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**BEFORE THE HON'BLE GREEN TRIBUNAL,
WESTERN ZONE BENCH AT PUNE,
APPLICATION NO.76 OF 2022**

IN THE MATTER OF :

MR. IBRA MASHNAJI KONAPURE & ORS. ...APPLICANTS

VERSUS

UNION OF INDIA THROUGH SECRETARY,

MoEFCC & ORS.RESPONDENTS

**WRITTEN SUBMISSION ON BEHALF OF
ORIGINAL APPLICANT**

**NITIN LONKAR
ADVOCATE FOR APPLICANTS**

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1. The present matter of gross intentional violations of environments norms by the Project Proponent with the active help of bureaucrats. The applicant is filing Written Submission for kind perusal of this Hon'ble Tribunal . The Applicant has done analytical exercise of the grounds of the OA and supporting statements and document from the concerned authorities.
2. That Respondent No. 11, Project Proponent M/s. Seven Eleven Hotels Private Limited is carrying out illegal building construction in project "Seven Eleven Club" situated at Opp. L. R. Tiwari College, Kanakia Nagar, of village Navghar, Mira-Bhayandar, District Thane, Maharashtra-401107 within the limit and jurisdiction of "Mira-Bhayandar Municipal Corporation" (hereinafter referred to as 'MBMC') at following Survey Nos.

Old Surv ey No.	265 /2	265 /4	266 /1	266 /2	266 /3	266 /4	266 /5	266 /6	267 /2	267 /3
New Surv ey No.	81/ 2	81/ 4	67/ 1	67/ 2	67/ 3	67/ 4	67/ 5	67/ 6	52/ 2	52/ 3

(property description in Pleading Page No.5 Para 3 and of O.A.)

The said construction is carried out by PP without obtaining CRZ clearance, EC, CTE, CTO, illegal construction of swimming pool in CRZ Area, dumping of construction waste in CRZ Area for reclamation, felling of Mangroves, construction under high tension line, construction in prohibited zone, discharge of waste water & solid waste into the sea, diversion & narrowing of natural water course merging into sea, no permission for ground water extraction from CGWA, Non-installation of

pollution control devices, Non-plantation of tree, no soil preservation, (pleadings at Pg No. 37-52, Para 7& 8 of O.A.)

Followings are the Grounds of OA and findings/comments by the various authorities :

1. The project land falls in CRZ-I area

Particulars	Observation	Pg. no.
Ground of OA	i) As per Clause 6 (1) of CRZ Notification-1991 dated 19.02.1991 mangroves area declared as CRZ- I area	74
	ii) as per Clause 7 (i) (a) of CRZ Notification-2011 Mangroves, in case mangrove area is more than 1000 sq. mts. a buffer of 50meters along the mangroves declared as CRZ- I area.	174
	iii) The existence of Mangroves is evident from Google Earth Images from the year 2000 to 2022	553-565
	iv) PP have disclosed CRZ affected area to the tune of 4880.96Sq. Mtr. in the Building Layout procured by PP from MBMC	546
Comment by Executive Summary Report for Mira Bhaindar March 2014	survey nos. of project land (i.e. S. No. 52, 67 & 81) are classified as CRZ Category II	228
Report of SDO On Site Visit dt 08.02.2019	It is observed that said area is of Mangroves and it is destructed by land filling.	392
Minutes of MCZMA 142nd meeting dt 31.12.2019	<p>The MBMC states that as per approved CZMP of 2005 for MBMC area, the plot under reference partly falls in CRZ and partly falls in non CRZ area.</p> <p>The MCZMA sent the matter to NCSCM for re-examination of the High Tide Line delineated in the</p>	397

