

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SITTING AT PUNE
ORIGINAL APPLICATION NO. 77 OF 2023

Banda Nagaraj Kumar & Anr.

...Applicants

Versus

Maharashtra Maritime Board & Ors.

...Respondents

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Maharashtra Maritime Board & Ors. ...Respondents

SHORT ADDITIONAL AFFIDAVIT ON BEHALF OF

RESPONDENT NO. 1 - MMB:

I, **Shri. Tushar Prakash Patole**, aged 35 years, Indian Inhabitant, the **Executive Engineer** of Respondent No. 1, having my office address at Indian Mercantile Chambers, 2nd Floor, Ramjibhai Kamani Marg, Ballard Estate, Mumbai – 400 001, do solemnly state on oath and affirm as under:-

1. I am the Authorised Signatory of Respondent No. 1 having my address as mentioned above. I have gone through the above Original Application (the “**Application**”) and the documents filed along with the said Application by the Applicants. I am familiar with the facts of the case from office records available with Respondent No. 1 and am competent to depose to the facts in this Additional Affidavit.

2. I say that I am filing the present Affidavit for the limited purpose of placing on record certain additional facts, circumstances, and documents for the consideration of this Hon'ble Tribunal in the present matter. I say that the Respondent No. 1 has already filed an Affidavit in Reply dated 27th June 2023, Additional Affidavit dated 22nd February 2024 and Compilation of Documents dated 19th August 2024 in the present proceedings and the same be deemed to be forming part and parcel of the present Affidavit unless contrary hereto. It is clarified that the present Additional Affidavit is filed in furtherance of and supplemental to the Affidavits and documents already filed by Respondent No. 1. I crave leave of this Hon'ble Tribunal to file a further affidavit or affidavits along with documents in support thereof, if circumstance so warrants.
3. It is germane to bring on record certain important facts and their supporting documents which would be critical to the adjudication of the present matter, and which are set out hereunder:
4. I say that the Applicants, by way of the present Original Application, have *inter alia* challenged the construction of Anti-Sea Erosion Bund and sea front development and beautification at Aksa



Beach, Madh, Mumbai Suburban (“**the said Project**”) carried out by the Respondent No. 1-Authority.

5. On 5th March 2019, CRZ Clearance was granted for the said Project wherein a Specific Condition No. 1 was stipulated that “*MMB to ensure that no construction is allowed in intertidal or beach area, i.e., CRZ area. Solid construction should be restricted to landward side of the High Tide Line.*” (Annexed as Exhibit-D/Pg. 389 of MMB’s Reply dated 27th June 2023)
6. On 28th June 2023, Respondent No. 1-MMB applied to MCZMA to delete the specific condition No. 1 of CRZ Clearance dated 5th March 2019 as Respondent No. 1 observed that the existing poles were collapsing due to erosion and existing private properties and proposed public facilities along the landward side of the High Tide Line due to which the anti-sea erosion bund cannot be on the landward side of the High Tide Line and hence, the Specific Condition No. 1 necessitated to be deleted as the same was not in line with the purpose of the said project in the first place (Annexed as Exhibit-A/Page 611 to Additional Affidavit of MMB dated 22nd February 2024).



7. On 1st December 2023, this Hon'ble Tribunal directed that till Respondent No. 2-MCZMA takes a decision as regards the deletion of the Specific Condition No. 1, no further construction of the said project to be carried out. It is pertinent to note that the captioned Original Application was filed by the Applicants after 95% of the said Project was already complete and the CRZ Clearance dated 5th March 2019 issued to the said Project has till date not been challenged. It is also important to note that the Applicants had knowledge of Respondent No.1-MMB's application of deletion of the specific condition No. 1 since October 2023 which has also been noted in the Order dated 1st December 2023. It is also pertinent to note that due to the monsoons in the city of Mumbai, the structures and footpath on the said project site have collapsed and broken as the said project is incomplete. Hereto annexed and marked as "**Exhibit-A**" is a copy of the Order dated 1st December 2023 and "**Exhibit-B**" are copies of photographs showing dilapidated project site.
8. On 5th February 2024, after detailed deliberation and after going through all the scientific studies done by IIT Mumbai submitted by Respondent No. 1-MMB as regards the need for deletion of the



specific condition, Respondent No. 2-MCZMA decided to modify the specific condition No. 1 as “*MMB to ensure that anti sea erosion bund shall occupy minimum intertidal area which is necessary.*” The same was brought on record before this Hon’ble Tribunal by Respondent No. 2-MCZMA vide Reply Affidavit dated 22nd February 2024. Hereto annexed and marked as “**Exhibit-C**” is a copy of the MCZMA’s order/direction dated 5th February 2024.



9. On 30th August 2024, the Applicants filed an Interim Application being Interim Application No. 251 of 2024 in the present Original Application for amendment of the present Original Application *inter alia* challenging the order/direction dated 5th February 2024 granted by Respondent No. 2-MCZMA modifying the specific condition No. 1 of the CRZ Clearance.
10. On 18th September 2024, this Hon’ble Tribunal heard all the parties and after careful consideration was pleased to dispose of the Interim Application No. 251 of 2024 as premature and rejected the said amendment application. Hereto annexed and marked as “**Exhibit-D**” is a copy of the Order dated 18th September 2024.

11. I say that thereafter, Respondent No. 1 was made aware that Respondent No. 4 – State Environment Impact Assessment Authority (“SEIAA”) vide its 276th Meeting held on 24th June 2024 and after deliberation of the issue in detail, decided to grant modification in specific condition No. 1 of the CRZ Clearance dated 5th March 2019 and granted the CRZ Clearance to Respondent No. 1. Hereto annexed and marked as “**Exhibit-E**” is a copy of the 276th Minutes of SEIAA dated 24th June 2024.
12. On 4th February 2025, Respondent No. 1-MMB received the CRZ Clearance dated 19th July 2024 from Respondent No. 4-SEIAA granting modification in specific condition No. 1 of the CRZ Clearance dated 5th March 2019. Hereto annexed and marked as “**Exhibit-F**” is a copy of the CRZ Clearance dated 19th July 2024.
13. I say that Respondent No. 1-MMB has been granted CRZ Clearance dated 19th July 2024 by Respondent No. 4-SEIAA for the said project. It is pertinent to note that admittedly, there has been no challenge to the said MCZMA’s 276th Minutes of Meeting dated 24th June 2024 or the CRZ Clearance dated 19th July 2024 till date and thus, the present Original Application needs to be dismissed as infructuous. It is reiterated that the said project is a permissible




activity under CRZ Notification 2011 and there has been no infirmity on the part of the Respondent No. 1-MMB for carrying out the construction of the said project in accordance with law.

