

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

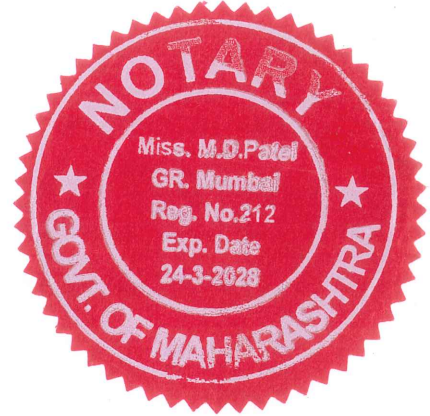
WESTERN ZONE BENCH AT PUNE

E.A.05/2024 IN O.A. No. 27/2022

Balvant Murlidhar Parchure Applicant

Vs.

The Sub- Divisional Officer, Dapoli & Ors... Respondents



**REPLY AFFIDAVIT ON BEHALF OF RESPONDENT NO. 3,
MAHARASHTRA COASTAL ZONE MANAGEMENT AUTHORITY
(MCZMA) in compliance of order of the Hon'ble NGT (WZ) dated
21/11/2024**

I, Abhay Madhukar Pimparkar, Agwe 49, Member Secretary & Director,
Environment and Climate Change Department, Government of Maharashtra
having office at 15th Floor, New Administrative Building, Mantralaya,
Mumbai do hereby state on solemn affirmation as under –

1. I say that I am the Member Secretary of Respondent No.3, and am authorised to affirm the present reply affidavit on its behalf. I have examined the relevant records available in my office in respect of the above matter and am affirming the present Reply Affidavit based on the same. The present Reply Affidavit is limited to the extent of compliance of the directions of this Hon'ble Tribunal in the order dated 21/11/2024.
2. I say that the Execution Applicant has filed the present Application praying for direction to be issued to Respondent No. 1&2 to demolish

M. D. Patel

[Signature]

the illegal construction made in violation of the provisions of CRZ notification, 2011.

3. I say that as per the Government Resolution (GR) issued by the Government of Maharashtra, Environment Department dated 23/03/2011, the district committee is responsible for the removal of encroachments and unauthorised structures in the CRZ areas. Respondent Nos. 1 & 2 herein being members and the Collector being the Chairman of the said district committee, are responsible to carry out the demolition. Copy of the said GR dated 23/03/2011 is hereto annexed and marked as Annexure I
4. I say that as per the order passed in OA 27/2022, Respondent Nos. 1 & 2, were supposed to carry out the demolition and the answering Respondent has already passed an order for demolition in that regard. The said order of this Hon'ble Tribunal dated 27/04/2023 vide which the OA was disposed of is hereto annexed and marked as Annexure II.

Place: Mumbai

Date: 12-12-24

M. D. Patel

(Signature)

(Abhay Madhukar Pimparkar)

Deponent

Director, Environment & CC and

Member Secretary, MCZMA



VERIFICATION

I, Abhay Madhukar Pimparkar, Age about 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- 400 032 do hereby verify and 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 ⁹/_{12th} day of December, 2024 *M. D. Patel*

Abhay Madhukar Pimparkar

(Abhay Madhukar Pimparkar)

Deponent

Director, Environment & CC and
Member Secretary, MCZMA

Identified by

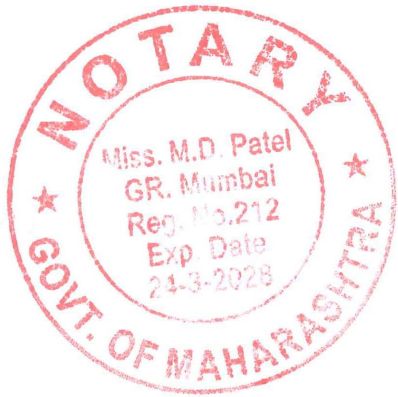
Under Secretary, Env
& CC Dept

BEFORE ME

M. D. Patel
12-12-2024
Sr. No. 602
Bk. No. 4

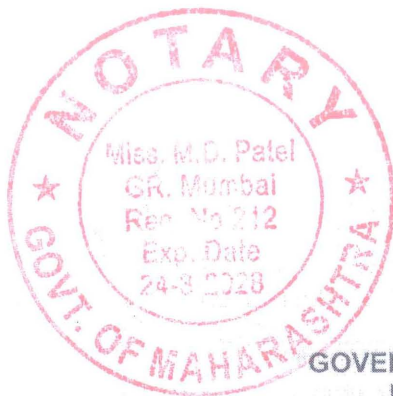
MISS M. D. PATEL
ADVOCATE & NOTARY
Kohiar House,
4, Dhuswadi, Dhobitalao,
MUMBAI - 400 002.





