

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.**

Original Application No.327/2024

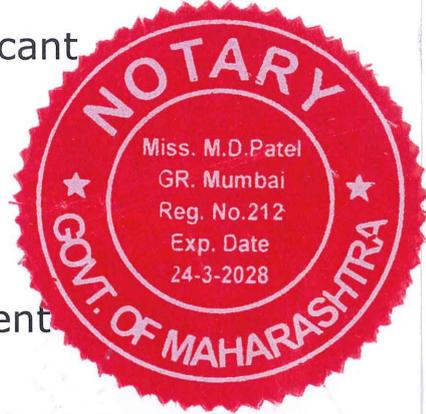
Hubtown Limited

...Applicant

Versus

Ministry of Environment Forest and
Climate Change and Ors

...Respondent



**COMPLIANCE REPORT/AFFIDAVIT ON BEHALF OF
RESPONDENT NO.2 AND 4**

I, Abhay Pimparkar, Member Secretary, Maharashtra Coastal Zone Management Authority 15th Floor, Administrative Building, Mantralaya, Madam Cama Road, Mumbai, Maharashtra do hereby solemnly affirm and declare as under:

1. That I, am working in above capacity as such I am well acquainted with the facts and circumstances of the case in my official capacity and competent to swear in the present affidavit on my respondent No.2 and 4.
2. That the above original application has been filed by the petitioner Hubtown Limited impleading the answering respondents to be parties. The above original application was listed before this Hon'ble Tribunal on 23.07.2024

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whereby this Hon'ble Tribunal had passed following order-

1. Learned counsel for respondent no.1 submits that the reply is ready and same will be filed within two days.1
2. Learned counsel for respondent No.2 and 4 has taken the stand that the matter has been forwarded to respondent No.1 and nothing further is required to be stated by the said respondent no.2 and 4. Respondent no.2/4 are directed to file an affidavit within a period of one week clearly stating if the matter was simply forwarded or it was recommended while forwarding it to respondent no.1. List on 23.08.2024.



3. That in compliance of above direction of this Hon'ble Tribunal it is submitted that 167th meeting of Maharashtra Coastal Zone Management Authority was held on 18th May, 2023 in which after thorough discussion following decision was taken under item No.45 which is as follows:-

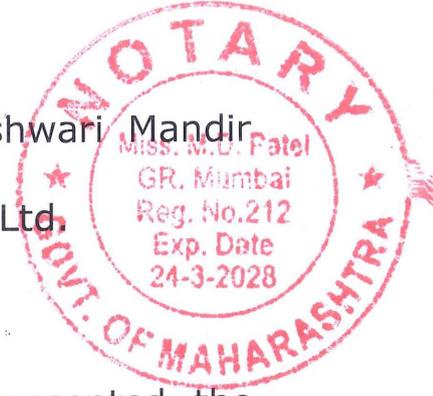
"Item No.45:

Proposed SR scheme for Jaferbaba CHSL, Shiv Mandir CHS, Hill People CHS (prop) & Durga Mata CHS (prop) on plot bearing CTS no. B-908, B-909, B-910, B-911 of

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M. D. Patel

village -Bandra, Mount Mary Hills, Kadeshwari Mandir
Marg, H/W ward, Mumbai by M/s Hubtown Ltd.



INTROOUCTION:

The project proponent and consultant presented the proposal *before* the Authority. The proposal is for SR scheme for Jaferbaba CHSL, Shiv Mandir CHS, Hill People CHS (prop) & Durga Mata CHS (prop) on plot bearing CTS no. B-908, B-909, B-910, B-911 of village - Bandra, Mount Mary Hills, Kadeshwari Mandir Marg, H/W ward, Mumbai as per CRZ Notification, 2019.

As per SRA remarks dated 20.4.2022:

- The S.R. Scheme was originally approved for 4 Nos of societies viz. Jaferbaba CHS Ltd; Shiv Mandir CHS (prop), Hill People CHS (prop) A Durga Mata CHS (prop) and LOI was issued on 29/12/1998 for 2.115 FSI and entire FSI was allowed for construction in-situ.
- The parameters of S.R. Scheme under reference were revised by restricting in-situ FSI upto Zonal

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FSI with addition of 25% FSI over permissible zonal FSI as per Government directives u/no. TPB/4387/4350/UD-II dated 04/11/1988, i.e. 1.25 FSI and accordingly revised LOI was granted on 30/10/2004.

- Further, the plot area was increased as per demarcation and revised LOI was issued on 09/11/2016. Again, revised LOI was issued on dated 06/11/2020, by adoption provisions of DCPR 2034 by restricting the CC beyond 1.25 FSI.
- As per clause no. 10.3 of the said CRZ notification dated 18/01/2019 for CRZ areas falling within municipal limits of Greater Mumbai which states as "(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 categorized as No Development Zone and a Floor Space Index up to 15% shall be allowed only for construction of civic amenities, stadium and



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gymnasium meant for recreational or sports related activities and the residential or commercial use of such open spaces shall not be permissible".