14. In view of the above facts and circumstances, it is submitted and prayed that the captioned Original Application may be dismissed with costs.

Solemnly affirmed at Mumbai.

This 17th day of MARCH 2025.




 Authorised Signatory of
 Respondent No. 1


 Advocates for Respondent No. 1

Before me



VERIFICATION

I, **Shri. Tushar Prakash Patole**, the **Executive Engineer** of Respondent No. 1, having my office address at Indian Mercantile Chambers, 2nd Floor, Ramjibhai Kamani Marg, Ballard Estate, Mumbai – 400 001, do hereby state that I have submitted this Affidavit on solemn affirmation and oath. I have verified that the facts are true to my personal knowledge. I have not suppressed any material fact known to me and relevant to this matter.

Date: 17/03/2025

Place: Mumbai

Seen original Authority Letter dated 11/9/2023

[Signature]
Authorised Signatory of Respondent No. 1



BEFORE ME

Before me

[Signature]
BIDHU PANICKER
B.Com. LL.B.
ADVOCATE HIGH COURT
NOTARY (Govt. of India)
Res: 303, Sandeep Apt., Plot No. A/197,
Sector-20, Near Balaji Temple,
Nerul (W), Navi Mumbai, Maharashtra

Notary Reg. Sr. No 1522/2025
In Book No. II

17 MAR 2025





GOVERNMENT OF MAHARASHTRA, HOME DEPARTMENT (PORTS & TRANSPORT)

MAHARASHTRA MARITIME BOARD

Indian Mercantile Chambers, 2nd Floor, Ramjibhai Kamani Marg, Ballard Estate,

Mumbai - 400 001. Tel.: 022-69041777 Fax : 022-69041740

Website : <https://mahammb.maharashtra.gov.in>

Email: ceo.mmb@maharashtra.gov.in / ceommb@gmail.com



MMB/CEO/Law Branch/ 4300

Date: 11 SEP 2023

TO WHOM IT MAY CONCERN

I, the undersigned **Shri. Rajarampuri Motipuri Gosavi**, being the **Chief Engineer** of Engineering Department of Maharashtra Maritime Board, Mumbai hereby authorize concerned Executive Engineer of Maharashtra Maritime Board to sign Writ Petition, Affidavit in reply, rejoinder, undertaking etc. on behalf of Maharashtra Maritime Board for litigations / cases filed by or against the Maharashtra Maritime Board, in the Court, Tribunal.

The concerned Executive Engineers are as follows:

Sr. No.	Name of the Executive Engineer	Jurisdiction of Work Area
1	Shri. Tushar Prakash Patole	Mumbai and Mumbai Suburban
2	Shri. Ajit Aravind Mohite	Thane
3	Shri. Kalyan Javarilal Chhoriya	Palghar
4	Shri. Sudhir Narayan Devore	Raigad
5	Shri. Manish Sudhakar Metkar	Ratnagiri and Sindhudurga

Any and all acts carried out by the concerned Executive Engineer as stated above on behalf of the undersigned shall have the same effect as acts of own. This Authority Letter shall be valid until this authority is withdrawn by the Chief Engineer or the Chief Executive Officer, Maharashtra Maritime Board.

Yours faithfully,

(Rajarampuri Motipuri Gosavi)

Chief Engineer

Date: 11 th September, 2023

Place: Mumbai

(Shri. Tushar Prakash Patole)

Executive Engineer

(Shri. Kalyan Javarilal Chhoriya)

Executive Engineer

(Shri. Manish Sudhakar Metkar)

Executive Engineer

Attested by me

(Rajarampuri Motipuri Gosavi)

Chief Engineer

(Shri. Ajit Aravind Mohite)

Executive Engineer

(Shri. Sudhir Narayan Devore)

Executive Engineer

EXHIBIT-A

Item No.6

(Pune Bench)

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

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

**Original Application No.77/2023(WZ)
Caveat Dy. No.2704138001572023 by R-1**

Banda Nagraj Kumar & Anr.

.....Applicant(s)

Versus

Maharashtra Maritime Board & Ors.

....Respondent(s)

Date of hearing: 01.12.2023

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**Applicant(s) : Ms. Gayatri Singh, Senior Advocate along-with
Ms. Ronita Bhattacharya, AdvocateRespondent(s) : Mr. Saket Mone, Advocate along-with Ms. Anchita Nair,
Advocate for R-1/MMB
Mr. S.K. Mishra, Senior Advocate along-with
Mr. Aniruddha Kulkarni, Advocate for R-2/MCZMA,
R-3/Env. Deptt. & R-4/SEIAA
Mr. Pushkal Mishra, Advocate for R-5/MoEF&CC**ORDER**

1. From the side of the applicants, learned Senior Counsel Ms. Gayatri Singh along-with learned counsel Ms. Ronita Bhattacharya have appeared, who submit that she has filed a reply affidavit dated 08.11.2023, a copy of which has not been placed before us by the Registry and on direction it has been placed before us just now, where-in it is submitted that it has come to their knowledge that in October 2023, the Maharashtra Maritime Board (MMB)/respondent No.1 had addressed a letter dated 28.06.2023 (annexed as Annexure A-1 to this affidavit) to the Maharashtra Coastal Zone Management Authority/respondent No.2 seeking deletion of the specific condition No.I in CRZ clearance dated 05.03.2019 granted by the SEIAA, which is to the following effect:-

“(I) MMB to ensure that no construction is allowed in intertidal or beach area i.e. CRZ area. Solid construction should be restricted to landward side of the High Tide Line.”

2. It is further mentioned in this affidavit by the applicants that the respondent No.1 in its reply affidavit dated 27.06.2023 has not furnished any details as to whether any CRZ clearance was given to carry out construction on the beach/ CRZ-I area. Vide this Tribunal’s order dated 04.09.2023 in the present Original Application, four weeks' additional time was granted to respondent No. 2/MCZMA, respondent No.3/State Env't. Deptt., respondent No.4/SEIAA and respondent No.5/MoEF&CC to file affidavits-in-reply and listed the matter for further consideration on 01.12.2023. It is noteworthy that despite passage of over a month, the same has not been filed.

