengthened further, to address issues relating to coastal areas rather than a separate legislation/provision under the CRZ Notification.

2.5.7 The Committee is of the opinion that the very purpose of the issuance of a direction for coastal management by the Prime Ministers' Office in 1981, was to maintain beaches and its surrounding coastal areas clean. In spite of more than three decades of implementation of coastal management provisions by the Ministry and the State Governments, the conditions of the beaches in India, the coastal waters, the estuaries and other tidal-influenced water bodies remain highly polluted. Such a deterioration of water quality and the solid waste on the beaches has affected the coastal ecosystems and their regeneration capacity – deterioration of ground water with direct impacts on the livelihood of the coastal communities and coastal tourism. The Committee is of the opinion that it is high time that the Government takes a serious measure in controlling the discharge of effluents, untreated sewage, dumping of solid wastes in coastal areas and its waters. The "SWACHH BHARAT ABHIYAN" initiated by the Government should reach the coastal areas with high priority. MoEF&CC through its bodies such as SICOM, NCSCM and State Government should implement this programme vigorously.

2.5.8 Another major issue with regard to the security of the coastal areas, given the present security concerns, has arisen from 26/11/2008 terror incident in Mumbai. The Committee is of the opinion that necessary facilities for coastal patrolling and vigilance activities, coastal police station and other defense-related activities need faster clearances. Hence, such matters relating to national security should be accorded fast clearances by the respective State /UT Governments within a stipulated time.

2.5.9 Ground water drawal at **Para 3 (xi)** of the Notification is a matter of serious concern. The Committee was made aware of the ground water depletion and resultant salinity intrusion that is taking place along the coastal areas of the country due to large-scale and unregulated extraction. Several anthropogenic activities such as seawall, embankment and road construction, dredging and sand mining in the coastal areas disturb the coastal aquifers thereby altering the fresh ground water resources. Destruction of sand dunes and beaches has reduced the percolation of rainwater, thereby affecting the coastal groundwater recharge. The respective State

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Ground Water Authorities including the Ground Water Authority at the Centre should take a serious concern of the issue and prepare guidelines for coastal area groundwater recharge mechanisms including protection of groundwater aquifer in the coastal areas. All construction activities such as roads and dwelling units should have built-in ground water recharge system. The Central Groundwater Board shall be entrusted to prepare an atlas of the coastal aquifers. This data shall be incorporated in the CZMP by the respective States / UTs.

2.5.10 With regard to **Para 4** of the CRZ Notification pertaining to regulation of permissible activities, the Committee was given to understand by the State Governments that there are several activities that are not listed in the Notification; hence, the stakeholders, especially communities, face problems due to ambiguities. Further, even for the small dwelling unit in rural areas, the community has to obtain clearance from the CZMAs which are located in the State capital. Such hardships faced by the communities are a matter of concern. The Committee is of the opinion that the local-level body should be empowered to provide clearance to such matters in accordance with the 73rd and 74th Constitutional Amendment. The Committee is of the opinion that the construction projects which attract EIA should be dealt with as per EIA Notification only.

2.5.11 Further, several States have brought to the notice regarding **para 4 (ii)** which empowers MoEF&CC to accord clearance for small projects such as laying of pipelines, transmission lines, conveyance systems and public buildings. The Committee is of the opinion that the MoEF&CC should restrict itself to policy making in the area of coastal management and monitoring of activities. Such clearances for small projects could be undertaken by the State/UT Governments or other agencies. The MoEF&CC should address coastal management through creating adequate institutions and strengthen existing institutions. A strong scientific skilled manpower should be developed by the MoEF&CC to address the emerging future challenges of coastal management.

2.5.12 With regard to **Para 5** relating to the preparation of CZMPs, the Committee is of the opinion that the demarcation of HTL is the most important aspect of CZMP.


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With regard to preparing CZMPs, several State/UT Governments have indicated their concerns as there is lack of data, expertise, institutions and shortage of manpower, which is affecting the preparation of CZMP on time. These issues have remained unresolved since 1991. CZMP preparation even under 1991 Notification was not completed in spite intervention by the Hon'ble Supreme Court. Hence, the Committee is of the opinion that CZMPs shall be prepared by the States/UTs indicating the HTL, LTL, CRZ-I, CRZ-II, CRZ-III and CRZ-IV areas, the disaster management facilities and any other prohibited area declared by the States/UTs.

The States/UTs may also address some of crucial issues of coastal and marine areas including activities required for society such as coastal hazard mitigation, infrastructure for non-conventional energy, transportation, harvesting/extraction of resources, conveying systems, solid waste management, effluent and sewage treatment facilities and any other innovative schemes or those schemes suitable or unique to their location. The same could be included in the CZMP. It shall be ensured by the agencies and authorities that satellite based inputs/data shall be relied upon for preparing the CZMP. The above draft CZMP shall be recommended by the States/UT CZMAs and approval from the NCZMA shall be obtained. Thereafter, all the development activities including conservation and management of the ESA in the CRZ will be governed by the concerned bodies including those indicated in this Notification. All other projects of national importance declared by the Central Government shall be undertaken in CRZ area on a case to case basis based on EIA as provided in the E(P)A 1986.

Ministry shall put in place a monitoring mechanism, which will consist of State/UT CZMAs, NCZMA, SICOM and NCSCM. SICOM shall prepare a periodic status report of coast and marine areas which shall include the status of implementation of the CRZ Notification. This status report shall be prepared on a yearly basis and it shall provide recommendations and suggestions to the Ministry.

2.5.13 With regard to **Para 6**, relating to the enforcement of CRZ Notification, the Committee has been informed of a serious staff shortage in every State/UT. Further, the funds allotted by the State/UT Governments for coastal management is

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insufficient to address complex issues such as pollution, destruction of ESAs and land erosion, which are all matters of serious concern. These issues require continuous monitoring and rigorous enforcement of law. The Ministry, through its technical body SICOM, should set up appropriate mechanism for monitoring the coast and enforcement of coastal regulations.

2.5.14 With regard to **Para 7** pertaining to classification of the CRZ areas, the Committee observed that this section of the Notification is most critical, as it divides the coastal areas into conservation and development zones. The very heart of the Notification is contained in **Para 7 (i)** which deals with CRZ-I. The ESAs, geomorphologic features and the valuable archaeological and heritage sites are some of the most important and critical aspects of coastal areas. In addition, the beaches, which are crucial in maintaining the integrity of the coast, are subject to extreme degradation and need to be considered as part of the ESA. These features and assets have to be preserved as they are incomparable and extremely invaluable. The ESAs such as mangroves, corals, mudflats, forest areas, salt marshes, turtle nesting ground, horse shoe crab areas, sea grass beds, migratory bird areas and their nesting grounds require utmost attention from the MoEF&CC and States/UTs. These areas, if lost, cannot be regained and the damages in most cases are irreversible. The Committee, from the data available, has observed that serious damages have occurred to these ecosystems and habitats, resulting in irreversible damage. Some of the main causes are encroachment, pollution and unplanned development.

2.5.15 Based on the above-mentioned facts, the Committee observed that the MoEF&CC should mainly focus on developing mechanisms for the conservation and protection of the coastal ecosystems, which is its prime mandate. There is an urgent need to conduct resource mapping of such coastal ecosystems and habitats, including ground-level surveys. It is a fact that these ecosystems and features listed under CRZ-I of the Notification are essential for the growth of fish and fisheries on which the local communities depend upon for their livelihoods.


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2.5.16 Further, the Committee was also informed by the States/UTs that several eco-sensitive areas are inhabited by people, and the inhabitants harvest the natural resources from the ecosystems for their livelihood. These communities, especially the large population living in and around ESAs such as Sundarbans, Bhittarkanika, Chilika, Coringa, Pichavaram, Gulf of Mannar, Pulicat, Vembanad and Gulf of Kachchh, need certain basic infrastructure for their life and livelihood. The Ministry through SICOM shall prepare the appropriate management plans in consultation with the State/UT Governments to address the conservation and protection of these ecosystems along with the livelihood of local communities.

2.5.17 Para 7.2, which is CRZ-II, is another important para of the Notification which affects some of the densely populated cities such as Mumbai, Chennai, Visakhapatnam, Kochi, Mangalore and Puri. The most crucial issue of the provision is restriction of building norms. The Committee has dealt with this issue in detail and had discussions with all State Governments. It is a fact that all coastal States/UTs have a well-defined Town and Country Planning Regulation and have adequate staff and mechanism to implement the regulations. The provisions in CRZ Notification are often overriding the Town and Country Planning Regulation of the State/UT Governments and could be considered as not appropriate from the legal point of view.

2.5.18 Hence, it was felt that the provisions of Town and Country Planning Regulations should be adhered to the coastal areas, subject to strict implementation of certain conditions which include protection of ESAs, prohibition of discharge of untreated effluents, prevention of activities that alter the shoreline, providing adequate open space and connectivity to provide for quick and timely relief during natural calamities, regulated ground water extraction, recycle and reuse of water including prohibition on dumping of municipal solid waste in coastal areas and waters.

2.5.19 The Committee was also made aware of the slums, dilapidated, old and unsafe structures that are present in large numbers especially in the city of Mumbai. The GoM has brought to the notice of the Committee and at several occasions to

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Gol that the CRZ Notification has prevented the redevelopment of such slums, dilapidated structures and old buildings. The Committee was of the opinion that it is the responsibility of the respective State/UT Governments to undertake urgent and immediate steps to rehabilitate the people and provide for decent housing to the people living in slums, dilapidated structures and unsafe houses. This action needs to be taken within the ambit of the existing State/UT legislations.

2.5.20 With regard to para 7 (iii), CRZ-III relates to the rural areas, which are the largest geographical area of the coastal regions. These areas are inhabited by fishermen, farmers, salt pan workers and other coastal communities who depend on the coastal areas for their livelihoods. This stretch is important mainly from the local community point of view and has large tourism potential. The Committee is of the opinion that the local communities may be encouraged to take up tourism as a home stay option, which will provide alternative livelihood and also reduce pressure on coastal fishery. Further, some of the State/UT Governments, especially Kerala, Daman and Diu, have brought to the notice of the Ministry, the high population density of local communities living in such CRZ-III areas. The present regulations of NDZ of 200 m have been highly restrictive in the densely populated parts of the country, which has hindered the housing development of the local communities. The Committee is of the opinion that the housing issues of local communities must be addressed immediately.

2.5.21 Further, one important issue which was brought to the notice of the Committee include the small islands along the mainland coast of the country. While the Ministry has addressed the conservation and management of the oceanic islands of Andaman and Nicobar and Lakshadweep under the IPZ 2011 Notification, the issues relating to these small islands along the mainland have not been addressed. Most of these islands are inhabited and some of them are rather densely inhabited especially in West Bengal, Kerala and Karnataka. In view of the restriction of the present Notification, which mandates an NDZ of 50 and 100 m, development is hampered in these islands. Keeping in view the hardships of the local communities and the potential for tourism, the Committee recommends relaxing the restrictions in such islands.


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2.5.22 Certain omissions and corrections required in the Notification were also brought to the notice of the Committee. These include:

- (a) the usage of the term "*creek*" while referring to the width in the place of "tidal-influenced water body";
- (b) the term "*permitted areas*" in para 3(iii) without defining the same, omission of word "studies" in para 3(iv)(d) "*...based on carried...*";
- (c) the omission of method of drawal of ground water within 200 m of HTL in para 3(xi)(a);
- (d) the requirement of phrase "Any other construction except those permitted under paras 4 to 8 *except facilities required for patrolling and vigilance activities of marine/coastal police stations*" in para 3(xiv);
- (e) omission of word "*agencies* authorized by MoEF&CC" in para 5(ii);
- (f) the requirement of term "regulations" in the place of "*regularization*" in para 8(i);
- (g) note the missing of phrase "shall be permissible in CRZ" at the end of para 8.V.3.(iii) and such others.

2.5.23 The Committee also noticed that the essential guidelines for several of the procedures to be followed under the Notification including for the demarcation of HTL and LTL were not made available to the agencies/public resulting in delays and lack of clarity. This has attracted litigations on several occasions. Similarly, there are ambiguities in the guidelines for CZMP preparation appended to the Notification resulting again in differences in approaches by the authorized agencies.


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Chapter 3

Discussions on the Issues raised by the States and UTs

The Committee after examining the presentations and details provided by the Governments of Maharashtra, Karnataka, Kerala and other States/UTs with regard to difficulties and impediments in the implementation of the CRZ Notification, 2011 found that many of the issues raised by the States/UTs have several commonalities except for a few area specific matters. In this context, the Committee analyzed these issues topic wise and came to the following conclusions.

3.1 Development Issues in CRZ-II

3.1.1 The Committee examined the issue with regard to the applicability of **Development Plan (DP) and Development Control Rules (DCR)** of various years as presented by Maharashtra. The DCR of 1967 which was applicable under the CRZ Notification, 1991 inhibits certain developments in the CRZ areas of the city. With the growing population and to address the housing issues of Mumbai and other coastal cities in the country it is important that the local Town and Country Planning Regulations are made applicable uniformly in the coastal areas. The disparity in the regulations, governing constructions in the CRZ area is hindering development and causing hardship to the local communities. In fact, it is found that the



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restrictions imposed have actually led to land encroachment and development of illegal slums particularly along the beaches of Mumbai.

3.1.2 The Committee examined the issues of slums in Mumbai in great detail. It was brought to the notice that these slums exist in extremely unhygienic conditions with no proper basic infrastructure. The slums are thickly populated and the population is prone to risks of flooding, cyclone, and so on. There are no proper roads or passage to evacuate the people during calamities. Since the slums are proliferating in unhygienic and inhuman conditions, it is the responsibility of the State Government to provide basic decent housing facility to the people. This is one of the fundamental requirements of the people. In view of the urgency and in the public interest, the Committee is of the opinion that the CRZ Notification, since its implementation from 1991, has not addressed the issues appropriately. The Committee also examined the Office Order of September, 1998 issued by MoEF&CC which freezes the FSI as on 19.2.1991 including the Orders of Hon'ble High Court of Bombay which has upheld the above Orders of MoEF&CC. The Orders of Hon'ble High Court of Bombay in freezing the FSI as on 1991 have also been examined. The Orders of the Hon'ble High Court in this matter does not prevent the Government to amend the law. Hence, the Committee is of the opinion that in view of the serious environmental and social issues arising due to proliferation of slums the matter should be left to the State Governments to implement the slum rehabilitation schemes as per the concerned State Government norms issued from time to time. The Committee is of the opinion that rehabilitation of the slum areas is an urgent matter to be addressed in most of the cities of the country particularly in the coastal areas as they are vulnerable to hazard from the sea. However, the Committee recommends that while undertaking such housing for slum rehabilitation in the CRZ-II areas, the following shall be strictly adhered to:

- a. All construction activities shall be undertaken in these coastal municipalities on the landward side of the road included in the approved developmental plan or authorized structure(s).
- b. All developmental activities shall be undertaken (in these municipal areas) as per the prevailing local Town and Country Planning Regulations subject to the following conditions:


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- (i) no discharge of untreated sewage/effluents;
- (ii) no activities shall be undertaken that would cause shoreline change including disturbing the sediment balance in the coastal waters;
- (iii) adequate provisions/facilities shall be built to provide for quick and timely rescue, relief and rehabilitation measures in case of natural calamities;
- (iv) adequate open space shall be provided to meet the emergencies during natural disasters, to maintain aesthetics including adequate ground cover for fresh water recharge;
- (v) all residential constructions shall be provided with groundwater recharge facilities;
- (vi) all residential or commercial buildings shall be provided with water recycling systems and shall use the recycled water for non-contact purposes such as gardening, washing and flushing (through dual pipeline system);
- (vii) no dumping of solid waste. The solid waste shall be managed as per the MSW Rules;
- (viii) no conversion of land earmarked for parks, gardens, schools, hospitals and dispensaries, defense establishments, disaster management and other public utility purposes;
- (ix) necessary provisions shall be put in place to ensure that the ambient air quality within the municipality is as per norms. All construction activities, transport, industrial activities and so on, shall follow strict air quality norms so as to provide congenial quality of air for people.

3.1.3 The Committee had detailed discussions with regard to the **dilapidated, cessed and unsafe buildings**. The Committee examined the existing provision at para 8V(c) titled "Redevelopment of dilapidated, cessed and unsafe buildings" under CRZ Notification, 2011 including the amendment to the Notification. The Committee observed that in para 8V(c)(2)(ii) of the Notification dated 6 January 2011 provided for FSI and FAR as per prevailing Town and Country Planning Regulations. However, in the amendment dated 29 March 2011 to the CRZ Notification, 2011, the Ministry has frozen the FSI/FAR as on 6 January 2011. Now, State Government seeks the implementation of the original provisions of CRZ Notification, 2011 which

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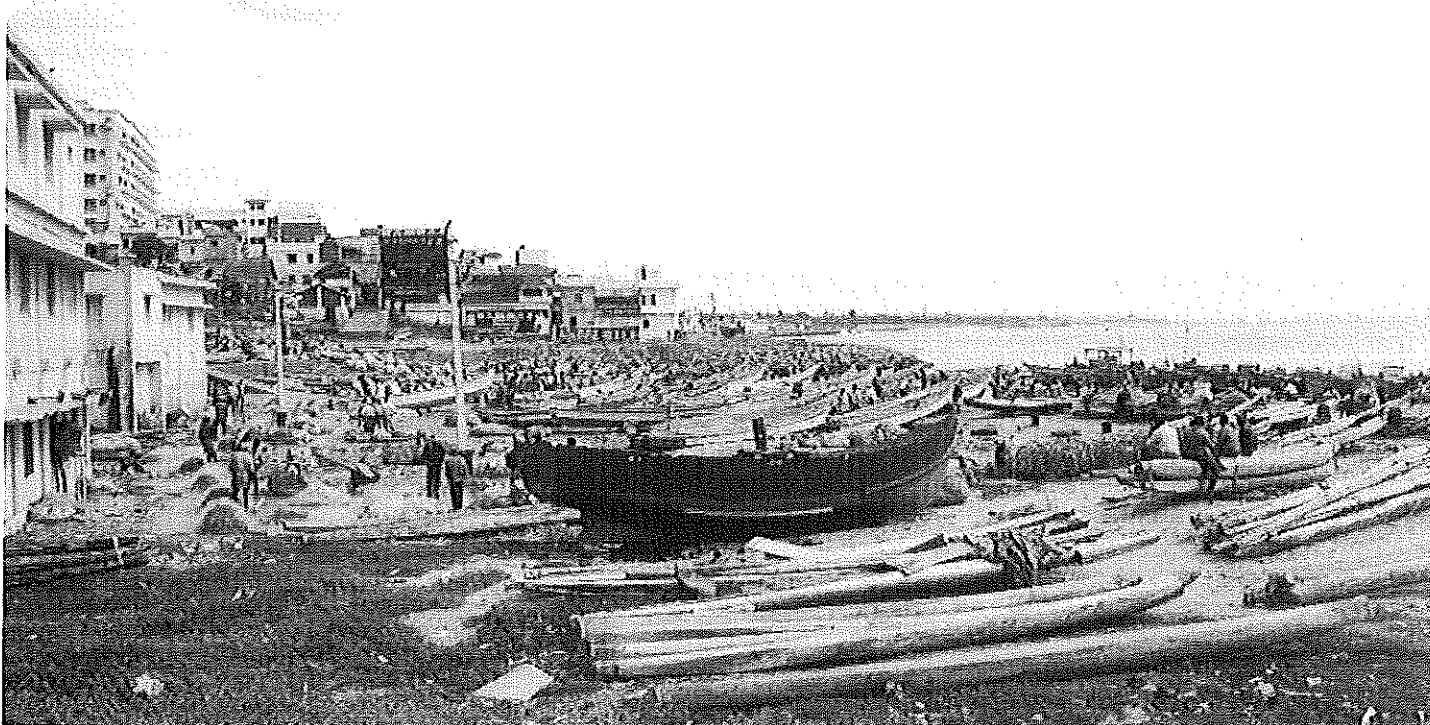
provides for FSI/FAR in accordance with Town and Country Planning Regulations prevailing as on date on which the project is granted approval by the State/UT Government.

The State Government has provided the reasons for such provisions mainly to provide safe housing to the tenements. The Committee after detailed discussions is of the opinion that the requests made by State Governments needs to be accepted as this will facilitate people to have a safe and decent housing. The Committee also discussed the issue relating to collapsing of the old buildings in Mumbai especially during monsoon which causes huge loss of life and property. In view of the above difficulties faced by the people, the Committee accepted the requests of State Governments with regard to undertaking redevelopment of such buildings as per the provisions of Town and Country Planning Regulations subject to certain specific conditions which are listed under slum redevelopment at item 4.1.2 (i) to (ix) above.

3.1.4 The Committee examined the relevant para of CRZ Notification, 2011 pertaining to **Koliwadas** (these are fishing villages). As per the provisions, the Koliwadas are classified as CRZ-III within CRZ-II. The above provision restricts the development of Koliwadas. The State Government is of the view that such Koliwadas and **Goathans** (are villages) be classified as CRZ-II in order to bring them on par with other developments in Mumbai. This position is acceptable by the Committee as the fishermen communities living within city municipal limits classified as Koliwadas/Goathans/fishermen colony and so on, of Mumbai or elsewhere in such localities in the coastal areas of the country should be developed to meet the economic aspirations of the fishermen communities. The development of these areas shall be subject to the conditions listed in slum redevelopment at item 4.1.2(i) to (ix) above.

3.1.5 The **open space and parks** shall not be converted into developable areas. It shall be ensured that the open space, parks and so on in the approved Development Plan shall be maintained and no constructions shall be permitted except for toilets, wall, walkway and so on, required for non-commercial public use.

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3.2 Development Issues in CRZ-III Including Dwelling Units of Fishermen

3.2.1 Several coastal States including Kerala brought to the notice of the Committee the need to ~~reduce the~~ No Development Zone in CRZ-III areas. The Committee after detailed discussion on the issues relating to local communities living in coastal areas was of the opinion that as per the information provided by State Government these local communities are put into great hardship due to the restrictions imposed by the CRZ Notification especially the NDZ specified in the CRZ-III areas. The local communities who possess land in such NDZ are deprived to construct or expand their houses. Further, the NDZ in the small islands in these water bodies is also restrictive and imposes restrictions on the housing/tourism facilities. It was brought to the notice of the Committee by State Government that some of these rural areas in Kerala, Karnataka and other places are thickly populated with more than 2000 people/km². Kerala being the State which has very less area for habitation is facing serious issues with regard to housing and other development activities. The Committee after detailed discussion is of the view that the rural areas may be divided based on the population density. The categorization of such populated rural areas shall be as thickly populated and other rural areas. The thickly populated rural areas shall be those which have a population density of more than 2161 people/km² which is as per class-III towns of 2001 census of India. Other rural areas would be those which are less than 2161 people/km². The

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Committee taking into consideration the hardships faced by the local communities and keeping in view the need for housing recommends that the NDZ may be reduced to (i) 50 m in the densely populated rural areas and (ii) 200 m NDZ along the other rural areas. The housing of the communities in densely populated areas could be taken up landward of the above NDZ subject to the following conditions:

- (i) In densely populated CRZ-III areas, development can be taken up in accordance with the local prevailing norms including the height regulations. The local authorities shall ensure that:
 - a. no activities shall be undertaken that would cause shoreline change including disturbing the sediment balance in the coastal waters;
 - b. adequate provisions/facilities shall be built to provide for quick and timely rescue, relief and rehabilitation measures in case of natural calamities.;
 - c. adequate open space shall be provided (to maintain aesthetics including adequate ground cover for fresh water recharge) and also to meet the emergencies during natural disasters;
 - d. all structures shall be provided with groundwater recharge facilities. Further, drawal of groundwater shall be regulated as per the norms laid down by the local ground water authority;
 - e. no discharge of untreated sewage/effluents. All buildings shall be provided with water recycling systems and shall use the recycled water for non-contact purposes such as gardening, farming, washing and flushing;
 - f. no dumping of solid waste;
 - g. no conversion of land earmarked for parks, gardens, schools, hospitals and dispensaries, defense establishments, disaster management and other public utility areas including areas meant for fisheries.
- (ii) Rural areas are those areas which are less populated. In such areas, development of new houses of local communities can be taken up beyond NDZ which is 200 m from the HTL. Expansion of existing houses in accordance with the prevailing local Town and Country Planning Regulations can be taken up subject to overall height of the construction not exceeding 9 m with ground plus one floor. For development of these rural areas, all provisions listed in a. to h. above shall be adhered to.

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3.2.2 In the NDZ of CRZ-III areas, all traditional activities including fisheries, public amenities, recreational facilities and foreshore requiring facilities can be taken up in larger public interest as per the relevant provisions contained in the State and Central legislations and those contained in this notification. Repairs and reconstruction of existing authorized structure in the NDZ shall be taken up as per the local Town and Country Planning Regulations.

3.2.3 The Committee after detailed discussion on the issue is of the opinion that the dwelling units of the coastal communities in CRZ-III areas which have been constructed in violation of the CRZ Notification shall be regularized by the concerned States/UTs Government following the local town and country construction norms. If any of these violations are pending before the Court, the State Government may take up the matter, and with the approval of the Court such violations could be regularized.

3.3 Fishery-Related Matters

The Committee is of the opinion that the modernization of the fish-processing units is necessary in order to improve the quality of processing and to maintain the norms stipulated for standards. Further, facilities for effluent treatment should be in place for the existing fish-processing units to ensure zero liquid discharge. Since the setting up of fish-processing units fall under the purview of the State/UT Governments, issues relating to modernization may also be dealt by the respective coastal State/UT Governments.

3.4 Tourism-Related Issues

3.4.1 The Committee after examining each of the issues raised by Karnataka, Kerala and other States regarding difficulties in the implementation of the tourism-related projects and taking into consideration the potential for tourism, which could help regional economic development including the local communities, suggests the following:

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Tourism projects in the CRZ-II areas may be taken up as per the local Town and Country Planning Regulations. Tourism project(s) in the CRZ-III areas can be taken up as follows:

- (i) In the NDZ and in the intertidal area, temporary tourism facilities such as, cyclone shelter, toilets, wash rooms, change rooms, drinking water facility and temporary shack(s) can be taken up with the permission of the concerned local authorities. It shall be ensured by the local authorities that such facilities indicated above shall occupy only 33% of the area. Further, it shall be the responsibility of the authorities that the solid wastes are handled as per MSW Rules and no untreated effluents are discharged in the coast or in the waters. All disaster management mechanisms shall be put in place by the authorities for rescue and relief.
- (ii) Wherever there is a national or a state highway passing through the NDZ, the tourism facilities indicated at (i) above shall be taken up on the seaward side of the road. On the landward side of such road or NDZ, the following tourism activities can be permitted:
 - a. Eco-friendly resorts, hotels and other such facilities for tourism not exceeding 9 m in height with ground plus one floor with slope and tiled roof.
 - b. The total covered area of construction shall not exceed more than 33% of the total area. The open space in the site shall be utilized for greenery, non-paved parking, play fields, and so on. Green areas and open space shall be promoted so as to minimize the impact of storms and facilitate operation and rescue during natural hazards.
 - c. Drawal of freshwater from the aquifers shall be with the approval of the state ground water authority. Adequate facilities for groundwater recharging shall be provided.
 - d. No discharge of untreated sewage, no disposal of solid waste. The water shall be treated and reused within the project area for gardening, flushing and washing.
 - e. No operation of any hazardous or harmful activities which are detrimental to the coast and marine environment.

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- f. To provide for adequate space for operation of livelihood activities of local communities who depend upon the resources of coastal and marine environment.

3.4.2 The Committee recommends that local communities including fishermen who possess houses in CRZ-III areas can be permitted to undertake tourism through home stay without changing the plinth area/design or facade of the existing structure.

3.5 Hazard Management

The Committee recommends that in addition to the CRZ categories and its jurisdiction, there shall be an HMZ, which is, the zone falling between the CRZ boundary and the Hazard Line on the landward side. The Hazard Line is being demarcated by the MoEF&CC through Sol and NCSCM. In this HMZ, the concerned State/UT Governments shall provide for necessary hazard management measures as per the HM Rules. The States/UTs shall prepare the hazard management plans for this zone and integrate it with the CZMP of their respective areas.

3.6 Demarcation of HTL/LTL

The Committee noted that the Ministry has assigned NCSCM to demarcate HTL and LTL based on the data/inputs provided by the Sol, NRSC and the coastal State/UT Governments. The above HTL/LTL is being demarcated by the NCSCM based on the advice of a Committee appointed by the Ministry. The HTL/LTL thus demarcated would be final and all the CZMP would be prepared based on the above HTL/LTL by the respective coastal States/UTs.

3.7 Preparation of CZMPs

3.7.1 This issue of **CZMP preparation** has been considered by the Committee, and the initiatives taken by the MoEF&CC in this regard have been appreciated. The HTL demarcation by NCSCM is a key step towards the preparation of the CZMPs. The uniform HTL all along the country shall resolve most of the issues related to it.

3.7.2 CZMPs shall be prepared by the States/UTs indicating the HTL, LTL, CRZ-I, CRZ-II and CRZ-IV areas, any other prohibited area declared by the States/UTs and

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the disaster management facilities superimposed on the approved Development Plan in case of CRZ-II areas (municipalities). In the case of CRZ-III areas, the CZMPs demarcating the HTL, LTL, CRZ-I, CRZ-III and CRZ-IV areas, any other prohibited area declared by the States/UTs and keeping in view the provisions contained in this Notification shall be prepared at the local body level.

3.7.3 The States/UTs may also address some of the important coastal issues, including climate change, renewable energy and any other innovative schemes suitable or unique for their location and include in the CZMP. Then this CZMP has to be recommended by the State/UT CZMAs and approved by the NCZMA. Thereafter, all the development activities in the CRZ will be governed by the local body as per the approved CZMPs.

