

REPORT OF THE JOINT COMMITTEE IN COMPLIANCE WITH ORDER DATED 30/05/2022 OF THE HON'BLE NATIONAL GREEN TRIBUNAL (NGT) IN THE MATTER OF OA NO. 55/2022 (WZ), KASHINATH JAGANNATH THAKUR VS ENVIRONMENT DEPARTMENT GOVERNMENT OF MAHARASHTRA

1.0 Background

Grievance in the Original Application No. 55 of 2022 (WZ), titled Kashinath Jagannath Thakur vs Environment Department Government of Maharashtra, as per order dated 30/05/2022 of the Hon'ble NGT is about raising construction of Anganwadi by Respondent No.1 i.e. Grampanchayat Shirki over Survey No. 152, Village: Bori, Taluka: Pen, District: Raigad which is mangrove falling under CRZ-I, wherein any kind of construction is prohibited because the said area falls within 50 meters of the High Tide Line (HTL).

Hon'ble NGT directed vide order dated 30/05/2022 (copy of Hon'ble NGT order, dated 30/05/2022 is given at **Annexure-1**) and relevant order is reproduced as below:

"10. We deem it just and proper to call a report on the matter in issue in present application, from a Joint Committee consisting of:-

- (i) The Representative of the Maharashtra Coastal Zone Management Authority (MCZMA);*
- (ii) The Representative of the Central Pollution Control Board (CPCB); &*
- (iv) The Representative of the Maharashtra Pollution Control Board (MPCB).*

11. The Committee is directed to visit the place and submit a factual and action taken report within six weeks. The Maharashtra Coastal Zone Management Authority (MCZMA) will be the nodal agency for coordination and logistic support.

12. The report in the matter be filed by the Committee by e-mail at ngt-pune@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF."

2.0 Approach

In order to comply with the aforesaid Hon'ble NGT Order and Order issued by MCZMA vide no. IA 2022/CR1/TC-4, dated 25/07/2022; the joint committee carried-out inspection of Anganwadi constructed by Respondent No.1 i.e. Grampanchayat Shirki over Survey No. 152, Village: Bori, Taluka: Pen, District: Raigad on 02/08/2022. The following committee members were present during the inspection:

- i. Dr. Mahesh Shindikar, Expert Member, MCZMA
- ii. Shri Nishchal C., Scientist 'D', CPCB, Regional Directorate, Pune
- iii. Shri V. V. Killedar, Regional Officer, MPCB-Raigad

Also, Shri Raj Kamat, Sub-Regional Officer, MPCB-Raigad and Ms. Swathi, Range Forest Officer, Wadkal were accompanied the joint committee during the inspection and provided background information about the area under reference. Representatives from Grampanchayat Shirki were present and provided the visit coordination.

3.0 Observations and findings

This report is outcome containing factual and action taken report of the said joint committee based on the preliminary information received from the applicant, followed by site inspection, information given by SDO-Pen through MCZMA and subsequent discussions of the joint committee. The observations & findings of the joint committee are given as below:

S. No.	Site	Observations
01.	Survey No. 152, Village Bori Grampanchayat Shirki (Tal. Pen, Dist. Raigad)	- Survey no. 152, is the location as mentioned in the original application and Hon'ble NGT order dated 30/05/2022, the aforementioned survey no. 152 falls in the Village: Bori. - There is a creek and creeklet complex with tidally influenced mudflats, saline blanks and grass patches were observed in this Survey No. 152.

