

772



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

OA NO. 49 / 2024

Pratap Lal Teli

---- Appellant

V/s

Secretary, Environment

Department & Ors.

---- Respondents

**REPLY AFFIDAVIT BY RESPONDENT NO. 3,
MAHARASHTRA COASTAL ZONE MANAGEMENT
AUTHORITY**

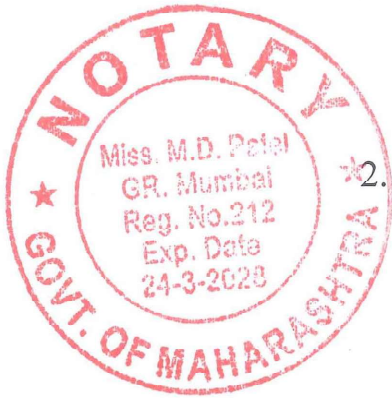
I, Abhay Madhukar Pimparkar, Member Secretary & Director,
Environment and Climate Change Department, Government of
Maharashtra do hereby state on solemn affirmation as under –

M. D. Patel

2

I am well conversant with the facts of the present case and I am competent to swear this Affidavit based upon the records available with this office.

1. It is submitted that at the very outset this respondent denies each averment made in the present appeal which is contrary to and inconsistent with the averments made and facts states in the present reply. It is submitted that nothing stated in the appeal may deemed to have been admitted by this respondent unless and until the same has been admitted by the respondent.



2. This original application has been filed against the construction which is being done by the respondent no. 5 on the land bearing survey no. 341(part), CTS No. 629(part) of Bandra & survey no. 4(part), CTS No. 8(part) of Parighkhar, Mumbai, Bandra Kurla Complex, Mumbai. It is alleged that the said construction is being undertaken in mangrove buffer zone without prior environment clearance.

3. MCZMA had considered a complaint against the said construction in their 119th meeting held on 28 to 30th June

M. D. Patel

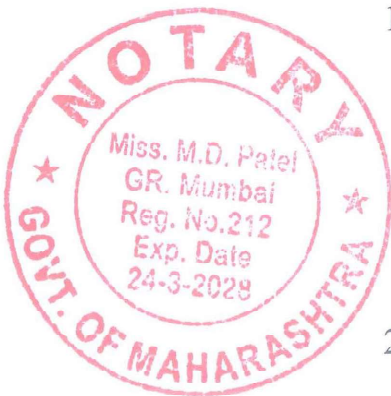
9

2017. As per the decision taken in the meeting, MCZMA vide their letter dated 11-08-2017 issued directions under Sec. 5 of the Environment Protection Act, 1986 to stop work on site. Further, MCZMA vide letter dated 22-08-2017 sought certain information from the PP.

4. The matter was further deliberated in 121st meeting of the MCZMA held on 15th and 16th September, 2017 wherein the MCZMA observed the followings-

1) The Urban Development Department (UDD), Government of Maharashtra wide letter dated 6th August 1999 had granted the CRZ Clearance.

2) As per the submission of the MMRDA and project proponent, the plans were approved in accordance with the CRZ NoC granted by the UDD. MMRDA submitted that there are no significant changes in the proposed plans in CRZ area after 05-12-2001 i.e., the year of approval of plans. Further there is reduction in FSI due



M. D. Patel

2

to minor changes and it is an ongoing project since 05-12-2001.

3) PP to strictly follow the conditions mentioned in the CRZ NoC granted by UDD and no construction is allowed in mangrove area.

5. MCZMA also noted the opinion of the Law and Judiciary Department received in the matter which states that it is for the concerned authority to examine those factual aspects and see that no condition of clearance is violated and take appropriate decision. It was further stated that the condition of each initial clearance and subsequent clearance have to be kept in mind and scrupulously followed by the project proponent while executing the project.



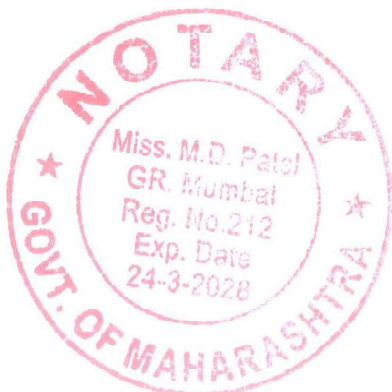
6. Considering the above including the opinion of law and Judiciary department and the information furnished by the MMRDA and PP, the MCZMA after deliberation decided to

M. D. Patel

2

withdraw the stop work order dated 11th August 2017 subject to complaints of the following -

- 1) MMRDA to ensure that it was ongoing project as mentioned in its reply and approved on 5th December 2001 to which commencement certificate was issued in the year 2003.
- 2) MMRDA to ensure that there are no subsequent changes in the original approved plans for the project undertaken in CRZ area.
- 3) MMRDA to ensure that ongoing work is as per the provisions of the CRZ Notification and beyond mangrove buffer zone as applicable.
- 4) As per the opinion of the Law and Judiciary Department the MMRDA and project proponent to ensure that no condition of the clear answers including CRZ NOC is violated. And no construction should be undertaken in mangroves or it's 50 metres buffer zone.



M. D. Patol

2

5) In the event conditions number 1 to 4 as above are not complied with the MMRDA shall stop the work and report the violation of CRZ Notification to the Authority at the earliest.

Copy of the Minutes of MCZMA 121st Meeting held between 15-16 September, 2017 is attached as **Annexure 1.**

7. On 30th October, 2017, the MCZMA confirmed the above minutes with minor changes. Changed portion is marked in BOLD for easy identification, which is as follows –



- 1) ...
- 2) MMRDA to ensure that there are no **significant** subsequent changes in the original approved plans for the project undertaken in CRZ area.
- 3) MMRDA to ensure that ongoing work is as per the provisions of the CRZ Notification and beyond mangrove buffer zone as applicable, **as per approved CZMP of 2000.**

M. D. Patel

2

4) As per the opinion of the Law and Judiciary Department the MMRDA and project proponent to ensure that no condition of the clear answers including CRZ NOC is violated. And no construction should be undertaken in mangroves or its 50 metres buffer zone, **as per approved CZMP of 2000.**

5) ...