Notary Public
Miss. M.D. Patel
GR. Mumbai
Reg. No. 212
Exp. Date 24-3-2028





M.D. Patel 12/12/24 Annexure -I

District Coastal Zone Monitoring
Committee (DCZMC).

GOVERNMENT OF MAHARASHTRA
Environment Department
Resolution No. MCZMA 2011/ CR-6/MCZMA
Mantralaya, Mumbai - 400032
Dated: 23rd March, 2011.

Government Resolution :

Whereas, the Ministry of Environment and Forests, (MoEF), Government of India, New Delhi in exercise of powers conferred by sub-section (1) and clause (V) of sub-section (2) of section 3 of Environment (Protection) Act, 1986 (29 of 1986) has declared coastal stretches as Coastal Regulation Zone and imposed restrictions on industries, operations and processes in the coastal areas, published vide S.O.19(E) dated 6-1-2011.

And Whereas, the MoEF published the Coastal Regulation Zone Notification with a view to ensure livelihood security to the fishermen communities and other local communities living in the coastal areas to conserve and protect coastal areas, its unique environment and its marine area and to promote development through sustainable manner.

And Whereas, the land area from High Tide Level (HTL) to 500 meters on landward side along the sea front and the land area between HTL to 100 meters or width of the creek whichever is less on the landward side under the tidal influenced water bodies that are connected to sea are declared as a Coastal Regulation Zone areas to be regulated under Coastal Regulation Zone Notification, 2011.

And Whereas, the coastal areas which are ecologically sensitive and the geomorphologic features such as mangroves, salt marshes, turtle nesting ground, Mudflats etc. are also covered in the coastal regulation zone.

And Whereas, the coastal areas that have been developed upto or close to shoreline are designated as CRZ II

And Whereas the coastal areas that are relatively undisturbed and do not belong to CRZ I or CRZ II which include rural and urban areas have designated as CRZ III.

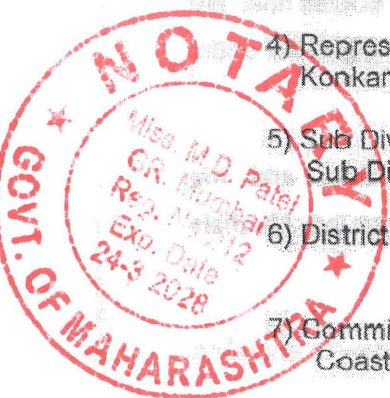
And Whereas, the MoEF vide Rule (8) of CRZ Notification 2011 has prescribed norms for regulation of activities in CRZ I, CRZ II, CRZ III and CRZ IV

And Whereas as per the provision (6) (c) of CRZ Notification 2011, the State Government or the Union Territory Coastal Zone Management Authority shall be primarily responsible for enforcing and monitoring of the CRZ Notification 2011 and to assist in this task, the State Government and union territory shall constitute a District Level Monitoring Committee under the Chairmanship of the District Magistrate concerned consisting of three representatives of local traditional coastal communities including fisher folk.

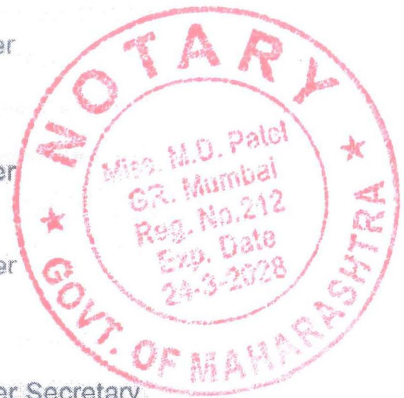
And Whereas it was under consideration of the State Government to constitute District Level Coastal Monitoring Committees in the coastal districts of the Maharashtra, to comply with the provisions of the CRZ Notification, 2011 and to enforce for the purpose of implementation and enforcement of provisions of CRZ Notification in the State.