		- At the site, mangroves (dominated by <i>Sonneratia apetala</i> (वाडला) followed by <i>Avicennia marina</i> (पाला), <i>Acanthus ilicifolius</i> (मारांडी) and presence of associate species <i>Salvadora persica</i> (मिसवाक) and <i>Thespesia populnea</i> (रानभेंड) are observed along the creek and creeklet in addition to the saline blanks with grasses. - There is no any construction of Anganwadi observed on this site.
02.	Gat No. 15, Village Shirki (Tal. Pen, Dist. Raigad)	- Gat no. 15, is the site location shown by the representative of Applicant to the joint committee. As per the remarks in the panchanama made by the Forest Department, Wadkal, the aforementioned Gat no. 15 is in the Village Shirki. Whereas, as per the land records, the alleged area is a part of Survey No. 150 & 151, where mangrove vegetation was observed near the Anganwadi site (Photograph-1). - Construction of Anganwadi by the Grampanchayat Shirki was observed on the aforementioned Gat no. 15 on the creekward side of a salt bund (khar-bandhara) (as shown in the Photographs-2 & 3). - At the aforementioned Gat no. 15, the reported construction of 50 x 21 feet was almost completed at the level of khar bandhara (with the foundation done by reclamation) and keeping the approach passage from the existing khar-bandhara (as shown in the Photograph-4). - The construction of Anganwadi is surrounded by mangrove sediments interspersed by the network of pneumatophores, mangrove trees almost touching to the foundation and walls from all sides is observed at the site (as shown in the Photographs-5 & 6).

		• There are grown trees of <i>Sonneratia apetala</i> of approximate 5-7 mt height with <i>Avicennia marina</i> and associate species like <i>Salvadora persica</i> and <i>Thespesia populnea</i> were observed in close vicinity of the construction site. • It is difficult to ascertain whether mangrove trees were present in the past and cut exactly at the site of construction as the construction <i>per se</i> is almost completed. • As per the approved CZMP of 2011 for the given area, the location falls in CRZ III category and thus no construction is allowed in this zone. Copy of superimposed map of the area under reference is given at Annexure-2 for kind reference. • Further, no permissions were granted from MCZMA for the construction of Anganwadi, which is a critical step for any developmental activity in CRZ as per the CRZ Notification, 2011.
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Some of the photographs taken during the joint committee inspection are attached herewith for understanding the current status of alleged location.



Photograph-1: Mangrove vegetation near the site, the Shirki-Bori creeklet (nala) under the influence of tidal inundation and harboring mangrove vegetation along the banks.



Photograph-2: Khar bandhara demarcating the boundary of CRZ III having mangrove growth on creek ward (left side in the photograph).

Contd./-



Photograph-3: View of Anganwadi showing a construction on creekward side and surrounded by a moderately grown mangrove trees.



Photograph-4: Approach road from Khar bandhara having *Sonneratia apetala* mangrove species in vicinity.

Contd./-



Photograph-5: *Sonneratia apetala* mangroves touching the foundation and walls of construction (Anganwadi room) photograph taken from the window.



Photograph-6: View from the approach road indicating the reclamation in mangrove sediments, pneumatophores and mangrove species surrounding the site.

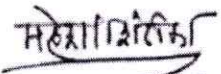
4.0 Conclusions and Recommendations

- i. Survey no. 152 as mentioned by the Applicant in the original application and Hon'ble NGT order dated 30/05/2022 falls in the Village: Bori, Tal: Pen, Dist: Raigad, wherein no construction of Anganwadi was observed by the joint committee. The aforesaid survey no. 152 is surrounded by a creek & creeklet complex with tidally influenced mudflats, saline blanks, grass patches and mangroves.

Whereas, Gat no. 15, is the site location shown by the representative of the Applicant to the joint committee falls in the Village: Shirki, Tal: Pen, Dist: Raigad, wherein construction of Anganwadi of about 50 x 21 feet (1,050 sq.ft) was completed by the Grampanchayat, Shirki (where mangrove vegetation was observed near the Anganwadi, Kindly refer s. no. 2 of the Table, as above). Further, as per the remarks made in the panchanama by the Forest Department, Wadkal, the aforementioned Gat no. 15 falls in the Village: Shirki, Tal: Pen, Dist: Raigad. However, as per information provided by the representative of the Applicant that the alleged area (Gat no. 15) is a part of Survey No. 150 & 151 as per old land records of the area under reference.