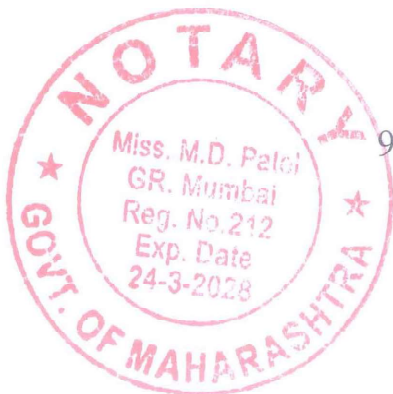
Copy of the Minutes of MCZMA 122nd Meeting held on 30th October 2017 is attached as **Annexure 2.**

8. One Mr. Diliprao Patil made a complaint to the National Human Rights Commission regarding the construction undertaken by Resp. No. 5. MCZMA considered the said complaint in their 157th Meeting dated 04th February, 2022. MCZMA considered the minutes of its previous meetings dated 30-06-2017, 15-09-2017 and 30-10-2017.

9. With respect to complaint of Mr. Diliprao Patil in the matter, National Human Rights Commission sought report from the

M. D. Patel

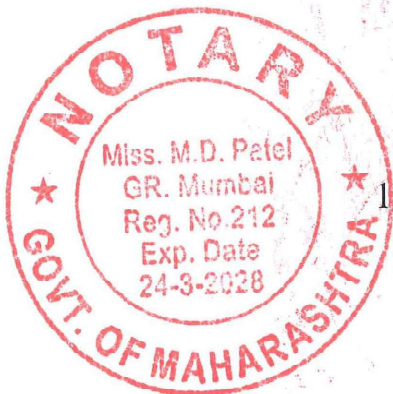
2



MCZMA. The MCZMA vide letter dated 13-01-2022 has sent a report to National Human Rights Commission in the matter.

The Authority noted that the Department has received remarks in the matter from Revenue & Forest Department on 05-1-2022 along with report of the Mangrove Cell sent to Joint Registrar (Law), National Human Rights Commission vide letter dated 03-01-2022. As per the said report of Mangrove Cell, "The said land parcel is not part of the notified Reserved Forest (Mangrove) area and not in possession of Mangrove Cell. However, it is located at a distance of 6 to 7 meters from the notified forest area in village parighkhar. The area is falling within 50 meter buffer zone from the nearby mangrove area and on account of it being non-forest land, the concerned Revenue or Municipal authorities are expected to initiate necessary action, if any violation is observed".

10. The Authority noted that the project is ongoing and has earlier approval from CRZ point of view from the Urban



M. D. Patel

2

Development Department. It was noted that at present, contempt petition (Contempt Petition no. 20/2018 Santosh Daundkar V/s UPS Madan & Ors.) is filed in the matter before Hon'ble High Court of Mumbai, which is sub-judice.

11. In the light of above, after detailed discussion and deliberation, the Authority decided that the PP need to take prior High Court permission, since the area is within 50 m mangrove buffer area, as per Report of Mangrove Cell. The MCZMA communicated this decision to the Resp. No. 5 vid their letter dated 4th March, 2022.

Copy of the Minutes of the 157th MCZMA Meeting dated 04th February, 2022 is annexed as Annexure 3.

Copy of the MCZMA letter dated 4th March, 2022 is annexed as Annexure 4.

12....

13....

M. D. Patel

2

14. In light of the above averments, this respondent craves leave to file any additional reply as and when required. It is respectfully prayed that MCZMA shall abide by any orders and directions issued by the Hon'ble Tribunal.

Whatever is stated above is true and correct to the best of my knowledge, ability and belief and I affirm it to be true.

Place: Mumbai

(Abhay Madhukar Pimparkar)

Deponent

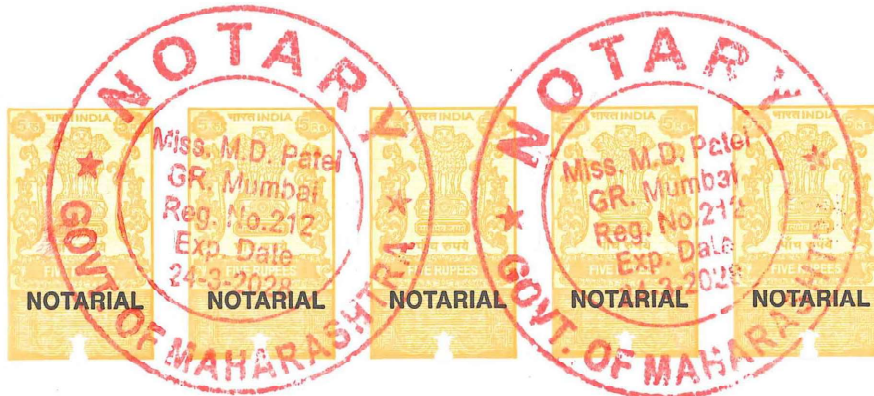
Director, Env&CC Department and

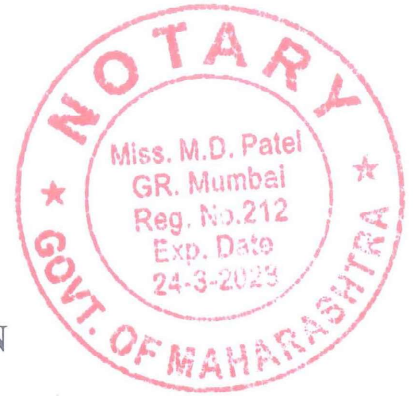
Member Secretary, MCZMA

Date: 17-1-2025

M. D. Patel

2





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 17th day of January, 2025

M. D. Patel

(Abhay Madhukar Pimparkar)

Director, Environment & CC

and MS, MCZMA

Deponent

Identified by



BEFORE ME

M. D. Patel

17-1-2025

Sr. No. 23

Blk. No. 1

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



Faint, illegible text or stamp located below the notary stamp.