3. It is further mentioned in this affidavit by the applicants that the application moved by the respondent No.1 for deletion of the above-mentioned condition No.I was addressed on 28.06.2023, i.e. after the present Original Application was filed on 10.05.2023 seeking *inter alia* revocation of the CRZ clearance dated 05.03.2019 on account of the non-compliance of the conditions stipulated in the CRZ clearance. This appears to be wrong submission because during argument, the learned Senior Counsel for applicants took stand that the deletion of condition No.I in the CRZ clearance dated 05.03.2019 could not have been allowed after filing of this application, the same being under consideration of this Tribunal. Therefore, it is submitted that it is an after-thought to get this alteration done, in order to justify the already illegal construction having been made by the respondent No.1, there being no permission granted for the said construction of anti-sea erosion bund. Moreover, it is stated that the respondent No.1 cannot obtain *ex-post-facto* permission from the Maharashtra Coastal Zone Management Authority (MCZMA) for

construction of such anti-sea erosion bund as the same would require fresh clearance.

4. It is further mentioned in this affidavit by the applicants that the respondent No.1, while seeking deletion of the condition No.I, stated that as there existed private properties along the landward side of the High Tide Line, therefore, it was not possible to keep the anti-sea erosion bund on the landward side of the High Tide Line as directed in the CRZ clearance dated 05.03.2019. Hence, it approached the CWPRS, Pune and IIT, Mumbai, which has submitted a report stating therein that the construction of anti-sea erosion bund is needed, as Aksa Beach is an eroding site and that the alignment chosen to construct the said anti-sea erosion bund seems appropriate, as the existing electric poles were collapsing due to erosion. In this regard, it is stated by the applicants that respondent No.1 was aware of the topography of the site proposed by it for the Project, it should have raised the concern regarding the existence of private properties along the landward side of the High Tide Line, prior to the CRZ clearance being granted. The raising of this concern at a belated stage makes it evident that the respondent No.1/MMB did not intend to comply with the CRZ clearance and that it has constructed the seawall in complete violation of the CRZ clearance dated 05.03.2019.

5. It is further mentioned in this affidavit by the applicants that the respondent No.1 did not provide any scientific studies indicating that Aksa Beach is an eroding site, which made it necessary to construct the anti-sea erosion bund or that the construction was required at the site proposed by it. Even this lack of study has been recorded in the Minutes of the MCZMA's Meeting dated 10.08.2023, because of which the matter was referred and respondent No.2 did not call for conclusive evidence

from the respondent No.1 regarding Aksa Beach being an eroding site. It is further mentioned that it is evident that at the time, when the letter dated 28.06.2023 seeking deletion of the condition No.I in CRZ clearance was sent by them, the construction work had already been carried out in clear contravention of the CRZ clearance dated 05.03.2019 and on this ground alone, the respondent No.2 should have directed the demolition of the wall in question. It is further reiterated that in the present Original Application by way of Affidavit-in-Rejoinder, the respondent No.1 was wrongly trying to pass off the Project as an anti-erosion measure, whereas the project was actually for the "proposed beautification" of the beach with the construction of a concrete seawall, which is a prohibited activity as per the CRZ Notification. Reliance is also reiterated upon the report of IIT Bombay, which spoke that the Aksa Beach would actually be suitable for beach nourishment as an erosion control technique instead of the construction of a concrete seawall. It is reiterated that the entirety of the Aksa beach falls in CRZ I-A and CRZ I-B areas. Reference is also made of an earlier Judgment passed by this Tribunal in the matter of *Rajabhau Pawar v. State of Goa & Ors.*, in which almost in identical matter, the construction in CRZ-I area was not permitted and restoration of the area was ordered. It is also stated that in a similar matter pertaining to the construction of a wide 1.2 kilometers long RCC wall at Versova beach, this Tribunal vide order dated 23.05.2023 rejected the Original Application No.64 of 2021, however, the Hon'ble Supreme Court vide order dated 29.08.2023 had imposed a stay on the construction of the wall by directing the *status quo*.

6. It is further mentioned in this affidavit by the applicants that the portion of the beach falling towards the landward side of the road will be completely eroded, if the wall is permitted to exist, as the wall and the

road will disallow natural deposition of the sediments/sand on the other side of the wall/road. Therefore on this very ground alone, the respondent No.2/MCZMA should have rejected the respondent No.1's request for grant of *ex-post-facto* permission.

7. This matter was first considered by us on 19.05.2023 and thereafter on 03.07.2023 when it was admitted and direction was issued to the Registry to send notices to all the respondents. On 04.09.2023, the respondent No.2/MCZMA, respondent No.3/State Env't. Deptt. and respondent No.4/SEIAA were directed to file reply affidavits, which could not be filed. Today, an e-mail dated 29.11.2023 has been received from the respondent No.2/MCZMA through their counsel Mr. Aniruddha Kulkarni seeking adjournment on the ground that according to the decision taken by the MCZMA, which is recorded in the attached minutes of meeting dated 10.08.2023, an information was being sought from the MMB/respondent No.1, because of the same being awaited, the reply could not be filed by the respondent No.2/MCZMA. From the perusal of the annexed minutes of the meeting, it is found that the request of the respondent No.1 to delete the condition No.I to the earlier granted CRZ clearance was considered during minutes of meeting and Expert Member asked the respondent No.1/MMB whether any scientific studies from erosion point of view from competent organization has been carried out in the matter of recommending the necessity of the bund at the site proposed by respondent No.1/MMB? The respondent No.1 agreed to submit the same. This minutes was dated 10.08.2023 and the learned counsel for respondent No.2 states that this matter is still pending consideration before the MCZMA. There is no timeline given as to by which time, the respondent No.1 would provide this kind of study based on which it appears that the respondent No.2 would be deciding upon the

deletion of condition No.I in CRZ clearance, which has been prayed by the respondent No.1.

8. The record reflects that almost 95% work of the anti-sea erosion bund has already been completed, regarding which the learned counsel for respondent No.1 has drawn our attention to the relevant provisions of the CRZ Notification and pointed out that this is a permissible activity, which is being opposed by the learned Senior Counsel for appellants saying that the construction of a wall/road would not be covered in the category of anti-sea erosion activity. But this matter requires to be decided by us on merits after hearing both the sides and after having reply affidavits from the above-mentioned respondents.

9. The learned Senior Counsel for appellants has also prayed that a direction may also be issued that no further construction be allowed because it was in teeth of this matter being pending before this Tribunal that the respondent No.1 has gone ahead to raise the construction of the said anti-sea erosion bund despite there being no permission granted by the Maharashtra Coastal Zone Management Authority (MCZMA), which is apparent from the record.