- ii. In view of discrepancy w.r.t. survey no. mentioned by the Applicant in the Hon'ble NGT order and the survey no. where the actual construction of Anganwadi was constructed, the joint committee opined that relevant extract in the form of record(s) may be examined by the Land Revenue Department/SDO of concerned area w.r.t. making suitable corrections/amendments in the aforesaid Gat no. and survey no. where the alleged construction of Anganwadi was done by the Grampanchayat, Shirki.
- iii. Further, nevertheless to mention about discrepancy in the Gat no. & survey no. of the alleged area, the joint committee observed the construction of Anganwadi of about 50 x 21 feet (1,050 sq.ft) by the Grampanchayat, Shirki in the mangrove area (falls within CRZ III and 50 m mangrove buffer area, Kindly refer s. no. 2 of the Table, as above) wherein the said construction activity is surrounded by trees of *Sonneratia apetala* of approximate 5-7 mt height with *Avicennia marina* and associate species like *Salvadora persica* and *Thespesia populnea*.

- iv. The area under reference where the Anganwadi has been constructed by the Grampanchayat Shirki, Village: Shirki, Taluka Pen, District Raigarh was superimposed with the approved CZMP of Maharashtra. Based on the analysis and superimposition of approved CZMP of Maharashtra, the aforesaid construction of Anganwadi is within the CRZ-III and 50 m mangrove buffer area. Grampanchayat Shirki has not obtained permission from MCZMA for construction of Anganwadi. Hence, as per the CRZ Notification, 2011 the aforesaid construction is not permitted and it is in violation of CRZ Notification, 2011.
- v. Mangrove Cell (Govt. of Maharashtra) may prepare a time-bound mangrove restoration plan along with budgetary estimate for replantation of mangroves and shall submit the same to SDO-Pen for effective replantation of mangroves through the Grampanchayat Shirki.
- vi. As per Coastal Regulation Zone Notification, 2011 s. no. ii of V of paragraph 8, five times the number of mangroves destroyed/cut during the construction process shall be replanted. Accordingly, about 5,250 sq.ft of area (alleged construction area of 1,050 sq.ft x 5) to be replanted with native species of mangroves by the Grampanchayat Shirki under the supervision of Mangrove Cell (Govt. of Maharashtra) and SDO-Pen.
- vii. Appropriate action may be taken by the DCZMA, Raigad/MCZMA against Grampanchayat Shirki for construction of Anganwadi within the CRZ III area and 50 m mangrove buffer area without prior permission.


(Dr. Mahesh Shindikar),
Expert Member, MCZMA


(Nishchal C.)
Scientist 'D',
CPCB, Regional
Directorate, Pune


(V. V. Killedar)
Regional Officer, MPCB-
Raigad

Upon Mentioning (Pune Bench)

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

(By Video Conferencing)

Original Application No. 55/2022(WZ)

Kashinath Jagannath Thakur Applicant(s)

Versus

Environment Department Government of Maharashtra Respondent(s)

Date of hearing: 30.05.2022.

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

Applicant(s): Mr. Nitin P. Deshpande, Advocate
Respondent (S): Mr. Aniruddha Kulkarni, Advocate for MCZMA

ORDER

1. The matter is taken up on mentioning today.
2. The matter relates to raising construction of Anganwadi by Respondent No.1-Grampanchayat Shirki over Survey No. 152, Village Bori, Taluka Pen, District Raigarh which is mangrove falling under CRZ-I, wherein any kind of construction is prohibited because the said area falls within 50 meters of the Hide Tide Line (HTL).
3. The Learned Counsel for the Applicant has also annexed the photographs at page no.15 to 18 of the paper book showing the mangroves and also extract of Village Form number 7 with respect to the said survey number showing the said plot to be falling under CRZ area.
4. Therefore, we are of the opinion that substantial question relating to the environment is made out in the present case.