Therefore, in exercise of the powers conferred under provision 6(c) of CRZ Notification, 2011, the State Government hereby constitute the District Level Coastal Monitoring Committees in the Coastal Districts of Maharashtra as follows:-

- | | | |
|---|-----|----------|
| 1) District Collector of the concerned District | ... | Chairman |
| 2) Superintendent of Police/Dy. Commissioner of Police | ... | Member |
| 3) District Forest Officer of the concerned district | ... | Member |
| 4) Representative from Divisional Commissioner, Konkan Division | ... | Member |
| 5) Sub Divisional Officer of the Coastal Sub Divisions of the Districts. | ... | Member |
| 6) District Superintendent of Land Records. | ... | Member |
| 7) Commissioner or his representative Coastal Municipal Corporation. | ... | Member |
| 8) District Town Planning Officer (Deputy Director/Assistant Director of Town Planning) | ... | Member |
| 9) District Assistant Commissioner of Fisheries | ... | Member |
| 10) Chief Officers of Coastal Municipal Councils | ... | Member |



- | | | |
|--|-----|------------------|
| 11) Representative of Traditional Coastal Communities or fisher folk (minimum 3) To be nominated by District Collector | ... | Member |
| 12) Regional Officer/Sub Regional Officer of Maharashtra Pollution Control Board | ... | Member |
| 13) Two eminent experts in the Coastal issues (to be nominated by Collector) | ... | Member |
| 14) Resident Deputy Collector | ... | Member Secretary |



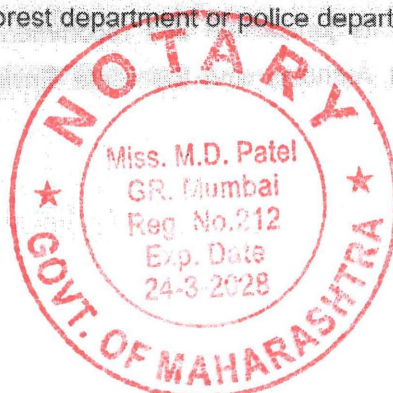
Powers and functions of the District Committees :

- 1) The Committee shall have the powers to take measures for protecting and improving the quality of the coastal environment and for preventing, abating and controlling environmental pollution in the coastal areas of the State of Maharashtra.
- 2) The Committee shall take time bound steps for identification of violations of the provisions of CRZ Notification and the approved CZMP there under, for initiation of action under the Environment Protection Act, 1986.
- 3) The Committee shall identify violation in CRZ-I areas (i.e. encroachment on Mangroves, Choupaty, Beach area, etc.), CRZ-II areas and CRZ-III areas, within their respective jurisdiction and initiate action under Section 19 of the Environment Protection Act 1986, under the powers delegated to District Collector and Sub Divisional Officer under Environment (Protection) Act, 1986 in their respective jurisdiction.
- 4) The Committee shall send the details of the identified violations including action taken to the Environment Department and the Maharashtra Coastal Zone Management Authority.
- 5) The Committee shall send its monthly report to the Divisional Commissioner, Konkan Division, the Secretary, Environment Department, Govt. of Maharashtra and the Chief Secretary, Government of Maharashtra.
- 6) The Committee shall be responsible for removal of encroachments and unauthorized structures in coastal areas of CRZ-I, CRZ-II and CRZ-III, if necessary, the District Collector being the Chairman of the Committee is directed to use powers as vested in him to levy penalty or to recover cost from unauthorized constructions.
- 7) The Committee shall also identify the areas which need special conservation and protection measures under its jurisdiction and recommend it to the Maharashtra Coastal Zone Management Authority and the State Environment Department for

further necessary action. If required the Committee may consult or obtain opinion of Expert agencies, Institutes, Universities etc. in the field in this regard.