Faint, illegible text or stamp located at the bottom left of the page.

Minutes of 121st meeting of the Maharashtra Coastal Zone Management Authority held on 15th and 16th September, 2017

CRZ point of view, Hon'ble High Court ordered to comply with that condition. The MMRCL officials requested to amend the condition and replace it with to follow the rules stipulated in the Noise pollution Rules, 2000, which they submitted it would be complied with during the work of Metro line 3.

In view of above, the Authority decided to replace the conditions mentioned in Metro projects discussed in 113th and 114th meeting regarding nights hour construction. The said conditions are replaced as follows:

"MMRCL to follow the stipulations and provisions of the Noise Rules, 2000 (amended from time to time) while implementing the work of the Metro line 3 under reference"

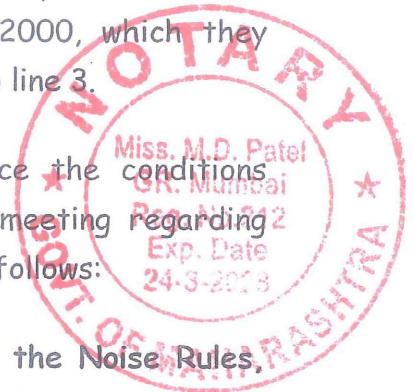
However, in view of directions of the Hon'ble High Court, the MMRCL may approach Hon'ble High Court to modify the order dated 11st August, 2017 in WP No. (L) 2107/2017 which is in force to avoid the contempt of the Hon'ble Court. Further, the MMRCL to get amendment in Environment Clearance appropriately, in view of above from competent Authority.

Item No.6: Complainant regarding construction of Shopping Malls, office complex and hotel on plot bearing S. No. 341 (pt) of Bandra & S. No. 4 (pt) of Parighkhar, Bandra Kurla Complex, Mumbai

The Authority noted that the MCZMA was in receipt of complaint alleging CRZ violations regarding construction on plot bearing S. No. 341 (pt) of Bandra & S. No. 4 (pt) of Parighkhar, Bandra Kurla Complex, Mumbai.

The matter was discussed in 119th meeting of the MCZMA held on 28th to 30th June, 2017 and accordingly, as per the decision taken in the meeting, the MCZMA vide letter dated 11.8.2017 issued directions under section 5 to stop the work on site. Further, the MCZMA vide letter dated 22.8.2017 sought certain information from the PP. The PP has submitted its reply to MCZMA.

The Authority further noted that hearing was conducted on 6th September, 2017 under the chairmanship of the ACS, Environment and Chairman, MCZMA wherein project proponent, complainant and MMRDA were called to present their say. During the hearing PP and complainant presented their say. Complainant alleged that revised CRZ clearance from the MCZMA was



Minutes of 121st meeting of the Maharashtra Coastal Zone Management Authority held on 15th and 16th September, 2017

necessary as work was started in the year 2010 and hence, CRZ clearance of the UDD is invalid. It was further alleged that mangroves are present on the site. During the hearing, Complainant and MMRDA were directed to submit the written submission in the matter. The complainant has not submitted its written submission to the Authority, till the date of meeting. The MMRDA submitted their reply vide letter dated 07.09.2017. The reply of the MMRDA is as follows:

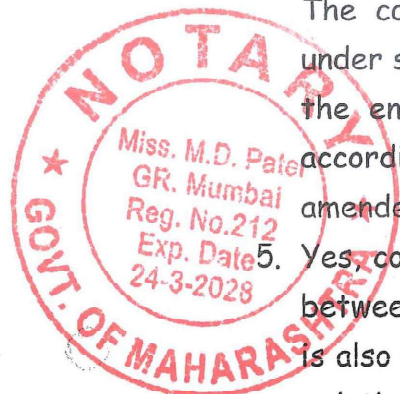
1. The permission for the ongoing construction i.e. the first CC for the layout was issued on 05.12.2001. The copy of the Work Start Notice dt. 04.07.2003 submitted by M/s The Indian Film Combine Pvt. Ltd. is available with MMRDA by which applicant has informed that the work has been commenced on 27.06.2003
2. The construction on site under reference is as per the CRZ NoC granted by Govt. in UDD on 06.08.1999.
3. The list of approvals issued till date by MMRDA for the redevelopment on land under reference is submitted.
4. As regards the Appeal filed by M/s The Indian Film Combine Pvt. Ltd., The competent authority, Govt. of Maharashtra has passed an order under section 47 of MR & TP Act on 15.01.2007 in which it is stated that the entire project has been approved under CRZ provision and it is accordingly excluded from the scope of EIA Notification 1994 as amended by Notification 2004.
5. Yes, construction is on the landward side of the 15m wide road (which is between the site u/r and the creek) as per Govt. Notification 2000 and it is also on landward side of imaginary line parallel to HTL drawn from the existing authorised structure on plot under reference.
6. MMRDA has issued the initial approval for the layout on 05.12.2001 based on the CZMP 2000 and within the existing compound wall approved by MCGM in 1977 and it is on landward side of the imaginary line parallel to HTL drawn from the existing authorised structure on plot under reference.