10. The learned counsel for respondent No.1 has admitted that they have raised construction in violation of CRZ clearance. But according to them, the condition subject to which the permission was granted to the respondent No.1 that the respondent No.1 shall ensure that no construction would be done in intertidal or beach area i.e. CRZ area. Solid construction should be restricted to landward side of the High Tide Line. This condition is required to be removed by the respondent No.1 based on study and recommendation by the CWPRS, Pune and IIT, Mumbai. As suggested, there was a need to provide anti-sea erosion bund

to protect the facilities being developed. Hence, an application dated 28.06.2023 has been moved by the respondent No.1 before the respondent No.2 to seek clearance for deletion of the said condition.

11. We are of the view that whether this condition needs to be deleted from the CRZ clearance or not, a decision has to be taken by the MCZMA at their end, which is pending for a long time. Therefore, we direct the MCZMA to decide this matter within a period of one month positively. This matter cannot be kept open ended for indefinite period. The respondent No.1 shall also provide whatever kind of study it wants to place before the MCZMA within a period of 20 days from today and within a week thereafter, the MCZMA shall file reply affidavit and a copy of the same shall also be served upon all other parties, who may file rejoinder affidavit against the same, if any, within one week thereafter.

12. We further make it clear that till then, no further construction would be done.

Put up this matter for further consideration on 23.02.2024

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

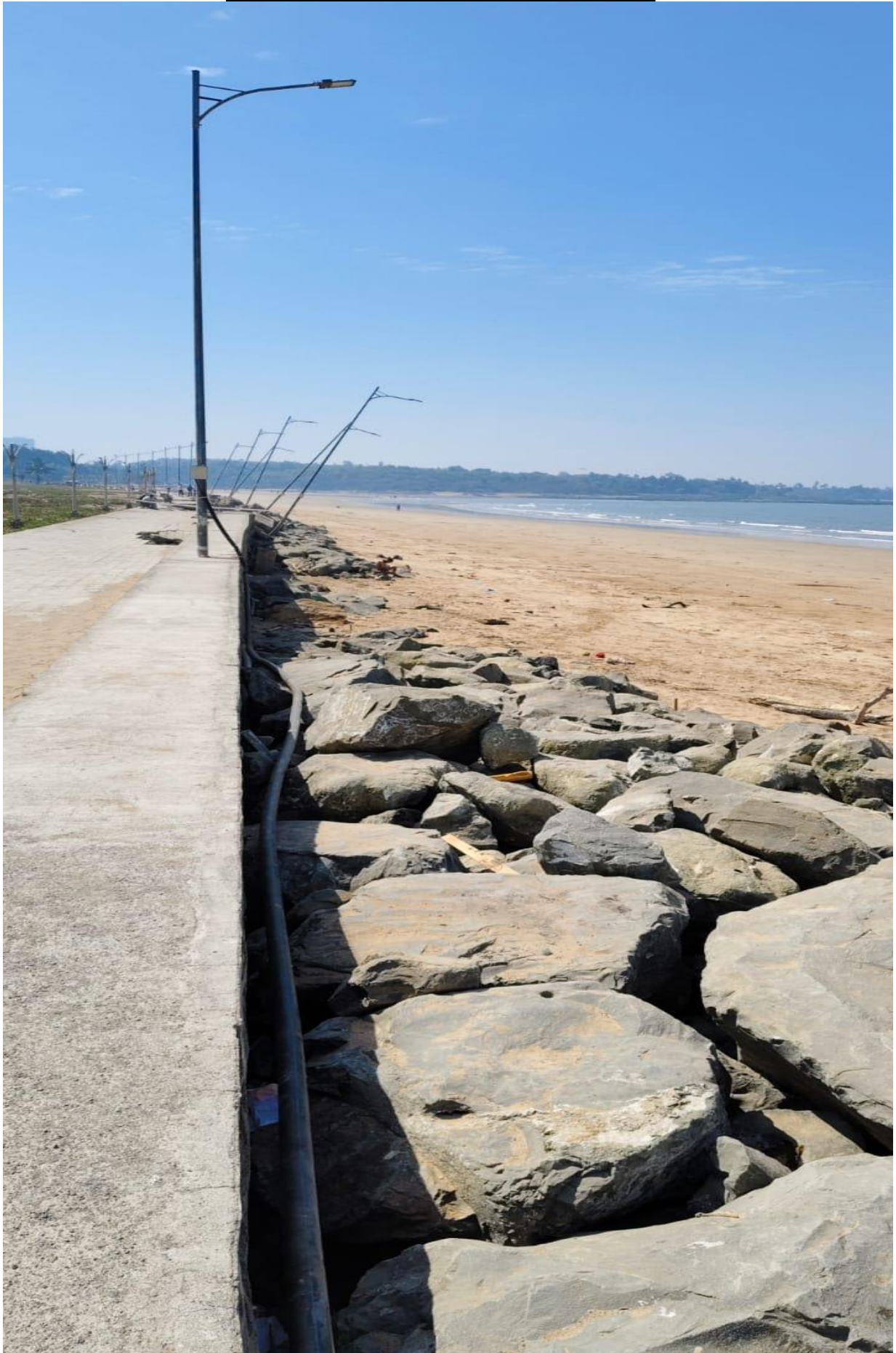
December 01, 2023
Original Application No.77/2023(WZ)
Caveat Dy. No.2704138001572023 by R-1
P.Kr

EXHIBIT-B

PROVIDING ANTI-SEA EROSION MEASURES AND BEAUTIFICATION AT AKSA BEACH, MADH, MUMBAI SUBURBAN (PHOTOGRAPHS AFTER DAMAGES OCCURS)



**PROVIDING ANTI-SEA EROSION MEASURES AND BEAUTIFICATION AT AKSA
BEACH, MADH, MUMBAI SUBURBAN
(PHOTOGRAPHS AFTER DAMAGES OCCURS)**



**PROVIDING ANTI-SEA EROSION MEASURES AND BEAUTIFICATION AT AKSA
BEACH, MADH, MUMBAI SUBURBAN
(PHOTOGRAPHS AFTER DAMAGES OCCURS)**



**PROVIDING ANTI-SEA EROSION MEASURES AND BEAUTIFICATION AT AKSA
BEACH, MADH, MUMBAI SUBURBAN
(PHOTOGRAPHS AFTER DAMAGES OCCURS)**



**PROVIDING ANTI-SEA EROSION MEASURES AND BEAUTIFICATION AT AKSA BEACH, MADH, MUMBAI SUBURBAN
(PHOTOGRAPHS AFTER DAMAGES OCCURS)**



EXHIBIT-C

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Minutes of the 172nd Meeting of Maharashtra Coastal Zone Management Authority held on 05th February, 2024

The 172nd meeting of the Maharashtra Coastal Zone Management Authority (MCZMA) was held under the Chairmanship of Principal Secretary (Environment and Climate Change), through Videoconferencing technology on Cisco WebEx platform on 05th February, 2024. List of members present in the meeting is at Annexure-I.