- 8) The Committee shall also monitor compliance of the conditions stipulated in the Coastal Regulation Zone Notification, 2011 and Environment Clearance accorded to the Project and submit its quarterly report to the Environment Department and Maharashtra Coastal Zone Management Authority.
- 9) The Member Secretary of the Committee will be responsible for maintaining all records of the Committee.
- 10) The Committee will also take on priority the issues/complaints of coastal communities including fishermen and if desires so, may recommend the matter to the concerned department in the State Government for appropriate action.
- 11) The Committee shall undertake review of cases involving violation of the provisions of the said Act and the rules made there under or under any other law which are related to the project of the said Act, and if found necessary may refer such cases, with comments, for review to the Environment Department / State Coastal Zone Management Authority.
- 12) The Committee shall take up cases suo motu or on the basis of complaints made by an individual or representative body or through news paper report or through MCZMA or an organization or any member of the Committee. The Committee may refer cases to the concerned authorities/departments in the district for appropriate legal action, if needed. Committee shall submit its action taken report on complaints to Department of Environment and Divisional Commissioner, Konkan on every month.
- 13) The Committee shall identify ecological sensitive areas in the CRZ and formulate area specific management plan for such identified areas for onward recommendation to State Government.
- 14) The foregoing powers and functions of the Committee shall be subject to the supervision and control of the State Government.
- 15) Any matter specifically not falling within the scope and jurisdiction of the Committee as so constituted shall be dealt with by the statutory authorities concerned at the district level.
- 16) District Police authorities will assist this Committee to help in removing encroachment, unauthorized and illegal structures from coastal regulation zone areas.
- 17) The materials and assets forfeited and conspicated from the site of violation can be kept in custody of forest department or police department as concerned in the matter.

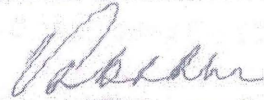
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- 18) Any appeal against the decision of the District Committee shall be reviewed by the Secretary Environment and Chairman of the MCZMA.
- 19) The Collector shall present the report of DCZMC in the every meeting of DPDC Committee.
- 20) Committee will provide all assistance and will co-ordinate in preparing Coastal Zone Management Plan of the district and mapping of hazard line in the coastal areas as per the directions of the State and Central Government.

This Committee shall meet monthly to review the compliance of the complaints and other tasks entrusted to the Committee. Minutes of the meeting shall be sent to State Government immediately. Environment Department will publish all the minutes, reports, complaints and upload recommendations etc. submitted by DCZMC on its Website on monthly basis.

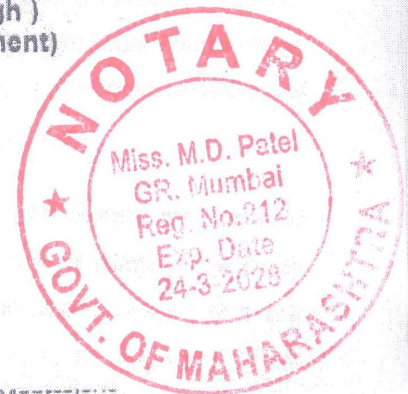
By order and in the name of the Governor of Maharashtra,



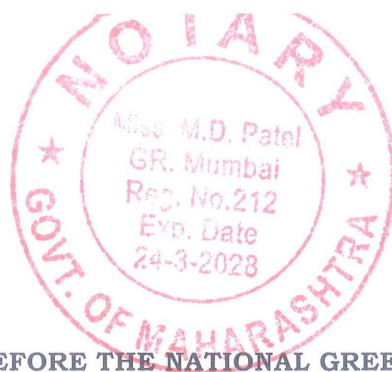
(Valesa R. Nair Singh)
Secretary (Environment)

To

The Prin. Secretary to Chief Minister, Mantralaya,
The Private Secretary to Deputy Chief Minister, Mantralaya,
The Private Secretary to Minister (Environment), Mantralaya,
The Private Secretary to State Minister (Environment), Mantralaya,
The Chief Secretary, Mantralaya,
The Special Secretary, Ministry of Environment & Forest, New Delhi.
The Director, Coastal Regulation Zone, MoEF, New Delhi.
All Addl. Chief Secretary/Prin. Secretary/Secretary of all Departments, Mantralaya.
The Commissioner, Konkan Division, Konkan Bhavan, Navi Mumbai
The Member Secretary, Maharashtra Pollution Control Board,
The Collectors of the Coastal Districts,
The Superintendent of Police/Dy. Commissioner of Police of concerned Districts
The Distt. Forest Officers of the concerned Districts,
The Sub Divisional Officer of the concerned Districts,
The District Superintendent of Land Records,
The Tahsildars of Coastal Talukas in the District.
The Commissioner of Coastal Municipal Corporations,
The Deputy Director/Assistant Director of Town Planning,
The Chief Officers of Coastal Municipal Councils,
The Sub Regional Officer of Maharashtra Pollution Control Board,
The Deputy Collectors of the Coastal Districts,
The Deputy Secretaries of Environment Department.
The Select File of Environment Deptt. (TC-3/MCZMA)