During the meeting, the Project proponent and MMRDA were presented the matter. Complainant was absent during the meeting and informed that he would be late as he is busy with other important work. Therefore, the matter was considered at the end of the meeting, however, the complainant could not remain present during the meeting, when the matter was discussed.

Member Secretary

Page 7 of 91

Chairman



Minutes of 121st meeting of the Maharashtra Coastal Zone Management Authority held on 15th and 16th September, 2017

The MMRDA official and PP submitted that the project is ongoing and construction in CRZ area is in accordance with the CRZ approval granted by the UDD, GoM in the year 1991. It was further presented that there are no significant changes in the proposed plans in CRZ area and plans remained same as approved in the year 2001. In fact, the construction area is reduced in the CRZ area and there is no increase in FSI. The MMRDA officials further submitted that the mangroves are not present on the plot under reference, however, at present, the plot boundary may be situated between 50 m mangroves buffer zone, which is subject to verification as it is dynamic matter.

During the meeting, the Authority observed the followings:

1. The Urban Development Department, GoM vide letter dated 06.08.1999 granted the CRZ clearance.
2. As per the submission of the MMRDA and project proponent, the plans were approved in accordance with CRZ NoC granted by the UDD, GoM. MMRDA further submits that there are no significant changes in the proposed plans in CRZ area after 5.12.2001 i.e. the year of approval of plans. Further, there is reduction in FSI due to minor changes. Further, the MMRDA states that it is ongoing project since 5.12.2001.
3. The PP to strictly follow the conditions mentioned in the CRZ Noc granted by the UDD, GoM and no construction is allowed in Mangrove area.

The Authority also noted the opinion of the Law and Judiciary Department Opinion received in the matter, which states that it is for the concern Authority to examine those factual aspect and see no condition of clearance is violated and take appropriate decision. It was further stated that the condition of each initial clearance and subsequent clearance have to be kept in mind and scrupulously followed by the project proponent while executing the project.

Considering the above, including opinion of Law and Judiciary Department, and information furnished by the MMRDA and PP, the Authority after deliberation decided to withdraw the stop work order dated 11.8.2017 of the MCZMA subject to compliance of following:


Member Secretary




Chairman

Minutes of 121st meeting of the Maharashtra Coastal Zone Management Authority held on 15th and 16th September, 2017

1. MMRDA to ensure that it was ongoing project as mentioned in its reply and approved on 5.12.2001 to which commencement certificate was issued in the year 2003.
2. MMRDA to ensure that there are no subsequent changes in the original approved plans for the project undertaken in CRZ area.
3. MMRDA to ensure that ongoing work is as per the provisions of the CRZ Notification and beyond mangroves buffer zone as applicable.
4. As per the opinion of the Law and Judiciary department, the MMRDA and PP to ensure that no condition of the clearances including CRZ NoC is violated. And, no construction should be undertaken in mangroves or its mangroves 50 buffer zone.
5. In the event, conditions no. 1 to 4 as above, are not complied with, the MMRDA shall stop the work and report the violation of the CRZ Notification to the Authority at the earliest.

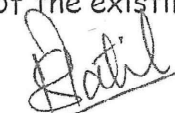
Item no. 7: Proposed construction of Model Rural Health Research Institute Unit (MRHRU) for cottage hospital on land bearing S. No. 167 at village Dahanu, Tal. Dahanu, Dist. Palghar by NIRRH.

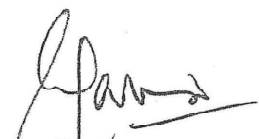
The Authority presented the proposal before the Authority. The Authority noted that the proposal is for construction of Model Rural Health Research Institute Unit (MRHRU) for cottage hospital on land bearing S. No. 167 at village Dahanu, Tal. Dahanu, Dist. Palghar

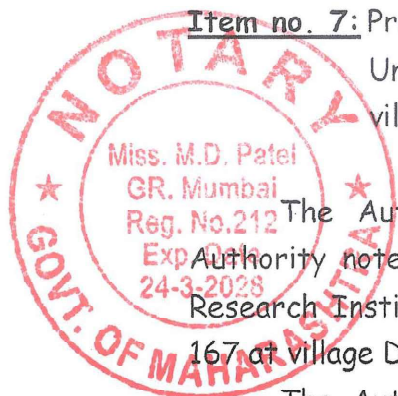
The Authority noted that the proposal was earlier discussed in 116th meeting, wherein the proposal was rejected, since, the construction is proposed on seaward side.

The Authority noted that the National Institute for Research in Reproductive Health vide letter dated 27.7.2017 submitted that, they have the shifted the location of proposed Model Rural Health Research Institute Unit (MRHRU) for cottage hospital which is landward side the of existing quarters. Revised layout plan is submitted as per which, area of plot is 33000.00 sqm. Existing BUA is 5799.66 sqm. Proposed BUA (MRHRU of Gr. + 1 floor) is 558.88 sqm. Total BUA is 6358.54 sqm.

The PP presented that proposed construction is relocated on landward side of the existing structure.


Member Secretary


Chairman



Minutes of 122nd meeting of the Maharashtra Coastal Zone Management Authority held on 30th October, 2017

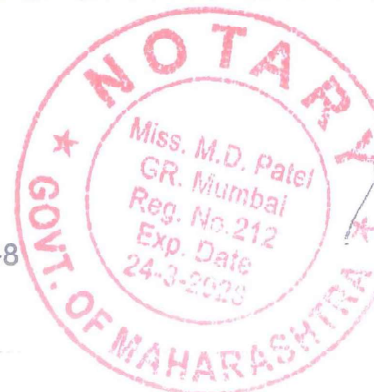
Minutes of the 122nd meeting of the Maharashtra Coastal Zone Management Authority (MCZMA) held under the Chairmanship of Additional Chief Secretary, Environment on 30th October, 2017 in Conference Hall, 4th Floor, Maharashtra Pollution Control Board, Kalpataru Point, Opp. Cinemax, Sion (E), Mumbai. List of the member present in the meeting is enclosed as Annexure-I.