	approved CZMP. 2011 pertaining to project land	
Minutes of MCZMA 152nd meeting dt. 22.02.2021	<p>The Mangrove Cell Report dt. 17.2.2021 states that</p> <p>i) As per MRSAC map, Mangroves Forest and water body were present in Survey No. 50,51,68,69 and 81 pt. in the year 2005.</p> <p>ii) Google images in the year 2009 to 2013 shows extension of Mangroves Forest and water body in Survey No. 67 as well.</p>	419
Joint Committee Report dt 15.3.2023	<p>iv)Mangroves are not observed on the project site.</p> <p>v)The MBMC officials during the site visit informed that the site was partly situated in CRZ area and partly outside CRZ area as per the approved CZMP of the MBMC area under CRZ Notification, 1991 in 1 :4000 scale prepared by the Centre of Earth Science and Studies (CESS), Kerala.</p>	977
NCSCM report dt. December 2023	<p>As per the CRZ map (Figure 1) Road partially falls within the CRZ IA (50m Mangrove Buffer Zone), Intertidal zone (CRZ IB) and CRZ II categories. Minor part of the Basement + GR and Fencing fall within the CRZ IA (50m Mangrove Buffer Zone) category. (</p> <p>Plate 7: Mangrove swamp north eastern side of project site.</p>	1002 1017
Principal Chief Conservator of Forest (HOFF) Report dt. 15.03.2024	On verification of mangrove maps provided by Maharashtra Remote Sensing Application Centre (MRSAC) using satellite data of the year 2005, it is found that no mangroves in Survey Numbers 52 and 67 but a little patch of	981 & 1056

	<p>mangroves in North Eastern side of Survey Number 81.</p> <p>On the day of site verification no Mangroves are seen in the three survey no. 52,67 & 81.</p>	
<p>Conclusion/Objection</p>	<p>The SDO Committee & NCSCM, Mangrove cell observes existence of Mangroves in the project land but JC and PCCF recorded that no mangroves found in the project land.</p> <p>Executive Summary report says the land fall in CRZ II area.</p> <p>As per MRSAC map, Mangroves Forest and water body were present in Survey No. 50,51,68,69 and 81 pt. in the year 2005.</p> <p>NCSCM recorded Minor part of the construction falls under CRZ IA (50m Mangrove Buffer Zone) category.</p> <p>The Hon. NGT Order dated 19.09.2022 recorded Google images in the year 2009 to 2013 shows extension of Mangroves Forest and water body in Survey No. 67 as well, but the same has not been studied by JC.</p>	

2. Destruction of Mangroves by dumping of debris, blockage of natural water course in CRZ:

Particulars	Observation	Pg. no.
<p>Ground of OA</p>	<p>PP has caused systematic destruction of Mangroves by dumping of debris, illegal construction of compound wall, blocking of natural water course</p>	<p>49</p>
<p>Report of SDO On Site Visit dt 08.02.2019</p>	<p>The Committee observed that at left side the flow of water is stopped hence trees of mangroves have dried.</p>	<p>392</p>

	<p>The MBMC was further directed to remove debris and remove the blockage of natural water source.</p> <p>The committee directed Forest Department to plant mangroves and restore the land with the help of MBMC.</p>	
Minutes of MCZMA 142nd meeting dt 31.12.2019	The MCZMA directed the Mangrove Cell to examine the destruction of mangrove and District collector, Thane to take action against the mangrove destruction.	398
Minutes of MCZMA 152nd meeting dt. 22.02.2021	<p>The Mangrove Cell Report dt. 17.2.2021 states that</p> <p>i) Systematic dumping of debris and destruction all of mangrove on above mentioned survey numbers happened right from the year 2015 onwards as it is visible on the Google super imposed images.</p> <p>ii) The Project land are not notified forest and not in possession of Mangrove Cell.</p> <p>iii) Destruction of the mangrove and wetlands is an offence as per Environment Protection Act. 1986 Hence, the Environment Department and District Collector may initiate necessary action.</p>	419
Joint Committee Report dt 15.3.2023	iii)The small creeklet water body emanating from the main vasai creek flows near the project site.	977
Conclusion/Objection	<p>The SDO committee observed the flow of natural water had been blocked and same was directed to open whereas the JC recorded small creeklet water body emanating from the main vasai creek flows near the project site.</p> <p>The SDO Committee and Mangrove Cell recorded systematic dumping of debris and destruction all of mangrove on the project land but JC report did not discuss the same and not complied with the Hon. NGT Order fully.</p>	

	The SDO Committee directed Forest Department to plant mangroves and restore the land with the help of MBMC but no further status report is available
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3. Illegal Excavation in CRZ area

Particulars	Observation	Pg. no.
Ground of OA	i) The Tahsildar vide Order dated 05.05.2016 permitted PP permission for excavation of 500 brasses of soil	261-262
	ii) presently illegal excavation for Swimming pool is going on	48
Joint Committee Report dt 15.3.2023	The Joint Committee observed the sanctioned plan of the MBMC wherein the CRZ line was shown and L shaped hotel building & swimming pool is beyond CRZ line.	980
Conclusion/Objection	The Joint Committee observed the sanctioned plan of the MBMC wherein the CRZ line was shown and L shaped hotel building & swimming pool is beyond CRZ line and did not enquired about earlier excavation done as per Tahsildar Order.	