M.D. Patel
12/12/24

Annexure-II

Item No. 10

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

(WITH HYBRID OPTION)

Original Application No. 27/2022(WZ)

Balvant Muralidhar Parchure

.....Applicant

Versus

Mayuresh Ashok Amburle

....Respondent(s)

Date of hearing: 27.04.2023

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicant : Applicant in-person
Respondent(s) : Mr. Mayuresh A. Amburle, in-person for R-1
Ms. Madhura, Advocate for R-1 & 2/Pvt. Party
Mrs. S.B. Vaidya Pandit, Advocate for R-3 & 4
Ms. Manasi Joshi, Advocate for R-5/MCZMA

ORDER

1. This application has been filed with the prayer for direction to be issued to Respondent Nos. 1 & 2/Private Respondents to demolish illegal construction made, as the same is in violation of the provisions of the CRZ Notification, 2011.

2. In brief the fact of this case are that the Applicant is a resident of Ratnagiri District belonging to traditional community. The Village Harnai, falling in that District, falls in CRZ-III category, where-in the construction by traditional community is permissible only 500 mtrs. from the High Tide Line (HTL) to the maximum height of 9 mtrs. only from the ground floor. The Respondent Nos. 1 & 2 approached the Respondent No. 5/Maharashtra Coastal Zone Management Authority (MCZMA) with a proposal to construct commercial and residential building with ground floor +3 structures in the month of October, 2017 but they were granted

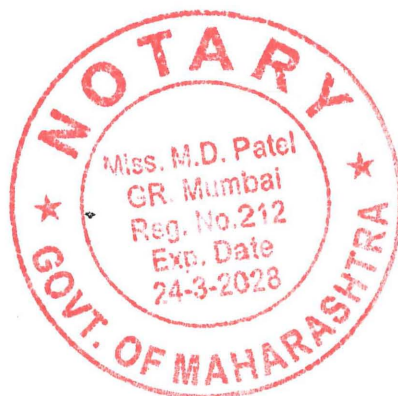
permission only to construct G+1 structure for residential and dwelling purposes. Despite that the Respondent Nos. 1 & 2 have constructed G+2 floor which is being used for commercial and residential purposes, in violation of the recommendation of the Maharashtra Coastal Zone Management Authority (MCZMA), which was completed in October, 2020. The Applicant had made a complaint to MCZMA in the year 2021 for demolition of the illegal structure but no action was initiated, hence the above prayers have been made.

3. This matter was first considered by our Predecessor Bench on 29.03.2022 and a Joint Committee was directed to be constituted and direction was also issued to send notices to the Respondents.

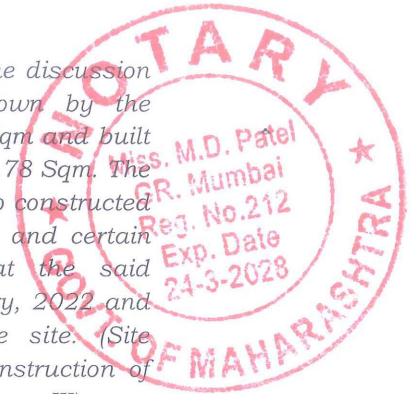
4. The Joint Committee has submitted its report, the relevant part of which is quoted here-in below:-

"2.1. OBSERVATIONS OF THE SITE INSPECTION:

- 1) *The Joint Committee noted that the site in question is situated at Survey No. 215, Hissa No. 13/A, at village Harne, Tal: Dapoli, District Ratnagiri having Latitude 17.81 40 247 and Longitude 73.095 1919. (Google location of the site is at Annexure II)*
- 2) *The site in question falls in Coastal Regulation Zone- III (CRZ III) and situated within 200 meter to 500 meter (i.e. beyond No Development Zone area) from the High Tide Line of the Arabian Sea at village Harne. The Joint Committee noted that at present, the Coastal Zone Management Plan (CZMP) of District Ratnagiri is approved under CRZ Notification, 2011 as per which, the site situated within 200 m to 500 m of the CRZ III area. (Extract of the approved CZMP, 2011 of the site is at Annexure II)*
- 3) *The Joint Committee observed that on the site, building comprising Ground + 2 floor is constructed on the site by the Respondents. As informed to Joint committee, construction on the site was started in year 2017 and completed in 2019. During the visit, Dimension of the constructed building (Length, width and height) were measured with the help of Revenue officials. Length of the Building is around 22 meter and width is 12.80 meter. Height of the building is around 9.20 meter. The Joint Committee observed that commercial use such as a clinic, Medical shop and fish trading office are present in the Ground floor. Further, there is parking in the Ground floor.*



Other 2 floors are observed residential. As per the discussion with Revenue officials and building plan shown by the Respondents during the visit, plot area is 1358 Sqm and built up area of the constructed building is around 598.78 Sqm. The Joint Committee further observed that adjacent to constructed building in the same plot, construction of plinth and certain pillars were observed. It was informed that the said construction was started recently around January, 2022 and presently, the construction is stopped on the site. (Site Photographs of the constructed building and construction of plinth & pillar beside the site is attached as Annexure III)



- 4) Discussion with Revenue officials and Respondents, the Joint Committee noted that the NA permission was obtained for the land in the year 24.10.2016. Further, the Revised NA was granted by the office of Collector, Ratnagiri in the year 17.3.2017 for residential and commercial construction and revised building plans were sanctioned. Subsequently, in the year 2017 the Respondents applied to MCZMA for grant of the CRZ recommendation from the MCZMA. The Joint Committee noted that the MCZMA in its 122nd meeting held on 30th October, 2017 deliberated the application. The MCZMA noted that the site falls in CRZ III and situated within 200 m to 500 m from the HTL of Arabian Sea. It was further noted that as per para 8.III. CRZ III of the CRZ Notification, 2011, construction of dwelling units comprising Ground + 1st floor with max height of 9 meter for local traditional communities' area allowed beyond 200 m from the HTL of the seafront in CRZ III area. Accordingly, as per deliberation, the MCZMA vide letter dated 7.12.2017 granted recommendation to the proposal from CRZ point of view to concern planning Authority subject to certain conditions:
1. Proposed project should be as per the provisions of CRZ Notification, 2011 (amended from time to time)
 2. Local body to ensure that the PP is local inhabitant
 3. Local body to ensure that no construction is started on site before issuance of commencement certificate to the said project under consideration
 4. Local body to ensure proposed construction is beyond 200 m from the HTL of the seafront
 5. Local body to ensure that the proposed construction is Ground + 1st floor with max height 9 m for residential use only
 6. All other requirement permissions from different statutory authorities should be obtained prior to commencement of construction
- 5) The Joint committee noted that as per MCZMA recommendation, the construction on the site should have been restricted to Ground + 1st floor for residential purpose only. However, construction on the site comprises of Ground + 2 floor with mix use of Residential and Commercial. The Joint

Committee observed that there is violation of the conditions of the recommendation letter dated 7.12.2017 granted by the MCZMA and construction on the site is not in conformity with the provisions of the CRZ Notification, 2011. During the discussion with the Revenue officials, it came to the notice of the Joint Committee that office of Ratnagiri Collector has revoked the NA permission of the year 2017 granted to the project and Building plans were also cancelled. The Joint committee noted that presently, there is no NA permission and approved building plans for the project on the site in question. The SDO office has issued a Notice under MRTP Act, 1966 for removal of illegal construction on the site, which has been challenged by the land owners in Sr. Division Civil Court (Case No. 13/2020) of Khed. It was further informed to Joint Committee that the status quo has been granted vide order dated 23.4.2021 by Sr. Division Civil Court, against which, the SDO office has filed an appeal (9787/2022) in the matter in the High Court of Bombay . The matter is sub-judiced.