Confirmation of 121st minutes:

The minutes of the 121st meeting of the MCZMA held on 15th and 16th September, 2017 were confirmed without any changes:

- At Item no. 6, on page 8, in line no. 3 from the top, 'year 1991' shall be read as 'year 1999'
- At item no. 6, on page 9, condition no. 2, 3 and 4 shall be read as:
 2. MMRDA to ensure that there are no significant subsequent changes in the original approved plans for the project undertaken in CRZ area.
 3. MMRDA to ensure that ongoing work is as per the provisions of the CRZ Notification and beyond mangroves buffer zone as applicable, as per approved CZMP of 2000.
 4. As per the opinion of the Law and Judiciary department, the MMRDA and PP to ensure that no condition of the clearances including CRZ NoC is violated. And, no construction should be undertaken in mangroves or its mangroves 50 buffer zone, as per approved CZMP of 2000.
- At item no 112, on page no. 88, the plot area '650790 sqm' shall be read as '65790 Sqm'
- At item no. 58, page no. 54, the last para shall be read as "(b) The FSI potential of the total permissible area of the CRZ portion of the plots under reference can be allowed to utilize on the basis of 1991 norms as amended from time to time, on Non CRZ contiguous portion of land. Local body to ensure that No construction is allowed in CRZ area, considering approved CZMP.


Member Secretary




Chairman

Minutes of 122nd meeting of the Maharashtra Coastal Zone Management Authority held on 30th October, 2017

However, local body to ensure that RG area is deducted while calculating total permissible area for FSI computation from the portion of the plot falling in CRZ II areas under reference, as stated above. Accordingly, the PP to submit the revised statement for FSI calculations for the land under reference to local body as per above said decision. Further, the MCGM to ensure that total permissible area from the CRZ portion of the land under reference should not exceed limit of 1991 norms as amended from time to time as stated in above said MoEF letters & same shall be utilized for development in Non CRZ area only"

Item No. 1: Application No. 33(THC)/2013 (WZ) in the matter of Janardan Chandar Patil V/s Union of India and Ors before Hon'ble NGT

The Authority noted the Judgment dated 17.08.2015 passed by Hon'ble NGT in the Application No. 33(THC)/2013 (WZ) in the matter of Janardan Chandar Patil V/s Union of India and Ors. The Authority took note of the site visit report and decided to file an affidavit and M.A. Application.

Item No. 2: PIL No. 109/2006 in the matter of Malabar Hill Association V/s MCGM and Ors before Hon'ble High Court

The Authority noted the Order dated 11.10.2017 passed by Hon'ble High Court in the PIL No. 109/2006 in the matter of Malabar Hill Association V/s MCGM and Ors. It was decided that Affidavit be filed in the matter stating the status of the land under reference i.e. Priyadarshani Park and reservations of Fire 'Brigade station' and 'Post office', as per the approved CZMP and provisions of CRZ Notification, 2011.

Item No. 3: SLP No. 30684/2014 MCZMA V/s. Sea Green CHSL before Hon'ble Supreme Court

The representatives from the M/s Sea Green Society presented the matter before the Authority. The Authority noted the background of the matter. Based on the complaint received regarding alleged CRZ violation in matter of construction of M/s Sea Green housing Society on plot No. 7/15, Scheme No. 58, C.S. No. 15/806, Worli, Mumbai. The MCZMA vide letter dated 1.2.2011 issued stop work notice to M/s Sea Green CHS under section 5 of the E(P) Act, 1986. Against the said Notice, Society had filed a writ petition No. 1245 of 2013 Vs

Minutes of the 157th meeting of Maharashtra Coastal Zone Management Authority (MCZMA) held on 04th February, 2022

The Authority noted that Shri. Ajit patil, Janshakti Bahuddeshiy Sanstha is sending recurrent complaints vide letters dated 17.08.2020, 28.10.2020, 05.11.2020 & 14.12.2020 to Authority alleging that, officials of Thane Municipal Corporation along with NCCSMC (JV) has carried out destruction of mangroves by dumping at S. No. 86, mouje Kopari, Tal. & Dist. Thane. Complainant has requested to taken action and file the case against TMC officials.

The Authority noted that taking note of the complaint, MCZMA sent numerous communications vide letter dated 25.08.2020, 16.09.2020, 12.11.2020, 15.12.2020, 04.01.2021 to Thane Municipal Corporation, District Collector Thane (DCZMC) & Mangrove cell for necessary action in the matter and sought the Action taken report. No report till date is received to MCZMA from TMC, District Collector in the matter. Mangrove Cell responded on 16.4.2021 stating that Mangrove Cell has forwarded the complaint to District Collector since, land under reference does not falls in notified protected forest of mangrove area. Thane Municipal Corporation vide letter dated 22.06.2021 submitted its reply as per which, The project of Satis East in under Smart City Mission of Central Govt. and said construction does not falls in CRZ area as per approved CZMP,2011 and not falls in mangrove area as per MRSAC maps. District Collector Thane vide letter dated 29.07.2021 submitted its reply as per which Thane Muncpal Corporation stated that the said construction does not falls in CRZ area and CRZ Notification is not applicable. Mangrove destruction not carried out as no mangroves on the said site. Accordingly, a report was sent to GAD, GoM.