3.8 Tidal-Influenced Water Bodies

3.8.1 The Committee discussed the issues relating to the water bodies connected to the sea such as estuaries, rivers, creeks, backwaters, lagoons, ponds and the like which are termed as "**tidal-influenced water bodies**".

3.9 Enforcement of CRZ Notification

3.9.1 All activities proposed to be undertaken in the CRZ-II and CRZ-III areas other than those which attract EIA Notification, 2006 shall be governed by the concerned State/UT Government regulations subject to the conditions stipulated in the CRZ Notification and CZMPs approved by the NCZMA.

3.9.2 The Committee agrees to the request for speedy clearance of the projects. The Committee examined the process of clearance under CRZ Notification, 2011 including the various requirements/information sought at Annexure-IV of the Notification dealing with the application for clearances. It was felt that the information sought is required for all category of projects listed in the Notification which includes small houses of local communities, ice plants, fishing-related activities, agriculture, roads, rain shelters, community toilets and so on. Such information sought under Annexure-IV of the Notification may not be available with the agencies proposing to undertake the activities. Further, such detailed information may also not be required

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for small projects. With a view of simplifying the procedures for obtaining clearance under the CRZ Notification and to make it transparent and people friendly, each of the State Governments shall formulate the criteria for seeking clearance under the CRZ Notification along with an application form. The application form, details of the procedures, the agencies/local bodies that would clear the project, time limit for the clearance and so on shall be appended to the CZMP of the respective coastal States/UTs.

3.9.3 The Committee is of the opinion that all Acts, Notifications, governing the environmental issues shall operate independently and shall not be interdependent until unless specified. However, the project authority shall ensure that the projects are taken up for implementation only after receiving all statutory clearances.

3.9.4 The Committee examined the role of the CZMAs and the notification constituting the CZMAs. The Committee was of the opinion that the CZMAs should focus mainly on conservation and protection of the coastal areas especially the coastal ecosystem and geomorphological features which are so unique and fragile. The CZMAs rather than carrying out such scientific activity at the ground level are mainly involved in accordingly clearance and examining developmental projects particularly in the CRZ-II and III areas. This activity is a duplication of the Authorities and Agencies created under EIA Notification, 2006.

Hence, the Committee is of the opinion that all such activities and clearances with regard to developmental projects in CRZ should be considered and examined by the respective Authorities created under EIA Notification, 2006. The CZMAs including NCZMA should be responsible mainly for monitoring, enforcement and examining the implementation of the CRZ Notification, particularly, the status of ESAs and approval of CZMPs. The CZMAs should coordinate with NCSCM and SICOM with regard to protection and conservation of ecosystem including monitoring of pollution, erosion, accretion, and so on. The CZMAs should also play an important role in developing a State level capacity in various research and development including awareness in the area of coastal management. The MoEF&CC may provide necessary technical assistance and financial assistance under the ICZM Project to the coastal States/UTs for developing such expertise.


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3.9.5 The Committee examined several issues in the present CRZ Notification where the terminologies are not explained or defined. This has led to ambiguities, litigations, violations and difficulty to the people. Hence, the Committee is of the view that the Ministry shall clearly indicate the definition, jurisdiction, the process of clearance, timelines and so on, so that the people are not put to difficulty. Further, the transparency mechanism shall be built in the new regulations to ensure speedy clearance process.

3.9.6 It will be the responsibility of the concerned State Government to address issues relating to complaint and redressal mechanism. The Environment Division of the State and the PCBs are delegated with necessary provisions of EPA 1986 to take action against the violations. Further, the Committee under Shri T. S. R. Subramaniam has also addressed this issue which may be taken into consideration.

3.10 Monitoring, Institutional Mechanism and Capacity Building

3.10.1 The Committee is of the opinion that the State/UT Environment Departments which have a dedicated website for CRZ matters shall be updated regularly. The CZMPs shall be uploaded in the website after obtaining necessary approvals from Competent Authority. The notified areas under this Notification and decisions taken at the local level shall also be hosted on the dedicated website of the States/UTs.

3.10.2 Ministry will put in place a monitoring mechanism which will consist of State/UT CZMAs. The Ministry through specialized agencies shall strengthen the monitoring agencies and encourage monitoring through space and IT based technology. The Ministry will also put in place a third party monitoring system who will undertake periodic monitoring and evaluation of the coastal environment.

3.10.3 MoEF&CC through SICOM shall undertake strengthening of the existing institutions and periodic training and capacity building of the CZMAs and other stakeholders working in the area of coastal management. Further, the concerned State/UT Governments shall provide adequate infrastructure facilities keeping in

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view the international scenario and emerging technologies in the area of coastal management.

3.11 Issues Related to Conservation of ESAs

3.11.1 The Committee after examination of the provisions of the CRZ Notification, 2011 it is observed that there is no adequate provision for management of ESAs which are categorized as CRZ-I including the geomorphological and archaeological features. It was brought to the notice of the Committee that the mangroves are present in the Government as well as in the private lands. While the protection is provided in the Government land by the concerned State Government agencies, the owners of private land, who have planted the mangroves and face difficulties as the mangrove land is declared as 'no development area. This provision of imposing no development on a private mangrove land is a disincentive to such land owners. While the Committee appreciates the efforts and initiatives taken by the private owners in developing mangroves, it is found that there are no incentives to such initiatives. Further, the Committee feels that the private land owners should also be enabled to undertake development as per the local Town and Country Planning Regulations.

3.11.2 It was mentioned that the mangroves in case of more than 1000 m² are required to provide 50 m buffer. However, unfortunately, the buffer zone of 50 m has led to encroachment, illegal dumping, construction activity and slum redevelopment. Hence, to prevent such unauthorized and illegal activities which are harmful to mangroves, a walkway on stilts along the boundary may be permitted. The 50 m buffer could also be developed as a green belt under social forestry or gardens. Further, the Committee is of the view that marine interpretation centres and research facilities are a requirement to spread awareness about the mangroves and its flora and fauna associated with it. Such awareness about the mangroves and the associated flora and fauna by the public would bring out better conservation and protection of the mangroves. This would be a positive approach which may be encouraged. The walkways, promenades and social forestry could be promoted all along the mangrove buffer zone that would prevent illegal felling of mangroves and

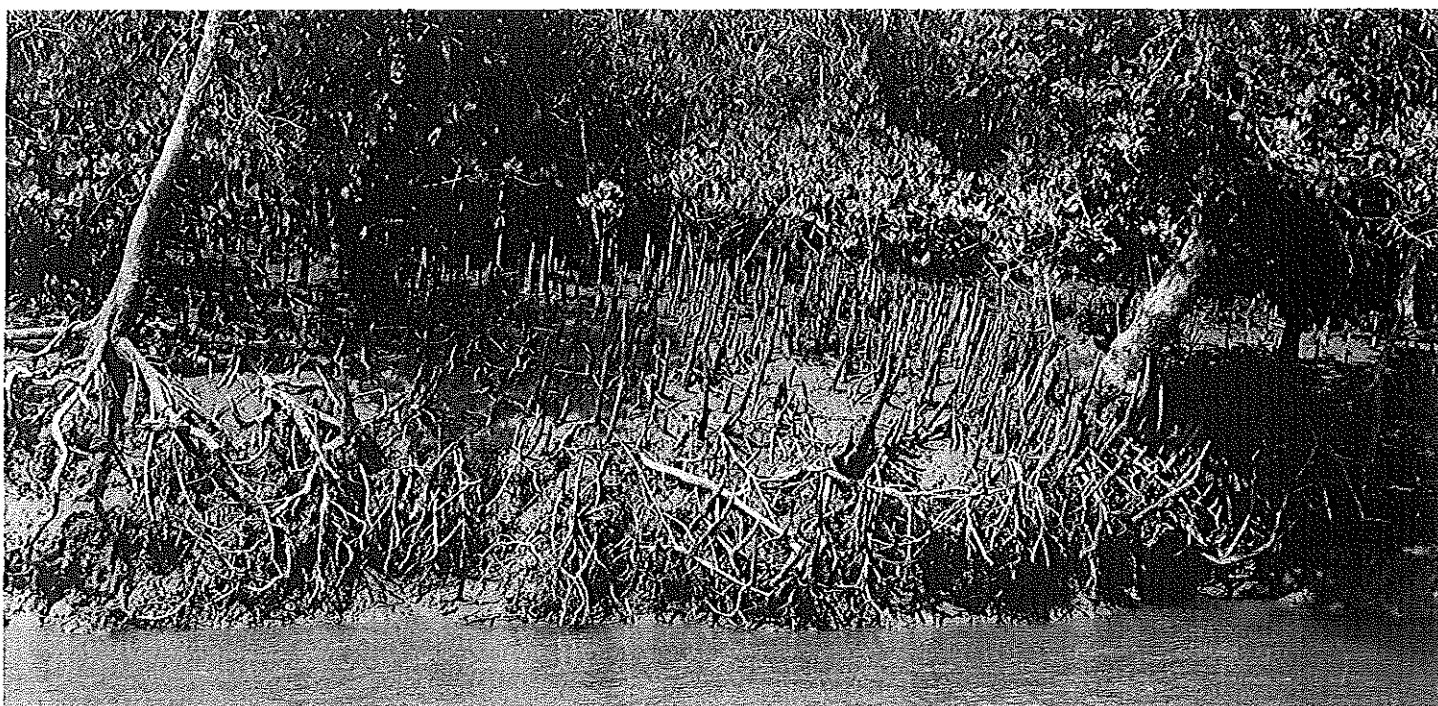

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also prevent dumping of waste in the mangrove area. In order to promote the conservation of mangroves, the Committee is of the opinion that the approval mechanism should be made simpler and faster and the State Government should be delegated the power to recommend and clear such proposals.

3.11.4 The Committee examined the issue of mapping the ESAs and preparation of the management plan in detail. It was brought to the notice of the Committee by NCSCM that the mapping activity of ESAs including the preparation of management plans for the conservation and protection of these ESAs are undertaken by the NCSCM.

3.11.5 The Committee taking into consideration the various aspects of mangrove conservation and the request made by the State Government to undertake certain development in larger public interest recommends as follows:

Mangroves in the coastal areas act as breeding, spawning and rearing grounds of several aquatic fauna that are important for biodiversity. Several species of finfish and shellfish live in mangrove areas on which the local communities depend for their livelihood. Further, the mangroves help in minimizing the impact of storms, floods, erosion and so on and are also carbon sinks. Keeping in view the importance of mangroves, the concerned State/UT Governments shall earmark adequate funds and identify suitable land for promoting, conserving and afforestation of mangroves in the respective areas. This activity shall be undertaken by the concerned State Governments/UTs.



The mangrove vegetation in the coastal areas are categorized as follows:

- (i) Mangroves declared as forest under Forest Conservation Act, 1980 – Notwithstanding anything contained in this notification, such mangroves declared by the concerned State Governments/UT Administrations/Central Government as forest land under the F(C)A, 1980 shall attract the provisions of the F(C)A, 1980 only.
- (ii) Mangroves in (a) Government land not declared under Forest Conservation Act, 1980; (b) private land.

1(a) Mangroves in Government land shall be protected based on a detailed plan prepared by the concerned State/UT Governments. In case the mangrove area is more than 1000 m², a buffer of 50 m along the periphery of mangrove area shall be provided. This buffer zone of 50 m shall be utilized for constructing walkways, interpretation centers, promenades public facilities for developing parks, research facilities related to mangrove biodiversity, facilities for conservation and the like. Further, in the mangrove area and in the buffer, all activities are prohibited except for laying of pipelines, transmission lines, conveyor belts, construction of road on stilts and other conveying mechanisms that are required for public use. Defense establishments such as watch tower could be taken up in the mangrove area. In such cases where removal of mangroves is inevitable in public interest after examining all the alternatives, a minimum of ten times the area of mangroves shall be re-planted and protected within the coastal zone of respective States or UTs. Mangrove removal for the above purposes shall be undertaken only on the recommendation by CZMAs and on the approval of the concerned States/UTs.

2(a) Government land designated for agriculture, fishing, infrastructure meant for local communities, fresh water storage, aquatic bodies, public bodies and associated infrastructure facilities for public use in the development plan which was approved prior to approval of CZMP of 26 September 1996 under the CRZ Notification 1991 may be taken up.

Incase of such designated areas where mangroves have grown due to abandonment of agriculture, fishery related activities or lack of infrastructure

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to prevent ingress of salinity into land/fresh water bodies, in such areas development can be taken up as per the development plan approved prior to 27 September 1996 subject to the condition that such development in the mangrove land are considered by a committee headed by the Chief Secretary of the States/UTs. For any mangrove area destroyed while undertaking developments as indicated above, compensatory mangrove afforestation should be taken up 20 times in lieu of the mangrove destroyed, in an area identified by NCSCM.

- (b) For mangroves in private land, incentives shall be provided by the concerned State/UT Forest Departments for promoting mangrove conservation/afforestation in private land, for which there will be no requirement of a buffer zone. The developmental activities in the private mangrove land can be taken up.

3.11.6 The Committee taking into account the provisions of the CRZ Notification in this regard agreed that the proposed notification should provide for the following:

- i. To clearly indicate that destruction of mangroves other than for the permissible activities under the notification is a prohibited activity.
- ii. The mangroves shall be mapped by the NCSCM who have already been assigned the work of mapping ESAs. Detailed management plan for protection and conservation of mangroves shall be taken up by the concerned Department in the State Government. 50m buffer shall be provided along the mangrove area wherever the mangrove area is more than 1000 m².
- iii. For the purpose of conservation, protection and to create awareness, certain basic public infrastructure such as walk ways, rain shelters, interpretation centres, research facilities, parks, forestry and promenades, field research facilities related to coastal ecosystems and marine interpretation centres, can be created. The walkway on stilts could be constructed along the buffer area of such mangrove patch. All such developments shall be for public purposes only. For any mangroves destroyed for such construction, compensatory mangrove plantation of ten times shall be taken up within the States/UTs. It shall be ensured that no benefit for construction shall accrue on the landward side of such constructions.

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3.12 Other Issues

3.12.1 The Committee discussed in detail the issue relating to coastal road in the CRZ-IV which is the water area. GoM has proposed such roads not only to ease the traffic congestion but also due to lack of land available in the mainland for this purpose. The justification provided is that such road would provide for faster means of transportation and can be taken up with no rehabilitation/relocation. Although the project is being taken up in larger public interest, the environmental issues especially from the coastal environment need to be addressed in detail for taking up such projects. Large-scale reclamation may transform the coastline. The project may cause erosion and other associated impacts such as destruction of mangroves, loss of beaches and loss to fisheries affecting the fishing community. In this regard, the State Government may have to carry out a detailed study along with a feasibility report. If found feasible from both economic and environmental angles; the coastal road project could be incorporated in the CZMP for which a separate approval may be sought from the MoEF&CC after following due procedures. The MoEF&CC shall examine the project under CRZ as the project falls within CRZ-IV category.

3.12.2 The Committee discussed in detail with regard to the new airport proposed by Maharashtra in an island in Thane creek. It was the view of the Committee that the GoM may reconsider the proposal since climate change and subsequent SLR is a serious issue. Further, in view of the increasing frequency of cyclones, storm surges, currents and so on, the feasibility from technical angle needs to be examined critically by the GoM. Though in several countries offshore airports are operating, this issue needs to be examined from both economic and environmental angles.

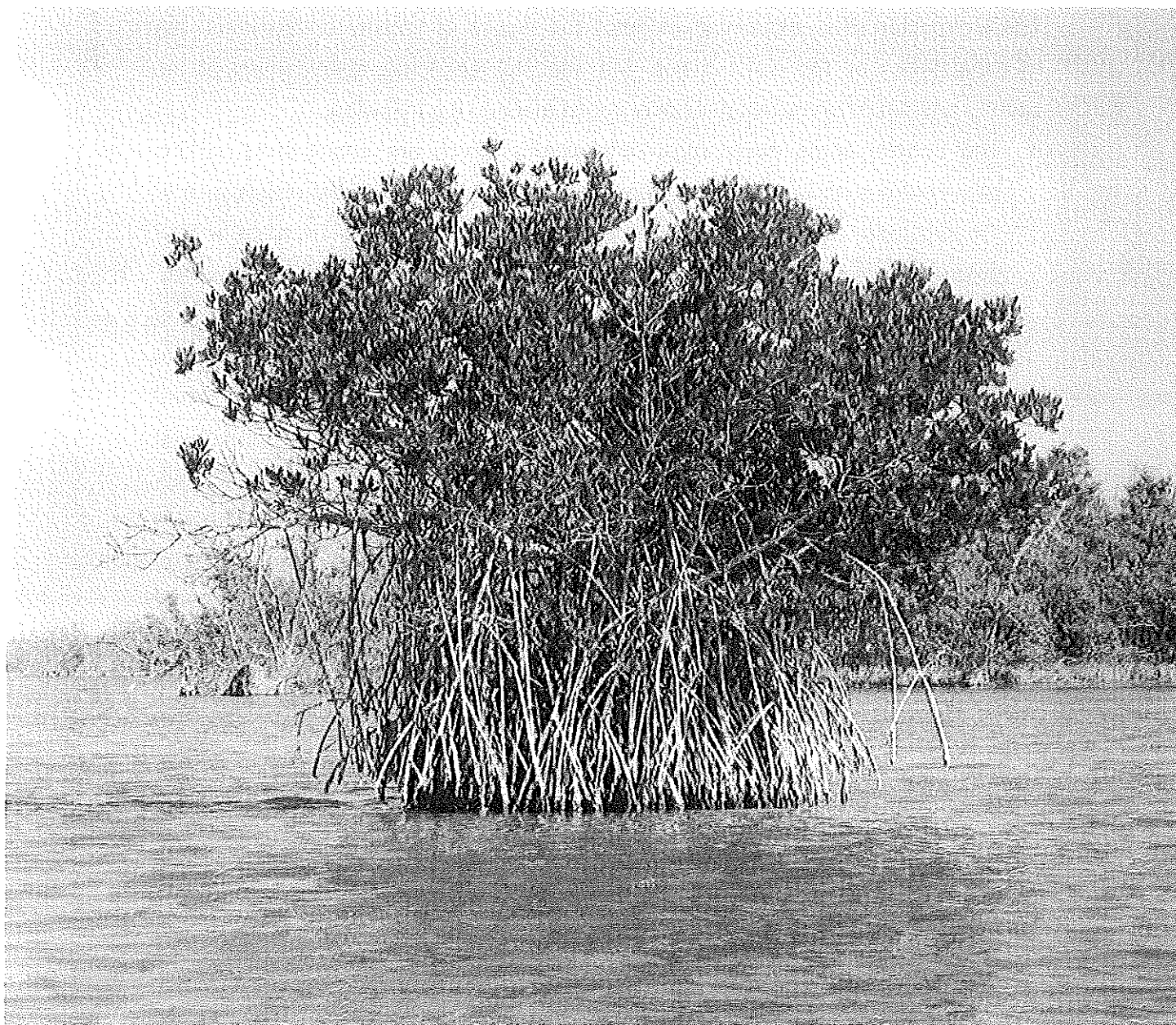
3.12.3 The request regarding the usage of old industrial buildings in CRZ area for developmental activities which are non-polluting in nature including tourism and other service sector activities was considered by the Committee. The Committee agrees with the proposal, however, the plinth area of such structures shall not be altered.

3.12.4 The Committee after taking into account the request of GoG seeking relaxation in mining of limestone in CRZ area was of the opinion that the limestone reserves are valuable and should be utilized for developmental purposes. The


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limestone reserves of Gulf of Kachchh and Saurashtra need to be examined and studied in detail by reputed scientific national institutes such as CSIR – Central Mining Research Institute, Dhanbad, National Cement and Building Material Institute, Faridabad and NCSCM. Based on the recommendations of these Institutes, selective mining with appropriate safeguards related to ground water, coastal erosion and others could be carried out. The mining of such minerals could be indicated in the CZMP of the State/UT which shall be prepared based on the above studies.

3.12.5 The Committee recommends that all other projects of national importance declared by the Central Government shall be undertaken in CRZ on a case-to-case basis based on EIA as provided in the EPA 1986.



Chapter 4

Recommendations and Proposed Draft CRZ Notification

4.1 Recommendations

The Committee after examining in detail the issues of coastal environment, the hardship faced by the communities, the need for economic development of the country and based on the six principles, recommended the following:-

- A. The coastal areas have fragile ecosystems which are sensitive to various parameters such as salinity, temperature, turbidity, pollution and disturbance to the substrata. Even small changes in these parameters lead to partial or total destruction of these ecosystems, which in most cases are irreversible; hence, they should be preserved and conserved. From the data made available, it is observed that these ecosystems have undergone destruction over a period of time. Such irreversible damages cause serious impact to the livelihood to the local communities as these ecosystems sustain the productivity of the coastal areas. Further, these ecosystems such as mangroves, coral reefs, sea grass beds and coastal forests act as barriers to cyclones, flooding and erosion and also act as major carbon sinks. In view of the immense importance of the ESAs, the MoEF&CC may formulate concrete proposals and initiate activities for the conservation and protection of these ecosystems.
- B. The ecosystems while rendering immensely useful goods and services to the environment and coastal communities, can also attract tourism if properly managed. Hence, it is important that the Government takes major initiatives in identifying, conserving and drawing up concrete framework based on certain successful models worldwide including that of IUCN for the conservation, protection and promotion of eco-tourism in such areas. These would provide alternative livelihood to local communities, thereby, reducing pressure on the fish and fisheries.


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- C. The Committee strongly opined that ESAs mapped under CRZ-I should be identified based on scientific assessment, each of which shall be notified. The States/ UTs through reputed scientific authorized agencies shall undertake conservation, protection measures as per the management plan based on the guidelines prepared by MoEF&CC.
- D. The coastal areas also are places where several historical, archaeological and heritage value structures and areas are present. These features need to be protected and conserved from the historical point of view. The MoEF&CC in cooperation with the Ministry of Culture should undertake identification, mapping and conservation programmes of such areas.
- E. The sea bed and the bed of the tidally influenced water bodies are the breeding, spawning and rearing grounds of several coastal/marine species on which the local communities depend upon. Several activities such as indiscriminate mining and dredging have destroyed the benthic flora and fauna. Such activities have affected the coastal processes leading to accretion, deposition and change in hydrodynamics and morphodynamics. Hence, there is a need to protect and regulate the activities that are detrimental to the integrity of the water bodies and their bed.
- F. The marine waters and the coastal areas have been sites for disposal of sewage, effluents and solid waste. This indiscriminate dumping and disposal over a period of time has made the coastal waters and several of the coastal stretches toxic. It is a fact that the coastal cities are growing but there is inadequate solid waste management or sewage treatment facilities to address the pollution-related problems. If left unattended, the implications would be serious and could be irreversible. Hence, the Government, at local, State and Central level, should take serious note of this issue and address the problem at the earliest. The State Pollution Control Boards should be entrusted to take up the Government's initiative of "Swachchh Bharat Abhiyaan" in the coastal and marine waters as well.
- G. It is observed that the CRZ Notification has tried to address some of the issues related to Town and Country planning in it. The Committee was informed by all the coastal States and UTs that they have well-laid Town and Country Planning


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Regulations. The regulations of the CRZ Notification in category II and III areas, especially with regard to construction, have affected the housing, slum redevelopment, redevelopment of dilapidated structures and other dangerous buildings. It is strongly felt that the concerned State Governments should be left to address the housing needs of the communities as per the State/UT Government norms. Providing decent housing to all communities is of prime importance and is a fundamental requirement of the people.

- H. The States and UTs also brought to the notice of the Committee the need for safe, hygienic and decent housing with basic infrastructure facilities for large sections of the coastal fisher and other population who since several decades have been living in unhygienic, disaster-prone slums and unsafe buildings. The Committee is convinced that the CRZ Notifications have not addressed this human issue comprehensively. Although the Committee agrees that the construction of housing infrastructure would lead to congestion in the coastal areas, there is no alternative with the Governments as there are no mechanisms in place to prevent migration of population to coastal areas or to decongest the existing populated areas. In the absence of such mechanisms, it is imperative that housing with basic infrastructure facilities is provided to these communities in the national interest.
- I. It has been brought out to the Committee by all the States/UTs that the CRZ Notifications have been made very complex and its interpretation and implementation is difficult. It was also observed that certain terminologies used in the CRZ Notification such as the word "existing" "HTL" etc were not defined in right time. Some of the issues being scientific, appropriate guidelines were not issued by the Government to the public. Hence, lot of ambiguity exists even today and several court cases and disputes have arisen due to such complexities. The HTL/LTL demarcation, boundaries of CRZ-I, CRZ-II and CRZ-III and so on, are complicated. It is recommended that the Ministry addresses each of the issues in detail and brings out guidelines, criteria and so on.
- J. The other major issue that has come before the Committee is the conflicting and overlapping jurisdictions and provisions in the CRZ and other laws. The CRZ Notification, 2011 provisions especially in the CRZ-II and CRZ-III areas override

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the Town and Country Planning Regulations of the coastal States/UTs in the CRZ area. This disparity between the CRZ and non-CRZ had led to several issues. Most State Governments have sought for uniform regulations in the State for smooth implementation. This suggestion of the State Governments is found justified since currently there are a lot of ambiguities with regard to HTL/LTL mapping, CRZ boundary demarcation and so on, which are prerequisites for CZMP, the preparation of which is considerably delayed. It is also observed that the Environment Departments of States/UTs are extremely under-staffed to meet the challenges of CZM. The existing staff in the States/UTs is mostly involved in addressing approvals and issues relating to CRZ-II and CRZ-III. There have been very few instances where States/UTs have taken proactive steps in CRZ-I and CRZ-IV areas, the conservation of the ecosystems in it, combating pollution and improving the general environmental quality of the coast. Hence, the Committee is of the opinion that the Environment Departments of the States/UTs and the MoEF&CC should be sensitized to mainly address CRZ-I and CRZ-IV issues and in turn allow the concerned Departments in the States/UTs to address the issues relating to CRZ-II and CRZ-III themselves as they relate mostly to town and country planning arena.

- J. The Committee is also of the opinion that new opportunities and initiatives need to be taken to address the economic and social development of coastal communities. Most of the traditional coastal communities, who live on the resources from the coastal areas, especially fishing, need to be provided with adequate opportunity for economic development. In this regard, the Committee is of the opinion that while the ecosystems are being conserved and protected by the Governments, the local communities should also play an important role in conservations and protection of the ecosystems. The local communities should be provided with an opportunity to take up tourism, artisanal fisheries such as traditional aquaculture and ornamental fish culture, in such ecosystem areas for their economic improvement. The Governments should work in this area which will address both conservation and economic development of the communities thereby, reducing pressure on the already depleting fisheries.

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- K. Another matter of concern which the Committee has noted is the change in the shoreline. The shoreline change is accelerated by anthropogenic activities. In this context, certain initiatives have been taken by the MoEF&CC through the NCSCM wherein the shoreline changes are being mapped and studied. The above-mentioned studies need to be taken into consideration while undertaking foreshore developmental activities. Also, the studies need to be carried further to ascertain exact reasons of shoreline change.
- L. The Committee appreciates the initiatives taken by the Ministry in setting up exclusive Centres for coastal management such as NCSCM, SICOM and State level Project Management Units including strengthening of the consortium institutions in each of the coastal States/UTs. These agencies could be further developed for undertaking research and development in the area of coastal management and also to address the social needs of the communities in the States/UTs.
- M. The Committee after detailed examination of all issues raised by the States/UTs Government and taking into consideration the international scenario in the area of CZM including the emerging scientific technologies in the area of coastal and marine management is of the clear view that the MoEF&CC should embark upon new initiatives for protecting and conserving the coastal and marine areas which have such precious and fragile ecosystems.

Based on the discussions with the States/UTs with respect to each of the issues raised by them, the decisions therein and the recommendations given above the Committee proposes a draft CRZ Notification, which, if approved by the MoEF&CC, shall supersede the CRZ Notification, 2011.