3.0 Recommendation of the Joint Committee:

- a) District Coastal Zone Monitoring Committee (DCZMC) constituted by the State Government vide GR dated 23.3.2011 under provisions of the CRZ Notification, 2011 is empowered to take action against the illegal construction in coastal areas. The DCZMC shall initiate action against the illegal construction on the site in question following due process of law. The DCZMC shall ensure complete stoppage of construction activity adjacent to site in question.
- b) Assessment of Monetary Value of the environmental damages caused due to violation of provisions of the CRZ Notification, 2011 at site in question by Respondents may be carried out by the competent authority or expert organization."



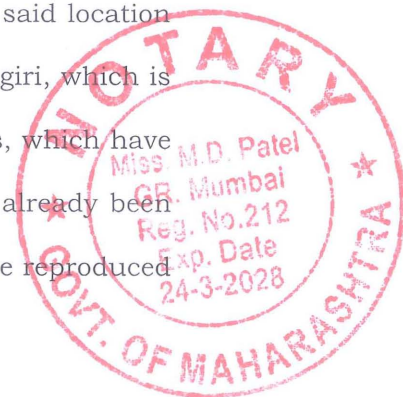
5. From the side of Respondent Nos. 1 & 2/Private Respondents, a reply affidavit dated 06.07.2022 has been filed, where-in it is submitted that Applicant- Mr. Balwant Parchure is not concerned with the property in question, as he resides in Mumbai. The Respondent No. 3/Sub-Divisional Officer & Respondent No. 4/Collector, Ratnagiri (Respondent No. 2 appears to have been wrongly mentioned) initiated action against disputed property and issued a notice for demolition of the construction under Maharashtra Land Revenue Code and Maharashtra Regional and Town Planning Act making there-in reference of CRZ Notification. The said notice was challenged before the Civil Judge, Senior Division, Khed by filing Civil Suit for declaration and injunction bearing Regular Civil

Suit No. 13/2020. The said matter is sub-judice before the Competent Court.

6. Further, it is mentioned in the said affidavit that the Respondent Nos. 1 & 2 had taken permission from the MCZMA on 30.10.2017, which is annexed at Exhibit-A at page no. 9 of the paper book and the construction was completed in October, 2020. However, the complaint made to the MCZMA has been lodged on 28.02.2022 in respect of the disputed structure. Therefore, it is clear that despite full knowledge about the completion of building, the Applicant remained silent from October 2020 till February 2022 and thereafter with ulterior motive has filed this application. The cause of action arose in October 2020. therefore, the present application is hit by limitation under Section 14 of the National Green Tribunal Act, 2010.

7. From the side of Respondent No. 5/Maharashtra Coastal Zone Management Authority (MCZMA), a reply affidavit dated 27.07.2022 has been filed, where-in it is submitted that the site in question falls in CRZ-III within 200 meter to 500 meter area (No Development Zone area) from the High Tide Line of the Arabian sea at Village Harne. The said location is within 200 m to 500 m as per the CZMP of District Ratnagiri, which is approved under the CRZ Notification, 2011. Rest of the facts, which have been mentioned in this affidavit, are the same, which have already been stated in the Joint Committee Report, hence they need not be reproduced again.

8. From the side of Respondent No. 3/Sub-Divisional Officer & Respondent No. 4/Collector, Ratnagiri, a reply affidavit dated 24.08.2022 has been filed, where-in it is submitted that the Answering Respondent had issued N.A. permissions on 24.10.2016 on the application of



Respondent Nos. 1 & 2, which had been revised vide order dated 17.03.2017. One Mr. Husainmiya Tajuddin Jamandar through power of attorney executed by Akhter Husainmiya Jamadar, filed an appeal against both the N.A. orders before the Additional Collector, Ratnagiri, where-on the Additional Collector Ratnagiri cancelled both N.A. permissions, against which, the Respondent Nos. 1 & 2 preferred an appeal before Additional Commissioner, Kokan Division, which was rejected on 10.02.2020 and the order of Addl. Collector, Ratnagiri was confirmed. Thereafter, the Respondent Nos. 3 & 4 issued notice to the Respondent Nos. 1 & 2 to remove the illegal structures because N.A. order had been revoked. After that whatever has been stated in this affidavit, is absolutely vague but orally the learned Counsel for the Respondent Nos. 3 & 4 submits that against that notice, the Respondent Nos. 1 & 2 approached the Civil Judge, Senior Division, Khed challenging the said notice.