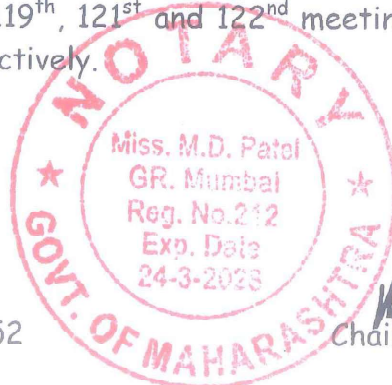
The Authority noted the matter and took it on record

Item No. 40:

Regarding Complaint pertaining to alleged destruction of mangroves by one M/s Indian Film Combine Pvt Ltd - Maker Group at village Parighkhar Survey no. 4, part CTS NO.8, part Bandra Survey No. 341 part CTS No. 629, Mumbai

The Authority noted that the complaint received in the matter was deliberated by the MCZMA at length in its 119th, 121st and 122nd meetings held on 30.6.2017, 15.9.2017 and 30.10.2017 respectively.


Member Secretary




Chairperson

Minutes of the 157th meeting of Maharashtra Coastal Zone Management Authority (MCZMA) held on 04th February, 2022

MCMZA in its 119th meeting noted the complaint and replies received in the matter. After deliberation at length, the Authority decided to seek following details from the Project proponent:

1. When was the permission granted for on-going construction on site under reference and date of commencement of the work?
2. Whether the construction on the site is as per the CRZ NoC granted by the UDD, GoM.
3. Submit chronology of subsequent changes made in the approved plan in detail.
4. Submit copies of the CRZ Clearance and EC obtained, if any.
5. Whether the construction is on landward or seaward side of the road fronting the Creek.
6. Distance of the construction under consideration from the HTL of the creek and mangroves / Mangroves buffer zone.

The MCZMA in its 119th meeting further decided to direct MMRDA to stop the work till the time matter is decided on the basis of above said information to be submitted to Authority. Accordingly, as per the decision taken in the meeting, the MCZMA vide letter dated 11.8.2017 issued directions under section 5 to stop the work on site. Further, the MCZMA vide letter dated 22.8.2017 sought certain information from the PP.

Upon receipt of reply from project proponent, the MCZMA again deliberated the matter in its 121st meeting held on 15th & 16th Sep, 2017, wherein the Authority noted that hearing was conducted on 6th September, 2017 under the chairmanship of the ACS, Environment and Chairman, MCZMA wherein project proponent, complainant and MMRDA were called to present their say. During the hearing PP and complainant presented their say. Complainant alleged that revised CRZ clearance from the MCZMA was necessary as work was started in the year 2010 and hence, CRZ clearance of the UDD is invalid. It was further alleged that mangroves are present on the site. During the hearing, Complainant and MMRDA were directed to submit the written submission in the matter. The complainant has not submitted its written submission to the Authority, till the date of meeting. The MMRDA submitted their reply vide letter dated 07.09.2017. The reply of the MMRDA is as follows:

1. The permission for the ongoing construction i.e. the first CC for the layout was issued on 05.12.2001. The copy of the Work Start Notice dt. 04.07.2003 submitted by M/s The Indian Film Combine Pvt. Ltd. is


Member Secretary


Chairperson

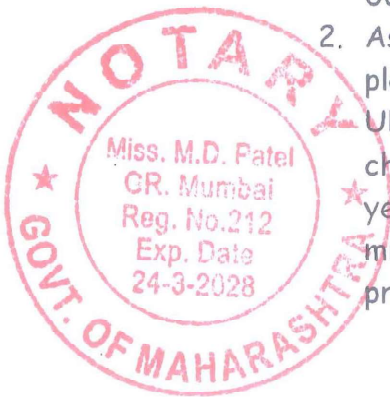
Minutes of the 157th meeting of Maharashtra Coastal Zone Management Authority (MCZMA) held on 04th February, 2022

available with MMRDA by which applicant has informed that the work has been commenced on 27.06.2003

2. The construction on site under reference is as per the CRZ NoC granted by Govt. in UDD on 06.08.1999.
3. The list of approvals issued till date by MMRDA for the redevelopment on land under reference is submitted.
4. As regards the Appeal filed by M/s The Indian Film Combine Pvt. Ltd., The competent authority, Govt. of Maharashtra has passed an order under section 47 of MR & TP Act on 15.01.2007 in which it is stated that the entire project has been approved under CRZ provision and it is accordingly excluded from the scope of EIA Notification 1994 as amended by Notification 2004.
5. Yes, construction is on the landward side of the 15m wide road (which is between the site u/r and the creek) as per Govt. Notification 2000 and it is also on landward side of imaginary line parallel to HTL drawn from the existing authorised structure on plot under reference.
6. MMRDA has issued the initial approval for the layout on 05.12.2001 based on the CZMP 2000 and within the existing compound wall approved by MCGM in 1977 and it is on landward side of the imaginary line parallel to HTL drawn from the existing authorized structure on plot under reference.

During the 121st meeting, the Project proponent and MMRDA were presented the matter. Complainant was absent during the meeting and informed that he would be late as he is busy with other important work. Therefore, the matter was considered at the end of the meeting, however, the complainant could not remain present during the meeting, when the matter was discussed. During the 121st meeting, the Authority observed the followings:

1. The Urban Development Department, GoM vide letter dated 06.08.1999 granted the CRZ clearance.
2. As per the submission of the MMRDA and project proponent, the plans were approved in accordance with CRZ NoC granted by the UDD, GoM. MMRDA further submits that there are no significant changes in the proposed plans in CRZ area after 5.12.2001 i.e. the year of approval of plans. Further, there is reduction in FSI due to minor changes. Further, the MMRDA states that it is ongoing project since 5.12.2001.




Member Secretary


Chairperson

Minutes of the 157th meeting of Maharashtra Coastal Zone Management Authority (MCZMA) held on 04th February, 2022

3. The PP to strictly follow the conditions mentioned in the CRZ Noc granted by the UDD, GoM and no construction is allowed in Mangrove area.