Confirmation of minutes of 171st meeting:

The Authority confirmed the minutes of 171st meeting of the MCZMA held on 15.12.2023 & 29.12.2023 without any change.

Item No. 1: Proposal for amendment in CRZ Clearance for Anti Sea Erosion Measures to sea front development & beatification at Aksa beach, Madh, Mumbai Suburban by MMB

Introduction:

The Chief Engineer, MMB presented the proposal before the Authority. The matter pertains to request of MMB for amendment in CRZ Clearance for Anti Sea Erosion Measures to sea front development & beatification at Aksa beach, Madh, Mumbai Suburban.

Earlier, the MCZMA in its 127th meeting held on 02nd November, 2018 deliberated the proposal of Anti sea erosion bund of 900 m and recommended the proposal from CRZ point of view to SEIAA subject to certain conditions.

Thereafter, the SEIAA vide letter dated 5th March, 2019 granted the clearance for the project.

The MMB during the meeting presented that there are existing poles and proposed public facilities immediately along the beach and there are existing private properties nearby, hence, it is not possible to keep anti sea erosion bund on landward side of HTL. The MMB has requested to delete the following specific condition No.1 of the MCZMA recommendation and SEIAA clearance:

- I) *MMB to ensure that no construction is allowed in intertidal or beach area i.e. CRZ area. Solid construction should be restricted to landward side of the High Tide Line.*


Member Secretary


Chairman

Minutes of the 172nd Meeting of Maharashtra Coastal Zone Management Authority held on 05th February, 2024

In the 168th meeting, Expert Member asked MMB whether any scientific studies from erosion point of view from competent organisation have been carried out in the matter recommending the necessity of the bund at site proposed by MMB. The proposal was deferred for want of above information.

Deliberation:

The Chief Engineer, MMB presented that assessment of location of placement of Anti Sea Erosion Bund and shoreline studies to ascertain the coastal erosion for Aksa beach has been carried out by IIT, Mumbai and desk studies for design of coastal protection works carried out by CWPRS, Pune.

The MMB has submitted report dated 17.04.2023 on Assessment of location of placement of Anti Sea Erosion Bund by IIT, Mumbai. As per the report, it is found that Aksa beach is an eroding site and the existing structures are affected by erosion. Hence there is need to provide Anti Sea Erosion bund to protect the facilities being developed. The alignment chosen to construct the anti sea erosion measure seem appropriate as the existing electric poles were collapsing due to erosion.

The MMB has submitted report dated 12.05.2023 on desk studies for design of coastal protection works by CWPRS, Pune.

- a) The constructed seawall is aligned with the existing electric pole. The alignment of the wall is in between High & Low water line, which is a permissible activity in CRZ-1B. The seawall /Toe-berm protection was necessary to protect boundary wall & the proposed beautification. During the visit there was a flood tide (about 3.0 m water level) and the measured distance between toe-berm of the seawall to water line was about 50 m.
- b) It is recommended to provide roundhead on both sides of the seawall to reduce flanking effect on either side of seawall. However, the roundhead at the entrance (southern side of Seawall) may cause hinderance to the public visiting Aska beach. Hence, it is advised to monitor the effect of flanking on the southern side of seawall for 2-3 years and then the decision regarding the need of roundhead construction (southern side) may be taken-up. The roundhead of northern end of the seawall should be constructed immediately.



Member Secretary



Chairman

*Minutes of the 172nd Meeting of Maharashtra Coastal Zone Management
Authority held on 05th February, 2024*

- c) The constructed seawall is a flexible structure made up of rubble mound and it is essential to monitor and maintain them regularly. It is advisable to compile the beach profile data Infront of the constructed seawall upto the LWL or 80m (whichever is lower) at least for 3 years to compare the changes of the beach profiles.
- d) The drainage pipes on the landward side of the seawall needs regular checking for clogging, etc. and cleaning is required in case of chocking of pipes.
- e) Proper monitoring is required to check the performance of the seawall at least in 2-3 years especially during monsoon..

The MMB also submitted report dated 21.12.2023 on the shoreline studies to ascertain the coastal erosion for Aksa beach by IIT, Mumbai. The IIT report summaries that the MMB is proposing shoreline studies to ascertain coastal erosion / accretion pattern at Aksa Beach. In this regard, mathematical modelling studies were carried out using 2- Dimensional modelling to study wave transformation and morphological changes near Aksa Beach. The report summaries the wave climate characteristics at offshore and near proposed location. The wave transformation study shows that the waves predominantly come from South- West. The study shows net erosion at Aksa Beach with landward shift of shoreline. Based on the site visit and satellite image analysis, it is observed that Aksa Beach is an eroding site, and the existing structures are already affected by erosion. Hence, there is a need to provide anti-sea erosion bund to protect the facilities being developed.

IIT report concludes that, Morphology study by using coupled tide, wave and sediment transport models is performed from the Aksa coast. The Analysis shows that predominantly waves come from SW direction. The sediment analysis shows the erosion along the Aksa Beach and accretion near offshore of Aksa Beach. The flat region above high tide line is mostly likely prone to erosion during storm and monsoon weather. Erosion protection measures should be implemented to protect the beach and infrastructure adjoining the beach.

The Chief Engineer, MMB stated that there are existing electric poles on site and part of Anti Sea Erosion bund constructed along the said existing electric poles as per recommendation of CWPRS cross section.



Member Secretary



Chairman

Minutes of the 172nd Meeting of Maharashtra Coastal Zone Management Authority held on 05th February, 2024

The authority noted the Order passed by Hon. National Green Tribunal, (WZ), Pune on 01.12.2023 in the matter of Mr. Banda Nagraj Kumar & Anr. Vs Maharashtra Maritime Board & Ors. (Original Application No.77/2023(WZ)).

"11. We are of the view that whether this condition needs to be deleted from the CRZ clearance or not, a decision has to be taken by the MCZMA at their end, which is pending for a long time. Therefore, we direct the MCZMA to decide this matter within a period of one month positively. This matter cannot be kept open ended for indefinite period. The respondent No.1 shall also provide whatever kind of study it wants to place before the MCZMA within a period of 20 days from today and within a week thereafter, the MCZMA shall file reply affidavit and a copy of the same shall also be served upon all other parties, who may file rejoinder affidavit against the same, if any, within one week thereafter.