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4.2 Proposed Draft CRZ Notification

Whereas, the Ministry of Environment, Forests and Climate Change (hereinafter referred to as MoEF&CC) issued Coastal Regulation Zone (hereinafter referred to as CRZ) Notification, 2011 vide S.O.19(E) dated 6th January, 2011 under Section 3 of Environment (Protection) Act, 1986;

And whereas, the coastal and marine ecosystems also contain Ecologically Sensitive Areas (hereinafter referred to as ESAs) which sustain high biodiversity and offer immense value of ecosystem services to people for their livelihood;

And whereas, the ESAs such as mangroves, coral reefs, turtle nesting ground etc., provide protection to local communities from natural hazards such as cyclone, flood, tidal surges, sea level rise, etc.;

And whereas, certain ESAs provide for breeding, spawning and rearing grounds of economically important finfish and shellfish in the coastal and the marine areas on which the local communities depend for their sustenance;

And whereas, certain ESAs such as mangroves, coral reefs, forests under Forest Act (1980), sea grass beds and the like and the geomorphological features such as beaches, sand dunes, mudflats etc., are important as they play a critical role in maintaining the integrity of the coastal and marine dynamics including helping in recharging the fresh water aquifers;

And whereas, coastal areas including the ESAs offer great opportunity for promotion and development of eco-tourism including beach tourism;

And whereas, the large amount of flora including that of ESAs along the coastal and marine areas act as a carbon sinks that help in reducing global warming;

And whereas, the coastal and marine environment of the country is highly diverse in terms of flora, fauna, geomorphological features, climatic conditions, hydrodynamics and demographic patterns;

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And whereas, certain areas along the coastal and marine regions have natural features that provide for increased scenic beauty, structures/monuments which are archeologically and heritage-wise valuable and such areas provide for high and incomparable aesthetic/historic value;

And whereas, the sea bed and the bed of the tidally influenced water bodies are being indiscriminately mined for sand and other resources, thereby, destroying the benthic flora and fauna that also affect the sediment dynamics;

And whereas, the coastal and marine areas are experiencing increase in pollution load mainly from industries and sewage generated not only from coastal infrastructure/townships and cities but also from the discharge of effluents, pesticides and sewage generated in the hinterland far away from the coast brought through the rivers;

And whereas, the livelihood of the local communities are affected due to depletion of economically important fish stock on account of destruction of marine ecosystems also due to indiscriminate effluent discharge and solid waste dumping;

And whereas, the coastal and marine areas are experiencing impacts of climate change including sea level rise;

And whereas, the State Governments and Union Territories (UTs) have expressed that the CRZ Notification, 2011 did not provide adequate measures and incentives for conservation and management of ESAs and areas along the coastal and marine areas;

And whereas, the Ministry is made aware of the conflict between certain State/UT level legislations and the provisions contained in the CRZ Notification, 2011 and these conflicts are adversely affecting the housing and livelihood of the local communities;


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And whereas, all the State Governments/UTs have requested the MoEF&CC to simplify the procedures laid down in the CRZ Notification, 2011, thereby making it people friendly and transparent;

And whereas, in the CRZ Notification, 2011 where the objective was to ensure livelihood security to the fishing 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 in a sustainable manner based on scientific principles by taking into account the dangers of natural hazards in the coastal areas, sea level rise; declared the coastal stretches of the country and the water area up to its territorial water limit, excluding the islands of Andaman and Nicobar (hereinafter referred to as A&N) and Lakshadweep and the marine areas surrounding these islands up to its territorial limit, as CRZ and restricted 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 whereas, the MoEF&CC has received several representations from various coastal States and Union Territories (UTs) regarding the difficulties in implementing the CRZ Notification, 2011;

Having understood the above and the value of the coastal and marine ecosystems, the benefits that they offer and their potential to offer to mankind and the need for their conservation and preservation, 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 MoEF&CC, number S.O. 114(E), dated the 6th January, 2011 except as respects things done or omitted to be done before such supersession, the Central Government hereby declares the areas as CRZ and imposes the following restrictions on setting up and expansion of industries, operations, processes and the like in the CRZ.


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2. In this draft notification, unless the context otherwise requires

- (i) 'High Tide Line (hereinafter referred to as the HTL)' means the High Tide Line as demarcated by the National Centre for Sustainable Coastal Management (hereinafter referred to as NCSCM) based on 2011-12 satellite data generated specifically for this purpose by Sol under the Integrated Coastal Zone Management Project of MoEF&CC. The HTL demarcated by NCSCM based on the above data would be the final HTL for all purposes under this draft notification.
- (ii) 'Low Tide Line (hereinafter referred to as the LTL)' means the Low Tide Line as demarcated by NCSCM based on 2011-12 satellite data and the data generated by SOI. The LTL demarcated by NCSCM based on the above data would be the final LTL for all purposes under this draft notification.
- (iii) 'Hazard Line' means the line demarcated by the Survey of India (hereinafter referred to as Sol) taking into account the extent of flooding on the land area due to water level fluctuations, sea level rise and erosion/accretion (shoreline change) occurring over a period of time;
- (iv) 'Coastal Zone Management Plan (hereinafter referred to as the CZMP)' means the plans mandated under the CRZ Notification to be prepared by the concerned State/UT Governments based on the criteria/guidelines laid down in this draft notification at Annexure-B. The CZMP prepared by the State/UT Governments and approved by NCZMA will be notified under E(P)A, 1986 after holding public hearing as provided for in the said Act.;
- (v) 'Densely populated rural areas' means those coastal areas which have a population density more than 2161 people per sq km (as per Class-III towns of 2001 Census of India) within the smallest census unit along the coast prescribed in the census of 2001;
- (vi) 'Rural coastal areas' means those coastal areas which have a coastal density of less than 2161 people per sq km (as per Class-III towns of 2001 Census of India) within the smallest census unit along the coast prescribed in the census of 2001;


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(vii) 'Tidally influenced water bodies' are those water bodies influenced by tidal effects of the sea such as estuaries, creeks, backwaters, lagoons, and the like connected to the sea;

3. Jurisdiction of this draft notification

- (i) Land area from HTL to 500m on the land ward side along sea front;
- (ii) Land area between HTL to 100m or width of the water body, whichever is less, on the landward side along the tidally influenced water bodies;
- (iii) Land area between HTL and LTL which is termed as inter-tidal zone;
 - (a) Water area and the bed area of the sea from LTL to the limit of the territorial waters or International Maritime Boundary Line (IMBL);
 - (b) In case of tidally influenced water bodies, the bed area between LTL on one side of the bank to the LTL of the opposite side of the bank;
- (iv) The CRZ is applicable to all mainland islands, which are located in the tidally influenced water bodies and those islands which are located in the offshore of the mainland. Oceanic islands of the Andaman & Nicobar and Lakshadweep are dealt with in the Island Protection Zone (IPZ) Notification 2011.

4. Hazard Management Zone:

In addition to the above, there shall be a hazard management zone (hereinafter referred to as HMZ), which is the zone falling between the CRZ boundary and the hazard line on the landward side. The hazard line is being demarcated by MoEF&CC through NCSCM. In this HMZ the concerned State(s)/UT shall provide for necessary hazard management measures as per the HM Rules.

5. Roles and responsibilities of authorities and agencies under this draft notification,

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- (i) MoEF&CC shall be responsible for overseeing the implementation and enforcement of this n.
- (ii) National Coastal Zone Management Authority (hereinafter referred to as NCZMA constituted under E(P)Act, 1986) shall be responsible for according approval to the CZMPs prepared by the concerned States/UTs Government along with other responsibilities/duties entrusted by MoEF&CC.
- (iii) SICOM established by MoEF&CC under the Society Registration Act, 1860 shall be responsible for coordinating with various Central Ministries/ State/UT Governments and other agencies with regard to implementation of the notification including the CZMAs. SICOM shall coordinate and facilitate transfer of requisite data from different authorised agencies such as, MoEF&CC, ISRO, SAC, NCSCM, Sol, NIOT etc., to the States/UTs for the purpose of preparing CZMPs and other management plans. SICOM shall undertake capacity building and also facilitate in institutional strengthening of various agencies including the CZMAs and other stakeholders.
- (iv) State/UTs shall be responsible for preparing the CZMPs of their respective areas including any other management plans listed under this draft notification. Further, the CZMAs shall be responsible for recommending the CZMPs prepared by the States/UTs, overseeing the implementation of the CZMPs and enforcing the provisions of this draft notification.
- (v) NCSCM established by SICOM as a Society under Tamil Nadu Societies Act 27 of 1975 shall be the research and development Centre in the area of coastal and marine zone management. NCSCM will be responsible for providing HTL/LTL, the necessary inputs for demarcation, delineation and guidelines for management of ESAs, CZMPs, ICZMPs and the like.
- (vi) Authorised agencies are reputed scientific bodies identified by MoEF&CC for the purpose of preparing the CZMPs for the States/UTs based on the guidelines. These authorised agencies can also take up implementation of the management plans if so assigned by the concerned State/UT Governments.

6. List of prohibited activities in the CRZ area:


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- (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 draft 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, projects of national strategic importance 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) reconstruction, repair works of dwelling units of local communities including fishers in accordance with local town and country planning regulations;
- (ii) manufacture or handling of oil storage or disposal of hazardous substances 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 and facilities for regasification of Liquefied Natural Gas (hereinafter referred to as the LNG) in the areas not classified as CRZ- 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&CC 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&CC.
- (ii) 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.

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- (iii) setting up and expansion of fish processing units including warehousing (excluding hatchery and natural fish during 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) Reclamation, bunding or disturbing the natural course of seawater except for those measures,-
 - (a) essential for setting up, construction or modernisation or expansion of foreshore facilities like ports, harbours, jetties, wharves, quays, slipways, bridges, sealinks, roads on stilts, and facilities meant for defense and security purposes and other facilities that are essential for activities permissible under the notification;
 - (b) required for control of erosion, based on scientific studies including Environmental Impact Assessment (hereinafter referred to as the EIA);
 - (c) essential for maintenance or clearing of waterways and channels for ports / harbours / jetties based on EIA studies;
 - (d) required 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 studies carried out by any agency to be specified by MoEF&CC.
- (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 period not exceeding two years from the date of issue of this draft notification.

(vii) Dumping of city or town wastes including construction debris, industrial solid wastes, fly ash for the purpose of land filling and the like and the concerned authority shall implement schemes for phasing out any existing practice within a period of one year from date of commencement of this draft notification.

Note:-The MoEF&CC will issue a separate instruction to the States and Union Territories 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 defense related in terms of EIA notification, 2006 identified by MoEF&CC based on scientific studies and in consultation with the State Government or the Union territory Administration.

(ix) Drawl of groundwater and construction related thereto within 200m of HTL along the sea coast and in the CRZ of tidal influenced water bodies, except the following:-

(a) In the areas which are inhabited by the local communities for drinking and domestic use it shall be done only using manual methods.

(b) In the 200m-500m zone the drawl 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: Appropriate 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.

(x) Construction activities in CRZ-I except those specified in this draft notification. Any other activities that need to be prohibited/ permitted by the concerned States/UTs other than those mentioned above or any discrepancies noticed by the State/UT Government with regard to the CRZ area between 1991 and 2011 shall be rectified and be specified in the CZMP. Only those essential activities required at

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larger public and national strategic interest and duly justified with approval at the highest level of the State/UTs shall be brought out clearly in the approved CZMP and can be implemented after the CZMP is approved by NCZMA and notified by MoEF&CC.

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:

A. CRZ-I are those coastal zones which are ESAs, geo-morphologically important zones and archaeological and heritage areas.

a. Ecologically Sensitive Areas (ESA)

- (a) Mangroves
- (b) Corals and coral reefs and associated biodiversity
- (c) Salt marshes
- (d) Sea grasses
- (e) Horse shoe crab habitats
- (f) Turtle nesting grounds
- (g) Bird nesting grounds
- (h) The national parks, marine parks, sanctuaries, reserve forests, wildlife habitats and other protected areas declared under the provisions of Wild Life (Protection) Act, 1972 (53 of 1972), the F(C)A, 1980 (69 of 1980) or E(P)A 1986 (29 of 1986); including Biosphere Reserves would be conserved and protected as per the provisions of the respective Acts/notifications/guidelines.

b. Geo-morphologically Important Zones

- (a) Intertidal areas
- (b) Sand dunes
- (c) Mudflats
- (d) Sandy beaches

c. Areas or structures of archaeological importance and heritage value sites.

The conservation, protection and management framework for the CRZ-I shall be as given in Annexure-A of this draft notification.

B. CRZ-II: The areas that have been developed up to or close to the shoreline along the mainland.

Explanation- The expression "developed area" referred to as that area within the municipal limits declared by the States/UTs from time to time 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;

(1) Regulation of activities in CRZ-II shall be as follows:

(a) buildings, including slum rehabilitation, reconstruction of dilapidated structures and unsafe buildings, shall be permitted only on the landward side of the existing road or road proposed in the Development Plan or on the landward side of existing authorized structures;

(b) buildings permitted on the landward side of the existing road or road proposed in the Development Plan or existing authorized structures shall be subject to the local town and country planning regulations issued from time to time:

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

(c) Construction of buildings shall be taken up subject to the following conditions:-

(i) it shall be ensured that there is no discharge of untreated sewage and efforts shall be made for zero discharge;

(ii) no untreated or treated effluents shall be discharged. Any industrial unit operating in CRZ-II shall ensure that there is zero discharge maintained. The treated effluent shall be recycle and reused;

(iii) all residential or commercial buildings shall be provided with water recycling systems and shall use the recycled water for non-contact purposes such as gardening, washing and flushing;

(iv) adequate open space shall be provided to meet the emergencies during natural disasters and also to maintain aesthetics.

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- (v) adequate open space shall be provided for groundwater recharge. All residential constructions shall be provided with groundwater recharge facilities;
 - (vi) no dumping of solid waste in the CRZ area. The solid waste shall be managed as per the MSW Rules issued from time to time;
 - (vii) no conversion of land reserved for parks, gardens, schools, hospitals and dispensaries, defense establishments, disaster management and other public utility purposes;
- (2) In the case of mainland islands, a No Development Zone (NDZ) of 10 m from the HTL shall be provided. Developmental activities shall be taken up on the landward side of the NDZ subject to clause (1) (c) above. In the NDZ of such islands, temporary structures relating to fisheries, agriculture and the like can be developed.
- (3) The clearances and approvals for the permissible activities in CRZ-II shall be accorded by the States / UTs themselves through the respective Municipalities without referring to CZMA but shall be as per the approved CZMP and the provisions contained in the CRZ Notification. All constructions proposed to be undertaken in the CRZ-II areas other than those which attract EIA Notification, 2006 amended from time to time shall be governed by the concerned State/ UT regulations para 7B(1). Any discrepancy in the CRZ-II area, prior to 1991 and post 1991 identified by the State/UT Government shall be brought before NCZMA with the recommendations of the CZMA. The NCZMA after taking into account the larger public interest shall examine the above discrepancies and convey its decision to the State/UT Governments. Such decisions of the NCZMA shall be included in the CZMPs.

C. **CRZ-III**– These are areas which are relatively undeveloped including mainland islands and can be divided for the purpose of this regulation into (a) Densely Populated Rural areas and (b) Rural areas. Development in CRZ-III shall be undertaken as follows:-

- (a) Densely Populated Rural areas are those coastal panchayat areas which have a high population density as defined in clause 2(v) of this draft notification. In such

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areas, construction and other permissible activities shall be taken up beyond 50 m of HTL (NDZ) on the landward side in accordance with only the local prevailing norms of the State/UT. The local authorities are mandated under this draft notification to ensure that:

- (i) adequate provisions/facilities shall be built to provide for quick and timely rescue, relief and rehabilitation measures in case of natural calamities;
 - (ii) adequate open space shall be provided (to maintain aesthetics including adequate ground cover for fresh water recharge) and also to meet the emergencies during natural disasters;
 - (iii) height regulations shall be as per the prevailing State/UT norms;
 - (iv) all structures shall be provided with groundwater recharge facilities;
 - (v) drawal of groundwater shall be strictly regulated and norms laid down by the local ground water authority followed
 - (vi) it shall be ensured that there no discharge of untreated sewage. Efforts shall be made for zero discharge;
 - (vii) no untreated or treated effluents shall be discharged. Any industrial unit operating in CRZ-II shall ensure that there is zero discharge maintained. The treated effluent shall be recycle and reused.;
 - (viii) All buildings shall be provided with water recycling systems and shall use the recycled water for non-contact purposes such as gardening, farming, washing and flushing.
 - (ix) no dumping of solid waste in CRZ area. The solid waste generated shall be managed as per MSW Rules as amended from time to time.
 - (x) no conversion of land earmarked for parks, gardens, schools, hospitals and dispensaries, defense establishments, disaster management and other public utility areas including areas meant for fisheries.
 - (xi) in case of the mainland islands a distance of 10m shall be maintained as NDZ. All developmental activities indicated above shall be taken up on the landward side of the NDZ.
- (b) Rural areas are those areas as defined in 2(vi) and which are not covered under para 7(C)(a) above. In such areas, development of new houses of local communities can be taken up beyond the NDZ which is 200 m from the HTL.

Construction of new houses and expansion of existing houses in accordance with the prevailing local Town and Country regulation can be taken up, such that the overall height of the construction does not exceed 9m with ground plus one floor and a sloping roof. Total covered area of construction shall not exceed 33% of the total area.

- (c) In the NDZ of CRZ-III areas, all traditional activities including fisheries, public amenities, tourism facilities as indicated at 7(C)(e) and foreshore requiring facilities, can be taken up in larger public interest as per the relevant provisions contained in the state and central legislations and those contained in this draft notification. Repairs, reconstruction of existing authorized structures shall be taken up as per the local Town and Country Planning Regulations.
- (d) In case of the mainland islands falling in densely populated rural areas of CRZ-III a distance of 10m shall be maintained as NDZ. Beyond the NDZ on the landward side, development as indicated as per 7(C)(a)(b) above shall be taken up.
- (e) Tourism project(s) in the CRZ-III areas can be taken up as follows:
 - (i) in the NDZ temporary tourism facilities such as toilets, wash rooms, change rooms, drinking water facility, and temporary shack(s) can be taken up with the permission of the concerned local authorities. It shall be ensured by the local authorities that such facilities indicated above shall occupy only 10% of the area. Further, it will be the responsibility of the authorities to ensure that the solid wastes are handled as per MSW rules and no untreated sewage is discharged in the coast or in the waters. All disaster management mechanisms shall be put in place by the authorities for rescue and relief.
 - (ii) wherever there is a national or a state highway passing through the NDZ, the tourism facilities can be taken up on the seaward side of the road as per para 7(C)(e)(i) above. On the landward side of such road or NDZ, the following tourism activities are permitted with the following:
 - a. Resorts, hotels and other such facilities for tourism not exceeding 9 m in height with ground plus one floor with slope and tiled roof.
 - b. Total covered area of construction shall not exceed 33% of the total area. The open space in the site shall be utilized for greenery, non-paved parking, play fields, and so on. Green areas and open space shall be

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promoted so as to minimize the impact of storms and facilitate operation and rescue during natural hazards.

- c. Drawl of groundwater is not permitted. Adequate facilities for groundwater recharging shall be provided.
 - d. Zero discharge of sewage shall be maintained. The tourism units shall undertake 100% recycling and reuse of treated water. The treated water shall be used within the project area for gardening, flushing, washing and the like.
 - e. No disposal of solid waste. The solid waste generated from the tourism unit shall be managed as per MSW rules as amended from time to time. Any violation of the MSW rules shall attract stringent punitive action as prescribed under the relevant Acts/Rules.
 - f. No operation of any hazardous or harmful activities which are detrimental to the coast and marine environment.
 - g. Provide adequate space for the conduct of livelihood activities by local communities.
- (e) The local communities including fishermen who possess houses in CRZ-III areas can be permitted to take up tourism activities through home stay without changing the plinth area/ design or facade of the existing houses.
- (f) The clearances and approvals for the permissible activities in CRZ-III shall be accorded by the States/UTs themselves through the respective Local Bodies without referring to CZMA but shall be as per the approved CZMP and the provisions contained in the CRZ Notification. Further, the CRZ-I areas indicated in para 7(A) above falling within CRZ-III areas shall be governed as per the provisions listed under the same para.
- (g) All activities proposed to be undertaken in the above CRZ-III areas other than those which attract EIA Notification, 2006 shall be governed by the concerned State/UT Government regulations subject to the conditions stipulated under category of CRZ-III above.

D.CRZ-IV – These are the water areas falling below the LTL including the bed and the substrata up to territorial water limits. In CRZ-IV developmental activities shall ensure that-

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- (i) Minimum or no impact to the sediment and littoral movement, except for mechanisms and facilities required for foreshore developmental activities including ports, harbors, erosion control measures and the like, subject to the provisions contained in the para 6(i), (iv) and (viii) of this draft notification and also based on sediment model studies.
- (ii) Untreated effluents are not discharged into the waters. The industrial units shall maintain zero discharge. The effluent generated shall be recycled and reused within the unit.
- (iii) Municipal sewage generated shall be treated and reused for various non-contact purposes such as gardening, washing and the like.
- (iv) No solid waste shall be dumped in the CRZ-IV area. The solid waste shall be managed in accordance with the provision of MSW rules as amended from time to time.
- (v) No reclamation of the sea bed except for port and harbour, fisheries-related activities and other infrastructure required in the larger public interest such as bridges, sealinks on stilts, roads, important national installations related to coastal security, tourism shall be accorded clearance by the respective authorities at the State/UT level. With regard to monuments/memorials proposed by the State/UT Government recommended by the local CZMA to be approved by MoEF&CC on a case-to-case basis taking into account the erosion control and other disaster mitigation measures. Wherever reclamation, if any, for the above projects are permitted, the original HTL as demarcated in the approved CZMP shall prevail.
- (vi) The clearances and approvals for the activities in CRZ-IV that do not attract EIA Notification 2006 as amended from time to time and that do not require special permission as given in (vi) above shall be accorded by the States/UTs themselves without referring to CZMA but shall be as per the approved CZMP and the provisions contained in the CRZ Notification

8. Enforcement, monitoring and transparency mechanism:

- (i) For the purpose of implementation and enforcement of the provisions of this draft notification and compliance with conditions stipulated thereunder, the


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powers either original or delegated are available under Environment (Protection) Act, 1986 with the MoEF&CC, State Government or the UT Administration, NCZMA and SCZMAs;

- (ii) The composition, tenure and mandate of NCZMA and State or UT CZMAs have already been notified by MoEF&CC in terms of Orders of Hon'ble Supreme Court in Writ Petition 664 of 1993;
- (iii) The State or UT CZMAs shall primarily be responsible for enforcing and monitoring the implementation of this draft notification and to assist in this task, the States and UTs;
- (iv) The monitoring of the implementation of the provisions of this draft notification shall be based on satellite data generated from time to time along with field verification to be carried out by CZMAs. SICOM and NCSCM shall be the repositories of such satellite data which shall be provided to various authorities and agencies mandated for monitoring and enforcement of the notification;
- (v) The approved CZMPs along with any other notified areas under this draft notification and decisions taken by various authorities and agencies mandated to enforce this draft notification shall be hosted on the dedicated website of the States/UTs;
- (vi) Ministry through SICOM shall bring out definitions, FAQ, guidelines for each of the activities indicated in the Notification and provide wide publicity in local languages.


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Annexure-A

CONSERVATION, PROTECTION AND MANAGEMENT FRAMEWORK FOR CRZ-I

The coastal and marine Ecologically Sensitive Areas (ESAs) and the geomorphological features play a vital role in maintaining the functions of the coast. Mangroves, beaches, coral reefs etc., aid in controlling coastal erosion, shoreline change, saltwater intrusion and also serve as natural defense against coastal hazards such as storm surges, cyclones and tsunamis. The ESAs maintain the biological integrity of the coast by providing direct and indirect ecosystem services to the coastal livelihood. In addition, several invaluable archeological and heritage sites are also located along the coast. Hence conservation and protection of the above areas/ features/ sites become necessary.

The conservation, protection and management framework for the CRZ-I is as follows:-

a. Ecologically Sensitive Areas (ESA)

1. General measures

- (i) All ESAs shall be identified and boundary delineated by NCSCM using satellite data.
- (ii) The State/UT Governments through the authorized agencies shall prepare CZMP as per the guidelines contained in the Notification at Annexure-B highlighting the conservation and protection of the CRZ-I areas.
- (iii) All ESAs to be notified under E(P)A, 1986 by the concerned States/UTs following the above process.
- (iv) Those activities permissible under this notification shall be included in the CZMPs
- (v) The following specific conditions shall be adopted for the conservation, protection and management of each of the ESAs given below:-


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I. Mangroves:

Mangroves for the purpose of this draft notification are categorized as follows:

- (i) Mangroves declared as forest under Forest Conservation Act, 1980:- Notwithstanding anything contained in this draft notification, such mangroves declared by the concerned State Governments/UT Administrations/Central Government as forest land under the F(C)A, 1980 shall attract the provisions of the F(C)A, 1980 only.
- (ii) Mangroves in (A) Government land not declared under Forest Conservation Act, 1980 and (B) private land.

A: Government Land :

- (a) Mangroves in Government land shall be protected based on a detailed plan to be prepared by the concerned State/UT Governments. In case the mangrove area is more than 1000 sqm, a buffer of 50m along the periphery of mangrove area shall be provided. This buffer zone of 50m shall be utilized for constructing walkways, interpretation centers, promenades, public facilities for developing parks, research facilities related to mangrove biodiversity, facilities for conservation and the like.
- (b) In the mangrove area and in the buffer, all activities are prohibited except for laying of pipelines, transmission lines, conveyor belts, construction of road on stilts and other conveying mechanisms that are required for public use. Defense related establishments such as watch towers could be taken up in the mangrove area.
- (c) In such cases where removal of mangroves is inevitable in public interest after examining all the alternatives, a minimum of 10 (ten) times the lost area of mangroves shall be re-planted and protected within the coastal zone of respective States or UTs. Mangrove removal for the above purposes shall be undertaken only on the recommendation by CZMAs and on the approval of the concerned States/UTs.
- (d) Any discrepancy in the mangrove area between prior to 1991 and post 1991 and falling within municipal limits be identified by the State/UT Government and brought before NCZMA duly recommended by the CZMA. The NCZMA after taking into account the larger public interest and national importance shall

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examine the above discrepancies and convey its decision to the State/UT Governments. Such decisions of the NCZMA shall be included in the CZMPs. In the process if mangrove areas are to be reclaimed to undertake projects for larger public interest, the State/UT Government shall undertake 10 (ten) times mangrove afforestation in lieu of the mangrove land area reclaimed for the purpose.

(B) Private Land:

Mangroves in private land, (incentives shall be provided by the concerned State/ UT Forest Departments for promoting mangrove conservation/ afforestation in private land) will not require buffer zone. If any developmental activities are desired in the private mangrove land, such development can be taken up as per the provisions contained for CRZ-II or III, as the case may be.

II. Corals and coral reefs and associated biodiversity:

- (i) Destruction of coral and coral reefs and the surroundings is a prohibited activity.
- (ii) All coral and coral reefs shall be protected except for those small quantities required for research purposes.
- (iii) Coral and coral reefs transplantation activities shall be through recognized research institutions wherever required for regeneration after obtaining necessary approvals under Wildlife (Protection) Act 1972.
- (iv) The dead and/or destroyed coral areas shall be taken up for rejuvenation and rehabilitation. The conservation and protection of corals and coral reefs shall be taken up as follows:
 - a) active and live coral and coral reefs identified and delineated shall be declared and notified as ESA under E(P)A 1986.
 - b) it shall be ensured that no activities that are detrimental to the health of corals, coral reefs and its associated biodiversity such as mining, effluent and sewage discharge, dredging, ballast water discharge, ship washings, fishing other than traditional non-destructive fisheries, construction activities and the like are taken up in and around the coral areas.

III. The National Parks, marine parks, Sanctuaries, reserve forests, wildlife habitats and other protected areas declared under the provisions of Wild Life (Protection)

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Act, 1972 (53 of 1972), the F(C)A 1980 (69 of 1980) or E(P)A 1986 (29 of 1986); including Biosphere Reserves would be conserved and protected as follows:

- (i) conservation and protection of the above listed areas shall be as per the provisions of the respective Acts/notifications/guidelines.
- (ii) efforts shall be made to increase the forest area in the coastal region in order to prevent loss of life and property from increased storms, tides and floods.
- (iii) the concerned State Governments/UTs shall provide for adequate funds for such measures to undertake shelter belt plantation or bio-shields with planting material suitable to the location.

IV. Salt marshes: The conservation and protection of salt marshes shall be as follows:

- (i) the salt marsh areas shall be conserved and protected and efforts shall be made to promote the endemic biodiversity in the salt marshes.
- (ii) only those activities required for overhead conveying/transmission of cables and underground laying of transmission line cables and so on, shall be permissible.
- (iii) traditional fishing is permissible in salt marshes.
- (iv) Temporary tourism facilities around the salt marsh areas could be considered subject to adhering to strict norms laid down in the guidelines.
- (v) certain salt marshes which have less biodiversity, identified by NCSCM and demarcated in CZMP can be considered for salt pan activities.

V. Turtle nesting grounds shall be protected and conserved as follows:

- (i) turtle nesting grounds identified by the concerned States/UTs shall be protected as per Wildlife (Protection) Act of 1972.
- (ii) no activities shall be permitted in and around the turtle nesting ground including those causing light and sound pollution except for those required for conservation and protection of these sites.
- (iii) strict management plans for protecting the turtle nesting grounds shall be undertaken and implemented by the concerned State/UT Authorities.

VI. Horse shoe crabs habitats shall be protected and conserved as follows:

- (i) the habitat identified shall be taken up for conservation and protection.

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- (ii) no activities shall be taken up in and around these habitats which affect the horse shoe crab ecosystem.

VII. Sea grass beds shall be protected and conserved as follows:

- (i) identified sea grass beds shall be conserved and protected.
- (ii) no developmental activities that have adverse effect on the sea grass bed shall be undertaken.
- (iii) efforts shall be made to propagate sea grass beds along the coastal waters where ever possible by States/UTs as it acts as a carbon sink.

VIII. Nesting grounds of birds shall be protected and conserved as follows:

- (i) the nesting ground of birds including their local migratory route shall be protected. No developmental activities which have adverse impact on the nesting grounds and the migratory routes shall be undertaken including construction of wind mills, transmission lines and the like in the locality.
- (ii) efforts shall be made to increase the forest cover and mangrove cover including enriching the biodiversity of salt marsh and other coastal water bodies so as to provide for suitable habitat for the avifauna.

b. Geomorphologically Important Zones shall be protected and managed as follows:-

I. Sand dunes identified shall be conserved and protected as follows:

- (i) sand dunes identified shall be notified under E(P)A 1986;
- (ii) no developmental activities be permissible except for providing ecofriendly temporary tourism facilities on stilts such as walkways, tents and the like;
- (iii) mining of sand from sand dunes is a prohibited activity except for the removal of rare earth minerals with proper replenishment using the tailings or other suitable sand.
- (iv) no activities on the sand dunes shall be taken up that would lead to erosion/destruction of sand dunes;
- (v) afforestation, if any, on the sand dunes shall be done only with native flora
- (vi) the States/UTs shall prepare management plans for the demarcated sand dunes which shall be approved by the Ministry.

II. Sandy beaches:

- (i) no developmental activities except for those foreshore facilities permitted, shall be undertaken on the beaches

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- (ii) mining of beach sand is prohibited except for the removal of rare earth minerals with proper replenishment using the tailings or other suitable sand
- (iii) when the permissible developmental activities are taken up on the beaches if loss of beach in the neighborhood is predicted, necessary beach nourishment to compensate for the losses shall be undertaken by the project authorities and its long term maintenance shall be ensured by them
- (iv) the States/UTs shall prepare management plans for the demarcated beaches which shall be approved by the Ministry.