The MCZMA in its 121st meeting also noted the opinion of the Law and Judiciary Department Opinion received in the matter, which states that it is for the concern Authority to examine those factual aspect and see no condition of clearance is violated and take appropriate decision. It was further stated that the condition of each initial clearance and subsequent clearance have to be kept in mind and scrupulously followed by the project proponent while executing the project.

Considering the above, including opinion of Law and Judiciary Department, and information furnished by the MMRDA and PP, the Authority after deliberation decided to withdraw the stop work order dated 11.8.2017 of the MCZMA subject to compliance of following:

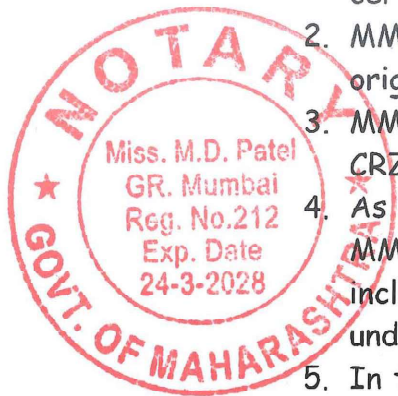
1. MMRDA to ensure that it was ongoing project as mentioned in its reply and approved on 5.12.2001 to which commencement certificate was issued in the year 2003.
2. MMRDA to ensure that there are no subsequent changes in the original approved plans for the project undertaken in CRZ area.
3. MMRDA to ensure that ongoing work is as per the provisions of the CRZ Notification and beyond mangroves buffer zone as applicable.
4. As per the opinion of the Law and Judiciary department, the MMRDA and PP to ensure that no condition of the clearances including CRZ NoC is violated. And, no construction should be undertaken in mangroves or its mangroves 50 buffer zone.
5. In the event, conditions no. 1 to 4 as above, are not complied with, the MMRDA shall stop the work and report the violation of the CRZ Notification to the Authority at the earliest.

The minutes of 121st meeting were confirmed with following changes in MCZMA's 122nd meeting which are as follows:

- At Item no. 6, on page 8, in line no. 3 from the top, 'year 1991' shall be read as 'year 1999'
- At item no. 6, on page 9, condition no. 2, 3 and 4 shall be read as:


Member Secretary


Chairperson



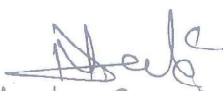
Minutes of the 157th meeting of Maharashtra Coastal Zone Management Authority (MCZMA) held on 04th February, 2022

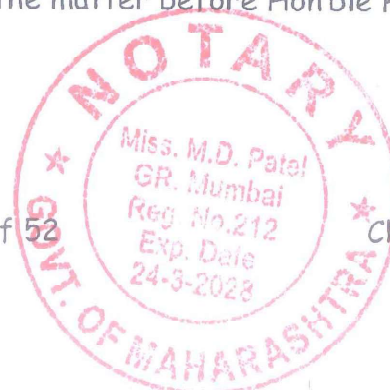
2. MMRDA to ensure that there are no significant subsequent changes in the original approved plans for the project undertaken in CRZ area.
3. MMRDA to ensure that ongoing work is as per the provisions of the CRZ Notification and beyond mangroves buffer zone as applicable, as per approved CZMP of 2000.
4. As per the opinion of the Law and Judiciary department, the MMRDA and PP to ensure that no condition of the clearances including CRZ NoC is violated. And, no construction should be undertaken in mangroves or its mangroves 50 buffer zone, as per approved CZMP of 2000.

MMRDA vide letter dated 16.2.2018 has sent letter to MCZMA stating that as per approved CZMP of 2000, there is no 50 m mangrove buffer zone. The Environment Dept vide letter dated 5.3.2018 has communicated the same to MPCB also, regarding applicability of EC and CRZ clearance to the project of M/s India Film Combine Pvt Ltd.

With respect to complaint of Mr. Diliprao Patil in the matter, National Human Rights commission sought report from the MCZMA. The MCZMA vide letter dated 13.1.2022 has sent a report National Human Rights Commissioner in the matter. The Authority noted that the Department has received remarks in the matter from Revenue & Forest Department on 5.1.2022 along with report of the Mangrove Cell sent to Joint Registrar (Law), National Human Rights Commission vide letter dated 3.1.2022. As per the said report of Mangrove Cell, "The said land parcel is not part of the notified Reserved Forest (Mangrove) area and not in possession of Mangrove Cell. However, it is located at a distance of 6 to 7 meters from the notified forest area in village parighkhar. The area is falling within 50 meter buffer zone from the nearby mangrove area and on account of it being non-forest land the concerned Revenue or Municipal authorities are expected to initiate necessary action, if any violation is observed"

The Authority noted that the project is ongoing and has earlier approval from CRZ point of view from the Urban Development Department. It was noted that at present, contempt petition (Contempt Petition no. 20/2018 Santosh Daudkar V/s UPS Madan & Ors) is filed in the matter before Hon'ble High Court of Mumbai, which is sub-judiced.


Member Secretary




Chairperson

Minutes of the 157th meeting of Maharashtra Coastal Zone Management Authority (MCZMA) held on 04th February, 2022

In the light of above, after detailed discussion and deliberation, the Authority decided that the PP need to take prior high court permission, since the area is within 50 m mangrove buffer area, as per report of Mangrove Cell.