4. Prohibited activity of Reclamation in CRZ area

Particulars	Observation	Pg. no.
Ground of OA	As Per clause 2 (vi) and (viii) of CRZ Notification 1991 and as per clause 3 (iv), (vii) & (ix) of CRZ Notification, 2011 strictly prohibit dumping of city or town wastes including construction debris, industrial solid wastes, fly ash for the purpose of land filling and Reclamation for commercial purposes such as shopping and housing complexes, hotels and entertainment activities.	70-71 169-170

Report of SDO On Site Visit dt 08.02.2019	<p>1.It is observed that said area is of Mangrove and it is finished by way of doing filling therein.</p> <p>The Committee has recorded that reclamation of land done by filling of soil on the backside of the hotel besides which stone compound has been made.</p>	<p>392</p>
Minutes of MCZMA 142nd meeting dt 31.12.2019	<p>MBMC states that District Collector vide letter dated 09.04.2008 has granted NA permission for Commercial Use</p>	<p>397</p>
Conclusion/Objection	<p>The SDO Committee has recorded that reclamation of land done by filling of soil on the backside of the hotel besides which stone compound has been made.</p> <p>Reclamation for commercial purposes was done by PP as District Collector granted NA permission for commercial use</p>	

5. Construction activity are barred in CRZ- I area

Particulars	Observation	Pg. no.
Ground of OA	<p>i) As per Clause 6 (2) of CRZ Notification-1991 no new construction is permitted in the CRZ- I area.</p> <p>ii) as per Clause 8 (i) (I) of CRZ Notification-2011 no new construction is CRZ- I area.</p>	<p>75 175</p>
Report of SDO On Site Visit dt 08.02.2019	<p>The MBMC was directed to issue stop work notice for construction within 50 mts. from mangrove forest.</p> <p>The Asst. Director of Town planning or concerned department of MBMC shall be informed that the building permissions henceforth shall be given after survey of mangroves is conducted on the basis of map available with Forest Department</p>	<p>392</p>

<p>Minutes of MCZMA 142nd meeting dt 31.12.2019</p>	<p>MBMC states that it has granted building permission in non-CRZ area and no permission is granted in CRZ area.</p> <p>The MCZMA directed MBMC to submit all the permissions granted to the PP.</p>	<p>397</p> <p>398</p>
<p>Minutes of MCZMA 152nd meeting dt. 22.02.2021</p>	<p>4) As per the Google Earth super imposed maps, the main building of Seven Eleven Hotel on. S. No. 67 pt. and 81pt. is not located on the mangrove forest. However some of the facilities like sports club, recreation ground, Lawn etc. are being constructed on the reclaimed mangrove forest and water body.</p> <p>MCZMA further directed MBMC to provide details as to whether the construction has been carried out in CRZ area, as per approved CZMP, 1991 and date on which the construction is started on the site.</p>	<p>419</p>
<p>Joint Committee Report dt 15.3.2023</p>	<p>9. At the end, in view of above, it is concluded that, at the relevant time, when the permissions were granted by MBMC during the period 2008 to 2018, the CZMP prepared by CESS, Kerala was in force and used by the MBMC. As per the said map, though the site under reference bearing S. No. 81pt, 67pt and 52pt is partly in CRZ area, the MBMC has approved the building plans beyond CRZ line i.e. in Non CRZ area. Hence, the said construction (L shaped) situated in Non CRZ area, is outside the ambit of the CRZ regulation.</p> <p>10. However, the car porch on North East corner side adjoining the main 'L' shaped building is at a distance of 46.3 meter away from the boundary of</p>	<p>983</p>