12. We further make it clear that till then, no further construction would be done."

The Authority noted that at the time of recommendation in 127th meeting, the CRZ Notification, 2011 and approved CZMP under it was in force. As per the para 4(i)(f) of CRZ Notification, 2011, "erosion control measures" are permissible activity in CRZ area.

At the relevant time, the Authority while deliberating the proposal exercised extra caution and felt to put a condition that "no construction is allowed in intertidal or beach area i.e. CRZ area. Solid construction should be restricted to landward side of the High Tide Line"

However, from the reports of IIT and CWPRS submitted by the MMB, it is observed that the seawall is aligned with the existing electric pole. The alignment chosen to construct the anti-sea erosion measure seem appropriate as the existing electric poles were collapsing due to erosion.

As per IIT report, the study shows net erosion at Aksa Beach with landward shift of shoreline. Based on the site visit and satellite image analysis, it is observed that Aksa Beach is an eroding site, and the existing structures are already affected by erosion. Hence, there is a need to provide anti-sea erosion bund to protect the facilities being developed. The flat region above high tide line is mostly likely prone to erosion during storm and monsoon weather. Erosion



Member Secretary



Chairman

*Minutes of the 172nd Meeting of Maharashtra Coastal Zone Management
Authority held on 05th February, 2024*

protection measures should be implemented to protect the beach and infrastructure adjoining the beach.

Taking into account the above said reports, due to site constraints and electric pole present near the site and need to protect the infrastructure adjoining the beach, the Authority is of the view that above said condition stipulated in earlier MCZMA recommendation requires modification.

It was further deliberated that before construction, MMB was required to put a request to MCZMA informing the Non Feasibility to construct the seawall on landward side of the HTL, due to constrains of the site conditions and hence, requires deletion / amendment. Now, it came to the notice of the Authority from the representation of MMB and various report of IIT & CWPRS called by the Authority; that there are constraints and seawall could not be restricted on landward side of HTL. After detailed deliberation and considering various reports, the Authority opines that above said condition requires amendment.

The Authority deliberated that construction of seawall to occupy certain area of beach for construction, however, seawall is necessary in order to protect the considerable area of beach.

Furthermore, the Authority observed that CRZ Notification, 2019, has also allows anti-sea erosion measures in intertidal area i.e. CRZ IB area. The Authority noted that presently, the CRZ Notification, 2019 and approved CZMP under it is applicable. As per approved CZMP of Mumbai, 2019 the anti-Sea Erosion Bund is partly falls in CRZ-IB & partly in CRZ-II area. As per para 5.1.2(i) (d) and 5.2 (i) of CRZ Notification, 2019, *measures for control of erosion* is permissible activity in CRZ-IB & partly in CRZ-II area.

The Authority after detailed deliberation felt that the project of anti sea erosion measure implemented by the MMB is vital public interest project with an objective to protect the coastline from eroding and for protection of infrastructure /properties present near the beach.

In view of above, the Authority observed that the above said condition mentioned in earlier MCZMA recommendation could not be deleted entirely as per request of the MMB. However, the Authority is of the view that the above said conditions needs modification.



Member Secretary



Chairman

*Minutes of the 172nd Meeting of Maharashtra Coastal Zone Management
Authority held on 05th February, 2024*

Decision:

In the light of above, the Authority after deliberation decided recommend the proposal to SEIAA for modification of the specific condition no. (I) as follows:

"MMB to ensure that Anti Sea Erosion bund shall occupy minimum intertidal area which is necessary"

as

Member Secretary

Amal

Chairman

EXHIBIT-D

Item No.11

(Pune Bench)

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

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

I.A. No.251/2024(WZ)**In****Original Application No.77/2023(WZ)****Caveat Dy. No.2704138001572023 by R-1 (in defect)**

Banda Nagraj Kumar & Anr.

.....Applicants

Versus

Maharashtra Maritime Board & Ors.

....Respondents

Date of hearing: 18.09.2024

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

Applicant : Mr. Tushad Kakalia, Advocate

Respondents : Mr. Saket Mone, Advocate along-with
Ms. Anchita Nair, Advocate for R-1/MMB
Shri S.K. Mishra, Senior Advocate along-with
Mr. Aniruddha Kulkarni, Advocate for R-2/MCZMA,
R-3/Env. Deptt. & R-4/SEIAA
Mr. Pushkal Mishra, Advocate for R-5/MoEF&CC**ORDER****I.A. No.251/2024(WZ)**

1. By this I.A., prayer is made by the applicant to allow him to amend the Memorandum of Application of the present Original Application as per the manner set out in the Schedule of Amendment.

2. In the Schedule of Amendment, which is annexed as Annexure-1 with this I.A., Prayer Clause (e1) is prayed to be added after Prayer Clause (e) to the effect "Direct the respondent No.2 to revoke the post-facto CRZ Clearance dated 05.02.2024". Besides that pleading part of the present Original Application has also been prayed to be added by adding

paragraphs 37A to 37E and Para AA to Para KK are the grounds, which he wants to be added in the memo of present Original Application.

3. With this I.A., Minutes of the 172nd Meeting of the MCZMA held on 05.02.2024 has also been annexed, wherein decision has been taken to the effect “MMB to ensure that Anti Sea Erosion bund shall occupy minimum intertidal area which is necessary”.

4. During argument, the learned counsel for applicants submits that it is this recommendation, which has led him to move this amendment application, wherein prayer is made to the effect that respondent No.2-MCZMA be directed to revoke the post-facto CRZ Clearance dated 05.02.2024. The learned counsel for applicants is interpreting this recommendation to be post-facto CRZ Clearance dated 05.02.2024, while in our estimation, this is found to be only a recommendation made to the SEIAA by the MCZMA, which is yet to be considered at the end of the SEIAA. It is true that this recommendation is made as far back as on 05.02.2024 and till now, they have not taken final call on this as to whether they have accepted the same and granted any CRZ Clearance to the Project Proponent or not. But it appears that prematurely, the applicants have interpreted the same to be a post-facto CRZ Clearance and have come before us with the present I.A.

5. From the side of respondent No.1 – Maharashtra Maritime Board, learned counsel Mr. Saket Mone has appeared and has sent us the reply affidavit through e-mail dated 18.09.2024 and the same has not been e-filed. Therefore, we cannot take this reply affidavit into consideration. In this regard, he submits that he may be granted two days' time to e-file the same. We allow him the said time.