5. Learned Counsel Sh. Aniruddha Kulkarni has put in appearance on behalf of Respondent No.9-Director, Maharashtra Coastal Zone Management Authority, hence notice is waived off.

6. Hence, issue notices to rest of the Respondents. Returnable within four weeks.

7. Applicant is also directed to take necessary steps for service upon the Respondents by both ways and also through available email.

8. Applicant is directed to provide copy of the Application and relevant documents to the Respondents within a week.

9. Respondents are directed to file their reply affidavits within four weeks.

10. We deem it just and proper to call a report on the matter in issue in present application, from a Joint Committee consisting of:-

- (i) The Representative of the Maharashtra Coastal Zone Management Authority (MCZMA);
- (ii) The Representative of the Central Pollution Control Board (CPCB); &
- (iv) The Representative of the Maharashtra Pollution Control Board (MPCB).

11. The Committee is directed to visit the place and submit a factual and action taken report within six weeks. The Maharashtra Coastal Zone Management Authority (MCZMA) will be the nodal agency for coordination and logistic support.

12. The report in the matter be filed by the Committee by e-mail at ngt-pune@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.

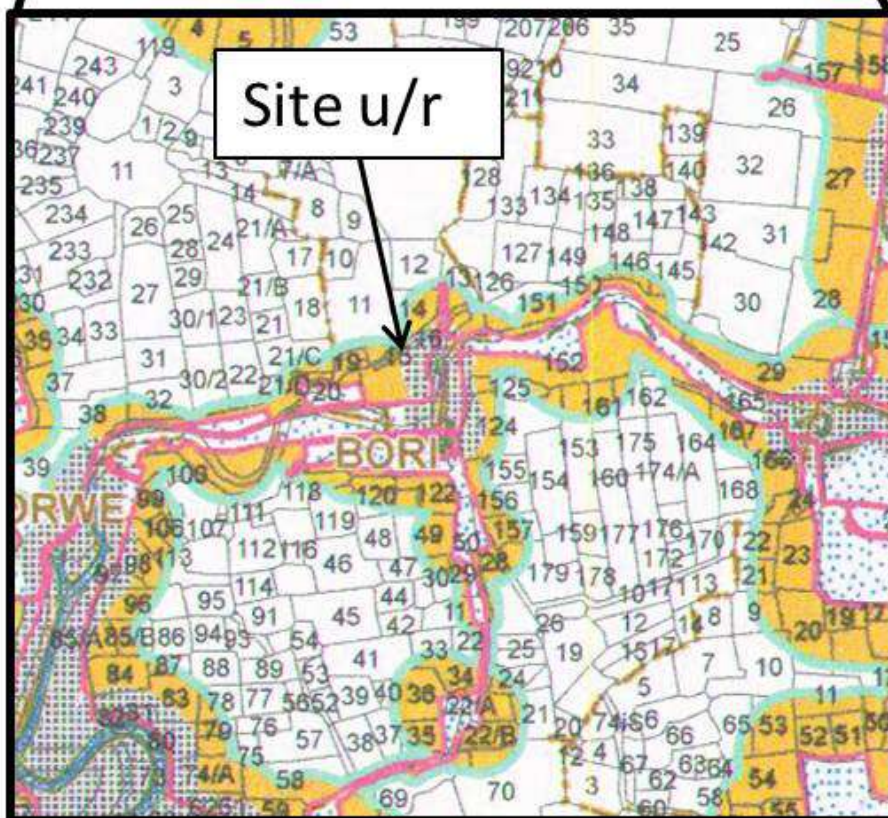
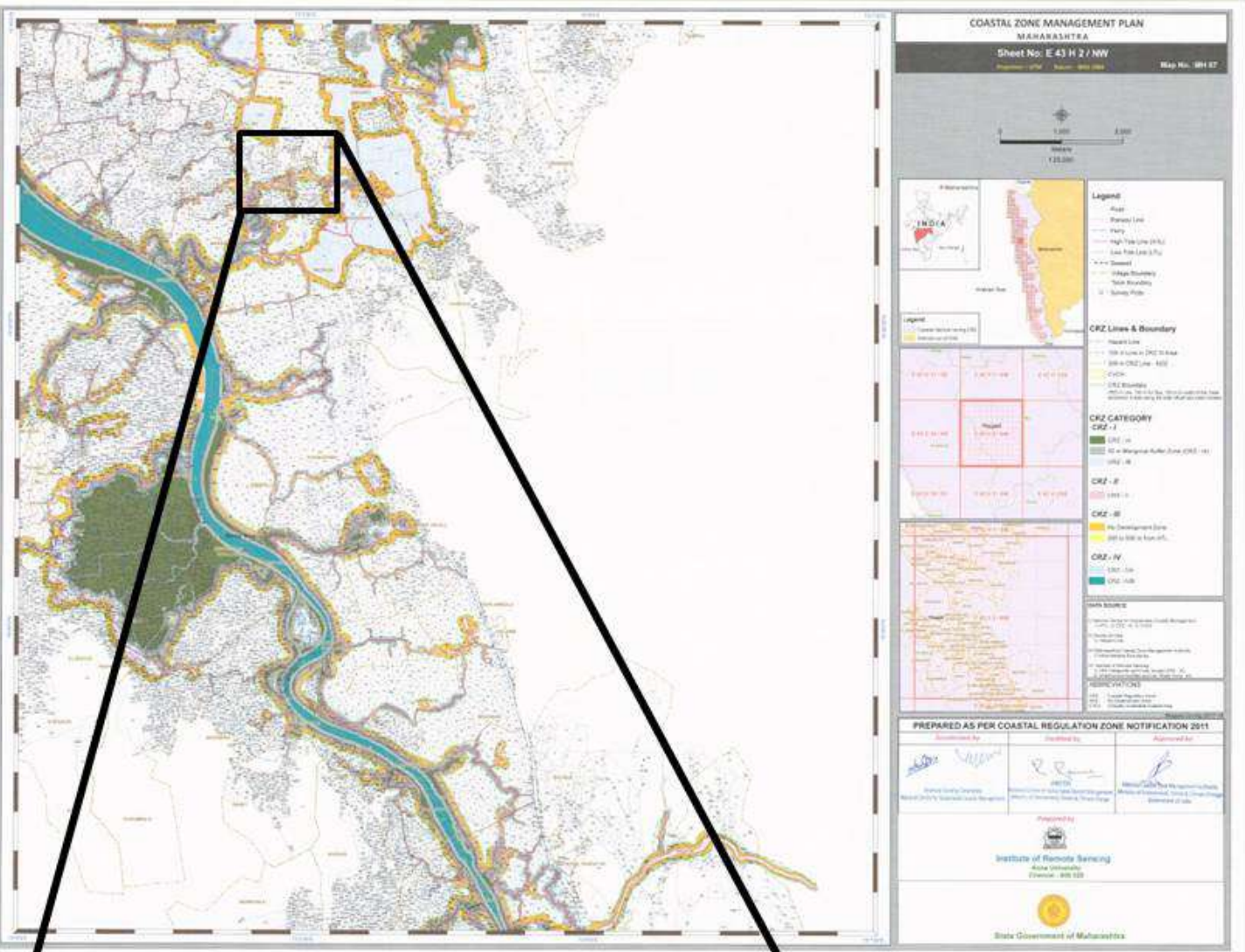
13. Applicant is directed to supply the required documents and copy of the application to the members of the Committee within a week.

Put up with the report on 12.08.2022.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

May 30, 2022
Original Application No. 55/2022(WZ)
JG



CRZ CATEGORY

CRZ - I

- CRZ - IA
- 50 m Mangrove Buffer Zone (CRZ - IA)
- CRZ - IB

CRZ - II

- CRZ - II

CRZ - III

- No Development Zone
- 200 to 500 m from HTL

CRZ - IV

- CRZ - IVA
- CRZ - IVB