9. We have heard the arguments of Applicant in-person as well as learned Counsel for the other parties and perused the record.

10. From the Joint Committee, it is clear that the site in question is falling in CRZ-III and is situated within 200m to 500m from the HTL within No Development Zone, where permission was required to be obtained by the Respondent Nos. 1 & 2 from the Respondent No. 5/Maharashtra Coastal Zone Management Authority (MCZMA) before on-going any construction. The said permission was granted also but it was only for Ground +1 floor, which is annexed at page no. 9 of the Original Application and following conditions were also imposed there-in:-

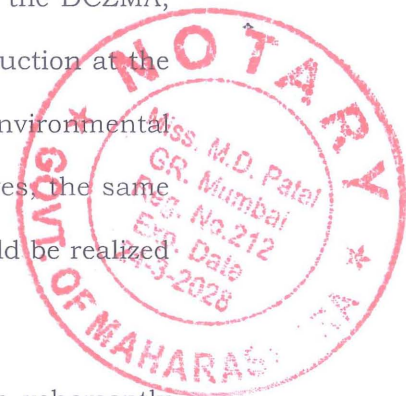
- " 1. Proposed project should be as per the provisions of CRZ Notification, 2011 (amended from time to time)
2. Local body to ensure that the PP is local inhabitant.



3. *Local body to ensure that no construction is started on site before issuance of commencement certificate to the said project under consideration.*
4. *Local body to ensure proposed construction is beyond 200 m from the HTL of seafront.*
5. *Local body to ensure that the proposed construction is Ground + 1st floor with max height 9 m for residential use only.*
6. *All other required permissions from different statutory authorities should be obtained prior to commencement of work.”*

11. But the Joint Committee on their visit found that the construction in question comprised Ground +2 floor, which was got measured with the assistance of the Revenue officials, height of which was not to exceed 9 meters as per the permission and the same was found to be 9.20m. It has also been observed that the said property was being used for commercial use such as a clinic, Medical shop and fish trading office on the Ground floor. The other 2 floors were being used for residential purposes. Therefore, it has been recommended by the Committee that the DCZMA, which is empowered to take action against the illegal construction at the site in question, must also assess as to whether any environmental degradation happened on account of said construction? If yes, the same shall be quantified by them in accordance with law and would be realized from the Respondent Nos. 1 & 2.

12. From the side of Respondent Nos. 1 & 2, it has been vehemently argued that they had raised construction of G+2 floor, only after permission having been granted to them by the Sub-Divisional Officer, Dapoli on 17.03.2017, which has been completed on October 2020 and that subsequently, the said permission has been recalled adversely impacting the interest of the Respondent Nos. 1 & 2, which should not be allowed to happen. It is further argued by the learned Counsel for the Respondent Nos. 1 & 2 that the said order by which the permission has



been retracted, has already been challenged before the Revenue Authority.

13. We find recorded in the Joint Committee Report that when the N.A. permission was cancelled and notice was issued by the SDO Office under MRTTP Act for removal of the illegal construction at the site, the same was challenged by the Respondent Nos. 1 & 2 before the Civil Court at Khed by filing Case No. 13/2020, where-in *status quo* order has been granted vide order dated 23.04.2021, against which SDO Office has filed an appeal bearing no. 9787/2022 before the Hon'ble High Court of Bombay and the matter is sub-judice.

14. We find that it is admittedly a case of violation on the part of the Respondent Nos. 1 & 2, as they have gone beyond the permission granted by the MCZMA to raise construction of Ground +2 floor, though they were granted permission to construct only G+1 floor and that too was granted only for residential purpose. Therefore, the 2nd floor, which has been made illegally, needs to be demolished in accordance with law, subject to the final decision to be delivered by the Hon'ble High Court of Bombay in case any matter is pending before it, related to the present construction in question.

15. With that direction, we dispose of this application.

16. All pending applications, if any, also stand disposed of.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

April 27, 2023
Original Application No. 27/2022(WZ)
P.Kr