III. Mudflats:

- (i) developmental activities such as construction of foreshore facilities, laying overhead transmission lines and underground pipelines/ conveying systems/ transmission lines, salt pans and the like are permitted.
- (ii) the States/UTs shall prepare management plans for the demarcated mudflats which shall be approved by the Ministry.

IV. Other areas falling between LTL and HTL:

- (i) no developmental activities except for those foreshore facilities permitted in this draft notification shall be undertaken in these intertidal areas.
- (ii) mining is prohibited except for the extraction of rare earth minerals with proper backfilling. The States/UTs shall prepare management plans for rare earth mining activity which shall be approved by the Ministry.

c. Areas or structures of archaeological importance and heritage value sites.

- (i) all archaeological and heritage sites identified by Archaeological Survey of India, State Archaeological agencies shall be responsible for conservation and protection of these structures of sites as per the provisions of the respective Acts/notifications/guidelines.
- (ii) no activities that are detrimental to the identified areas or structures of archaeological and heritage value shall be permitted.
- (iii) it shall be ensured that these structures or areas are preserved and activities undertaken without changing the façade/plinth of such structures. Such structures could be considered for use in accordance with the relevant norms after undertaking careful designing of the interiors without changing the exterior architectural design of the structure.


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Annexure-B

Preparation of Coastal Zone Management Plans (CZMPs)

- (i) Coastal Zone Management Plans (CZMPs) shall be prepared by the States/UTs indicating the HTL, LTL, CRZ-I, CRZ-II, CRZ-III and CRZ-IV areas including the disaster management facilities and any other prohibited area declared by the States/UTs.
- (ii) For the purpose of conserving and protecting the CRZ-I area the steps indicated in Annexure A shall be followed
- (iii) Other facilities/ development/ infrastructure specifically mentioned in this draft notification, shall also be included in the CZMP.
- (iv) The States/UTs may also address some of the crucial issues of coastal and marine areas including activities required for society such as infrastructure for non-conventional energy, transportation, harvesting /extraction of resources, conveying systems, solid waste management, effluent and sewage treatment facilities and any other innovative schemes/schemes suitable or unique to their location. The same could be included in the CZMP.
- (v) It shall be ensured by the agencies and authorities that satellite based inputs/ data shall be relied upon for preparing the CZMP.
- (vi) The draft CZMP shall be recommended by the States/ UTs CZMAs and approval from the NCZMA shall be obtained.
- (vii) Thereafter, all development activities including conservation and management of the ESA in CRZ-I will be governed by the concerned bodies including those indicated in this draft notification.
- (viii) Coastal projects requiring foreshore facilities that are declared as nationally important by the Central Government, shall be undertaken in CRZ area on a case to case basis, based on EIA as provided in the E(P)A 1986.


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Comparative analysis of
2011 and 2019 CRZ Notifications

Issues	CRZ 2011	CRZ 2019
I Applicability of the CRZ Notification	The CRZ Notification applies to: (i) the land area from the HTL to 500 mts on the landward side, along the sea front (ii) the land area between the HTL to 100 mts or the width of the tidal influenced water bodies, whichever is less, (iii) the land area falling between the Hazard Line (HL) and 500 mts from the HTL on the landward side in the case of seafront & between the HL and 100 mts in case of tidal influenced water bodies. Coastal area beyond 500 mts (seafront) or 100 mts (tidal water bodies) upto the HL forms part of the CRZ area HL is the line demarcated by the MoEF through the Survey of India (SOI) taking into account tides, sea level rise, shoreline changes, etc. (iv) land area between HTL and LTL, is termed as intertidal zone (v) water and bed area between the LTL to the territorial water limit (12 nautical miles) in the case of the sea, and water and bed area from bank to bank in the case of tidal influenced water bodies.	The CRZ Notification applies to: (i) Same as CRZ 2011 (ii) the land area between the HTL to 50 mts or the width of the tidal influenced water bodies, whichever is less. (iii) Requirement of a 'Hazard Line' for measuring the Coastal Regulation Zones is done away with. The HL drawn by the SOI is mentioned in Annexure IV only to be used as a tool to be used in disaster management plans for coastal environments and for planning adaptive and mitigation measures. The HL has been abandoned for demarcating the CRZ area. (iv) Same as CRZ 2011 (v) Same as CRZ 2011

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III Regulation of permissible activities	CRZ I: No new construction is permitted except for 6 specific activities essential in national interest and the already approved greenfield airport at Navi Mumbai. In the intertidal zone, permissible activities include exploration and extraction of natural gas, salt harvesting, desalination plants, storage of non-hazardous cargo, construction of sea link roads / roads on stilts and construction of structures required for traditional inhabitants living in biosphere reserves only. In short, only essential activities are permitted in the eco-sensitive CRZ I as these geomorphological assets play an important role in preserving and protecting the integrity of the coast.	CRZ I A: Generally no activities are permitted. But exceptions are made for eco-tourism activities, including mangrove walks, tree huts, nature trails etc; In mangrove areas, laying of pipelines, roads on stilts, etc., is allowed if required for defence, strategic purpose and public utilities. CRZ I B: A total of 18 activities are permitted including land reclamation, activities related to waterfront, receipt and storage of various products, fish processing units, treatment facilities for waste and effluents, etc.
	CRZ II: Several activities permitted including construction of new buildings on the landward side of existing roads and subject to local town planning regulations.	CRZ II: (i) All activities permitted in CRZ I B are also permitted in CRZ II (ii) Construction of buildings - same as 2011. (ii) Hotels subject to guidelines at Annexure III (iii) Temporary tourism facilities permitted on the beaches including shacks, toilets, change rooms, walkways constructed with interlocking paver blocks, seating arrangements, etc., subject to maintaining a minimum distance of 10 mts from the HTL.

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	CRZ III: <u>In the NDZ (200 mts from the HTL)</u> (i) No construction permitted in the NDZ except repairs of existing (as on 19/2/1991) authorised structures, within the existing plinth and FSI (ii) Construction & reconstruction of dwelling homes of traditional coastal communities including shorfolk permitted between 100 - 200 mts. (iii) agriculture, horticulture, parks gardens etc. is permitted in the NDZ. (iv) essential public works permitted in the NDZ as well as a range of infrastructural facilities required for the local inhabitants and facilities for the local fishing community such as fish drying yards, ice plant, etc., are permitted.	CRZ III A & B Activities permitted in CRZ I B are permissible in CRZ III. <u>In the NDZ: (A – 50 mts; B - 200 mts)</u> (i) No construction permitted except repairs and reconstruction of existing authorised structures, within existing plinth and FSI. (ii) Facilities essential for traditional coastal communities such as construction / reconstruction of dwelling units is permitted. (iii) agriculture, parks etc. permitted same as 2011 (iv) essential public works - same as 2011. (v) Wherever a national or State highway passes through the NDZ, temporary tourism facilities such as toilets, change rooms, shacks, etc., permitted on the seaward side of the road. On the landward side of such roads, resorts, hotels and associated tourism facilities are permitted subject to a tourism plan being incorporated in the CZMP and subject to the guidelines at Annexure III. (vi) Temporary tourism facilities permitted in the NDZ and on the beaches including shacks, toilets, change rooms, walkways constructed with interlocking paver blocks, seating arrangements, etc., subject to maintaining a minimum distance of 10 mts from the HTL.

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	<u>Beyond NDZ (200-500 mts / HL):</u> (v) Hotels permitted subject to guidelines in Annexure III (vi) Construction and reconstruction of dwelling units for the community traditionally residing in this area. (vii). Necessary public facilities and Infrastructure facilities for the local inhabitants	<u>Beyond NDZ: (i.e 50 mts / 200 mts)</u> (vii) Hotels - same as CRZ 2011 (viii) Construction and reconstruction of dwelling units for the community traditionally residing in this area, which will be subject to local town planning rules with an overall height not exceeding 9 mts and only two floors (ground + one floor) (ix) Public facilities - Same as 2011 (x) Local communities permitted to facilitate tourism through 'home stay' (xi) Development of airports in wastelands and non-arable lands.
	CRZ IV: (i) There will be no restrictions on the traditional fishing and allied activities. (ii) All other activities shall be regulated to ensure that they are non polluting / within stipulated limits.	CRZ IV (A & B together): (i) All activities shall be regulated including traditional fishing and allied activities (ii) Land reclamation, bunding, etc., for specified works (iii) Activities requiring waterfront / foreshore facilities (iv) Construction of memorials or monuments with allied facilities in the sea (CRZ IV A), in exceptional cases and subject to justification.


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IV. Areas requiring Special Consideration	1. Mumbai CRZ 2. Kerala CRZ 3. Goa CRZ 4. Critical Vulnerable Coastal Areas	1. Critically Vulnerable Areas 2. Inland backwater islands & islands along mainland coast 3. Greater Mumbai.
	In Goa: (i) fishing villages to be notified wherein all foreshore facilities required for fishing may be permitted. Repair & reconstruction of structures of fishing community permitted (ii) Temporary, seasonal structures customarily put up between September to May are permitted (iii) Khazan lands being eco sensitive shall be mapped and protected, including the mangroves along the khazan lands. No development activities permitted in the khazans (iv) Sand dunes to be mapped and protected. No activity permitted in sand dune areas (v) Beaches of Mandrem, Morjim, Galgibag and Agonda are designated as turtle nesting sites and protected under the Wildlife Act. The areas to be surveyed and management plans prepared. No development activities permitted in the turtle breeding areas.	Goa CRZ is dropped entirely including khazans and identified village turtle nesting sites

V. Prohibited Activities	The Notification listed 14 prohibited activities. Of importance: (xiii) Dressing or altering of sand dunes, hills, natural features including landscape changes for beautification, recreation and other such purpose	The Notification lists 10 prohibited activities. Of concern: (ix) Dressing or altering of active sand dunes. [altering of other ecological features is no longer prohibited]
VI. Enforcement of the CRZ	The State Govt or Union Territory CZMAs to be primarily responsible for enforcing and monitoring of the notification	(i) All permissible development activities / projects in CRZ I and IV areas shall be dealt with by the MoEF&CC for CRZ clearance, based on the recommendation of the concerned CZMA (ii) All permissible activities falling purely in CRZ II & III areas shall be considered by the concerned CZMA. If CRZ I or IV is also involved, MoEF clearance is required. (iii) Building and construction projects with built up area less than the threshold for attracting EIA Notification shall be approved by the State Planning authority after obtaining recommendation of the CZMA while self dwelling units upto a total built up area of 300 sq.mts shall require approval from the local authority only.



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16.6.2018

The Secretary,
MOEF&CC,
Government of India,
Indira Bhavan,
Jor Bag, New Delhi.

Subject: Objections/Suggestions to Draft New CRZ Notification 2018 issued by the Ministry

Dear Sir,

We have carefully perused the draft new CRZ notification 2018 published by the Ministry on its website. As an organisation that has worked consistently over the past 30 years to enforce the protection norms that the Central Government rightly accorded, by law and by necessity, to the coastal areas of this country, we are appalled at the changes now sought to be made in the law vide the new draft notification, which in our humble opinion will literally open the door for wholesale destruction of the coastal stretches, leaving only a small sliver of 50 meters as a protected zone. After Mrs Gandhi's 1981 letter, the 1991 and 2011 CRZ notifications, the MOEF&CC has now produced a wholly degenerate version of the same notification with the obvious intent of promoting private business against the demands of sustainable development and ecological protection.

Considering the fact that in places like Goa, shacks, huts and other temporary structures already crowd the beach stretches themselves and entertainment parks, wedding locales, etc., are being approved immediately beyond the HTL, it will only be a matter of short time before the entire coastal area is allowed to be developed especially if the Ministry goes ahead with its proposed notification. The Goa Foundation therefore protests the idea of this notification and demands that it be permanently shelved or till better sense prevails.

In light of the above, the Goa Foundation wishes to make the following comments/objections/suggestions in respect of the same.

- 1) Substantial changes are being proposed to the CRZ notification 2011. The 2018 CRZ notification draft in fact is no longer faithful to the 1991/2011 notifications. It proposes to

dilute severely many of the provisions of the earlier two notifications that actively protected the coastal ecosystem and its diverse features. In most instances, where High Courts or the National Green Tribunal have moved to protect and enforce the provisions of the notification, the response of the draft notification is to excise these features from the notification itself. This is clearly mala fide action.

- 2) The draft notification is ostensibly formulated on the basis of the Dr Shailesh Nayak report and inputs from state governments. However, none of these are available on the website. One does not know whether the State Govt inputs were as regards difficulty in implementing the 2011 Notification or whether there were pressures from real estate / hoteliers to allow development of the prohibited coastal stretches. One also does not know what was the necessity for reviewing the 2011 Notification before the decade was even over and before the States had even prepared the Coastal Zone Management Plans in accordance with the said Notification (the 2011 notification came 20 years after the 1991 notification). This sudden desire on the part of the Ministry to drastically modify the Notification barely 8 years old, makes one doubt the Ministry's bonafides. It would be necessary therefore, in the interest of transparency, to place the documents on the basis of which the Ministry has engaged in this exercise on the website as well. In fact, this is a requirement under the provisions of the RTI Act. We wish to submit that the coastal stretches are not the private domain of the MOEF&CC to do whatever it will, more so when the actions are absolutely against public interest. The CRZ notification 1991/2011 is based on large scale public consultations not just with experts but with civil society as well. It is commonly owned. The MOEF&CC does not have the right to unilaterally kill its principal features.
- 3) The draft reiterates that the Central Government is issuing the notification "with a view to conserve and protect the unique environment of coastal stretches and marine areas, besides livelihood security to the fisher communities and other local communities in the coastal areas and to promote sustainable development based on scientific principles taking into account the dangers of natural hazards, sea level rise due to global warming." These are laudable objectives especially in the context of the MOEF having renamed itself as MOEF&CC. However, the proposed draft notification, in fact, seriously undermines these objectives and fairly destroys the CRZ notification of 1991/2011, which also had the same objective of protection of the coastal stretches. If the MOEF&CC is going ahead with these changes, it might as well cancel the idea of a CRZ notification altogether!
- 4) Our main objection to the present draft is the further relaxation proposed in the NDZ within CRZ I and CRZ III areas. In CRZ III areas, the NDZ is now to be partial and will relate to population density. Areas of higher population will be allowed to build within the present 200m NDZ. What is the basis for adopting such a standard? And how will allowing such development protect the coastal area? Moreover, as population increases in other areas (presently with low population) they will also be entitled to develop within the NDZ. So there will be no NDZ left on the country's coasts at all, sea-level rise be damned. This is hypocrisy, not science. It appears that the Ministry itself no longer believes in the CRZ Notification but, embarrassed to scrap it altogether, is watering it down so that the Notification effectively becomes wholly redundant and meaningless.

- 5) We draw to the attention of the Ministry that in the state of Goa high tide levels this year breached all records and invaded most of the shacks erected on beaches. The GF is enclosing pictures. In many areas the coastal land has eroded and large chunks have disappeared. A newspaper article titled "Is Goa Sinking?" led the High Court to initiate a suo moto writ petition wherein it compelled the coastal authority to take immediate action for violations of the notification. Citizens are concerned about large stretches of beach eroding, sandbags and tetrapods are placed on several of Goa's beaches to prevent further erosion, but none of this seems to have impacted on the Ministry which appears dead set on actually inviting greater population densities on beaches even though it is well aware of the problem of sea level rise. Is which case, why have the hazard line at all? Is the MOEF&CC not being totally irresponsible with such proposals in the context of climate change? Where is the science in the proposals? Will the MOEF&CC assume liability when major disruptions occur? Or will it leave the hapless to face the consequences of large-scale intrusions in the coastal zone?
- 6) It has been clearly established that all primary dunes occur within the 200 metre zone from the HTL. In such a situation, it is entirely inappropriate for the Ministry to propose activity that will lead to their evacuation in view of apprehended sea level rise. Dunes are the primary line of defence against the seas. It appears from the draft notification that stabilized dunes are not protected, and that only dynamic or active dunes need conservation. This is a major fallacy. All primary dunes need to be protected, whether active or stabilized, in the face of anticipated sea level rise.
- 7) We also strongly object to the khazans of Goa being dropped from the list of Critically Vulnerable Areas. The 2011 CRZ Notification made special mention of them and emphatically emphasized that they were to be marked and protected. This was a progressive step which has now been reversed. If they were not ecologically sensitive, why then were they included in the 2011 notification? We insist that the khazan lands be included, as they are vast areas and need to be protected.
- 8) In 1994, the MOEF amended the then CRZ notification to bring in a setback of 50 metres for the riverine areas. However, this relaxation was struck down by the Supreme Court of India in 1996. Both these relaxations (of coastal/riverine NDZ) are bound to be challenged, since they disclose no compelling purpose and in fact will undermine life and livelihoods in the CRZ.
- 9) The idea of further dividing CRZ I, III and IV into A and B classifications is unsound and will become a nightmare to implement. Originally, there were only CRZ I to III zones, then zone IV was added. There was clarity in the definition of the zones. But with further subdivisions which make the classifications in effect, seven, there is bound to be confusion all around. As it is, MOEF&CC found it difficult to enforce the three primary zones. Now we do not know how it proposes to implement seven!
- 10) As of date, in many states, the CZMP is in final stage of preparation and approval. This notification will setback all these efforts by a few more years, as HTL and hazard line still have to be marked on the ground by the new authority, and CRZ zones will have to be marked in accordance with the new notification. It appears the MOEF&CC wants to

intentionally delay the submission and approval of the CZMPs and their implementation and desires to introduce total chaos in the implementation of the existing environmental norms represented in the CRZ notifications of 1991/2011. The MOEF&CC is abdicating its duty as per the Constitution of India. Worse, it is allowing the natural environment of this country to be put up for grabs by the wealthy and the powerful. Your Ministry should seriously introspect and examine whether it is doing a service or disservice to the nation with the publication of such obnoxious and indefensible proposals.

11) We reiterate: how do such relaxations harmonise with the stated objective of protection of the coast in order to meet the consequences of sea level rise due to global warming? We request the Ministry not to venture in this direction. Please drop the 50 metre NDZ relaxation. It serves no useful social or environmental purpose. It does not serve the fisherfolk who are already being crowded out of their homelands by large-scale projects (jetties, marinas et al.) that are coming up along the coast, and severely limiting the livelihoods of these persons who have inhabited the coast for centuries. If the dilution of the CRZ Notification is not in the interests of the fisherfolk, it clearly appears to be at the behest of real estate developers and resort owners who look at the coastal stretches as vast recreational zones which only the well-heeled can afford to inhabit.

12) Finally, we object to the bypassing of routine procedure for issue of such Notifications. This specific draft was not notified first in the official gazette of the Government of India as is done in all cases to alert the public to proposed changes in the law.

Yours faithfully,



Dr. Claude Alvares
Director


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Maria S.

IN THE HIGH COURT OF BOMBAY AT GOA

**PUBLIC INTEREST LITIGATION WRIT PETITION NO.21 OF
2018**

WITH

**PUBLIC INTEREST LITIGATION WRIT PETITION NO.18 OF
2019**

WITH

**PUBLIC INTEREST LITIGATION WRIT PETITION NO.19 OF
2019**

WITH

STAMP NUMBER (MAIN) NO.2322 OF 2019(FILING)

WITH

**PUBLIC INTEREST LITIGATION WRIT PETITION NO.21 OF
2019**

WITH

**PUBLIC INTEREST LITIGATION WRIT PETITION NO.22 OF
2018**

**PUBLIC INTEREST LITIGATION WRIT PETITION NO.21 OF
2018**

Kashinath Jairam Shetye And 8 Ors.

...Petitioners

Versus

Union of India, thr. Jt. Secretary, Ritesh
Kumar Singh And Anr.

... Respondents

Petitioner in person.

Mr Raviraj Chodankar, Standing Counsel *for Respondent No.1.*

Mr Devidas J. Pangam, Advocate General *with Ms Maria S. J. Correia, Additional Government Advocate for Respondent State.*

WITH
PUBLIC INTEREST LITIGATION WRIT PETITION NO.18
OF 2019

Kashinath Jairam Shetye And 7 Ors. ...Petitioners

Versus

Union of India, thr. Director MOEF, New ... Respondents
 Delhi And 2 ors.

Petitioner in person.

Mr Raviraj Chodankar, Standing Counsel *for Respondent No.1.*

Mr Devidas J. Pangam, Advocate General *with Ms Maria S. J. Correia, Additional Government Advocate* *for Respondent State.*

WITH
PUBLIC INTEREST LITIGATION WRIT PETITION NO.19
OF 2019

Federation of Rainbow Warriors, thr. Its ...Petitioners
 Secretary, David Rodrigues And 2 Ors.

Versus

Union of India, thr. The Secretary, Ministry of ... Respondents
 Environment, New Delhi And Anr.

Ms Maria Caroline Collasso, Advocate *for the Petitioner No.1.*

Mr Raviraj Chodankar, Standing Counsel *for Respondent No.1.*

Mr. Devidas J. Pangam, Advocate General *with Mr Suhas Parab, Additional Government Advocate* *for Respondent State.*

WITH
STAMP NUMBER (MAIN) NO.2322 OF 2019 (FILING)

Old Cross Fishing Canoe Owners Co-op.
 Society Ltd., thr. Its President, Custodio
 D'Souza And 3 Ors. ... Petitioners

Versus

Ministry of Environment, Forests And ... Respondents
 Climate Change, thr. its Secretary, New Delhi
 And Anr.

Mr Raviraj Chodankar, Standing Counsel for Respondent No.1.

**Mr. Devidas J. Pangam, Advocate General with Ms Sulekha
 Kamat, Additional Government Advocate for Respondent State.**

WITH
**PUBLIC INTEREST LITIGATION WRIT PETITION NO.21
 OF 2019**

The Goa Foundation, thr. Its Secretary Dr.
 Claude Alvares And Anr. ... Petitioners

Versus

Ministry of Environment, Forests And ... Respondents
 Climate Change, thr. its Secretary And Anr.

**Ms Norma Alvares and Mr Om D'Costa, Advocates for the
 Petitioner.**

Mr Raviraj Chodankar, Standing Counsel for Respondent No.1.

**Mr. Devidas J. Pangam, Advocate General with Mr Geetesh
 Shetye, Additional Government Advocate for Respondent State.**

WITH
PUBLIC INTEREST LITIGATION WRIT PETITION NO.22
OF 2018

Kashinath Jairam Shetye And 8 Ors. ... Petitioners

Versus

Union of India, thr. Jt. Secretary, Ritesh ... Respondents
 Kumar Singh And Anr.

Petitioner in person.

Mr Raviraj Chodankar, Standing Counsel *for Respondent No.1.*

Mr Devidas J. Pangam, Advocate General *with Mr Shubham Priolkar, Additional Government Advocate* *for Respondent State.*

CORAM: M. S. SONAK &
BHARAT P. DESHPANDE, JJ.

DATED : 3rd January, 2023

ORAL ORDER:

Heard learned counsel for the parties, learned Advocate General for the State and Mr Chodankar, learned Standing Counsel for the Central Government.

2. In all these petitions, the challenge is to certain provisions of the CRZ Notification, 2019. In the petitions instituted by Mr Kashinath Shetye, he has challenged further notifications issued under the Environment Protection Act, 1986.


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3. A coordinate Bench of this Court in the case of ***Vanashakti & Anr. v/s. Union of India & Ors.***¹ has held that such petitions need not be entertained by the High Court because the petitioners have an alternate and efficacious remedy before the National Green Tribunal.

4. The decision in ***Vanashakti*** (supra) was challenged before the Hon'ble Supreme Court by instituting the petition for Special Leave to Appeal (C) No.20495 of 2021. On 03.08.2022, we had made it clear that we would await the decision of the Hon'ble Supreme Court in the said SLP and only after that, decide whether these petitions should be entertained or whether the petitioners should be relegated to avail of the alternate remedy before the National Green Tribunal.

5. The Hon'ble Supreme Court disposed of the above SLP on 30.09.2022 by making the following Order:

'In the facts and circumstances of the case, the High Court has rightly relegated the petitioners to approach the National Green Tribunal (NGT) as number of technical issues arise which can very well be dealt with by the NGT are involved. Therefore, it is appropriate that the petitioners approach the NGT,

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as observed by the High Court. The Special Leave Petition stands dismissed.

However, it is observed that if the petitioners approach the NGT within a period of four weeks from today, the proceedings be considering in accordance with law and on its own merits without raising the issue with respect to limitation.

All the contentions and defences which may be available to the respective parties are kept open to be considered by the NGT in accordance with law and on its own merits.

Pending application(s), if any, stand disposed of.'

6. Therefore, consistent with the above order, we dispose of these petitions by relegating the petitioners to avail of the alternate remedy before the National Green Tribunal.

7. Some of the petitioners, including, in particular, Mr Kashinath Shetye, expressed apprehension on the issue of limitation. Mr Chodankar, learned Standing Counsel for the Central Government made it clear that if the petitioners indeed approach the NGT within 4 weeks from today, the issue of limitation will not be raised. This statement is entirely consistent with the directions of the Hon'ble Supreme Court in its order dated 30.09.2022 disposing of the above SLP.


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8. Even otherwise, all these petitioners, were bonafidely pursuing their petitions before this Court. The issue of alternate remedy was also pending before the Hon'ble Supreme Court in the challenge against the decision in **Vanashakti** (supra). Therefore, consistent with the order made by the Hon'ble Supreme Court, we also observe that in case the petitioners approach the NGT within 4 weeks from today, the proceedings they institute will be considered in accordance with law and on their own merits without raising the issue with respect to limitation. Further, all contentions of all parties are expressly left open because we have not examined the merits and these petitions are being disposed of only by relegating the petitioners to avail of the alternate remedy available before the NGT.

9. All these petitions are, therefore, disposed of by granting the petitioners liberty to approach the NGT. If the petitioners indeed approach the NGT within 4 weeks from today, the proceedings they institute be considered in accordance with law and on their own merits without raising the issue with respect to limitation. The statement of Mr Chodankar, learned Standing Counsel for Central Government in this regard is also noted and accepted.

10. The petitions are disposed of in the above terms without any order for costs.

BHARAT P. DESHPANDE, J.

M. S. SONAK, J.

MARIA SUZANA
REBELLO

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Date: 2023.01.04 10:27:11 +05'30'


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INDIAN COUNCIL FOR ENVIRO-LEGAL ACTION v. UNION OF INDIA

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(1996) 5 Supreme Court Cases 281

(BEFORE KULDIP SINGH, S. SAGHIR AHMAD AND B.N. KIRPAL, JJ.)

a INDIAN COUNCIL FOR ENVIRO-LEGAL ACTION .. Petitioner;

Versus

UNION OF INDIA AND OTHERS .. Respondents.

Writ Petition (C) No. 664 of 1993[†], decided on April 18, 1996

- b* A. Constitution of India — Arts. 32 & 226, 21, 48-A and 51-A — PIL — Ecological fragility — Non-compliance with anti-pollution laws — Govt. apathy — Orders and directions are issued by court for implementation and enforcement of the laws to protect the fundamental right to life of the people — Passing such orders and directions do not amount to usurpation of legislative or executive function — They are issued by the court in discharge of its judicial function — However, Court is not concerned with day-to-day enforcement of the law which is the function of the executive — High Courts being acquainted with the local conditions, they would be in a better position to ensure proper implementation of the law — PIL complaining ecological degradation in coastal areas — Notification issued by Central Govt. under R. 5(3)(d) of Environment Protection Rules, 1986 after detailed study of relevant issues — Non-compliance with the notification alleged and subsequent amendments to the notification challenged on ground that the same resulted in defeating the intent of the notification — Contentions directed to be raised before respective High Courts — Meanwhile no development should take place in 'no-development zone' in the coastal area — Environment Protection Act, 1986, S. 3(1) and (2)(v) — Environment Protection Rules, 1986, R. 5(3)(d)
- c*
- d*

B. Ecology — Generally — Anti-pollution laws — Proper implementation and enforcement of, is of prime importance to avoid ecological degradation and its adverse effects — Jurisprudence — Law — Enforcement of

- e* C. Environment Protection Rules, 1986. — R. 5(3)(d) — Central Govt.'s notification under — Presumed to have been issued after due deliberations and study — While issuing such notification Govt. should endeavour to strike a balance between ecological interests and economic, social and cultural interests — Industrial development at the cost of environmental degradation or environmental protection at the cost of industrial and economic growth not warranted
- f*

D. Jurisprudence — Law — Object and purpose of — Non-enforcement or condonation of violation of — Propriety — Rule of law — Public Interest Litigation — Seeking enforcement of laws — Maintainability — Constitution of India, Arts. 32 & 226, 51-A and 48-A

- g* E. Constitution of India — Art. 226 — PIL — High Courts must shoulder greater responsibilities in taking up local issues of which they can have closer awareness and easy monitoring such as ecological matters in their respective States in the light of law laid down by the Supreme Court — This would ensure that the orders passed are effective and complied with — Ecology — PIL — Place of filing

- h* The Central Government issued a notification dated 19-2-1991 ('the main Notification') in exercise of the powers conferred on it by clause (d) of sub-rule (3) of Rule 5 of the Environment Protection Rules, 1986. By this notification, it declared

[†] Under Article 32 of the Constitution of India

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the coastal stretches of seas, bays, estuaries, creeks, rivers and backwaters which were influenced by tidal action (in the landward side) up to 500 metres from the High Tide Line ('HTL') and the land between Low Tide Line ('LTL') and HTL as Regulation Zones. With regard to this area, it imposed, with effect from the date of the said notification, various restrictions on the setting up and expansion of industries, operation or processes etc. in the said Regulation Zones. It was clarified that for the purposes of the main Notification, HTL was defined as the line up to which the highest high tide reaches at springtime. Subsequently, a Notification dated 18-8-1994 was issued making six amendments in the main Notification. These amendments were made after the receipt of the report of a committee, headed by Mr B.B. Vohra, which had been set up by the Central Government. There is no challenge to the validity of the main Notification. A writ petition by way of public interest litigation was filed alleging that there had been blatant violation of the main notification and industries were illegally being set up, thereby causing serious damage to the environment and ecology of the area. It was also submitted that the Ministry of Environment and Forests except for issuing the main Notification, had taken no steps to follow up its own directions contained in the main Notification. The validity of the Notification dated 18-8-1994 was also challenged. The main prayer in the writ petition was that the Supreme Court should issue appropriate writ, order or direction to the respondent so as to enforce the main Notification.