- As per DCPR 2034 CI No. 17.3 (D)(a)(2)(ii) Where the area of site having non-buildable /open space reservation, is more than 500 Sq.m such sites may be allowed to be developed for slum redevelopment subject to condition that the ground area of the land so used shall not be more than 65% of the reservation and leaving 35% rendered clear thereafter for the reservation.
- In this case, Architect has proposed 35% of the land which is reserved of ROS 1.5 shall be developed as Parks as Garden and no construction shall be proposed on this 35% plot.
- Proposed Building configuration are as under

Sr. No.	Building	Configuration	Status
1	Rehab Building 1 (ABC)	G + 22	Proposed
2	Rehab Building 2B	G + 20	OC received

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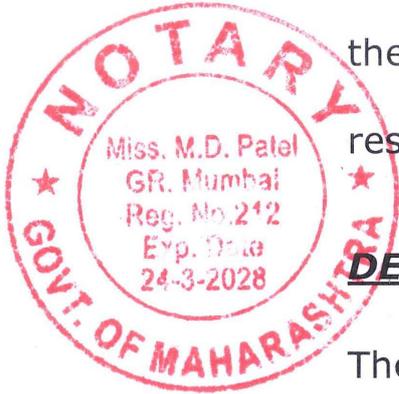
M. D. Patel



3	Sale Building A	LG + UG+ 1 st to 7 th Podium+ CL1+ CI2 + 1 st to 23 rd Floor	Proposed
4	Sale Building B	LG + UG+ 1 st to 7 th Podium* CL1+ CI2 + 1 st to 23 rd Floor	Proposed
5	Sale Building C	LG + UG+ 1 st to 7 th Podium* CL1	Proposed

The PP has submitted CRZ map in 1:4000 scale prepared by IRS Chennai as per approved CZMP 2019.

The CRZ map shows the plot is situated within NDZ of the CRZ II area within *Greater Mumbai*, due to Garden reservation.



DELIBERATIONS:

The PP presented that the SRA scheme on plot under *reference* was initially sanctioned in the year 1998 by the SRA (Planning Authority). Now, the PP has applied for the CRZ clearance under CRZ Notification, 2019.

The PP further presented that the Plot Area of 15205.60 Sq.m is situated in Garden Reservation as per DP of 1991 & 2034. As per the DCPR 2034, the SRA schemes are allowed on RG/ PG and open plots reservations in ratio 65/35 (Redevelopment / Reservation). Accordingly, the SRA has sanctioned the SR scheme as per the

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provisions of the applicable DCPR, with limited to 35% Garden reservation i.e. 4681.90 Sq.m, which will be maintained as it is and no construction is proposed on the said area.

The Authority noted the detailed background of the matter and earlier decisions of the Authority taken in the matter.

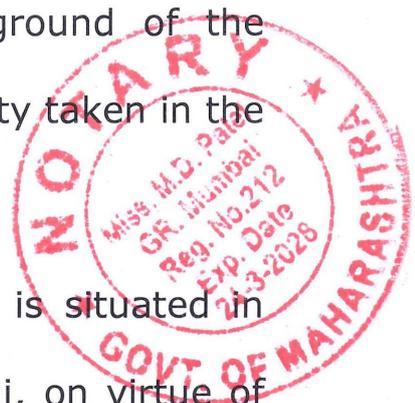
The Authority noted that project of SRA is situated in NDZ of the CRZ II within Greater Mumbai, on virtue of Garden reservation, as per approved CZMP, 2019,

The Authority further noted that the para 10.3 of the CRZ Notification, 2019, which is as follows:

"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

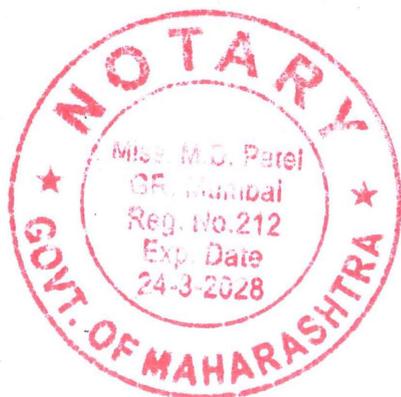
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M. D. Patel



the residential or commercial use of such open spaces shall not be permissible".

The Authority noted that as per the para 10.3 of CRZ Notification, 2019, only construction of civic amenities, stadium and gymnasium meant for recreational or sports related activities are allowed in CRZ II (NDZ) areas. However, the Authority further observed that the SRA scheme on the plot under reference *has* initiated been approved in the year 1998 by the SRA and accordingly, the scheme is ongoing. Considering this, the Expert Member felt that the matter may be referred to MoEF&CC, New Delhi for guidance whether the subject ongoing SRA scheme could be allowed on land having reservation of Garden. Accordingly, the Authority after deliberation decided to refer the matter to MoEF&CC, New Delhi for guidance and necessary decision at NCZMA level.