	<p>mangroves, as reported by mangrove cell. Thus, car porch is partly within 50 m mangrove buffer zone. Further, it is observed that, the facilities/activities like, Lawns/RO, Pathway falls in CRZ area as per approved CZMP and are constructed without permission. This amounts to violation of MRTP as well as CRZ.</p>	
<p>Principal Conservator of Forest (HOFF) Report dt. 15.03.2024</p>	<p>Seven Eleven Club has 'L' Shaped main building with Car porch situated at North East corner within the Survey Numbers 67 & 81. The main 'L' shaped building which is located in the survey numbers 67 and 81 does not fall on mangroves and the North East corner of the main building is approximately at a distance of 51m from the mangroves as per MRSAC maps of 2005 . The main 'L' shaped building is neither in mangroves nor in Buffer zone of mangroves. However, the car porch on North East corner side adjoining the main 'L' shaped building is at a distance of 46.3 m away from the boundary of mangroves as per MRSAC maps of 2005.</p>	<p>981 & 1056</p>
<p>Conclusion/Objection</p>	<p>MCZMA in its 152nd meeting recorded that as per the Google Earth super imposed maps, the main building of Seven Eleven Hotel on. S. No. 67 pt. and 81pt. is not located on the mangrove forest. However some of the facilities like sports club, recreation ground, Lawn etc. are being constructed on the reclaimed mangrove forest and water body.</p> <p>The PCCF report stated that the North East corner of the main building is approximately at a distance of 51m from the mangroves as per MRSAC maps of 2005 and the car porch on North East corner side adjoining the main 'L' shaped building is at a distance of 46.3 m away from the</p>	

	<p>boundary of mangroves as per MRSAC maps of 2005.</p> <p>The NCSCM report states that the minor part of the Basement + GR and Fencing fall within the CRZ IA (50m Mangrove Buffer Zone) category.</p>
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6. Illegal Construction in no development zone

Particulars	Observation	Pg. no.
Ground of OA	i) As per the sanctioned development scheme of the Mira-Bhayandar City the project land under challenge is demarcated as "No Development Zone" and there is no permission for construction of any residential, commercial and industrial use. Also, the FSI use is restricted to 0.33 and height of the building is restricted to Ground + One story with not exceeding 9.75 Mtrs. (pg.57) whereas PP have procured the sanction with condition on 30.10.2018 for "Star Hotel / Club House with Basement+Ground+4 Floors having total BUA of 14262.86 Sq. Mtrs (pg. 541-543)	541-543
Minutes of MCZMA 142nd meeting dt 31.12.2019	MBMC states that the project land falls under no development zone as per sanctioned development plan.	397
Conclusion/Objection	as per the Rule No 57 of DCR of MBMC the construction of star hotels and commercial building is not permissible in No-development Zone and MBMC confirm the same in MCZMA's 142 nd meeting	

7. Illegal construction of beach resorts and hotels

Particulars	Observation	Pg. no.
Ground of OA	as per the guidelines for Development of beach Resorts or Hotels in the designated area of CRZ-III and CRZ-II	188

	<p>for occupation of tourist or visitors with prior approval of the Ministry of Environment and Forest issued at annexure III of CRZ notification 2011. In these guidelines it expressly stated that “in ecologically sensitive area (such as marine parks, mangroves, coral reefs, breeding and spawning grounds of fish, wildlife habitats and such other area as may be notified by the central or state Government Union Territories) construction of beach resorts or hotels shall not be permitted.</p>	
<p>Conclusion/Objection</p>	<p>The Executive Summary Report for Mira Bhaindar states that the project land falls under CRZ II area, even though as per the guidelines for Development of beach Resorts or Hotels in the designated area of CRZ-III and CRZ-II for occupation of tourist or visitors of annexure III of CRZ notification 2011 states that in ecologically sensitive area i.e. mangroves construction of beach resorts or hotels is not permitted.</p>	

8. illegal construction activity in CRZ area without obtaining prior EC

Particulars	Observation	Pg. no.
<p>Ground of OA</p>	<p>As per EIA Notification, 2006 prior EC is required if construction is more than 20000Sq. Mts.</p> <p>PP has suppressed total Construction Covered Built-up Area from the MBMC while obtaining the sanction which is more than 20000 Sq. Mtrs. and shown only misleading FSI Construction Area.</p> <p>That as per Clause 4 (i) (d) of CRZ Notification, 2011 states that construction involving more than 20,000sq mts built-up area in CRZ-II shall be considered in accordance with EIA notification, 2006 and in case of</p>	<p>130</p> <p>700</p> <p>171</p>