Held :

The main Notification was issued under Sections 3(1) and 3(2)(v) of the Environment Protection Act, presumably after a lot of study had been undertaken by the Government. Normally, such notifications are issued after a detailed study and examination of all relevant issues. In matters relating to environment, it may not always be possible to lay down rigid or uniform standards for the entire country. While issuing the notifications like the present, the Government has to balance various interests including economic, ecological, social and cultural. While economic development should not be allowed to take place at the cost of ecology or by causing widespread environment destruction and violation; at the same time, the necessity to preserve ecology and environment should not hamper economic and other developments. Both development and environment must go hand in hand, in other words, there should not be development at the cost of environment and vice versa, but there should be development while taking due care and ensuring the protection of environment. This is sought to be achieved by issuing notifications like the present, relating to developmental activities being carried out in such a way so that unnecessary environmental degradation does not take place. In other words, in order to prevent ecological imbalance and degradation such developmental activity is sought to be regulated. (Paras 32 and 31)

Having issued the main Notification, no follow-up action was taken either by the coastal States and Union Territories or by the Central Government. The provisions of the main Notification appear to have been ignored and, possibly violated with impunity. There has been a complete laxity in the implementation of the Act and other related statutes. (Paras 27 and 45)

Enactment of a law, but tolerating its infringement, is worse than not enacting a law at all. The continued infringement of law, over a period of time, is made possible by adoption of such means which are best known to the violators of law. Continued tolerance of such violations of law not only renders legal provisions nugatory but such tolerance by the enforcement authorities encourages lawlessness and adoption of means which cannot, or ought not to, be tolerated in any civilized society. Law should not only be meant for the law-abiding but is meant to be obeyed by all for whom it has been enacted. A law is usually enacted because the legislature feels that

INDIAN COUNCIL FOR ENVIRO-LEGAL ACTION v UNION OF INDIA

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a it is necessary. It is with a view to protect and preserve the environment and save it for the future generations and to ensure good quality of life that Parliament enacted the anti-pollution laws, namely, the Water Act, Air Act and the Environment (Protection) Act, 1986. These Acts and Rules framed and notification issued thereunder contain provisions which prohibit and/or regulate certain activities with a view to protect and preserve the environment. When a law is enacted containing some provisions which prohibit certain types of activities, then, it is of utmost importance that such legal provisions are effectively enforced. If a law is enacted but is not being voluntarily obeyed, then, it has to be enforced. Otherwise, infringement of law, which is actively or passively condoned for personal gain, will be encouraged b which will in turn lead to a lawless society. Violation of anti-pollution laws not only adversely affects the existing quality of life but the non-enforcement of the legal provisions often results in ecological imbalance and degradation of environment, the adverse effect of which will have to be borne by the future generations. (Para 26)

c With rapid industrialisation taking place, there is an increasing threat to the maintenance of the ecological balance. The general public is becoming aware of the need to protect environment. Even though, laws have been passed for the protection of environment, the enforcement of the same has been tardy, to say the least. With the governmental authorities not showing any concern with the enforcement of the said Acts, and with the development taking place for personal gains at the expense of environment and with disregard of the mandatory provisions of law, some public-spirited persons have been initiating public interest litigations. The legal position relating to the exercise of jurisdiction by the courts for preventing environmental d degradation and thereby, seeking to protect the fundamental rights of the citizens, is now well settled by various decisions of this Court. (Para 41)

e The primary effort of the court, while dealing with the environmental-related issues, is to see that the enforcement agencies, whether it be the State or any other authority, take effective steps for the enforcement of the laws. The courts, in a way, act as the guardian of the people's fundamental rights but in regard to many technical matters, the courts may not be fully equipped. Perforce, it has to rely on outside agencies for reports and recommendations whereupon orders have been passed from time to time. Even though, it is not the function of the court to see the day-to-day enforcement of the law, that being the function of the executive, but because of the non-functioning of the enforcement agencies, the courts as of necessity have had to pass orders directing the enforcement agencies to implement the law for the protection of the fundamental rights of the people. Passing of f appropriate orders requiring the implementation of the law cannot be regarded as the court having usurped the functions of the legislature or the executive. The orders are passed and directions are issued by the court in discharge of its judicial function, namely, to see that if there is a complaint by a petitioner regarding the infringement of any constitutional or other legal right, as a result of any wrong action or inaction on the part of the State, then such wrong should not be permitted to continue. (Paras 41 and 28)

g For effective orders to be passed, so as to ensure that there can be protection of environment along with development, it becomes necessary for the court dealing with such issues to know about the local conditions. Such conditions in different parts of the country are supposed to be better known to the High Courts. The High Courts would be in a better position to ascertain facts and to ensure and examine the implementation of the anti-pollution laws where the allegations relate to the spreading of pollution or non-compliance of other legal provisions leading to the h infringement of the anti-pollution laws. For a more effective control and monitoring of such laws, the High Courts have to shoulder greater responsibilities in tackling

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such issues which arise or pertain to the geographical areas within their respective States. Even in cases which have ramifications all over India, where general directions are issued by the Supreme Court, more effective implementation of the same can, in a number of cases, be effected, if the High Courts concerned assume the responsibility of seeing to the enforcement of the laws and examine the complaints, mostly made by the local inhabitants, about the infringement of the laws and spreading of pollution or degradation of ecology. (Para 42)

a

There is a likelihood that there will be instances of infringement of the main Notification and also of the Management Plans, as and when framed, taking place in different parts of the country. Instead of agitating these questions before the Supreme Court, now that the general principles have been laid down and are well-established, it will be more appropriate that action with regard to such infringement even if they relate to the violation of fundamental rights, should first be raised before the High Court having territorial jurisdiction over the area in question. It is expected that each High Court will deal with such issues urgently. Environmental law has now become a specialised field. In the decision which was taken at the United Nations Conference on Environment and Development held at Rio de Janeiro in June 1992 in which India had also participated, the States had been called upon to develop national laws regarding liability and compensation for the victims of pollution and other environmental damages. (Para 43)

b

c

Allegations relating to infringement of any Government notification should be filed in the High Courts having territorial jurisdiction and the High Courts should issue appropriate orders and directions. (Para 43)

d

There is 6000 kms long coastline of India. It is the responsibility of the coastal States and Union Territories in which these stretches exist to see that both the notifications are complied with and enforced. Management Plans have to be prepared by the States and approved by the Central Government. If the said plans have been approved, the development can take place only in accordance therewith. Till the preparation and approval of the said plans by virtue of the provisions of the main Notification, no development in the coastal areas within the NDZ can take place. Therefore, it is in the interest of all concerned that the Management Plans are submitted and approved at the earliest. (Para 44)

e

With increasing threat to the environmental degradation taking place in different parts of the country, it may not be possible for any single authority to effectively control the same. Environmental degradation is best protected by the people themselves. In this connection, some of the non-governmental organisations (NGOs) and other environmentalists are doing singular service. Time has perhaps come when the Government can usefully draw upon the resources of such NGOs to help and assist in the implementation of the laws relating to protection of the environment. Under Section 3 of the Act, the Central Government has the power to constitute one or more authorities for the purposes of exercising and performing such powers and functions, including the power to issue directions under Section 5 of the Act of the Central Government as may be delegated to them. (Para 47)

f

g

Considering the fact that the Pollution Control Boards are not only overworked but simultaneously have a limited role to play insofar as it relates to controlling of pollution for the purpose of ensuring effective implementation of the notifications of 1991 and 1994, as also of the Management Plans, the Central Government should consider setting up under Section 3 of the Act, State Coastal Management Authorities in each State or zone and also a National Coastal Management Authority.

(Para 47)

h

INDIAN COUNCIL FOR ENVIRO-LEGAL ACTION v. UNION OF INDIA 285

[Directions for the State and Central Governments and submission of reports passed. (Para 47)]

- a *Indian Council for Enviro-Legal Action v. Union of India*, (1995) 3 SCC 77, referred to R-M/T/16136/C

Advocates who appeared in this case :

- Ms Seema Midha and K.R. Rajesekaran, Advocates, for the Petitioner;
Ms H. Wahi, P.K. Manohar, S.K. Sinha, R.K. Mehta, K.L. Taneja, C.V.S. Rao, S.K. Mehta, A.S. Bhasme, Ms M. Karanjawala, V. Krishnamurthi, Vineet Kumar, K. Ram Kumar, A. Mariarputham, R. Sasiprabhu, P.N. Puri, Kh. Nobin Singh, Ms Indu Malhotra, Ms Meenakshi Arora, Sanjay Parikh, Anip Sachthey, H.K. Puri, S.N. Bhat and Ms Ruby Ahuja, Advocates, for the Respondents.

Chronological list of cases cited on page(s)

1. (1995) 3 SCC 77, *Indian Council for Enviro-Legal Action v. Union of India* 292a

ORDER

- c 1. Concern for the protection of ecology and for preventing irreversible ecological damage to the coastal areas of the country has led to the filing of the present petition under Article 32 of the Constitution of India as a public interest litigation.
- d 2. The main grievance in this petition is that a notification dated 19-2-1991 declaring coastal stretches as Coastal Regulation Zones (hereinafter referred to as 'the Regulation Zones') which regulates the activities in the said zones has not been implemented or enforced. This has led to continued degradation of ecology in the said coastal areas. There is also a challenge to the validity of the notification dated 18-8-1994 whereby the first notification dated 19-2-1991 has been amended, resulting in further relaxations of the provisions of the 1991 Notification and such relaxation, it is alleged, will help in defeating the intent of the main Notification itself.
- e 3. The petitioner is a registered voluntary organisation working for the cause of environment protection in India. India has a coastline running into 6000 kms which has abundance of natural endowments, geographic attractions and natural beauty. According to the petitioner, these coastal areas are highly complex and have dynamic ecosystems, sensitive to development pressures. The stresses and pressure of high population growth, non-restrained development, lack of adequate infrastructure facilities for the resident population are stated to be some of the factors responsible for the decline in environmental quality in these areas. The developmental activities in the coastal areas are stated to cause short-term and long-term physical, chemical and biological changes that will and has caused damage to flora and fauna, public health and environment. It is further alleged that as a consequence of indiscriminate industrialisation and urbanisation, without the requisite pollution control systems, the coastal waters are highly polluted.
- f 4. It is further the case of the petitioner that some of the coastal areas contained extensive groundwater resources and sometimes mineral resources, while in other areas, there are iron ore, oil and gas resources and mangrove forests. As a result of the impact of tidal waves and cyclones, mangrove forests are being increasingly destroyed, while some of the major
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fishing areas in some of the coastal areas of the country are undergoing serious damage consequent to ecologically unsound development. Over-exploitation of groundwater in the coastal areas in places like Madras and Vishakhapatnam is stated to have resulted in growing intrusion of salt water from the sea to inland areas and fresh water aquifers previously used for drinking, agriculture and horticulture are getting highly damaged. Unplanned urbanisation and industrialisation in the coastal belts is stated to be causing fast disappearance of fertile agricultural lands, fruit gardens and energy plantations like casuarina trees, that serve as windbreakers and protect inland habitations from the cyclonic damages.

5. With a view to protect the ecological balance in the coastal areas, the then Prime Minister is stated to have written a letter in November 1981 to the Chief Ministers of coastal States in which she stated as under:

“The degradation and misutilization of beaches in the coastal States is worrying as the beaches have aesthetic and environmental value as well as other values. They have to be kept clear of all activities at least up to 500 metres from the water at the maximum high tide. If the area is vulnerable to erosion, suitable trees and plants have to be planted on the beaches without marring their beauty. Beaches must be kept free from all kinds of artificial development. Pollution from industrial and town wastes must also be avoided totally.”

Working groups were set up by the Ministry of Environment and Forests in 1982 to prepare environmental guidelines for development of beaches and coastal areas. In July 1983 environmental guidelines for beaches were promulgated which, inter alia, stated:

“The traditional use of sea water as a dump site from our land-derived wastes has increased the polluted loads of sea and reduced its development potentials including the economic support it provides to people living nearby. Degradation and misutilization of beaches are affecting the aesthetic and environmental loss. These could be avoided through prudent coastal development and management based on assessment of ecological values and potential damages from coastal developments.”

These guidelines further stated that “adverse direct impact” of development activities was possible within 500 metres from the high watermark or beyond two kilometres from it. The example which was given was that the sand-dunes and vegetation clearing, high density construction etc. along the coast could alter the ecological system of the area.

6. The environment guidelines for the development of beaches, inter alia, required the State Governments to prepare a status report on the obtaining situation of the coastal areas, as a prerequisite to environmental management of the area. Such a status report was required to be followed by a master plan identifying the areas required for conservation, preservation and development and other activities. A master plan so prepared would ensure a scientific assessment and development of the coastline and this

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would ultimately ensure the preservation and enforcement of the coastal eco-system.

a 7. The Ministry of Environment and Forests undertook an exercise with regard to the protection and development of the coastal areas. It invited objections against the declaration of the coastal stretches as Regulation Zones and imposing restrictions on industries, operation and processes in the Regulation Zones.

b 8. After considering all the objections, the Central Government issued a notification dated 19-2-1991 (hereinafter referred to as 'the main Notification') in exercise of the powers conferred on it by clause (d) of sub-rule (3) of Rule 5 of the Environment Protection Rules, 1986. By this notification, it declared the coastal stretches of seas, bays, estuaries, creeks, rivers and backwaters which were influenced by tidal action (in the landward side) up to 500 metres from the High Tide Line (hereinafter referred to as 'HTL') and the land between Low Tide Line (hereinafter referred to as 'LTL') and HTL as Regulation Zones. With regard to this area, it imposed, with effect from the date of the said notification, various restrictions on the setting up and expansion of industries, operation or processes etc. in the said Regulation Zones. It was clarified that for the purposes of the main Notification, HTL was defined as the line up to which the highest high tide reaches at springtime.

d 9. The salient features of the main Notification are that a number of activities were declared as prohibited in the Regulation Zones, which are as follows:

e "(i) setting up of new industries and expansion of existing industries, except those directly related to waterfront or directly needing foreshore facilities;

(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. SO 594(E) dated 28-7-1989, SO 966(E) dated 27-11-1989 and GSR 1037(E) dated 5-12-1989;

f (iii) setting up and expansion of fish processing units including warehousing (excluding hatchery and natural fish drying permitted areas);

g (iv) setting up and expansion of units mechanisms for disposal of wastes and effluents, except facilities required for discharging treated effluents into the watercourse with approval under the Water (Prevention and Control of Pollution) Act, 1974 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 authorities concerned for phasing out the existing practices, if any, within a reasonable time period not exceeding three years from the date of this notification;

h (vi) dumping of city or town wastes for the purposes of landfilling or otherwise; the existing practice, if any, shall be phased out within a

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reasonable time not exceeding three years from the date of this notification;

(vii) dumping of ash or any wastes from thermal power stations; a

(viii) land reclamation, bunding or disturbing the natural course of sea water with similar obstructions, except those required for control of coastal erosion and maintenance or clearing of waterways, channels and ports and for prevention of sandbars and also except for tidal regulators, storm water drains and structures for prevention of salinity ingress and for sweet water recharge; b

(ix) mining of sands, rocks and other substrata materials, except those rare minerals not available outside the CRZ areas;

(x) harvesting or drawal of groundwater and construction of mechanisms therefore, within 200 m of HTL; in the 200 m to 500 m zone it shall be permitted only when done manually through ordinary wells for drinking, horticulture, agriculture and fisheries; c

(xi) construction activities in ecologically sensitive areas 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 d

(xiii) dressing or altering of sand-dunes, hills, natural features including landscape changes, 50 per cent of the plot size and the total height of construction shall not exceed 9 metres.”

Secondly, the main Notification provided for regulation of permissible activities. Furthermore, the coastal States and Union Territory Administrations were required to prepare, within one year from the date of the main Notification, Coastal Zone Management Plans (hereinafter referred to as ‘the Management Plans’) identifying and clarifying the Regulation Zones areas within their respective territories in accordance with the guidelines contained in the main Notification and those plans were required to be approved, with or without modification, by the Central Government, Ministry of Environment and Forests. The main Notification also stipulated that within the framework of the approved Management Plans, all developments and activities within the Regulation Zones, except the prohibited activities and those which required environment clearance from Ministry of Environment and Forests, Government of India, were to be regulated by the State Government, Union Territory Administration or the local Authority, as the case may be, in accordance with the guidelines contained in Annexures I and II of the main Notification. e f g

10. Anticipating that it will take time till the Management Plans are prepared and approved, the main Notification provided that till the approval of the Management Plans, “all development and activities within CRZ shall not violate the provisions of this Notification”. The State Governments and h

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Union Territory Administrations were required to ensure adherence to the provisions of the main Notification and it was provided that any violation thereof, shall be subject to the provisions of the Environment Protection Act, 1986 (hereinafter referred to as 'the Act').

11. It was also provided in clause 4 of the main Notification that the Ministry of Environment and Forests and the State Government or Union Territory, and such other authorities at the State or Union Territory levels, as may be designated for the purpose, shall be responsible for the monitoring and enforcement of the main Notification within their respective jurisdictions.

12. As already noticed, there are two annexures, namely, Annexure I and Annexure II to the main Notification. While Annexure I contains the Coastal Area Classification and Development Regulations which are for general application, Annexure II is the specific provision which contains the guidelines for development of beach resorts/hotels in the designated areas of CRZ III for temporary occupation of tourists/visitors with prior approval of the Ministry of Environment and Forests.

13. Annexure I consists of clause 6(1) which relates to the classification of Coastal Regulation Zones. The norms for regulation activities in the said zones are provided by clause 6(2) for regulating development activities. The coastal stretches within 500 metres of HTL of the landward side are classified under clause 6(1) into four categories, which are as under:

(a) Category I (CRZ I) includes the areas that are ecologically sensitive and important, such as national parks/marine parks, sanctuaries etc., 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 have been declared by the Central Government or the authorities concerned at the State/Union Territory level from time to time. In addition thereto, CRZ I also contains the area between the LTL and the HTL.

(b) Category II (CRZ II) contains the areas that have already been developed up to or close to the shore line. This is the area which is 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.

(c) Category III (CRZ III) is the area which was originally undisturbed and includes those areas which do not belong either to Category I or Category II. CRZ III includes coastal zone in the rural areas (developed and undeveloped) and also areas within the municipal limits or in other legally designated urban areas which are not substantially built up.

(d) Category IV (CRZ IV) contains the coastal stretches in the Andaman and Nicobar, Lakshadweep and small islands except those designated as CRZ I, CRZ II or CRZ III.

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14. Clause 6(2) of Annexure I provides for norms for regulation of activities in CRZ I, II, III and IV. With regard to CRZ I, the norms for regulation of activities do not permit new construction within 500 metres of the HTL. Furthermore, practically, no construction activity is allowed between the LTL and HTL. The norms for regulation of activities in CRZ II relate to construction or reconstruction of the buildings within the said zone. a

15. With regard to CRZ III, the norms for regulation of activities, inter alia, provide that the area up to 200 metres from the HTL is to be earmarked as "No Development Zone". The only exception is that there can be repairs of existing authorised structures but, the permissible activity in this zone is for its use for agriculture, horticulture, gardens, pastures etc. The norms further provide for development of vacant plots between 200 and 500 metres of HTL in designated areas of CRZ III with prior approval of the Ministry of Environment and Forests for construction of hotels/beach resorts for temporary occupation of tourists/visitors subject to the conditions as stipulated in the guidelines in Annexure II. b c

16. In CRZ IV also, detailed norms for regulation of activities are provided in the said clause 6(2) of Annexure I.

17. As already noticed, Annexure II contains the guidelines for development of beach resorts/hotels in the designated area of CRZ III for temporary occupation of tourists/visitors. The vacant area beyond 200 metres in the landward side, even if it is within 500 metres of the HTL can be used, after obtaining permission, for construction of beach resorts for tourists/visitors. There was no provision for allowing any fresh construction within 200 metres of the HTL or within the LTL and HTL. Clause 7(1) of the main Notification which comes under Annexure II contains various conditions which have to be fulfilled before approval can be granted by the Ministry of Environment and Forests for the construction of beach resorts/hotels in the designated area of CRZ III. d e

18. In the background of the aforesaid facts, we will now deal with the main contentions raised, namely, the non-implementation of the main Notification and the validity of the notification dated 18-8-1994 (hereinafter referred to as 'the 1994 Notification'). f

Re: Non-Implementation of the main Notification

19. It is the case of the petitioner that with a view to protect the ecological balance in the coastal areas, the aforesaid notification was issued by the Central Government which contained various provisions for regulating development in the coastal areas. It was contended that there had been a blatant violation of this notification and industries were illegally being set up, thereby causing serious damage to the environment and ecology of the area. It was also submitted that the Ministry of Environment and Forests except for issuing the main Notification, had taken no steps to follow up its own directions contained in the main Notification. The main prayer in the writ petition was that this Court should issue appropriate writ, order or direction to the respondent so as to enforce the main Notification. g h

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20. In the writ petition, specific allegations were also contained to the effect that the Ministry of Environment and Forests, Government of India

a had issued another notification dated 20-6-1991 under clause (5) of sub-section (2) of Section 3 of the Act declaring Dahanu Taluka, District Thane, Maharashtra as an ecologically fragile area.

- 21.** The main Notification was issued so as to ensure that the development activities are consistent with the environmental guidelines for beaches and coastal areas and to impose restrictions on the setting up of
- b industries which have detrimental effect on the coastal environment. This notification also required the Government of Maharashtra to prepare a master plan or regional plan for the Dahanu Taluka based on the existing land use of Dahanu within a period of one year from the notification and to get the said plan approved by the Ministry of Environment and Forests. The master plan and the regional plan was to demarcate all the existing green
- c areas, orchards, tribal areas and other environmentally sensitive areas in the said Dahanu Taluka. Industries which were using chemicals above the limits/quantities prescribed by the Act or by the rules were to be considered hazardous industries. The hazardous waste was required to be disposed of in the identified areas after taking precautionary measures. This notification also required the Government of Maharashtra to constitute a monitoring
- d committee to ensure the compliance or conditions mentioned in the notification in which local representatives may be included. According to the petitioner, the Maharashtra Government has not implemented the directions contained in the said notification and has permitted development activities which have resulted in new polluting industries being established in the coastal area, thereby seriously endangering the ecology. The industries
- e which are operating in Dahanu are stated to be balloon-manufacturing units, buffing and chromium-plating units and chemical units. There has been a failure to make the master plan or the regional plan for the said Dahanu Taluka and indiscriminate licences have been issued and consent given to new industries by the State Government and the predominately agricultural area is slowly being converted into an industrial area in complete disregard
- f of environmental laws, guidelines and notifications. There are other instances stated to be in the writ petition with relation to the Dahanu Taluka but, for the view we are taking, it is not necessary to deal with the same in any great length.

- 22.** Notices were issued by this Court on 3-10-1994 to the respondents including the coastal States, namely, Maharashtra, Kerala, Karnataka, Orissa,
- g West Bengal, Tamil Nadu, Andhra Pradesh and the Union Territory of Pondicherry. On 12-12-1994, while granting time to the respondents to file their counter-affidavits, this Court directed that "the respondent States shall not permit the setting up of any industry or construction of any type on the area at least up to 500 metres from the sea water at the maximum high tide". Notice was also directed to issue to the State of Goa, the Union Territory of
- h Daman and Diu and the islands of Andaman & Nicobar and Lakshadweep, which were added as respondents. The aforesaid interim order dated 12-12-


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1994 was slightly modified by this Court by its order dated 9-3-1995* in the following terms: (SCC pp. 77-78, para 1)

“We modify our order dated 12-12-1994 and direct that all the restrictions, prohibitions regarding construction and setting up of industries or for any other purpose contained in the notification dated 19-2-1991 issued by the Ministry of Environment and Forests, Government of India under clause (d) of sub-rule (3) of Rule 5 of the Environment (Protection) Rules, 1986 shall be meticulously followed by all the States concerned. The activities which have been declared as prohibited within the Coastal Regulation Zone shall not be undertaken by any of the respondent-States. The regulations of permissible activities shall also be meticulously followed. The restrictions imposed by the Coastal Areas Classification and Development Regulations contained in Annexure I to the abovesaid notification shall also be strictly followed by the respondent-States.”

23. According to clause 3(i) of the main Notification, the coastal States and Union Territory administrations were required to prepare the Management Plans within one year from the date of the main Notification. This was essential for the implementation of the said notification. The lack of commitment on the part of these States and administrations, towards the protection and regulation of the coastal stretches, is evident from their inaction in complying with the aforesaid statutory directive requiring the preparation of Management Plans within the specified period. In view of the fact that there had been a non-compliance with this provision, this Court on 3-4-1995 directed all the coastal States and Union Territory Administrations to frame their plans within a further period of six weeks thereof.

24. A status report was filed in court by the Union of India which shows non-compliance of clause 3(i) by practically everyone concerned. While some of the States and Union Territory Administrations submitted their plans, though belatedly, except in the case of Pondicherry, none of the other plans were approved by the Central Government. It appears that some modifications were suggested and those States and Union Territories had to resubmit their plans. Directions will have to be issued to these States and Union Territories to resubmit their plans and the Central Government will also be required to approve the resubmitted plans within a specified time. The State of Orissa had only partly complied with this Court's order dated 3-4-1995 inasmuch as the plans submitted by it were only for a small part of a coast. The State of West Bengal only submitted a preliminary concept while the States of Andhra Pradesh, Gujarat, Karnataka and Kerala did not care to submit any plans at all. Therefore, these six States namely, Orissa, West Bengal, Andhra Pradesh, Gujarat, Karnataka and Kerala have to be answerable for non-compliance with the directions issued by this Court on 3-4-1995.

* *Indian Council for Enviro-Legal Action v Union of India*, (1995) 3 SCC 77

25. Affidavits which have been filed by the respondents clearly show that all the provisions of the main Notification have not been complied with.

- a Explanations for the delay in preparation of the Management Plans and their approval have been offered, but they are far from satisfactory. If the mere enactment of the laws relating to the protection of environment was to ensure a clean and pollution-free environment, then India would, perhaps, be the least polluted country in the world. But, this is not so. There are stated to be over 200 Central and State Statutes which have at least some concern
- b with environment protection, either directly or indirectly. The plethora of such enactments has, unfortunately, not resulted in preventing environmental degradation which, on the contrary, has increased over the years. Enactment of a law, relating to protection of environment, usually provides for what activity can or cannot be done by people. If the people were to voluntarily respect such a law, and abide by it, then it would result in law being able to
- c achieve the object for which it was enacted. Where, however, there is a conflict between the provision of law and personal interest, then it often happens that self-discipline and respect for law disappears.

26. Enactment of a law, but tolerating its infringement, is worse than not enacting a law at all. The continued infringement of law, over a period of time, is made possible by adoption of such means which are best known to the violators of law. Continued tolerance of such violations of law not only renders legal provisions nugatory but such tolerance by the enforcement authorities encourages lawlessness and adoption of means which cannot, or ought not to, be tolerated in any civilized society. Law should not only be meant for the law-abiding but is meant to be obeyed by all for whom it has been enacted. A law is usually enacted because the legislature feels that it is necessary. It is with a view to protect and preserve the environment and save it for the future generations and to ensure good quality of life that Parliament enacted the anti-pollution laws, namely, the Water Act, Air Act and the Environment (Protection) Act, 1986. These Acts and Rules framed and notification issued thereunder contain provisions which prohibit and/or regulate certain activities with a view to protect and preserve the environment. When a law is enacted containing some provisions which prohibit certain types of activities, then, it is of utmost importance that such legal provisions are effectively enforced. If a law is enacted but is not being voluntarily obeyed, then, it has to be enforced. Otherwise, infringement of law, which is actively or passively condoned for personal gain, will be encouraged which will in turn lead to a lawless society. Violation of anti-pollution laws not only adversely affects the existing quality of life but the non-enforcement of the legal provisions often results in ecological imbalance and degradation of environment, the adverse effect of which will have to be borne by the future generations.