6. Later on, the learned counsel for respondent No.1 submits that we may not press his written reply in view of the position of law, which he has already argued and he says that his oral submission may be taken into consideration. According to him, recommendation made by the MCZMA cannot be taken to be a post-facto CRZ Clearance dated 05.02.2024, as being interpreted by the learned counsel for applicants. The same is only a recommendation made by the SEIAA, which is yet to be considered and he also stated that an appeal would lie against the post-facto CRC Clearance, if at all, any such Clearance is granted at future point of time.

7. From the side of respondent No.2 – MCZMA, respondent No.3 – Environment Department, Government of Maharashtra and respondent No.4 – SEIAA, learned senior counsel Mr. S.K. Mishra along with learned counsel Mr. Aniruddha Kulkarni have appeared and has filed reply affidavit dated 12.09.2024 on behalf of respondent No.2, wherein it is mentioned that the decision of the MCZMA dated 05.02.2024 has been challenged almost after 6 months of taking the decision when this matter has reached the final hearing stage. It is also stated that a separate appeal would lie against the said order, if at all, the same is passed. Although we direct the respondent No.4 – SEIAA to consider the recommendation made by the MCZMA within a period of four weeks positively and till then, interim order to continue.

8. We are convinced with the arguments made by the learned counsel for respondent No.1- MMB and respondent No.4-SEIAA and are of the view that this I.A. is premature and accordingly, this amendment application is rejected.

I.A. No.251/2024(WZ) stands disposed of accordingly.

9. Registry is directed to list main matter for final hearing on 27.01.2025.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

September 18, 2024
I.A. No.251/2024(WZ) In
Original Application No.77/2023(WZ)
P.Kr

Minutes of 276th meeting of SEIAA held on 24th June, 2024.

Item no. 04

Subject- Proposal for amendment in CRZ Clearance for Anti Sea Erosion Measures to sea front development & beatification at Aksa beach, Madh, Mumbai Suburban by MMB

Project Details-

The Chief Engineer, MMB presented the proposal before the Authority. The matter pertains to request of MMB for amendment in CRZ Clearance for Anti Sea Erosion Measures to sea front development & beatification at Aksa beach, Madh, Mumbai Suburban.

Earlier, the MCZMA in its 127th meeting held on 02nd November, 2018 deliberated the proposal of Anti sea erosion bund of 900 m and recommended the proposal from CRZ point of view to SEIAA subject to certain conditions.

Thereafter, the SEIAA vide letter dated 5th March, 2019 granted the clearance for the project.

The MMB during the meeting presented that there are existing poles and proposed public facilities immediately along the beach and there are existing private properties nearby, hence, it is not possible to keep anti sea erosion bund on landward side of HTL. The MMB has requested to delete the following specific condition No.1 of the MCZMA recommendation and SEIAA clearance:

- I) *MMB to ensure that no construction is allowed in intertidal or beach area i.e. CRZ area. Solid construction should be restricted to landward side of the High Tide Line.*

In the 168th meeting, Expert Member asked MMB whether any scientific studies from erosion point of view from competent organisation have been carried out in the matter recommending the necessity of the bund at site proposed by MMB. The proposal was deferred for want of above information.

MCZMA Deliberation –

The Chief Engineer, MMB presented that assessment of location of placement of Anti Sea Erosion Bund and shoreline studies to ascertain the coastal erosion for Aksa beach has been carried out by IIT, Mumbai and desk studies for design of coastal protection works carried out by CWPRS, Pune.

The MMB has submitted report dated 17.04.2023 on Assessment of location of placement of Anti Sea Erosion Bund by IIT, Mumbai. As per the report, it is found that Aksa beach is an eroding site and the existing structures are affected by erosion. Hence there is need to provide Anti Sea Erosion bund to protect the facilities being developed. The alignment chosen to construct the anti sea erosion measure seem appropriate as the existing electric poles were collapsing due to erosion.



Member Secretary



Chairman

The MMB has submitted report dated 12.05.2023 on desk studies for design of coastal protection works by CWPRS, Pune.

- a) The constructed seawall is aligned with the existing electric pole. The alignment of the wall is in between High & Low water line, which is a permissible activity in CRZ-1B. The seawall /Toe-berm protection was necessary to protect boundary wall & the proposed beautification. During the visit there was a flood tide (about 3.0 m water level) and the measured distance between toe-berm of the seawall to water line was about 50 m.
- b) It is recommended to provide roundhead on both sides of the seawall to reduce flanking effect on either side of seawall. However, the roundhead at the entrance (southern side of Seawall) may cause hinderance to the public visiting Aska beach. Hence, it is advised to monitor the effect of flanking on the southern side of seawall for 2-3 years and then the decision regarding the need of roundhead construction (southern side) may be taken-up. The roundhead of northern end of the seawall should be constructed immediately.
- c) The constructed seawall is a flexible structure made up of rubble mound and it is essential to monitor and maintain them regularly. It is advisable to compile the beach profile data Infront of the constructed seawall upto the LWL or 80m (whichever is lower) at least for 3 years to compare the changes of the beach profiles.
- d) The drainage pipes on the landward side of the seawall needs regular checking for clogging, etc. and cleaning is required in case of chocking of pipes.
- e) Proper monitoring is required to check the performance of the seawall at least in 2-3 years especially during monsoon..

The MMB also submitted report dated 21.12.2023 on the shoreline studies to ascertain the coastal erosion for Aksa beach by IIT, Mumbai. The IIT report summaries that the MMB is proposing shoreline studies to ascertain coastal erosion / accretion pattern at Aksa Beach. In this regard, mathematical modelling studies were carried out using 2- Dimensional modelling to study wave transformation and morphological changes near Aksa Beach. The report summaries the wave climate characteristics at offshore and near proposed location. The wave transformation study shows that the waves predominantly come from South- West. The study shows net erosion at Aksa Beach with landward shift of shoreline. Based on the site visit and satellite image analysis, it is observed that Aksa Beach is an eroding site, and the existing structures are already affected by erosion. Hence, there is a need to provide anti-sea erosion bund to protect the facilities being developed.

IIT report concludes that, Morphology study by using coupled tide, wave and sediment transport models is performed from the Aksa coast. The Analysis shows that predominantly waves come from SW direction. The sediment analysis shows the erosion along the Aksa Beach and accretion near offshore of Aksa Beach. The flat region above high tide line is mostly likely



Member Secretary



Chairman

Minutes of 276th meeting of SEIAA held on 24th June, 2024.

prone to erosion during storm and monsoon weather. Erosion protection measures should be implemented to protect the beach and infrastructure adjoining the beach.

The Chief Engineer, MMB stated that there are existing electric poles on site and part of Anti Sea Erosion bund constructed along the said existing electric poles as per recommendation of CWPRS cross section.