	<p>projects less than 20,000sq mts built-up area shall be approved by the concerned State or Union territory Planning authorities in accordance with this notification after obtaining recommendations from the concerned CZMA and prior recommendations of the concern CZMA shall be essential for considering the grant of environmental clearance under EIA notification, 2006 or grant of approval by the relevant planning authority.</p>	
Conclusion/Objection	<p>No committee or Institute commented on the requirement of prior EC or the construction has crossed the threshold limit of 20,000Sq.Mts.</p>	

9. Violation of Code of Practice for Designing, Installation and Maintenance of Overhead Power Lines

Particulars	Observation	Pg. no.
Ground of OA	<p>The project land is affected by the installation of Extra High Voltage (EHV) transmission line of 220KV and as per the Code For Practice For Design, Installation, And Maintenance Of Overhead Power Lines i.e. IS: 5613(Part2/Sec2)-1985 Reaffirmed 2002 Edition 2.1 (1994-10) clearly prohibits the construction of any structure in the vicinity or below lines.</p> <p>Following warnings / Stop Work Notices & Complaint has been received by PP</p> <p>I) warning notice dated 22.03.2016 by Reliance Infrastructure Limited (pg.258)</p> <p>II) stop work cum warning notice dated 19.11.2016 by Reliance Infrastructure Limited (pg.277-278)</p> <p>III) stop work cum warning notice dated 10.09.2018 by Adani Electricity Mumbai Ltd(pg.318-319)</p>	97

	<p>IV) stop work cum warning notice dated 17.12.2018 by Adani Electricity Mumbai Ltd (pg.394-395)</p> <p>the Adani Electricity Mumbai Ltd has filed his complaint dated 11.09.2020 with police in regards of the illegal construction carried out by the PP clearing obstacle and by violating the provision of law under EHV 220KV line passing through the project site(pg.412-413)</p>	
Conclusion/Objection	No committee or Institute investigated this aspect	

10. Criminal Proceeding pending against PP

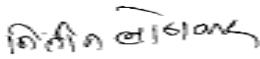
Particulars	Observation	Pg. no.
Ground of OA	Hon'ble High Court has also ordered an investigation vide its Order dated 13.09.2019 in destruction of Mangroves and directed PI of Mira Road Police Station to register criminal case against the concern.	
Report of SDO On Site Visit dt 08.02.2019	<p>i) Regarding damage caused to S No. 67/1,7,8 of Mangrove Tahasildar Thane has registered FIR No. 22/2015 on 11.04.2015, about S. No 69/3,2 & 67/1 registered FIR No 12/10 dated 10.02.2010 and FIR No. 189/2019 dated 15.05.2018 at Mira Road Police Station.</p> <p>ii) The Committee further directed Revenue Dept./Forest Dept/MBMC/MPCB to register crime for destruction of mangroves and appoint Senior Police officer of concerned Police station for that purpose.</p> <p>iii) The MPCB was directed to file chargesheet as per SOP framed by Hon. High court and Hon. Supreme Court with the help of police after registration</p>	392-393

	of crime by Revenue and Police Department.	
Minutes of MCZMA 152nd meeting dt. 22.02.2021	District Collector report dated 15.2.2021 states about in 9 cases FIR have been filed in the matter. After deliberation, the Authority instructed that District Administration should pursue the cases for taking action regarding the destruction of mangroves.	419
Conclusion/Objection	District Collector report dated 15.2.2021 states about in 9 cases FIR have been filed in the matter, status report need to be filed for all criminal proceeding.	

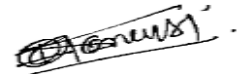
Considering the above facts, provisions under CRZ 2011, finding and comments by the various government authorities and report of the expertise, clearly establish that the PP have committed various serious environmental violations. Therefore, this Hon'ble Tribunal may be pleased to allow the Original Application.

Date: 30.11.2024

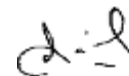
Place: Pune



Advocate for Applicants



Applicant No. 1



Applicant no.2