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- h 27. The present case also shows that having issued the main Notification, no follow-up action was taken either by the coastal States and Union Territories or by the Central Government. The provisions of the main Notification appear to have been ignored and, possibly violated with

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impunity. The coastal States and Union Territory administrations were required to prepare Management Plans within a period of one year from the date of the notification but this was not done. The Central Government was to approve the plans which were to be prepared but it did not appear to have reminded any of the coastal States or the Union Territory administrations that the plans had not been received by it. Clause 4 of the main Notification required the Central Government and the State Governments as well as Union Territory administrations to monitor and enforce the provisions of the main Notification, but no effective steps appear to have been taken and this is what led to the filing of the present writ petition. a
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28. There is no challenge to the validity of the main Notification. Counsel for all the parties are agreed that the main Notification is valid and has to be enforced. Instances have been given by the petitioner as well as some of the intervenors where in different States, infringement of the main Notification is taking place but no action has been taken by the authorities concerned. The courts are ill-equipped and it is not their function to see day-to-day enforcement of law. This is an executive function which it is bound to discharge. A public interest litigation like the present, would not have been necessary if the authorities, as well as the people concerned, had voluntarily obeyed and/or complied with the main Notification or if the authorities who were entrusted with the responsibility, had enforced the main Notification. It is only the failure of enforcement of this notification which has led to the filing of the present petition. The effort of this Court while dealing with public interest litigation relating to environmental issues, is to see that the executive authorities take steps for implementation and enforcement of law. As such the court has to pass orders and give directions for the protection of the fundamental rights of the people. Passing of appropriate orders requiring the implementation of the law cannot be regarded as the court having usurped the functions of the legislature or the executive. The orders are passed and directions are issued by the court in discharge of its judicial function, namely, to see that if there is a complaint by a petitioner regarding the infringement of any constitutional or other legal right, as a result of any wrong action or inaction on the part of the State, then such wrong should not be permitted to continue. It is by keeping the aforesaid principles in mind that one has to consider as to what directions should be issued to ensure, in the best possible manner, that the provisions of the main Notification which has been issued for preserving the coastal areas are not infringed. c
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Validity of notification of 1994

29. The notification dated 18-8-1994 made six amendments in the main Notification. These amendments were made after the receipt of the report of a committee, headed by Mr B.B. Vohra, which had been set up by the Central Government. The validity of the amended notification was also challenged in IA No. 19 of 1995 which was filed by three environment protection groups, namely, the Goa Foundation, Nirmal Vishwa and Indian Heritage Society (Goa Chapter). In the said application, the applicants gave a table containing the main points of the main Notification, the g
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recommendations made by the Vohra Committee and the amendments made by amended notification of 1994. The said particulars are as follows:

a	<i>"Main CRZ Notification dated 19-2-1991 issues for relaxation"</i>	<i>Vohra Committee recommendations</i>	<i>Amending notification dated 18-8-1994</i>
b	1. 200 metres from HTL is no-development zone.	Relaxation allowed rocky and hilly areas; no limit specified.	Blanket relaxation for all areas up to HTL if Central Government so desires.
	2. No-development zone for rivers, creeks and backwaters 100 metres.	Clarification demanded about limits; no relaxation suggested.	No-development zone relaxed to 50 metres.
c	3. No levelling or digging of sand-dunes or sand.	Allows destruction of sand-dunes	No destruction of sand-dunes allowed. However, goalposts, net posts, lampposts allowed.
d	4. No-development zone area cannot be used for FSI calculations.	Recommends no-development zone area be permitted for FSI calculations.	Relevant section not amended but explanation added as an afterthought in the notification permitting no-development zone area to be included for FSI calculations.
e	5. No basements allowed area not to be included in FSI.	Basements permitted.	Basements allowed.
f	6. No fencing permitted within 200 metre-zone from HTL.	Only green fencing permitted, no barbed wire fencing allowed.	Allows green and barbed wire fencing."

g Contending that the 1994 Notification will adversely affect the environment and would lead to unscientific and unsustainable development and ecological destruction, an application was filed by the petitioner being IA No. 16 of 1995, inter alia, praying for the quashing of the said notification.

30. A reply was filed by the Union of India justifying the amendments and giving reasons for the issuance of the 1994 Notification.

h 31. While examining the validity of the 1994 Notification, it has to be borne in mind that normally, such notifications are issued after a detailed

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study and examination of all relevant issues. In matters relating to environment, it may not always be possible to lay down rigid or uniform standards for the entire country. While issuing the notifications like the present, the Government has to balance various interests including economic, ecological, social and cultural. While economic development should not be allowed to take place at the cost of ecology or by causing widespread environment destruction and violation; at the same time, the necessity to preserve ecology and environment should not hamper economic and other developments. Both development and environment must go hand in hand, in other words, there should not be development at the cost of environment and vice versa, but there should be development while taking due care and ensuring the protection of environment. This is sought to be achieved by issuing notifications like the present, relating to developmental activities being carried out in such a way so that unnecessary environmental degradation does not take place. In other words, in order to prevent ecological imbalance and degradation that developmental activity is sought to be regulated.

32. The main Notification was issued under Sections 3(1) and 3(2)(v) of the Environment Protection Act, presumably after a lot of study had been undertaken by the Government. That such a study had taken place is evident from the bare perusal of notification itself which shows how coastal areas have been classified into different zones and the activities which are prohibited or permitted to be carried out in certain areas with a view to preserve and maintain the ecological balance.

33. According to the Union of India, while implementing the main Notification, certain practical difficulties were faced by the authorities concerned. There was a need for having sustainable development of tourism in coastal areas and that amendments were effected after giving due consideration to all relevant issues pertaining to environment protection and balancing of the same with the requirement of development. It has been specifically averred that a committee headed by Mr B.B. Vohra was set up by the Government in response to the need for examining the issues relating to development of tourism and hotel industry in coastal areas and to regulate the same keeping in view the requirements of sustainable development and the fragile coastal ecology. According to the Union of India, the Committee also included three environmentalist members who had expressed their views and that the Government had accepted the recommendations of the Vohra Committee with slight modifications. According to it, there has been no blanket relaxation in any area as alleged and adequate environmental safeguards have been provided in the 1994 Notification.

34. In this background, we now deal with each of these six amendments separately:

(i) According to the main Notification, distance of 200 metres from the HTL was a no-development zone (hereinafter referred to as 'NDZ'). The representation of the Hotel and Tourism Industry was that the

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- a existing 200 metres' depth of NDZ constituted a serious handicap to the said industry competing with the beach hotels of other countries where there were no such restrictions. It was represented that a reduction of the NDZ would not be ecologically harmful and there was no convincing scientific reason for fixing 200 metres as the appropriate width for the NDZ. It was also stated before the Committee that according to its projection, the Hotel Industry in India would at the most require only about 20-30 kms of coastline for the construction of seaside resorts over the next 15 years or so. If this requirement was viewed in the context of the fact that the total coastline of the country was over 6000 kms in length, the industry represented that relaxation with regard to this limited area would not pose any big threat to the country's ecology.
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35. The Vohra Committee in its recommendations observed that certain members of the Committee had felt that a blanket provision of 200 metres in the case of sandy beaches would lead to difficulties and there should be provision for relaxation to be made in suitable cases, but the consensus that emerged was that the present regulations should not be disturbed. The Committee, however, recommended that relaxations in 200 metres' rule may be made in a case-to-case basis with regard to such stretches of the coastline which were rocky or hilly, but the relaxations should be made after carrying out necessary impact assessment studies. Furthermore, this relaxation should be made by the Ministry of Environment and Forests and not by the State Governments concerned.
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36. In the 1994 Notification, there is a clear departure from the recommendations of the Vohra Committee. The notification now provides that for reasons to be recorded, the Central Government may permit any construction within the said 200 metres NDZ subject to such conditions and restrictions as it may deem fit.
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37. In the written submissions filed by the Union of India in this Court on 29-9-1995, this amendment has been sought to be justified and explained by it in the following words:

- f "As regards the developmental activities up to the High Tide Line, the Central Government may for reasons recorded in writing permit construction in any particular case taking into account the geographical features and other relevant aspects.

- This is necessary as providing of 200 metres of no-development zone all along was not possible in the coastal line in a uniform way on account of wide variations in geographical features, existing human settlements and developmental activities requiring foreshore facilities etc."
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- The relaxation with regard to NDZ was sought by the Hotel and Tourism Industry and they desired concession only with regard to 20-30 kms of coastline. By the amended notification, power had been given to the Central Government to make such relaxation with regard to any part of the 6000 kms long coastline of India. The Central Government has, thus, retained the
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absolute power of relaxation of the entire 6000 kms long coastline and this, in effect, may lead to the causing of serious ecological damage as the said provision gives unbridled power and does not contain any guidelines as to how or when the power is to be exercised. The said provision is capable of abuse. The Central Government also did not confine the relaxation to the extent as specified by the Vohra Committee. No satisfactory reason has been given by the Union of India as to why it departed from the opinion of the Expert Committee and that too in such a manner that the concession which has now been given is far in excess of what was demanded by the Hotel and Tourism Industry.

38. We, accordingly, hold that the newly added proviso in Annexure II in paragraph 7 in sub-paragraph (1) (Item i) which gives the Central Government arbitrary, uncanalized and unguided power, the exercise of which may result in serious ecological degradation and may make the NDZ ineffective is ultra vires and is hereby quashed. No suitable reason has been given which can persuade us to hold that the enactment of such a proviso was necessary, in the larger public interest, and the exercise of power under the said proviso will not result in large-scale ecological degradation and violation of Article 21 of the citizens living in those areas.

(ii) The NDZ for rivers, creeks and backwaters which was 100 metres from HTL has, by the amended notification, been relaxed to 50 metres. As already seen the main Notification does not apply to all the rivers. It applies only to tidal rivers which are part of the coastal environment. It was contended that the reduction from 100 metres to 50 metres was arbitrary and was not made on any basis. It was also contended that the Vohra Committee had made no proposal for relaxation along the rivers but it merely asked for a clarification of the limits to which the control would apply since in some areas, tidal ingress could go up to 50 kms from the coastline.

39. Justifying this amendment, it was contended by the Union of India that in case of creeks, rivers or backwaters, it is not possible to have a uniform basis for demarcating NDZ. The zone shall be regulated based upon each individual case. It is no doubt true that there can be no uniform basis for demarcating NDZ and it will depend upon the requirements by each State authority concerned in their own Management Plans but no reason has been given why in relation to tidal rivers, there has been a reduction of the ban on construction from 100 metres to 50 metres. Even the Vohra Committee which had been set up to look into the demands of Hotel and Tourism Industry had not made such a proposal and, therefore, it appears to us that such a reduction does not appear to have been made for any valid reason and is arbitrary. This is more so when it has been alleged that in some areas like Goa, there are mangrove forests that need protection and which stretch to more than 100 metres from the river bank and this contention had not been denied. In the absence of any justification for this reduction being given the only conclusion which can be arrived at is that the relaxation to 50 metres has been done for some extraneous reason. It was submitted, at the time of

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- arguments by the Additional Solicitor General that construction has already taken place along such rivers, creeks etc. at a distance of 50 metres and more, but no such explanation has been given in the reply affidavit. Even if this be so such reduction will permit new construction to take place and this reduction cannot be regarded as a protection only to the existing structures. In the absence of a categorical statement being made in an affidavit that such reduction will not be harmful or result in serious ecological imbalance, we are unable to conclude that the said amendment has been made in the larger public interest and is valid. This amendment is, therefore, contrary to the object of the Environment Act and has not been made for any valid reason and is, therefore, held to be illegal.

- (iii) The main Notification had provided that there would be no levelling of sand-dunes or sand extraction. The Vohra Committee, however, allowed extraction of sand. This recommendation has not been accepted but the amended notification allowed the installation of goalposts or lampposts. Justifying this amendment, it was contended by the Union of India that installing such goalposts or lampposts will not result in flattening of sand-dunes and will also not have any other undesirable effect with regard to the said sand-dunes. No permanent structure for sport facilities is permitted. We do not see any illegality having been committed by allowing the goalposts, net posts and lampposts to be erected. In fact the erection of these would facilitate or lead to more enjoyment of the beaches. Therefore, the challenge to this amendment fails.

- (iv) By the amended notification, the NDZ is now to be included for FSI calculations. Justifying this amendment, it was submitted by the Union of India that an explanation had been added to the effect that although no construction is allowed in NDZ, for the purpose of calculation of FSI the area of the entire plot including portions which fall within NDZ shall be taken into account. This modification has been brought in because the area in NDZ will in any case be left vacant and although this land may belong to a private owner, he has to keep it vacant. To compensate for this, he is allowed to construct a building of such FSI as permissible after taking into account the area which falls in NDZ. This, it was submitted, is based upon fair and equitable conditions and as such this would have no effect on the ecological balance in the coastal area.

40. In view of the aforesaid reasons given by the Union of India and also keeping in view the fact that a similar recommendation had also been made by the Vohra Committee, we agree with the principle that some compensation is to be allowed to the private owner whose land falls in the NDZ, but at the same time haphazard and congested construction — a pollutant in itself — cannot be permitted in any area of the city. We, therefore, modify the amendment and direct that a private owner of land in NDZ shall be entitled to take into account half of such land for the purpose

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of permissible FSI in respect of the construction undertaken by him outside the NDZ.

(v) With regard to the amendment which allows construction of the basements, it was contended that the deep foundations and structure could interfere in the coastal areas where there is an intermixture of salt and sweet aquifers. According to the Union of India, this amendment has been made on the recommendation of the Vohra Committee. It was, however, stated that the basements shall be allowed subject to the condition that the other authorities such as State Ground Water Boards will permit such construction and will issue no-objection certificate after confirming that the basement will not hamper free flow of groundwater in that area. It is, therefore, obvious that there will not be any adverse effect to the ecological balance in the area if basements are allowed to be constructed subject to the satisfaction of the authorities concerned that the same will not hamper free flow of groundwater.

(vi) The main Notification had not permitted fencing within 200 metres' zone from HTL. By the amended notification, green and barbed wire fencing within the said zone has been permitted. Challenging this amendment, it was contended that the effect of such fencing would be to prevent the public from using the beaches. Justifying this amendment, the Union of India had stated that the Vohra Committee had permitted green fencing. By the amended notification barbed fencing, in addition to green fencing, has also been allowed. The reason for this is that green and barbed fencing has been allowed so that private owners are in a position to stop encroachment on their properties. Furthermore, in the interest of security also, a private owner would like to have some kind of boundary so that his property is safe. The implication, therefore, clearly is that it is not as if public beaches will be encroached upon or fenced. The fencing is being allowed only of the privately-owned property in order to protect the same. We, however, direct that fencing should not be raised in such a manner so as to prevent access of the public to public beaches. In other words, the right of way enjoyed by the general public to those areas which they are free to enjoy, should in no way be closed, hampered or curtailed. The amendment as made, does not, in our opinion, call for any interference.

General conclusion

41. With rapid industrialisation taking place, there is an increasing threat to the maintenance of the ecological balance. The general public is becoming aware of the need to protect environment. Even though, laws have been passed for the protection of environment, the enforcement of the same has been tardy, to say the least. With the governmental authorities not showing any concern with the enforcement of the said Acts, and with the development taking place for personal gains at the expense of environment and with disregard of the mandatory provisions of law, some public-spirited persons have been initiating public interest litigations. The legal position relating to the exercise of jurisdiction by the courts for preventing


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environmental degradation and thereby, seeking to protect the fundamental rights of the citizens, is now well settled by various decisions of this Court.

- a The primary effort of the court, while dealing with the environmental-related issues, is to see that the enforcement agencies, whether it be the State or any other authority, take effective steps for the enforcement of the laws. The courts, in a way, act as the guardian of the people's fundamental rights but in regard to many technical matters, the courts may not be fully equipped. Perforce, it has to rely on outside agencies for reports and recommendations
- b whereupon orders have been passed from time to time. Even though, it is not the function of the court to see the day-to-day enforcement of the law, that being the function of the Executive, but because of the non-functioning of the enforcement agencies, the courts as of necessity have had to pass orders directing the enforcement agencies to implement the law.

- 42. As far as this Court is concerned, being conscious of its constitutional obligation to protect the fundamental rights of the people, it has issued directions in various types of cases relating to the protection of environment and preventing pollution. For effective orders to be passed, so as to ensure that there can be protection of environment along with development, it becomes necessary for the court dealing with such issues to know about the local conditions. Such conditions in different parts of the country are supposed to be better known to the High Courts. The High Courts would be in a better position to ascertain facts and to ensure and examine the implementation of the anti-pollution laws where the allegations relate to the spreading of pollution or non-compliance of other legal provisions leading to the infringement of the anti-pollution laws. For a more effective control and monitoring of such laws, the High Courts have to shoulder greater responsibilities in tackling such issues which arise or pertain to the geographical areas within their respective States. Even in cases which have ramifications all over India, where general directions are issued by this Court, more effective implementation of the same can, in a number of cases, be effected, if the High Courts concerned assume the responsibility of seeing to the enforcement of the laws and examine the complaints, mostly made by the local inhabitants, about the infringement of the laws and spreading of pollution or degradation of ecology.
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- 43. There is a likelihood that there will be instances of infringement of the main Notification and also of the Management Plans, as and when framed, taking place in different parts of the country. In our opinion, instead of agitating these questions before this Court, now that the general principles have been laid down and are well-established, it will be more appropriate that action with regard to such infringement even if they relate to the violation of fundamental rights, should first be raised before the High Court having territorial jurisdiction over the area in question. We are sure and we expect that each High Court will deal with such issues urgently. Environmental law has now become a specialised field. In the decision which was taken at the United Nations Conference on Environment and Development held at Rio de Janeiro in June 1992 in which India had also participated, the States had been called upon to develop national laws
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regarding liability and compensation for the victims of pollution and other environmental damages.

44. There is 6000 kms long coastline of India. It is the responsibility of the coastal States and Union Territories in which these stretches exist to see that both the notifications are complied with and enforced. Management Plans have to be prepared by the States and approved by the Central Government. If the said plans have been approved, the development can take place only in accordance therewith. Till the preparation and approval of the said plans by virtue of the provisions of the main Notification, no development in the coastal areas within the NDZ can take place. Therefore, it is in the interest of all concerned that the Management Plans are submitted and approved at the earliest.

45. There has been a complete laxity in the implementation of the Act and other related statutes. Under the said Act, the Central Government has essentially been entrusted with the responsibility to enforce and implement the Act. Section 23 of the Act, however, enables the Central Government, by notification in the Official Gazette, to delegate such of its powers and functions to the State Governments or authorities. Thus, the implementation of the provisions of the Act has now essentially become the function of the State Governments. In an effort to control pollution, State Pollution Boards have also been established but the extent of its effectiveness is yet to be demonstrated. The Environment (Protection) Act, as framed, and Section 5 of the Act in particular, gives the Government extensive powers to issue directions to any person, officer or authority which they are bound to comply. The directions as issued have necessarily to be in accordance with the provisions of law and to give protection to environment.

46. As far as the implementation of the main Notification is concerned, the Vohra Committee has stated in its report that many members of the Committee expressed great concern that sufficient attention was not being paid to the enforcement of regulations. It also noted that “in the absence of anything like adequate machinery to implement the regulations, a great deal of unauthorised development is taking place on most beaches which it will be difficult if not impossible to remove in the future”. The Committee also recommended that the problems relating to the implementation of the regulations should be given high priority by the Ministry, if these are not to become a mockery.

47. With increasing threat to the environmental degradation taking place in different parts of the country, it may not be possible for any single authority to effectively control the same. Environmental degradation is best protected by the people themselves. In this connection, some of the non-governmental organisations (NGOs) and other environmentalists are doing singular service. Time has perhaps come when the Government can usefully draw upon the resources of such NGOs to help and assist in the implementation of the laws relating to protection of the environment. Under Section 3 of the Act, the Central Government has the power to constitute one or more authorities for the purposes of exercising and performing such

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powers and functions, including the power to issue directions under Section 5 of the Act of the Central Government as may be delegated to them.

a Directions

- (1) Keeping in view the aforesaid observations in mind, we would direct that if any question arises with regard to the enforcement or implementation or infringement of the main Notification as amended by the notification of 1994, the same should be raised before and dealt with by the respective High Courts. In the present case, there were allegations of infringement having been taking place by allowing the setting up of industries in Dahanu Taluka in Maharashtra in violation of the provisions of the main Notification and which industries are stated to be causing pollution. Similarly, there were allegations of non-compliance with the provisions of law by a unit manufacturing alcohol in Pondicherry; with regard to Goa also allegations have been made. As we have already observed, it will be more appropriate if the allegations so made are dealt with by the respective High Courts, for they would be in a better position to know about and appreciate the local conditions which are prevailing and the extent of environmental damage which is being caused. We, accordingly, direct that the contentions raised in the petition regarding infringement of the main Notification and of the notification dated 20-6-1991 relating to Dahanu Taluka should be dealt with by the Bombay High Court. The High Court may issue such directions as it may deem fit and proper in order to ensure that the said notifications are effectively implemented and complied with. A copy of the writ petition along with a copy of the judgment should be sent to the High Court by the Registry for appropriate orders. As regards IAs Nos. 17-18 of 1995 relating to alcohol-manufacturing unit at Pondicherry, the said application is transferred to the Madras High Court for disposal in accordance with law.

- (2) Any allegation with regard to the infringement of any of the notifications dated 19-2-1991, 20-6-1991 and 18-8-1994 be filed in the High Courts having territorial jurisdiction over the areas in respect of which the allegations are made. As far as this Court is concerned, this matter stands concluded except to examine the reports which are to be filed by all the States with regard to the approval of the Management Plans, or any classification which may be sought.

- (3) Considering the fact that the Pollution Control Boards are not only overworked but simultaneously have a limited role to play insofar as it relates to controlling of pollution for the purpose of ensuring effective implementation of the notifications of 1991 and 1994, as also of the Management Plans, the Central Government should consider setting up under Section 3 of the Act, State Coastal Management Authorities in each State or zone and also a National Coastal Management Authority.

- (4) The States which have not filed the Management Plans with the Central Government are directed to file the complete plans by 30-6-1996. The Central Government shall finalise and approve the said plans,

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with or without modifications within three months thereafter. It is possible that the plans as submitted by the respective State Governments and Union Territories may not be acceptable to the Ministry of Environment and Forests. Returning the said plans for modifications and then resubmission of the same may become an unnecessary, time-consuming and, perhaps, a futile exercise. In order to ensure that these plans are finalised at the very earliest, we direct that the plans as submitted will be examined by the Central Government who will inform the State Government or the Union Territory concerned with regard to any shortcomings or modifications which the Ministry of Environment and Forests may suggest. If necessary, a discussion amongst the representatives of the State Governments and the Ministry of Environment and Forests should take place and thereafter the plans should be finalised by the Ministry of Environment, if necessary, by carrying out such modifications as may be required. The decision by the Ministry of Environment and Forests in this regard shall be final and binding.

A report with regard to the submission and the finalisation of the plans should be filed in this Court and the case will be listed for noting compliance in September 1996.

(5) Pending finalisation of the plans, the interim orders passed by this Court on 12-12-1994 and 9-3-1995 shall continue to operate.

(6) Four States, namely, Andhra Pradesh, Gujarat, Karnataka and Kerala have not yet submitted their Management Plans to the Central Government. There is thus a clear non-compliance with the direction issued by this Court on 12-12-1994 and 9-3-1995. We issue notices to the Chief Secretaries of these States to explain and show cause why further appropriate action be not taken for this non-compliance. The notices are to be returnable after six weeks.

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**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

.....

**ORIGINAL APPLICATION NO. 677 OF 2016
(M.A. NO. 148/2017)**

IN THE MATTER OF:

Society for Protection of Environment
& Biodiversity
Through the Convener
R-7/17, Raj Nagar
Ghaziabad (UP)-201001

.....Applicant

Versus

1. Union of India
Through Secretary, Govt. of India
Ministry of Environment, Forest and Climate Change
Indira Paryavaran Bhavan, Jorbagh Road,
New Delhi-110003
2. Ministry of Urban Development
Through Secretary, Govt. of India
Maulana Azad Road
Rajpath Area, Central Secretariat
New Delhi
3. Central Pollution Control Board
Through Member Secretary
CBD-Cum-Office Complex
East Arjun Nagar
New Delhi

.....Respondents

AND

**ORIGINAL APPLICATION NO. 01 OF 2017
(M.A. NO. 03/2017 & M.A. NO. 445/2017)**

IN THE MATTER OF:

Pushp Jain
S/o Shri Dhanpat Rai Jain
R/o I A/2C Phase-I
Ashok Vihar
New Delhi-110052

.....Applicant

Versus

1. Union of India
Through the Secretary
Ministry of Environment, Forest and Climate Change
Indira Paryavaran Bhavan
Jorbagh Road,
New Delhi-110003
2. Ministry of Urban Development
Through the Secretary
Maulana Azad Road
Nirman Bhawan
New Delhi 110 011

.....Respondents

AND

**ORIGINAL APPLICATION NO. 7 OF 2017
(M.A. NO. 879/2017)**

IN THE MATTER OF:

Ajay Kumar Singh
236, Lawyers Chambers
M.C. Sitalwad Block
Supreme Court of India
New Delhi

.....Applicant

Versus

1. Ministry of Environment, Forest and Climate Change
Govt. of India
Through the Secretary
Indira Paryavaran Bhavan
Jorbagh Road,
New Delhi-110003
2. Ministry of Urban Development
Govt. of India
Through the Secretary
Nirman Bhawan
New Delhi 110 011
3. Delhi Development Authority
Through its Vice Chairman
Vikas Sadan, INA
New Delhi
4. Central Pollution Control Board
Through Member Secretary
Parivesh Bhawan, East Arjun Nagar
New Delhi

5. Central Ground Water Authority
Through its Member Secretary
Faridabad
6. Delhi Pollution Control Committee
Through Member Secretary
4th Floor, ISBT Building Kashmeri Gate
New Delhi
7. North Delhi Municipal Corporation
New Delhi
8. South Delhi Municipal Corporation
New Delhi
9. East Delhi Municipal Corporation
New Delhi
10. State Level Environment Impact Assessment
Authority, Delhi Govt. Secretariat
Delhi

.....Respondents

AND

ORIGINAL APPLICATION NO. 55 OF 2017

IN THE MATTER OF:

Mahendra Pandey
S/o Sh. H.C. Pandey
R/o Flat No. 18, Kanishka Apartment
C&D Block, Shalimar Bagh
Delhi

.....Applicant

Versus

1. Union of India
Through Secretary
Ministry of Environment, Forest and Climate Change
Paryavaran Bhavan, Jorbagh Road,
New Delhi-110003
2. Ministry of Urban Development
Through its Secretary
Maulana Azad Road
Rajpat Area, Central Secretariat
New Delhi

3. Central Pollution Control Board
Through its Member Secretary
CBD cut Office Complex
East Arjun Nagar
New Delhi

.....Respondents

AND

**ORIGINAL APPLICATION NO. 67 OF 2017
(M.A. NO. 620/2017)**

IN THE MATTER OF:

R. Sreedhar
R/o A-1/39, 2nd Floor
Freedom Fighter Colony
IGNOU Road, Gate No. 1
Neb Sarhai, New Delhi

.....Applicant

Versus

Union of India
Through the Secretary
Ministry of Environment, Forest and Climate Change
Indira Paryavaran Bhavan
Jorbagh Road,
New Delhi-110003

.....Respondent

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COUNSEL FOR RESPONDENTS:

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Mr. Bairaja Mahapatra, Advocate and Mr. Dinesh Jindal, L.O.
Mr. Rajkumar, Advocate with Mr. Bhupender, LA for Central Pollution Control Board
Mr. D. Rajeshwar Rao, Advocate
Mr. Atma Ram N.S. Naadkarni, Ld. ASG for MoEF&CC
Mr. Divya Prakash Pandey, Advocate

Mr. Utkarsh Sharma, Advocate for State of Uttar Pradesh
 Mr. Ravindra Kumar, Advocate for NOIDA Authority
 Mr. Krishna Kumar Singh and Mr. Anurag Kumar, Advocates
 Mr. Rahul Pratap, Advocate
 Ms. Puja Kalra, Advocate

JUDGMENT

PRESENT:

HON'BLE MR. JUSTICE SWATANTER KUMAR (CHAIRPERSON)

HON'BLE DR. JUSTICE JAWAD RAHIM (JUDICIAL MEMBER)

HON'BLE MR. BIKRAM SINGH SAJWAN (EXPERT MEMBER)

Reserved on: 8th November, 2017

Pronounced on: 8th December, 2017

1. Whether the judgment is allowed to be published on the net?
2. Whether the judgment is allowed to be published in the NGT Reporter?

JUSTICE SWATANTER KUMAR (CHAIRPERSON)

By this judgement, we shall dispose of all the five cases connected with Original Application No. 677 of 2016 as a common question of law and fact arises for consideration before the Tribunal in all these cases. However, it is not necessary for us to notice the facts of each case in greater detail and it would be sufficient to refer to the factual matrix of the lead application only, i.e., Original Application No. 677 of 2016, *Society for Protection of Environment & Biodiversity vs. Union of India and ors.*

2. The Applicant-Society claims that it works in the area of environmental conservation and aims at protection of the environment, ecology, natural resources, wildlife and bio-diversity existing on earth. It has filed various cases raising several environmental issues and concerns before the Courts as well as before this Tribunal. According to the Applicant, there is pathetic condition

of urban local bodies in the area under their jurisdiction more particularly in Ghaziabad. The exemption granted from Environmental Clearance for building and construction projects would be a huge retrograde step in the area of environment conservation. It would take us back to a pre- 2004 scenario, i.e., prior to issuance of EIA framework pursuant to specific orders of the Hon'ble Supreme Court. The Applicant believes that such a step will have a disastrous effect on the environment and would cause irreversible damage to the environment. The magnitude of the environmental footprint would be immense and unregulated building and construction activity would cause immense environmental damage. The Ministry of Environment, Forest & Climate Change (for short, "MoEF&CC"), Respondent No. 1 had issued a draft notification dated 29th April, 2016 with regard to amendment of the Notification of 2006 providing exemption to various construction projects all over the country. At that stage, the Applicant had filed an application bearing Original Application No. 168 of 2016 expressing its apprehension and raising serious objections to the draft Notification. The principal contention raised at that time was that the proposed Notification intends to dilute and exempt prior Environmental Clearance for buildings and construction projects through Model Building Bye Laws, 2016, as issued by the Town & Country Planning Organizing, Ministry of Urban Development and the subsequent Notification by Delhi Development Authority of the Unified Building Bye Laws for Delhi, 2016 which were notified vide Notification dated 22nd March, 2016 in pursuance to Chapter-XIV of the Model Building Bye Laws, 2016 and in concurrence with the impugned Notification of MoEF&CC. These amendments and Bye

Laws sought to defeat and do away with the substantive provisions of EIA Notification, 2006 that require prior Environmental Clearance by building and construction projects under item no. 8(a) of the Schedule to EIA Notification, 2006. Original Application No. 168 of 2016 was disposed of by the Tribunal vide its order dated 30th September, 2016 directing MoEF&CC to consider the objections filed by the Applicant prior to issuance of the final Notification. The order dated 30th September, 2016 of the Tribunal reads as under:

“Learned Counsel appearing for the Ministry of Environment, Forests and Climate Change submits that they are in the process of amending the EIA Notification, 2006. According to her the draft Notification has already been published and objections/suggestions have been invited and after expiry of the Statutory period they would issue the final Notification after considering the objections filed.