The authority noted the Order passed by Hon. National Green Tribunal, (WZ), Pune on 01.12.2023 in the matter of Mr. Banda Nagraj Kumar & Anr. Vs Maharashtra Maritime Board & Ors. (Original Application No.77/2023(WZ)).

“11. We are of the view that whether this condition needs to be deleted from the CRZ clearance or not, a decision has to be taken by the MCZMA at their end, which is pending for a long time. Therefore, we direct the MCZMA to decide this matter within a period of one month positively. This matter cannot be kept open ended for indefinite period. The respondent No.1 shall also provide whatever kind of study it wants to place before the MCZMA within a period of 20 days from today and within a week thereafter, the MCZMA shall file reply affidavit and a copy of the same shall also be served upon all other parties, who may file rejoinder affidavit against the same, if any, within one week thereafter.

12. We further make it clear that till then, no further construction would be done.”

The Authority noted that at the time of recommendation in 127th meeting, the CRZ Notification, 2011 and approved CZMP under it was in force. As per the para 4(i)(f) of CRZ Notification, 2011, “erosion control measures” are permissible activity in CRZ area.

At the relevant time, the Authority while deliberating the proposal exercised extra caution and felt to put a condition that *“no construction is allowed in intertidal or beach area i.e. CRZ area. Solid construction should be restricted to landward side of the High Tide Line”*

However, from the reports of IIT and CWPRS submitted by the MMB, it is observed that the seawall is aligned with the existing electric pole. The alignment chosen to construct the anti-sea erosion measure seem appropriate as the existing electric poles were collapsing due to erosion.

As per IIT report, the study shows net erosion at Akxa Beach with landward shift of shoreline. Based on the site visit and satellite image analysis, it is observed that Akxa Beach is an eroding site, and the existing structures are already affected by erosion. Hence, there is a need to provide anti-sea erosion bund to protect the facilities being developed. The flat region above high tide line is mostly likely prone to erosion during storm and monsoon weather. Erosion protection measures should be implemented to protect the beach and infrastructure adjoining the beach.



Member Secretary



Chairman

It was further deliberated that before construction, MMB was required to put a request to MCZMA informing the Non Feasibility to construct the seawall on landward side of the HTL, due to constrains of the site conditions and hence, requires deletion / amendment. Now, it came to the notice of the Authority from the representation of MMB and various report of IIT & CWPRS called by the Authority; that there are constraints and seawall could not be restricted on landward side of HTL. After detailed deliberation and considering various reports, the Authority opines that above said condition requires amendment.

The Authority deliberated that construction of seawall to occupy certain area of beach for construction, however, seawall is necessary in order to protect the considerable area of beach. Furthermore, the Authority observed that CRZ Notification, 2019, has also allows anti-sea erosion measures in intertidal area i.e. CRZ IB area. The Authority noted that presently, the CRZ Notification, 2019 and approved CZMP under it is applicable. As per approved CZMP of Mumbai, 2019 the anti-Sea Erosion Bund is partly falls in CRZ-IB & partly in CRZ-II area. As per para 5.1.2(i) (d) and 5.2 (i) of CRZ Notification, 2019, *measures for control of erosion* is permissible activity in CRZ-IB & partly in CRZ-II area.

The Authority after detailed deliberation felt that the project of anti sea erosion measure implemented by the MMB is vital public interest project with an objective to protect the coastline from eroding and for protection of infrastructure /properties present near the beach. In view of above, the Authority observed that the above said condition mentioned in earlier MCZMA recommendation could not be deleted entirely as per request of the MMB. However, the Authority is of the view that the above said conditions needs modification.

Recommendations of MCZMA –

In the light of above, the Authority after deliberation decided recommend the proposal to SEIAA for modification of the specific condition no. (I) as follows:

“MMB to ensure that Anti Sea Erosion bund shall occupy minimum intertidal area which is necessary”

Deliberation in SEIAA-

Proposal is for modification in specific condition no 1 of CRZ Clearance letter dated 5th March, 2019. MCZMA in its 172nd meeting held on 05th February, 2024 recommended the proposal for grant of modification in specific condition no 1 of CRZ Clearance letter dated 5th March, 2019.

SEIAA deliberated upon the issue in detail and decided to grant modification in specific condition no 1 of CRZ Clearance letter dated 5th March, 2019 as recommended by MCZMA.

SEIAA Decision-

The SEIAA after deliberation decided to grant CRZ Clearance.



Member Secretary



Chairman

EXHIBIT-F

883

STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY

No. CRZ-2020/CR-95/TC-4
Environment & Climate Change Department
Room No. 217, 2nd Floor, Mantralaya,
Mumbai- 400032.
Date: 19-07-2024

To
Maharashtra Maritime Board,
Aksa beach, Madh, Mumbai.

Sub: Amendment in CRZ Clearance for Anti Sea Erosion Measures to sea front development & beatification at Aksa beach, Madh, Mumbai Suburban by MMB

Ref: Minutes of 276th SEIAA meeting

This has reference to your communication on the above-mentioned subject. Your Proposal was considered by the Maharashtra Coastal Zone Management Authority (MCZMA) in its 172nd meeting and recommended the proposal amendment in CRZ Clearance dated 5th March, 2019 with respect to Specific condition no 1. The proposal was then considered by State Level Environment Impact Assessment Authority in its 276th meeting held on 24th June, 2024 and decided to specific condition no 1 in the CRZ Clearance dated 5th March, 2019 as below-

“Specific condition no 1- MMB to ensure that Anti Sea Erosion bund shall occupy minimum intertidal area which is necessary”.

All the other conditions mentioned in the CRZ Clearance letter dated 5th March, 2019 shall remain the same.



Pravin Darade
(Member Secretary, SEIAA)

Copy to:

1. Chairman, State Environment Impact Assessment Authority, Maharashtra, Mumbai.
2. Secretary MoEF & CC, Government of India, Ministry of Environment, Forests & Climate Change, Indira Paryavaran bhavan, Jor Bagh Road, New Delhi - 110 003.
3. Director, IA- Division MoEF & CC. Coastal Zone Regulation, Government of India, Ministry of Environment, Forests & Climate Change, Indira Paryavaran bhavan, Jor Bagh Road, New Delhi - 110 003.
4. Member Secretary, Maharashtra Pollution Control Board, Mumbai.
5. Regional Office, MoEF & CC, Nagpur.
6. District Collector, Mumbai Suburban
7. Regional Officer, Maharashtra Pollution Control Board, Mumbai