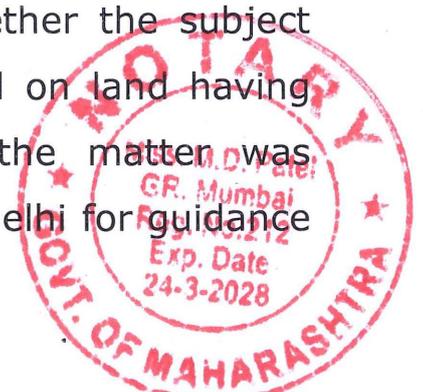
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A true copy of Minutes of 167th of the Maharashtra Coastal Zone Management Authority held on 18th May 2023 is annexed herewith and marked as **Annexure A-1**

4. That since the land is reserved as garden in the Development plan of Mumbai and as per 10.3 of CRZ notification 2019, only civic amenities are allowed in Garden Reservation (NDZ) area. As para No.10.3 no residential and commercial construction is allowed. But at the same time, since the SRA project scheme is initially approved in 1998 and it is still ongoing, hence considering its history/background, the MCZMA decided to seek guidance from MoEF and accordingly referred/forwarded the matter to MoEF Delhi.
5. In view of above minutes of meeting and decision taken thereunder it is clear that since the authority superior/higher to the answering respondent is MoEF&CC hence the matter was referred to the MoEF&CC New Delhi for guidance whether the subject ongoing SRA scheme could be allowed on land having reservation of Garden. Accordingly, the matter was referred/ forwarded to MoEF&CC New Delhi for guidance and necessary action at NCZMA level
6. The CRZ Notification, 2019 is issued by the Ministry of Environment, Forest and Climate Change under the

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Environment (protection) Act, 1986. The MoEF&CC being the parent apex body with respect to CRZ Notification, 2019 and the Authority is of the opinion that guidance from the apex body is required in the matter, in order to reach to certain logical conclusion with respect to permissibility of the subject proposal as per provisions of CRZ Notification, 2019 in the backdrop of its previous history & approval granted by the concern planning Authority. Hence, the matter was referred to MoEF&CC, Delhi and whatever guidance will be obtained, proceeding according to the same will be done.

Spandan Patil

Place: Mumbai

(Abhay Madhukar Pimparkar)

Deponent

Director, Env&CC Department and

Member Secretary, MCZMA

Date: 13/8/24
M.D. Patil



VERIFICATION

I, Abhay Madhukar Pimparkar, Age 49 years, Director, Environment and Member Secretary of the Maharashtra Coastal Zone Management Authority, having my office address at 15th Floor, New Administrative Building, Mantralaya Mumbai, do hereby verify & declare that statements made in the aforesaid Paras are true and correct to the best of my knowledge and information and I believe the same to be true and that nothing material has been concealed therefrom.

Verified at Mumbai on this 13th day of August, 2024

M. D. Patel
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(Signature)

(Abhay Madhukar Pimparkar)

Director, Environment &CC

and MS, MCZMA

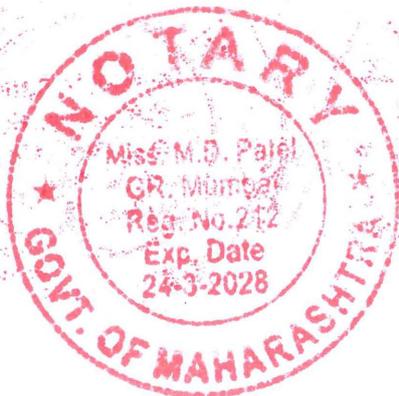
Deponent

Identified by

BEFORE ME

M. D. Patel
13-8-2024
Sr. No. 412
Bk. No. 3

MISS M. D. PATEL
ADVOCATE & NOTARY
Kohiar House,
4, Dhuswadi, Dhobitalao,
MUMBAI - 400 002.





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13/8/24

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INTRODUCTION:

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Member Secretary

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Chairman

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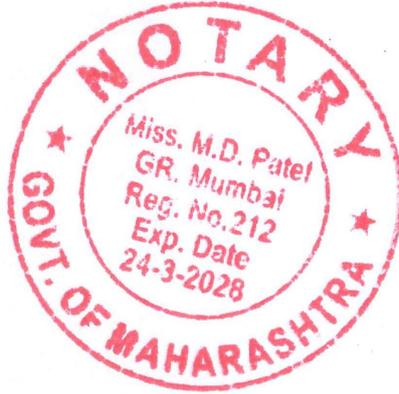
Chairman

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Annexure I

List of members/officials present in the online meeting:

1. Mr. Bhushan Gagrani, ACS, UDD, Member, MCZMA
2. Dr. Mahesh Shindikar, College of Engineering, Pune, Expert Member, MCZMA
3. Mr. Mirashe, Representative from the Industry Dept, Member MCZMA
4. Mr. Maruti Kudale, Ex Director, CWPRS, Expert Member, MCZMA
5. Mr. Rethe, BNHS, Member MCZMA
6. Mr. Abhay Pimparkar, Director, Environment & CC and Member Secretary, MCZMA.



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Member Secretary

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Chairman