Learned Counsel appearing for the DDA on instruction from Director of Planning submits that DDA has already notified the unified building bye laws, however, the chapter on environment conditions for sanctioning building plans would not be put into practice/implemented till Ministry of Environment, Forests and Climate Change give its approval/concurrence.

The Learned Counsel appearing for the applicant has raised an issue with regard to the unified bye laws being in conflict with the Notification of EIA, 2006. According to the applicant these objections should be considered.

In view of the statement made by the Learned Counsel appearing for the respective parties, we are of the considered view that nothing survives in this application. The respective authorities will abide by their statements. We also direct the Ministry of Environment, Forests and Climate Change to consider the objections of the applicant before issuing final Notification so that the unified building bye laws are not in conflict with EIA Notification, 2006.

In view of the above, the Original Application No.168 of 2016 stands disposed of with no order as to cost.”


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3. After passing of the above order, Respondent no. 1 issued the final Notification on 9th December, 2016. Though, the objections to the draft Notification was filed by the Applicant on 23rd November, 2016 but no intimation for hearing was given to the Applicant except when the Applicant was invited through Counsel for meeting with Shri Manoj Kumar Singh, Joint Secretary, MoEF&CC, Government of India on 8th December, 2016 to discuss and make presentation on behalf of the Applicant. The discussion went on for about an hour or so and the Applicant was assured that the objections would be considered objectively by the Ministry. However, the final Notification was issued on 9th December, 2016 making substantial changes even in the draft Notification dated 29th April, 2016 which were in total derogation to the environmental laws in force.

4. The Applicant, thus, in the present case prays that the Notification dated 9th December, 2016 should be quashed and set-aside, inter-alia, but primarily on the following grounds:

- I. The Impugned Notification not only dilutes but also renders otiose the substantive provisions of Environmental Impact Assessment Notification, 2006 and even that of Environment (Protection) Act, 1986 (for short, "Act of 1986"). The provisions of the impugned Notification, if implemented would potentially destroy the environment and ecology due to unregulated building and construction activities and will have disastrous effect on environment and would cause irreversible damage to the environment. The magnitude of Environmental footprint would be immense. The objections filed by the Applicant and


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others have not been considered objectively and appropriately by the Ministry. The impugned Notification, thus suffers, from the element of non-application of mind as well as is violative of Principle of Natural Justice.

II. The Impugned final Notification is not only at variance with the draft Notification but even introduces new provisions which are diametrically opposite, beyond the scope and purview of the Draft Notification and even had destructive essence to the draft Notification. In this regard, the following significant variance can be noticed:

- (a). Draft Notification did not contain any provision with regard to grant of exemption to the construction building projects from the provisions of Air (Prevention and Control of Pollution) Act, 1981 (for short, "Air Act, 1981) and Water (Prevention and Control of Pollution) Act, 1974 (for short, "Water Act, 1974) in relation to Consent to Establish and Consent to Operate.
- (b). The composition of the Environmental Cells to monitor the conditions particularly in reference to Environmental Clearance is entirely at variance to the draft Notification.
- (c). Accreditation of Environmental auditors in terms of Appendix XV to the impugned Notification is also at variance from the one proposed in the Draft Notification.

- III. In exercise of subordinate legislative power, a delegatee cannot affect the application of another legislation enacted by the Parliament. In other words, while amending the Notification of 2006 in exercise of subordinate legislation, the delegated authority cannot render the provisions of Water Act, 1974 and Air Act, 1981 as inapplicable and also take away the powers of the Pollution Control Boards under the said Acts, to grant/refuse consent to establish and/or operate to a project.
- IV. Neither any comprehensive study was carried out nor any data collected to support the drastic changes being made by the impugned Notification and also ignored the Precautionary Principle, the fundamental cannon of environmental jurisprudence.
- V. The impugned Notification has several deficiencies which are against the basic letter and spirit of the Act of 1986 and the Notification of 2006.
- VI. 'Ease of doing responsible business' cannot be in fact and in law the ground for making amendment to the environmental laws, as it primarily falls beyond the scope of the object and purposes of the environmental laws in force. It is only a ploy to circumvent the provisions of the environmental assessment. The comprehensive process for evaluating the impact on environment due to various projects has been negated by the said amendment.
- VII. Under the impugned Notification, local authority is responsible for development and passing the development


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plan vested through the environment cell with the power to impose conditions relating to environmental protection and ensure their compliance. The local authorities which are the sanctioning authorities would also become adjudicatory authorities under the impugned Notification. This dual functioning by the same authority make them judge in their own cause in contravention with the Principle of Natural Justice, *nemo judex in sua causa*, as well as give rise to the plea of conflicting interest.

VIII. Exemption granted under the amended Notification has no nexus to the object sought to be achieved, i.e., the environmental protection.

IX. The impugned Notification is in derogation of India's international commitment and obligation under the Rio Declaration (1992), particularly Principle 15 to 17 and the Paris Agreement, 2015.

X. The impugned Notification, if given effect to, as framed would result in wiping out the effect of environmental laws in force and hence would not be in consonance with the doctrine of non-regression.

XI. In addition to above, Applicant has also contended that the impugned Notification has an impact of disturbing the federal structure as provided in the Constitution of India. The Central Government cannot exercise power, authority and control in relation to subject matter of the Notification over the local authorities. The Environmental Cell, constituted under the amended Notification, would be under control of the local

authority or the State Government, as the case may be and, therefore, it will have apparent conflict with the Central Regulating Authority.

XII. In terms of the Notification, the violations of environmental conditions would be punishable and action would be taken under local laws, thus, divesting the CPCB or the State Regulatory Authority from taking punitive action against the defaulters and, therefore, would not be in consonance with the scheme of 1986 Act. The Notification is a manifest ploy for ousting of the application of the Environmental Acts and even the jurisdiction of the Tribunal. Furthermore, power under Section 3(1) of the Act of 1986 can be exercised in harmony and consonance with other provisions of the Act. The power under Section 3 is to be exercised for the purpose of protecting and improving the quality of the environment and preventing, controlling and abating environmental pollution. The measures contemplated under Section 3 can only be taken in that behalf. Thus, power cannot be exercised for purposes beyond Section 3(1) and the provisions of the Act of 1986.

XIII. It is also contended by Applicant that MoEF has not provided any appropriate answer to the questions formulated by the Tribunal in its order dated 21st December, 2016 and 28th July, 2017.

XIV. There is no power with the Central Government to transfer its responsibility to the local authorities. The impugned

Notification does not provide power of refusal or rejection of the application seeking Environmental Clearance. The impugned Notification which introduces Paragraph no. 14 to the Notification of 2006, would be in apparent conflict with Para 1 to 13 of the Notification 2006. The Environmental Cell would not be able to function independently, fairly and in a transparent manner.

XV. The impugned Notification is unsustainable as on one hand it is not based on any study and on the other it ignores the recommendations made in the various studies conducted by the Ministry itself including Dr. Kasturirangan's reports. The positive suggestions and recommendations made in these reports have been ignored. The Notification attempts to hide behind the poor for the benefit of the builders. It also lacks in providing for requisite expertise of the members constituting the environmental cell in the interest of environment. No, criteria or qualifications have been fixed for the Member of environmental cell unlike the law in existence, which certainly would have adverse impacts as there will be massive construction activity causing serious environmental degradation.

5. From the above grounds, the applicants in all these applications pray that the impugned Notification dated 9th December, 2016 should be declared as *ultra vires* and be quashed. The challenge to the Notification is on legal grounds as well as on other reasons that it will have an adverse impact on environment, ecology and natural resources. In fact, it is contended that it will also have serious

repercussion on climate change. The Notification though claims to serve social cause of providing housing for the poor but, in fact, result of its enforcement would be contrary. It would permit construction of huge buildings and apartments without strictly complying with the environmental norms.

6. It will be appropriate to commonly state the response of various respondents together to the applications filed by the applicants. The preliminary objection has been raised as to the maintainability of the applications. It is contended that the validity of the Notification dated 9th December, 2016, has been challenged which is amending the EIA Notification, 2006 in exercise of the power conferred under Section 3 of the Environment (Protection) Act, 1986 (for short, the 'act of 1986') on the ground that it is violative of Articles 21 and 14 of the Constitution of India, which is beyond the ambit of Section 14 read with Section 18 of the NGT Act and the Tribunal has no jurisdiction to examine the validity of the subordinate legislations. The object of Notification is to delegate the power to Urban Local Bodies to grant Environmental Clearance. The scope of the Environmental Clearance has been widened as, now, Environmental Clearance is required even for building size having a built-up area 5000 sq. mtr. to 20,000 sq. mtr. While under the earlier Notification the built-up area of 20,000 sq. mtr. and above was covered. Urban Local Bodies and Urban Development Authorities are involved in the building plan approval and while granting approval, the process of granting Environmental Clearance can very well be integrated and can be given online. This will hasten the grant of clearances and there would not be any adverse impact on the construction projects. The Notification attempts to

decentralize the clearance process and has also attempted to integrate the environmental conditions along with building permissions. The local authorities would be conferred with the responsibility with support from expert bodies to discharge the important function. It is proposed to have a system of Qualified Building Environment Auditors (QBEA) providing for Third Party Auditing of environmental plans and its implementation. The QBEA will undertake certification that whether the environmental conditions have been adequately planned in the building design or not, it will thoroughly check its implementation during construction and regularly monitor its performance every five years. The setting up of an Environmental Cell at the level of Local Authority has been directed after taking into consideration lack of capacity at the level of Local Authorities. The Environmental Cell will comprise of three dedicated experts in the field of Waste Management (Solid and Liquid), Water Conservation and Management, Resource Efficiency including Building Materials, Energy Efficiency and Renewal Energy, Environmental Planning including Air Quality Management, Transport Planning and Management. The environment cell will also perform various other functions. The Local Authorities will prescribe the fee for environmental appraisal along with the fee for building permissions. Relying upon the judgement of the High Court of Delhi in the case of *Delhi Pollution Control Committee vs. Splendor Landbase Ltd.* in LPA 1/2011 and C.M. No. 6781/2011, the Notification has been issued to grant exemption to the residential complexes from the operation of Air and Water Act, respectively. The High Court expressed the view that residential complexes do not require any permission to establish or

operate under the said Acts. The QBEA is to be accredited by the MoEF&CC through qualified agency which would assess and certify building projects. The project proponent shall submit performance data and certificate of continued compliance of the project for the environmental conditions and parameters applicable after completion of construction from QBEA every five years to the environment cell focusing on different issues. If, there were violations committed by the builders who failed to take prior Environment Clearance in terms of the EIA Notification, 2006 and to deal with the violation in excess, the Ministry had issued certain Office Memorandums granting one time exemption which came to be set aside by the Tribunal *vide* its judgement dated 7th July, 2015 in the case of *S.P. Muthuraman v. Union of India and Ors.* (2015) ALL(I) NGT REPORTER (2) (DELHI) 170. 400 cases were kept on hold at different stages and in order to deal with the same, the present Notification had been issued. The purpose is to bring the entities under Environmental Compliance Regime at the earliest. The Notification provides various stages to be followed for granting prior Environmental Clearance which protects the environment in all respects. The Notification dated 9th December, 2016, provides that the States adopting the environmental conditions prescribed in appendix XIV of the Notification and incorporating it in the building bye laws and relevant state laws and incorporating the said conditions in the approvals given for building construction and making it legally enforceable, shall not require a separate Environmental Clearance from the MoEF&CC. The proposed changes by the State Government in its bylaws are to be examined by MoEF&CC and only after the concurrence of MoEF&CC to the changes


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made by the State Government, that the requirement of separate environmental Clearance by the Central government for buildings to be constructed in the State or Local Authority areas, is dispensed with. Appendix XVI provides setting up of Environmental Cell in terms thereof the cell shall be responsible for assessing and appraising the environmental concerns for the area under its jurisdiction where building activities are proposed. The environmental cell can evolve and propose additional environmental conditions as per requirement. The procedure for seeking building permission incorporating environmental conditions has been made more stringent in comparison to the earlier provisions. The burden lies on the project proponent for furnishing requisite information and the Local Authorities are expected to take greater caution and care in assessing them. The comparative analysis of the Notification dated 14th September, 2006 and 9th December, 2016 shows that the later is more comprehensive in terms of prescription of environmental protection standards and conditions. The Notification dated 9th December, 2016 was issued in view of the policy decision taken by the Government of India to provide affordable housing to weaker sections in Urban areas in terms of scheme of 'Housing for All by 2022'. The general conditions that were provided under the Notification of 14th September, 2006 in substance continue but only change that has been brought about is that instead of obtaining prior Environmental Clearance from the Central Government the same shall be obtained from the State/Union Territory Environmental Impact Assessment Authority. The requirement of obtaining prior Environmental Clearance has not been dispensed with. The Draft Notification was

also challenged by the applicant which was disposed of *vide* order dated 30th September, 2016. The suggestions and objections were invited and after considering the same the final Notification was issued. The reliance placed by the applicants on the judgement of *Dr. Avinash Ramkrishna Kashiwar vs. State of Maharashtra*; (2015) 5 Mh. L.J. is of no consequence as on facts that judgement has no applicability in relation to the examination of the present Notification.

JURISDICTION OF THE TRIBUNAL:

7. According to the respondents, reliance placed by the applicant on the judgement in the case of *Dr. Avinash Ramkrishna Kashiwar vs. State of Maharashtra* (supra) is misplaced as that judgement has no application to the facts of the present case and particularly, for examining the validity of the impugned Notification. The respondents, therefore, prayed that the application requires to be dismissed on merits as well as on the preliminary objections taken by them.

8. In light of the above factual matrix of the case, we have to examine the merit or otherwise of the preliminary objections taken by the respondents in regard to the jurisdiction of this Tribunal to examine the validity of the impugned Notification. To examine this issue, we do not have to refer to the facts in any detail suffices it to notice that challenge in the present case is to the legality and validity of the Notification dated 9th December, 2016. The contentions of the respondents are that this Tribunal has been constituted under the provisions of the National Green Tribunal Act, 2010 (for short, Act of 2010') and it being a statutory Tribunal is not vested with the powers to examine the validity or constitutionality of a subordinate

legislation, i.e., Notification dated 9th December, 2016. Such aspects can only be examined by a constitutional Court, i.e., the Hon'ble Supreme Court of India or Hon'ble High Court. Reliance in this regard has been placed by them upon the judgement of the Division Bench of the Bombay High Court in the case of *Central India Ayush Drugs Manufacturers Association, Nagpur & Ors. v. State of Maharashtra*, AIR 2016 BOM 261. The respondents also relied upon the judgement of Hon'ble Supreme Court of India in the case of *Alpha Chem & Anr. v. State of Uttar Pradesh & Ors.*, 1991 Supp (1) SCC 518, wherein it was held that challenge to the constitutionality of a statute is maintainable in proceedings initiated under Articles 226 and 32 of the Constitution of India and not in appeal or revision before High Court or in proceedings initiated under a statute before an authority constituted under the said statute itself. Contrary to this, the contention of the applicant is that the Tribunal is competent and is vested with the jurisdiction and power of judicial review. In exercise of such powers it can examine the constitutionality, validity and legality of a subordinate legislation, particularly, when the Notification issued in exercise of the subordinate legislation is for the implementation of the enactments specified in Schedule I of the Act of 2010. Under the provision of the Act of 2010, such power of the Tribunal is neither expressly nor impliedly barred. On the contrary, the scheme of the Act clearly demonstrates that the Tribunal is competent to examine the correctness of a Notification issued under any of the Scheduled Acts in so far as the Notification implement or impliedly implement the provisions, object and purpose of the scheduled Act under which it is issued. In support of their contention, the applicants rely upon

the judgements of the Hon'ble Supreme Court of India in the case of *L. Chandra Kumar v. Union of India & Ors.*, 1997 (2) SCR 1186, *SP Sampath Kumar v. Union of India & Ors.*, (1987) 1 SCC 124, *State of West Bengal v. Ashish Kumar Roy & Ors.*, (2005) 10 SCC 110 and judgements of this Tribunal in the case of *Wilfred J. v. Union of India* 204 ALL (I) NGT REPORTER 2013, *SP Muthuraman v. Union of India*, 2015 ALL (I) NGT REPORTER (2) DELHI 170 and *Himmat Singh Shekhawat v. State of Rajasthan & Ors.*, ALL (I) NGT REPORTER (1) DELHI 44.

9. As far as this bench of the Tribunal is concerned the question of jurisdiction is no longer *res integra*. It has been conclusively decided by larger bench of the Tribunal in the case of *Wilfred J.* (supra), where the Tribunal held as under:

“39. Having dealt with the constitution of the Tribunal and having established its independence, now let us proceed to examine the scope of power of the Tribunal, with particular reference to examining a subordinate or delegated legislation as being ultra vires, unconstitutional or illegal. Judicial review is the power of the court to review statutes or administrative acts or determine their constitutionality or validity according to a written constitution. In a wider sense, judicial review is not only concerned with the merits of the decision but also the decision making process. It tends to protect individuals against the misuse or abuse of power by a wide range of authorities. Judicial review is a protection to the individual and not a weapon. It is the doctrine under which legislative and/or executive actions are subject to review (and possible invalidation) by the judiciary. A specific court with the power of judicial review may annul the acts of the State, when it finds them incompatible with a higher authority (such as the terms of a written constitution). Judicial review is an example of checks and balances in a modern governmental system, where the judiciary checks the other branches of government. This principle is interpreted differently in different jurisdictions, which also have differing views on the different hierarchy of


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governmental norms. As a result, the procedure and scope of judicial review may differ from country to country and State to State. Unlike in England, where the judiciary has no power to review the statutes/Acts made by the Parliament, the United States Supreme Court in terms of Article III and Article VI exercises the power of judicial review of the Acts passed by the Congress and has struck down several statutes as unconstitutional. In India, the Supreme Court and the High Courts have frequently exercised the power of judicial review keeping intact the 'doctrine of separation of power'. Challenge to legislation before the Courts in India has primarily been permitted on a very limited ground. The legislation in question should either be unconstitutional, or should lack legislative competence. Challenge to such legislation as being unreasonable has also been permitted, if it violates or unreasonably restricts the fundamental rights, particularly under Article 14 and 19 adumbrated in our Constitution.

40. The Courts are vested with the power of judicial review in relation to legislative acts and even in relation to judgments of the Courts. The power of judicial review has been exercised by the Courts in India sparingly and within the prescribed constitutional limitations. The Courts have also taken a view that functions of the Tribunal being judicial in nature, the public have a major stake in its functioning, for effective and orderly administration of justice. A Tribunal should have judicial autonomy and its administration relating to dispensation of justice should be free of opinions. (*Ajay Gandhi v. B. Singh*, (2004) 2 SCC 120). The National Green Tribunal has complete control over its functioning and all the administrative powers, including transfer of cases, constitution of benches and other administrative control over the functioning of the Tribunal, are vested in the Chairperson of the NGT under the provisions of the NGT Act".

10. The Tribunal in the case of *S.P. Muthuraman* (supra) also held that:

"This Tribunal has been vested with Original, Appellate and Special jurisdiction in regard to directing payment of compensation for damage to and for restitution and restoration of the environment. The legislature in its wisdom worded the provisions relating to the jurisdiction of the Tribunal (Sections 14 to 17 of the Act

of 2010) very widely, and with a clear intent to provide this Tribunal with jurisdiction of a very wide magnitude. Upon reading the various provisions of the Act of 112 2010 cumulatively and in light of the underlying scheme of the Act of 2010, including the definition of 'environment' in terms of Section 2(c) of the Act of 2010, it is quite clear that this Tribunal is having all the trappings of a Court and is conferred with the twin powers of judicial as well as merit review. There is no provision in the Act of 2010 which curtails the jurisdiction of the Tribunal to examine the validity and correctness of a delegated legislation and/or administrative or executive order passed by the Government including any of its instrumentalities or authorities. The fundamental principle for invoking the jurisdiction of this Tribunal is that, the question raised should be a substantial question relating to environment and should arise out of the implementation of the enactments specified in Schedule I of the Act of 2010. It could even relate to enforcement of any legal right relating to environment with regard to these enactments. Delegated or subordinate legislation, executive orders and/or administrative orders in so far as they relate to the implementation of the Scheduled Acts would be open to challenge before the Tribunal and hardly any argument can be raised that the documents like Office Memoranda would not be subject to judicial scrutiny before the Tribunal".

11. The parties to the *lis* had preferred statutory appeal against the above cited judgement of the Tribunal before the Hon'ble Supreme Court of India. The Hon'ble Supreme Court of India had issued notice on the appeals and *vide* its order dated 21st January, 2015 in Civil Appeal No. 7884-7885 of 2014 had directed that further proceedings qua the appellants shall remain stay till further orders. However, in the same order the Hon'ble Supreme Court also directed that this Tribunal shall continue to exercise its powers in terms of Section 14, 16 and 18 of the NGT Act, 2010 in other cases. *Vide* order dated 3rd

February, 2016, passed by the Hon'ble Supreme Court of India in another set of appeals being Appeals No. 8550-8551 of 2014 passed an order by modifying order dated 21st January, 2015. The order dated 3rd February, 2016 reads as under:

“.....By our Order dated 21.01.2015, we had stayed further proceedings in Appeals No. 14 of 2014, 17 of 2014 and 88 of 2014 and Original Application No. 74 of 2014 pending before the National Green Tribunal, Principal Bench at Delhi. Having heard learned counsel for the parties at some length, we are inclined to modify the said order so as to permit the Tribunal to proceed with the hearing of the Appeals and the Original Application for an expeditious disposal of the same. Learned counsel for the parties also agree that the appeals and the original application could be finally heard and that neither party shall pray for any interim direction in the said matters nor seek any adjournment which may unnecessarily procrastinate the entire controversy.

In the circumstances, therefore, we modify our Order dated 21.01.2015 and permit the National Green Tribunal, Principal Bench at Delhi to proceed with the hearing of the appeals and Original Application and make an endeavour to dispose of the same as far as possible within a period of six weeks from the date a copy of this 3 order is placed before it. We make it clear that hearing of the Appeals and O.A. on merits pending before the Tribunal shall be without prejudice to the contentions open to the parties in these appeals which shall await the final hearing and disposal of the matter by the Tribunal. These appeals shall accordingly stand over for being listed after the disposal of the matters by the Tribunal. Liberty is given to the parties to mention the matter once the Tribunal passes final orders in the case before it.”

In terms of the above order, the matters were finally heard by the Tribunal and disposed of *vide* order dated 2nd September, 2016. The parties had approached the Hon'ble Supreme Court after the final judgement by the Tribunal. The matter was heard by the Hon'ble Supreme Court and the Appeals were disposed of *vide* order dated 3rd

July, 2017. The order dated 3rd July, 2017 while leaving the question of law open, reads as under:

“.....Pursuant to the order dated 3rd February, 2016, the National Green Tribunal has delivered judgment and order dated 2nd September, 2016. A review petition filed against that decision was disposed of on 30th November, 2016.

We are told by the learned Attorney General that the project has been upheld by the National Green Tribunal. Under the circumstances, we dispose of these appeals leaving open the question decided by the National Green Tribunal on its jurisdiction to set aside subordinate legislation.

In the event any of the aggrieved parties raises a dispute against the final order passed by the National Green Tribunal, it will be open to the appellant as well as the State of Kerala to agitate the issue of a 2 challenge to the subordinate legislation.

Pending applications, if any, are disposed of.”

In terms of the above order, it is clear that the law stated by the Tribunal in its judgement in the case of *Wilfred J. (supra)* was not disturbed by the Hon’ble Supreme Court either at the interim stage or while finally disposing of the appeals. Interim stay granted by the Hon’ble Supreme Court was limited to the appeals with a specific dictum that the Tribunal could decide other cases in terms of the provisions of the Act thereby clearly stating that the judgement in the case of *Wilfred J. (supra)* on the question of law was neither interfered nor stayed. Thus the law stated by the larger bench of the Tribunal attains finality and is binding on this bench. In any case, we have no reason not to accept the mandate of the larger bench and apply to the present case. The reliance placed by the respondents upon the judgement of the High Court of Bombay in the case of *Central India Ayush (supra)* will not be of any benefit to the respondents. Firstly,

the judgement of the High Court of Bombay does not consider the larger bench of the Tribunal in the case of *Wilfred J.* (supra). It also does not refer to the judgements of the Hon'ble Supreme Court in *L. Chandra Kumar* (supra) wherein Hon'ble Supreme Court had clearly stated that the Tribunals are competent to hear matters challenging *vires* of the statutory provisions or *vires* of the subordinate legislation. Of course such jurisdiction falls in a limited compass. In the case of *SP Sampat Kumar* (supra), the Hon'ble Supreme Court clearly stated that the Tribunal has power of the judicial review and even vested with the powers of the Civil Courts so it has wide jurisdiction including the power of judicial review. There are other judgements from other High Courts which have taken entirely a different view than the view taken by the High Court of Bombay. These High Courts have specifically referred to the Tribunal for adjudication of cases involving challenge to the Notifications issued in exercise of subordinate legislation with regard to noise pollution, plastic bags and other such matters. In this regard, we may refer to the judgement of the High Court of Delhi in the case of *All India Plastic Industries Association & Anr. v. Govt. of NCT of Delhi and Ors*, Writ Petition No. 7012 of 2012 decided on 5th December, 2016. The Division Bench of the High Court while relying upon the judgement of *L Chandra Kumar* (supra) of the Hon'ble Supreme Court of India and the provisions of the Schedule I to the Act of 2010, held that the matter before it challenging the Notification issued under Section 5 of the Environment (Protection) Act, 1986 (for short, 'act of 1986') imposing a ban on manufacture, import, store, sale or transport of any kind of plastic, carrying bags etc be transferred to this Tribunal for deciding

the same on merits including the question, validity of the Notification.

It may be noticed that High Court of Delhi would be the jurisdictional High Court for the Principal Bench, National Green Tribunal.

12. The Punjab & Haryana High Court, Tripura High Court and Jharkhand High Court has also transferred the cases of *Goodwill Plastic Industries & Ors. v. Union Territory of Chandigarh & Ors.*, *All India Plastic Industries Association v. Tripura* and *RDS Bricks v. State of Jharkhand*, respectively to the Tribunal. In all these cases, *vires* to the Notifications dated 30th July, 2008 and 3rd July, 2013 both relating to banning of plastic and Notification dated 29th March, 2012 relating to eco-sensitive zone were challenged. To put it simply all these High Courts have taken a view that the Tribunal can examine the validity of a Notification issued for implementation of a subordinate legislation.

In the another judgment of the Tribunal in the case of *SP Muthuraman v. Union of India & Anr.* (supra), wherein the office memorandums issued by the MoEF&CC dated 12th December, 2012 and 27th June, 2013 were quashed. The Tribunal took the view that it had the limited power of judicial review and it can examine the office memorandums issued in furtherance to the rules framed by MoEF&CC. A review application was filed by the different project proponents in that case, which was also dismissed *vide* order dated 1st September, 2015. The orders of the Tribunal were challenged before the Hon'ble Supreme Court of India and the Hon'ble Supreme Court *vide* its order dated 24th September, 2015, stayed the order of the Tribunal. *Vide* order dated 23rd November, 2015 and upon application

of MoEF&CC the Hon'ble Supreme Court of India clarified its order and stated that stay was applicable only to the appellant's before it. During the pendency of the appeals, some directions were passed by the Hon'ble Supreme court in relation to deposit of the environmental compensation imposed by the Tribunal. The Hon'ble Supreme Court *vide* order dated 4th July, 2016 made it clear that the Tribunal could proceed by passing of directions as contained in para 163(13) of its order dated 7th July, 2015 and parties were granted liberty to raise all submissions open to them on fact and law before the Tribunal. Even the judgement of the Tribunal on the question of jurisdiction has not been stayed by the Hon'ble Supreme Court. However, the parties have been granted liberty to raise all pleas of facts and law. The Tribunal had also passed similar judgments in the case of *Himmat Singh Shekhawat v. State of Rajasthan* (supra) and *Kalpriksha & Ors. v. Union of India*, in OA No. 116 of 2013 (T_{HC}) decided on 17th July, 2014. All these orders have attained finality and remain undisturbed.

13. Another aspect that needs specific mentioning by us is that this Tribunal is a special and unique Tribunal constituted under the legislation enacted by the Parliament in exercise of its powers under Article 253 of the Constitution of India. It needs to be distinguished from other Tribunals enacted under Article 323(A) and 323(B) of the Constitution. This Tribunal has been constituted for the purpose of implementing the decisions at the United Nations Conference on the Human Environment held at Stockholm in June 1972, where India also participated. 186th Law Commission Report also noticed that the environmental Tribunal constituted under Article 253 could be traced

as an act of implementation of the decisions taken at the International Conference with reference to Rio-declaration of 1992. The purpose of implementing the decisions at Rio conference & Stockholm Conference and constituting the Tribunal was to provide speedy adjudicatory body in respect of the disputes arising in environmental matters. In the case of *Braj Foundation vs. State Government of UP & Ors.*, Application No. 278 of 2013 decided on 5th August, 2014, the bench of the Tribunal held that one is to remember that the Tribunal is created in furtherance to the enactment of the Parliament to give effect to the true spirit of the terms of Article 253 of the Constitution of India and, therefore, there is no iota of doubt in our mind that the Tribunal has inherent power of not only enforcing its orders but also dealing with any person who either disobeys or violates its orders. The inherent power would co-exist with the Tribunal examining the correctness of any office order or subordinate legislation whether it is in consonance or not with the provisions of the environmental laws in force particularly when it is issued under those very legislations.