Item No.41: Sushil R. Nimbalkar V/s. State of Maharashtra & Ors regarding beautification work done by MMB at Desai Creek, Nilje, Tal. Kalyan Dist. Thane (WP No. 3543 of 2021)

The Authority noted that the Hon'ble National Green Tribunal has passed an order dated 28.5.2021 in the matter of Original Application no. 67/2020 (Palava Rahivasi Sangh V/s District Collector, Thane & Ors). Hon'ble NGT observes that application seeks direction to stop work at the bank of Nilje-Desai Creek, Village Nilje, Taluka Kalyan, District Thane, Maharashtra. Hon'ble NGT order states at para 1 that, "Case of the applicant is that such constructions are in violation of Coastal Regulation Zone (CRZ) norms. The construction in question will result in reduction of width of the water channel. This will cause flooding in the rainy season affecting the inhabitants, including houses, schools, hospitals and other buildings in the area which may result in loss of life and damage to property. No environment impact assessment has been carried out before the execution of the work. The work is being executed by M/s Subash Construction, Dombivli east, TqKalyan, District Thane"

Accordingly, the Hon'ble NGT passed an order directing that, "the issue raised may in the first instance be looked into by the MCZMA and SEIAA, Maharashtra. If any violations are found, remedial action may be taken, following due process of law"

It is also noted that Civil Write Petition no.14223/2021 has also been filed before the Hon'ble High Court seeking compliance of the Hon'ble NGT order and issue of flooding in the Desai creek. Respondent No. 10 is MCZMA in the matter.

In view of above said order of the Hon'ble NGT, Pune, the State Environment & Climate Change, GoM vide order dated 6.8.2021 requested members of the MCZMA & SEIAA namely, Dr. Mahesh Shindikar, Expert Member, MCZMA and Mr. Pankaj Joshi, Expert Member, SEIAA to carry out site inspection and submit a report in the matter. Site visit was carried out on 19th August, 2021. The Authority noted the observations of the site visit report which are as follows:


Member Secretary


Chairperson

MAHARASHTRA COASTAL ZONE MANAGEMENT AUTHORITY

Tel. No. : 2202 9388
E-mail : dir1.mev-mh@nic.in
Website: <https://mczma.gov.in/>

No. Complaint-2021/CR126/TC 4
Office of the -
Maharashtra Coastal Zone Management Authority,
Environment & Climate Change Department,
15th Floor, New Administrative Building,
Mantralaya, Mumbai- 400 032
Date: 04th March, 2022

To,
The Indian Film Combine Pvt Ltd,
85, First Floor, Maker Tower 'F',
Cuffe Parade, Mumbai 400 005

Subject: Regarding Complaint pertaining to alleged destruction of mangroves by one M/s Indian Film Combine Pvt Ltd – Maker Group at village Parighkhar Survey no. 4, part CTS NO.8, part Bandra Survey No. 341 part CTS No. 629, Mumbai

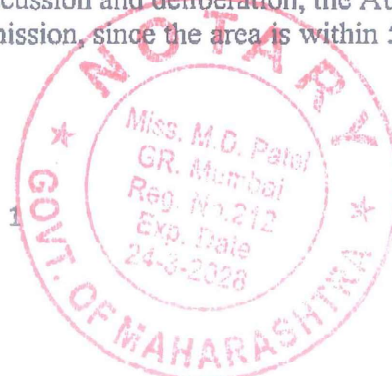
The Maharashtra Coastal Zone Management Authority in its 157th meeting held on 04th February, 2022 deliberated the Complaint pertaining to alleged destruction of mangroves by one M/s Indian Film Combine Pvt Ltd – Maker Group at village Parighkhar Survey no. 4, part CTS NO.8, part Bandra Survey No. 341 part CTS No. 629, Mumbai.

2. The Authority noted that the complaint received in the matter was deliberated by the MCZMA at length in its 119th, 121st and 122nd meetings held on 30.6.2017, 15.9.2017 and 30.10.2017 respectively.


3. With respect to complaint of Mr. Diliprao Patil in the matter, National Human Rights commission sought report from the MCZMA. The MCZMA vide letter dated 13.1.2022 has sent a report National Human Rights Commissioner in the matter. The Authority noted that the Department has received remarks in the matter from Revenue & Forest Department on 5.1.2022 along with report of the Mangrove Cell sent to Joint Registrar (Law), National Human Rights Commission vide letter dated 3.1.2022. As per the said report of Mangrove Cell, "The said land parcel is not part of the notified Reserved Forest (Mangrove) area and not in possession of Mangrove Cell. However, it is located at a distance of 6 to 7 meters from the notified forest area in village parighkhar. The area is falling within 50 meter buffer zone from the nearby mangrove area and on account of it being non-forest land the concerned Revenue or Municipal authorities are expected to initiate necessary action, if any violation is observed"

4. The Authority noted that the project is ongoing and has earlier approval from CRZ point of view from the Urban Development Department. It was noted that at present, contempt petition (Contempt Petition no. 20/2018 Santosh Daudkar V/s UPS Madan & Ors) is filed in the matter before Hon'ble High Court of Mumbai, which is sub-judiced.

5. In the light of above, after detailed discussion and deliberation, the Authority decided that the PP need to take prior high court permission, since the area is within 50 m mangrove buffer area, as per report of Mangrove Cell.



6. Copy of the minutes are attached herewith. Agenda item & minutes of the meeting is available on the website of MCZMA i.e. <http://mczma.gov.in>.


(Narendra Toke) 4/3/22

Director, Environment & MS, MCZMA

Copy for information to:

1. **PS (Environment) & Chairperson, (MCZMA), Environment & CC Department, Room No. 217 (Annex), Mantralaya, Mumbai -32.**
2. **Member Secretary, Maharashtra Pollution Control Board, Kalpataru Point, 3rd and 4th floor, Road No. 8, Sion Cir, opp. PVR Theater, Mumbai -400022**
3. **Metropolitan Commissioner, Mumbai Metropolitan Region Development Authority, E-Block, C-14 & 15, City Park Rd, E Block BKC, Bandra Kurla Complex, Bandra East, Mumbai, Maharashtra 400051**
4. **Select File-TC 4**