In light of the above position of law and the fact that the judgments of the Tribunal in the case of *Wilfred J.* (supra) and *S.P. Muthuraman* (supra) are binding upon this bench. We have no hesitation in rejecting the objection raised by the respondents as without merit.

DISCUSISON ON MERITS OF THE CONTENTIONS RELATING TO VALIDITY OF THE NOTIFICATION

14. The draft Notification dated 29th April, 2016 was published by the Respondent inviting objections and suggestions thereto. After

considering the objections/suggestions received by the MoEF&CC, it had issued the final Notification dated 9th December, 2016. According to the Applicant, not only the Notification dated 9th December, 2016 but also the entire process of finalizing the Notification suffers from factual and legal infirmities. It is also the contention that it defeats the very object and purpose of the Act of 1986, EIA Notification of 2006 and is also opposed to the federal scheme under the Constitution of India. The detailed objections raised by the Applicant has already been noticed by us in paragraph no. 4 of the judgment (supra). According to the respondent, the notification does not suffer from any error much less legal infirmity or validity. The contentions of the respondents have also been noticed above. And within the ambit of the contentions raised before us, now, we will proceed to deliberate on these issues. First and foremost, we may refer to the comparative study of the existing and proposed regime in terms of the Notifications dated 14th September, 2006 and 9th December, 2016. The useful reference can be made to the following chart:

Sl. No.	Particulars	EIA Notification dated 14 September, 2006	EIA Notification dated 09 December, 2016
1.	Consent to Establish & Operate	- Prior to the actual construction activities, the project proponent has to obtain Consent to Establish from the Board under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 for all construction projects having BUA above 20,000 m² - After completion of the construction activity, the proponent has to obtain Consent to Operate from the Board under the Water	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

		(Prevention ☐ 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 and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 for all construction projects having BUA above 20,000 m ² .	
2.	Construction projects having built up area below 20,000 m ²	Projects having built up area below 20,000 m² not require prior environmental clearance from MoEF	BUILDINGS CATEGORY '1' (5,000 to < 20,000 Square meters) → A Self declaration Form to comply with the environmental conditions (Appendix XIV– attached below) along with Form 1A 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 shall 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 1A 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
3.	Construction Projects having built up area above 20,000 m ²	An application seeking prior environmental clearance in all cases shall be made in the prescribed Form 1 annexed herewith and –The project proponent to submit online application in Form 1 A along with specified fee for environmental appraisal and additional fee for building permission –The fee for environmental appraisal will be deposited in a separate account Supplementary Form 1A, 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, before commencing any construction activity, or preparation of land, at the site by the applicant.	- The project proponent to submit online application in Form 1 A along with 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 to 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; 1.Energy Use (including all energy sources) 2.Energy generated on site from onsite Renewable energy sources 3.Water use and waste water generated,


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			treated and reused on site 4. Waste Segregated and Treated on site 5. 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 noncompliance 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
4.	Built up Area considered for EC	Built up area for covered construction; in the case of facilities open to the sky, it will be the activity area	The term “built up area” for the purpose of this notification is the built up or covered area on all floors put together including its basement and other service areas, which are proposed in the buildings and construction projects
5.	Monitoring of environmental compliances	Earlier, it was mandatory for the project proponent to submit compliance report every six months.	Project proponent shall submit performance data & certificate of continued compliance of the project for the environmental conditions after completion of construction every five years.

6.	Process of granting permission for construction and building projects	- Under 2006 notification prior Environment clearance from SEIAA was mandatorily required even before <u>starting of the construction work or preparation of land</u>. SEIAA was to screen scope and appraise projects before granting of environment clearance. - The environmental clearance process before SEIAA comprises of four stages, all of which may not apply to particular cases as set forth. 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	- Under 2016 notification Environmental conditions are to be imposed by Environmental cell at the level of local authority. The cell will then process the application and place it before the committee headed by the authority competent to give building permissions. The committee will then appraise the project and stipulate environmental conditions without any provisions of public consultation which is an integral part of 2006 notification. - Therefore, the environmental cells work under the building permit issuing authority therefore not a independent authority to impose environmental conditions. Moreover building permit authority is not a scientifically sound body as SEIAA or SEAC.
7.	Environment Clearance Authority concerning Building and Construction projects	Clearance was given after screening and appraising of the projects by government constituted bodies' i.e. SEIAA or SEAC who are independent bodies.	Imposition of environmental conditions by local authority on the basis of assessment and certification by Qualified Building Environment Auditors (QBEAs) which could be a firm /Organization or an individual expert accredited by the accreditation authority.
8.	Violation of environmental conditions	Violation of environmental conditions and parameters are dealt under section 15 and section 19 of EPA, Act 1986.	The state Government may enact suitable laws for imposing penalties for non compliance. The local Authorities shall impose penalties based on the recommendation of environmental cell of local body.
9.	Qualification of Experts	- Multi sectoral / Multi disciplinary experts in SEAC. - Qualification as per the Schedule 6 of the	Experts of limited sectors like Water, Air, Solid Waste, Energy and transport in environmental cell.

		current EIA notification.	

From the above comparative study of the two regimes, it is clear that the regime in terms of the Notification dated 9th December, 2016 would considerably dilute the environmental safeguards provided not only under the Regulation of 2006 but even under the Act of 1986. The Applicants have rightly placed reliance on the Principle of Non-regression. Under the International law, the doctrine of Non-regression is an accepted norm. It is founded on the idea that environmental law should not be modified to the detriment of environmental protection. This principle needs to be brought into play because today environmental law is facing a number of threats such as deregulation, a movement to simplify and at the same time diminish, environmental legislation perceived as too complex and an economic climate which favours development at the expense of protection of environment. The draft amendment of the existing environmental laws should be done with least impact on environment protection that was available under the existing law or regime. The present amendment in the Notification particularly few clauses that we will refer hereinafter can lead to severe environmental impacts.

15. The Precautionary Principle as propounded by the Hon'ble Apex Court is a cornerstone of environmental jurisprudence in the country as the environmental conditions imposed are not comprehensive enough and are only a tick-box exercise taken by the project proponent without any prior environment assessment process especially its impact on ecologically sensitive area and other environmental vulnerable area.

The impugned notification, takes away the power of the Pollution Control Boards and Committee to grant/refuse Consent to Establish and Consent to Operate for building and construction projects up to an area of 1,50,000 sq meter. It further dilutes the entire environmental assessment framework under the EIA notification 2006, which has been periodically strengthened and amended by the numerous orders of this Hon'ble Tribunal.

The impugned notification has several deficiencies that go against the basic letter and spirit of EPA Act, 1986 and the EIA notification issued there under. Power under Section 3 read with Rule 5 of Environment (Protection) Act, 1986 can only be exercised by the central government or the authorities constituted by it. Whereas the impugned notification gives power to the State Government for constitution of an authority to exercise and perform such of the powers and functions as provide under Environment Protection Act, 1986, which Includes assessment and granting of environment clearance to the projects. This would be apparently in conflict with the provisions of the Act of 1986. In this regard reference can also be made to the judgement of the constitutional bench of the Hon'ble Supreme Court in the case of *LIC v. Escorts Ltd.*, (1986) 1 SCC 264, where the Hon'ble Supreme Court held that it may be open to a subordinate legislating body to make appropriate rules and regulations to regulate the exercise of a power which the Parliament has vested in it, or as to carry out the purposes of the legislation, but it cannot divest itself of the power.


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It is further stated that these conditions fall substantially below the prior environmental assessment procedure which was much detailed and brought within EIA framework after the direction of the Hon'ble Supreme Court in the *Maily Yamuna Case* (W.P.C No. 725 of 1994).

16. The impugned notification provides that the local authorities such as the development authorities and Municipal Corporation may certify compliance of Environmental Conditions prior to issuance of completion certificate based on recommendations of the Environmental Cell to be constituted in the local authority. Further, the purpose of notification regarding integration of environmental conditions, the MoEF&CC through competent agencies would accredit Qualified Building Environmental Auditor (QBEA's) to assess and certify the building projects. It is clear from the above that the entire assessment procedure has been replaced over which the MoEF&CC has no control.

17. The MoEF&CC has failed to produce any study, literature, evaluation of the reason for taking such a retrograde decision to go back to a pre-2004 situation wherein the failure of the local bodies was considered to be the primary reason for bringing building and constructions activity within the EIA framework. In pre-2004 the position was that the construction sector projects were only regulated through Bye Laws and no Environmental Clearance was required.

18. The proposal for exemption of Environmental Clearance for construction and building project with built-up area to 1,50,000 Sq mtrs. is baseless as there is no study that indicates any improvement

in environment quality with regard to all environmental facets/ availability of natural resources, following which there can be a consideration for relaxation of current norms.

The said amendment notification is only a ploy to circumvent the provisions of environmental assessment under the EIA Notification, 2006 in the name of 'ease of doing responsible business' and there is no mechanism laid down under the amendment notification for evaluation, assessment or monitoring of the environment impact of the building and construction activity. The construction industry consumes enormous resources and has a significant energy footprint; the sector emits 22 per cent of India's total annual carbon-dioxide emission. The Hon'ble Tribunal in the matter of *S.P. Muthuraman vs. Union of India & Anr.* (supra) Observed:

"In recent past, building construction activities in our country have been carried out without much attention to environmental issues and this has caused tremendous pressure on various finite natural resources. The green cover, water bodies and ground water resources have been forced to give way to the rapid construction activities. Modern buildings generally have high levels of energy consumption because of requirements of air-conditioning and lighting in addition to water consumption. In this scenario, it is necessary to critically assess the utilization of natural resources in these activities."

19. The very purpose of including the construction projects in the EIA Notification was the failure of the local bodies to ensure compliance with environmental norms. The ULB's/DA's have always had specific stipulation on environmental concerns. However, such conditions were never adhered to or made a pre-requisite to such sanction. It was therefore the case of MoEF&CC that the local body have been approving new construction projects without adhering to

environmental norms. Now, the MoEF&CC itself is taking a step in backward direction without there being any changes brought about in the capacity and technical competence of the local body to assess, evaluate and monitor the environmental norms or to ensure compliance.

20. The EIA Notification, 2006, has a comprehensive process for evaluating the impact on environment which will not be the case after the said notification. For instance, the EIA Notification, 2006 provides Expert Appraisal Committee at the Centre and the State Expert Appraisal Committee at the State level. The composition of these committees comprises as per Appendix-VI to EIA Notification, 2006 of independent experts, such as, Environment Quality Expert, Sectoral Expert in Project Management etc. But as per the amendment notification the same local body which is responsible for the stipulation of the condition would be responsible for ensuring the compliance of the same with the help of Environmental cell and QBEAs. This is in contravention of the principle of *nemo judex in sua causa*, which is a principle of natural justice, meaning that a person cannot be judge of his own cause. Also, there is no technical expertise or competence within the local bodies to either evaluate impact or to ensure compliance of environmental conditions.

As per the EIA Notification 2006, clause 1.3 states “*what are the likely impacts of the proposed activity on the existing facilities adjacent to the proposed site? (Such as open spaces, community facilities)*”. But as per the amended notification of 2016, no such provision is laid down.

21. This Hon'ble Tribunal in O.A. No. 171 of 2013 (*NGT Bar Association vs. MoEF*) vide Order dated 13.01.2015 stated "*We direct Secretary, MoEF along with such experts and the States Afore referred will also consider the possibility of constituting the branches of SEIAA at the district or at least, division levels to ensure easy accessibility to encourage the mine holders to take EC*". Similarly, the O.M. dated 19.06.2013 states that "*In case of a large pendency case the concerned state Government feels that there is need for another SEAC, the State Government may accordingly send the proposal to MoEF&CC for setting up/notifying another SEAC and MoEF may consider the same*". However instead of adhering to their own O.M.'s and the categorical judgement of the this Tribunal, they have chosen to completely dilute EC process and violate the EIA Notification, 2006 and thereby Act of 1986.

22. A bare perusal of amendment notification would show that there is complete dilution of the norms as provided under the EIA Notification, 2006. For instance, totality of issues related to conservation of water is completely ignored for building of built-up area up to 5000 sq.mtr. There is no sewage treatment or municipal solid waste processing facilities stipulated within the premises for building up to 5000 sq. mtr. of built up area.

23. The MoEF&CC has failed to fulfil its statutory responsibilities. By transferring the powers to ULBs/ Development Authority, it has created a situation of conflict of interest as all the powers have been vested with the same authority. National documents (CAG Report, 2016) also discourage such an integration of environment condition to

the sanctioning authority under the urban local bodies instead of independent assessment by environmental experts of building and construction projects. Thus for example, the report by Comptroller and Auditor General of India (CAG Report, 2016) clearly states that urban local bodies have not been performing on environmental parameters. In most compliance audit, the environmental parameters including MSW, Waste minimisation, e-waste etc have been grossly violated.

It is submitted that on para wise comparison of the draft notification and final notification are entirely different. The main addition which were not part of draft notification but found place in the final notification are as follows:

- *Consent to establish and Consent to Operate under Water Pollution Act, 1974 and Air Pollution Act, 1981 will not be required from SPCB for residential buildings up to 1,50,000 sq.m.*
- *Stripping of building construction projects of built up area of 20,000 sq.m upto 1,50,000 sq.m. from the purview of EPA Act, 1986 and bringing under the concerned State Laws.*
- *The draft Notification specifically mentions that the exclusion/amendments mentioned in the draft notification are not intended for hospitals whereas the final notification clearly excludes hospitals also from the purview of EIA Notification and EPA Act, 1986.*
- *Addition of Appendix-XV, Accreditation of Environmental Auditors. (qualified Building Auditors).*
- *Addition of Appendix-XVI, Environmental Cell at the level of Local Authority.*

When the residential building construction projects of built up area more than 20,000 sq.m up to 1,50,000 sq.m are excluded from

the requirement of “Consent to Establish” or “Consent to Operate” then these building construction projects will be out of the purview of these statutes, what will be the relevance of CPCB norms and this will encourage indiscriminate discharge of untreated sewage into river and drains.

24. In the said notification, there is no definition of “Area”. In the absence of such a definition, the “Area” can be for the whole of the State or District or Region. In this connection, attention is brought to the EIA Notification, 2006 wherein the word “built-up area” was introduced. There was no definition of “built up area” in the impugned Notification and which leads to confusion in the building construction sector.

The said notification is contrary to the recommendations of the report of the committee constituted by MoEF&CC on 11.12.2012 (The Kasturirangan report) to review the provisions of EIA Notification, 2006 relating to buildings, etc which was then accepted by MoEF&CC. The MoEF&CC vide OM dated 10.11.2015, reiterated and vetted the recommendations of Kasturirangan Committee among other things. If the MoEF&CC is now changing its stand, it is duty bound to produce back-up study or research material to prove that the local bodies have concern towards environment.

25. Besides noticing the above mentioned deficiencies in and dilutions of the existing laws by the impugned Notification, we must also notice a very strong legal infirmity in it. Admittedly, the notification has been issued by the MoEF&CC in exercise of its powers under sub-section (1) read with clause (V) of sub-section (2) of Section

(3) of the Act of 1986 and clause (d) of sub-rule (3) of Rule (5) of the Environment (Protection) Rules, 1986. By the impugned Notification, paragraph 14 is sought to be inserted after paragraph 13 of the existing Notification/Regulations of 2006. The powers under these provisions can be exercised under Section 3(2)(5) of the Act of 1986 which empowers the Central Government to take measures to protect and improvement of the quality of environment in regard to restrictions of areas in which any industry/operations or process or class of industries operations or processes shall not be carried out or shall be carried out subject to certain safeguards. In terms of section 3 (1) of the Act, this power of taking measures is to be exercised by the Central Government when it deems necessary and expedient for the purpose of protecting and improving the quality of environment and preventing, controlling and abating environmental pollution (emphasis supplied). Rule 5 deals with the prohibition and restriction on the locations of industries and the carrying on process and operations in different areas. It gives power to the Central Government to take into consideration the factors while prohibiting or restricting the locations of industries and carrying on of process/operations in different areas. Sub-rule 3 of this Rule contemplates the procedure to be followed by the Central Government while issuing the notification for imposing prohibition or restriction as stated in Sub-rule (1) of Rule 5.

Thus, both the sections and the rule gives power for issuing of any notification and placing prohibition / restriction in their terms, subject to the conditions, i.e., while issuing notification the procedure under Rule 5 (3) should be followed and more importantly it should be

exercised only for the purpose of protecting and improving the quality of the environment and preventing pollution. Once any of these essential statutory features are missing the notification issued would be liable to be interfered with. The major part of the Notification does not satisfy these ingredients.

26. The amended clause 14 while dealing with the other building category more than 20000 sq. meter also provides that 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 upto 150000 sq. meter. This amendment is *ex-facie* opposed to the above objects and in fact lacks legislative competence. While exercising powers under a subordinate legislation in furtherance to Section 3 and Rule 5, the authority cannot in exercise of its subordinate legislation exclude the operation of a substantive law that is Water Act, 1974 and Air Act, 1981 enacted by the Parliament. This would suffer from the *vires* of excessive legislation. It is strange that the MoEF&CC, a delegatee under the said provision could venture upon excluding the application and enforcing of a Parliament Act without even making any amendment under that act or the rules framed under that act. This action of the MoEF&CC cannot stand the scrutiny of law.

27. The Environmental Cell is to be constituted by the local authority or the State Government, whereas the implementation of the environmental law is vested with the Central Government. The Environmental Clearance is expected to be issued by the authorities

in an integrated format. Any offence or violation thereto which is punishable under the Act of the Parliament, i.e., the Act of 1986 thus subordinate legislative amendment takes away that power and requires a local authority to take precedence in relation to providing punishment for such violation or offence. There is clear ambiguity and uncertainty in the Constitution of the Environmental Cell and its functions. There is no clarity as to the qualification which the Member of the Environmental Cell should possess. A Cell, primary duty of which is to protect the environment would have to work in subordination to a local authority whose primary object is to permit development. Thus, the possibility of conflicting interest arising in the functioning of the local authority and the Environmental Cell cannot be ruled out. It may arise even then thus defeating the very purpose of the amendment.

28. Another serious objection raised to the Notification is that the final Notification has been issued without considering the objections filed to the draft Notification. Of course, in terms of the procedure prescribed under Rule 5(3) of the Rules of 1986 the procedure must be strictly adhered to. The MoEF&CC had invited objections which were filed and even the Applicant was heard. There cannot be a doubt that requirement of considering objections effectively is not a mere formality. It should be done objectively and in accordance with law as held in the case of *Dr. Avinash Ramkrishna Kashiwar vs. the State of Maharashtra (supra)*:

17."It could thus be seen that it appears to be settled position of law that the requirement of previous publication inviting objections and suggestions is not

an empty formality. It is with an intention to enable persons likely to be affected, to be informed, so that they may take steps as may be open to them and the objections/suggestions made would be required to be taken into consideration by the authorities before issuing a final notification”.

26. *“In the result, we hold that the impugned notification dated 26.07.2013 is not sustainable in law and, therefore, quashed and set aside. Rule is, therefore, made absolute in the aforesaid terms with no orders as to costs.”*

The Applicant had filed objections which were duly considered by the MoEF&CC and even the Applicant was heard. There is nothing on record before us that would show that there is no application of mind and that the objections were not considered objectively by the MoEF&CC. In light of this, we are unable to accept this contention raised on behalf of the Applicants.

29. The other argument of the Applicant which deserves to be considered with some merit is that the final impugned Notification is at substantial variance to the draft Notification. This has not only resulted in prejudice to the environment but has also defeated the purpose of Rule 5(3) of the Environment (Protection) Rules, 1986. Following are few examples of such variance and which have significant effect on the environmental laws:

- (a). The exclusion of application of the Water Act and the Air Act was never proposed or stated in the draft Notification, while it has been introduced in the final Notification.
- (b). Role of the State Pollution Control Boards to monitor and verify the environmental conditions is eliminated in the final notification. The construction of built up area upto area of 20,000 sq. meter upto 1,50,000 sq. meter which were

otherwise covered under the Act of 1986 now have been brought under the State Laws without specifying them in the draft notification. The draft Notification specifically mentions that the exclusion/amendment benefits mentioned in the draft Notification are not intended for hospitals whereas the final notification clearly excludes hospitals from the purview of the EIA Notification, 2006 and Environment (Protection) Act, 1986. It is at substantial variance as the hospitals fall under red category under the Central Pollution Control Board categorization dated 7th March, 2016. So, provision of dealing with the environmental conditions of hospitals falling under the environmental norms.

- (C). Addition of Appendix XV, accreditation of environmental auditor (Qualified Building Environment Auditor).
- (D). Addition of Appendix XVI, Environmental Cell at the level of local authority.

On the above premises, it is contended that on the one hand, there is substantial difference between the draft and the final notifications while on the other hand Applicants were deprived of the right to file objections on these aspects. Reliance is placed on the judgement of the Hon'ble Supreme Court of India in the case of *State of Punjab vs. Tehal Singh & Ors*, AIR 2002 SC 533 wherein the Supreme Court held that Principle of Natural Justice to subordinate legislation may be applied but where the legislature provides an

opportunity of hearing and filing objections then it must be adhered to *sensu stricto*.

30. From the records before the Tribunal, it is clear that there are variations even of substantial nature between the draft and the final Notification dated 9th December, 2016 issued by the respondent. One of the significant failures of the same is that the applicants or public at large has lost substantive right to file objections on these aspects to the draft Notification. They have also lost the right to be heard in terms of Rule 5(3) of the Rules of 1986. Incorporation of such provisions from the draft Notification into the final Notification would not be permissible.

31. Some of the portions of the impugned Notification; particularly, relating to granting of exemption from the application of Water and Air Acts; Rendering the provisions of the central law for taking action, penalizing defaulters and offenders of the environmental law being rendered ineffective; ambiguity and deficiencies in constitution of the Environmental Cell are some of the patent features of the impugned Notification which dilutes the environmental impacts on the one hand, while on the other, they are in derogation to India's international commitments to the Rio Declaration, 1992 and Paris Agreement, 2015. If principle 15 to 17 of the Rio Declaration is read along with clauses of the Paris Agreement, 2015, particularly, in face of precautionary approach, preventing irreparable damage forming definite environmental impact assessment to examine adverse impact on the environment, reduction on the growth of is carbon emission and to adopt best practices and achieve the ambitious targets between

the stipulated time then the adopting cumulative effect of the Notification dated 9th December, 2016 would have some element of derogation. The Notification also ignores some essential features like source of water, source of raw material, urban ecology, provision of no development zone and construction face impacts. These aspects have a direct bearing on protection of environment and keeping in line with the Principle of Sustainable Development. It is important that there should be development and particularly, when the development is guided by the social cause but that development should not be permitted to cause irreparable loss to the environment and ecology. Sustainable development has to be the ultimate criteria. The Hon'ble Supreme Court in the case of *N.D. Dayal v. Union of India*, (2004) 9 SCC 362 deliberated upon the Doctrine of Sustainable Development and while comparing with the economic growth and well being held as under:

“24. The right to development cannot be treated as a mere right to economic betterment or cannot be limited to as a misnomer to simple construction activities. The right to development encompasses much more than economic well being, and includes within its definition the guarantee of fundamental human rights. The 'development' is not related only to the growth of GNP. In the classic work - '*Development As Freedom*' the Nobel prize winner Amartya Sen pointed out that 'the issue of development cannot be separated from the conceptual framework of human right'. This idea is also part of the UN Declaration on the Right to Development. The right to development includes the whole spectrum of civil, cultural, economic, political and social process, for the improvement of peoples' well being and realization of their full potential. It is an integral part of human right. Of course, construction of a dam or a mega project is definitely an attempt to achieve the goal of wholesome development. Such works could very well be treated as integral component for development.

25. Therefore, the adherence of sustainable development principle is a sine qua non for the maintenance of the symbiotic balance between the rights to environment and development. Right to environment is a fundamental right. On the other hand right to development is also one. Here the right to 'sustainable development' cannot be singled out. Therefore, the concept of 'sustainable development' is to be treated an integral part of 'life' under Article 21. The weighty concepts like intergenerational equity (*State of Himachal Pradesh v. Ganesh Wood Products*, [1995] 6 SCC 363), public trust doctrine (*MC Mehta v. Kamal Nath*, [1997] 1 SCC 388) and precautionary principle (*Vellore Citizens*), which we declared as inseparable ingredients of our environmental jurisprudence, could only be nurtured by ensuring sustainable development.

26. To ensure sustainable development is one of the goals of Environmental Protection Act, 1986 (for short 'the Act') and this is quiet necessary to guarantee 'right to life' under Article 21. If the Act is not armed with the powers to ensure sustainable development, it will become a barren shell. In other words, *sustainable development is one of the means to achieve the object and purpose of the Act as well as the protection of 'life' under Article 21.* Acknowledgment of this principle will breath new life into our environmental jurisprudence and constitutional resolve. Sustainable development could be achieved only by strict compliance of the directions under the Act. The object and purpose of the Act-"to provide for the protection and improvement of environment" could only be achieved by ensuring the strict compliance of its directions. The concerned authorities by exercising its powers under the Act will have to ensure the acquiescence of sustainable development. Therefore, the directions or conditions put forward by the Act need to be strictly complied with. Thus the power under the Act cannot be treated as a power simpliciter, but it is a power coupled with duty. It is the duty of the State to make sure the fulfilment of conditions or direction under the Act. Without strict compliance, right to environment under Article 21 could not be guaranteed and the purpose of the Act will also be defeated. The commitment to the conditions thereof is an obligation both under Article 21 and under the Act. The conditions glued to the environmental clearance for the Tehri Dam Project given by the Ministry of Environment vide its Order dated July 19, 1990 has to be viewed from this perspective".

Despite the above shortcomings of the Notification and some clauses suffering from legal infirmity, the impugned Notification has certainly good and effective aspects as well. As already noticed by us, it brings into effect a social cause of providing affordable housing to the poor strata of the society. It also proposes to decentralize and bring authorities granting environmental clearance and those granting building permission together under a single window system so as to address environmental concerns. The concept of one window system is sought to be introduced. The Notification specifically provides for emphasis on the aspects that are required to be considered by the environmental cell with special focus on energy use, energy generated on site from on site renewable energy sources, water use and waste water generated, treated on site, waste segregated and treated on site, waste segregation and treated on site, tree plantation and maintenance. These are the few good features of the Notification which also do not suffer from element of illegality. 'Housing for all by 2022' is a purpose and object in conformity with the constitutional mandate. There would be collective and coordinated effort by the Environmental Cell, local and other authorities at the State level to expeditiously deal with environmental clearance.

ORDER/DIRECTIONS

32. The object of the Notification is laudable that is providing housing to the poor. The provisions of the existing regime under the Regulation/Notification of 2006 are sought to be liberalized and expanded for obtaining that object. Some of the provisions of the Notification are being amended to provide for decentralized regulation

in relation to building projects. Certain specified building and construction projects of specified area are proposed to be exempted from the rigours of the Notification. But these amendments would have to be in consonance with the law, where certain provisions of the amended Notification dated 9th December, 2016 are in consonance with the provisions of the Act of 1986 and do not suffer from the *vires* of illegality. Thus, some other provisions of the same Notification *ex-facie* suffer from legal infirmities and are incapable of being implemented in accordance with the scheme of federal structure under the Constitution of India. Out of them, some provisions are directly opposed to the Principle of Non-regression as they considerably dilute the existing environmental laws and standards to the prejudice of the environment. Thus, in the facts and circumstances of the present case, the Tribunal can safely take recourse to the doctrine of severability to declare some of the provisions of the Notification as *ultra-vires* or ineffective while holding the other part of the Notification as legally sound and sustainable.

33. In view of the above, we pass the following order/directions:

1. We hold and declare that this Tribunal has jurisdiction to examine the legality, validity and correctness of a Notification issued by the competent forum in exercise of its power of subordinate legislation with regard to acts stated in Schedule-I to the National Green Tribunal Act, 2010.
2. We hold and declare that (i) clause 14(8), (ii) the provisions relating to exclusion of Consent to Operate and Consent to Establish under Water (Prevention and Control of Pollution)

Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 in clause 14 of the impugned Notification; (iii) Appendix-XVI relating to constitution and functioning of Environmental Cell, cannot be sustained and are liable to be quashed for the reasons afore-stated. Thus, we direct MoEF&CC to re-examine its Notification dated 9th December, 2016 and take appropriate steps to delete, amend and rectify the clauses of the said Notification in light of this judgement.

3. As a result of the above, the byelaws amended by the DDA vide its Notification dated 22nd March, 2016 can also not be given effect to, unless the Notification dated 9th December, 2016 is amended in terms of this judgement.
4. Till the time the Ministry comply with the above directions and notify the amended provisions of Regulations of 2006, it will not implement the impugned Notifications. However, once the amended regulations are notified, MoEF&CC/SEIAA /Local Authorities can give effect to that, without any further reference to the Tribunal.
5. MoEF&CC shall, particularly take care that the laudable social cause of 'providing Housing to the poor' does not get defeated by business, economic profitability with reference to 'ease of doing business', while particularly protecting the environment.

34. With the above order/directions, the Original Applications No. 677 of 2016, 01 of 2017, 07 of 2017, 55 of 2017 and 67 of 2017 stand disposed of, with no order as to costs.

35. All the Miscellaneous Applications No. 148 of 2017, 03 of 2017, 445 of 2017, 879 of 2017 and 620 of 2017 have become infructuous and are accordingly disposed of.

**SWATANTER KUMAR
CHAIRPERSON**

**DR. JAWAD RAHIM
JUDICIAL MEMBER**

**BIKRAM SINGH SAJWAN
EXPERT MEMBER**

New Delhi
8th December, 2017

