

MINUTES OF THE 112th MEETING OF MAHARASHTRA COASTAL ZONE
MANAGEMENT AUTHORITY (MCZMA) HELD ON 18th MARCH, 2016

The 112th meeting of the Maharashtra Coastal Zone Management Authority (MCZMA) was held under the Chairmanship of Additional Chief Secretary (Environment), GoM on 18th March, 2016 at 12.30 pm at Meeting Hall No. 2, 7th Floor, Main Building, Mantralaya, Mumbai. List of the members present during the meeting is enclosed as **Annexure - I**.

Item No.1: Discussion on preparation of CZMP under CRZ Notification, 2011

The Authority noted that Institute of Remote Sensing, Chennai and Centre for Earth Science & Studies, Kerala have prepared draft CZMPs in the scale of 1:4000 as per the provisions of the CRZ Notification, 2011 of the coastal districts of the Maharashtra. Meanwhile, the Ministry of Environment, Forest and Climate Change, New Delhi in its meeting on 29th September, 2014 has decided that the National Centre for Sustainable Coastal Management (NCSCM), Chennai will also demarcate the HTL for the entire country from the Ortho images available with Survey of India. Based on the HTL demarcated from the ortho corrected images, the NCSCM shall validate the HTL of CZMP prepared by the appointed agencies. The NCSCM is in process of validating the HTL. In this connection, the Environment Department, GoM/ MCZMA officers visited the NCSCM & IRS on 25th, 26th and 27th Feb, 2016 and given its observations regarding HTL demarcated by the NCSCM.

The Authority further noted that the National Coastal Zone Management Authority, New Delhi in its 30th meeting held under the Chairmanship of Secretary, MoEFCC, New Delhi on 29th Feb, 2016 decided that appointed agencies IRS and NCESS shall a share their draft CZMPs in shape file format with NCSCM in order to expedite the process of HTL validation & preparation of draft CZMP immediately to finalize the HTL / CZMP before 31.3.2016 by the NCSCM. The


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MCZMA has requested IRS and NCESS, Kerala to share the new draft CZMPs as well as approved CZMP under CRZ Notification, 1991 in shape file format of coastal districts of the Maharashtra with the NCSCM, Chennai.

The Authority noted that after finalization of the HTL validation, the same will be submitted to MoEFCC, New Delhi. Further, the work of mapping of Ecologically Sensitive Areas (ESA) i.e. CRZ I area is also under progress as per directions of the MoEFCC. Once, MoEFCC agrees with the HTL & ESA (CRZ I area), the same will be provided to IRS and NCESS for superimposition of CRZ II, III and CRZ IV areas. After receipt of the draft CZMP from the above agencies, the same will be placed for public consultation and thereafter draft CZMPs will be submitted to MoEFCC for approval.

The Authority further noted that the Hon. NGT, Pune has passed an order dated 10th February, 2016 in applicant No. 117/2014 that MCZMA shall not grant permission regarding developmental and construction activity in CRZ areas and shall not allow any regularization of CRZ violations until the CZMP maps under 2011 Notification are published.

The Authority after detailed discussion and deliberation decided to follow up with IRS, NCESS and NCSCM to expedite the process of validation of the HTL and preparation of CZMPs in 1:4000 & 1:25000 scale. Further it was also decided that once draft HTL draft HTL and ESA maps are finalized by the NCSCM, Chennai, the MCZMA will visit the NCSCM, Chennai for suggesting corrections, if any, with regard to provisions of the CRZ Notification, 2011.

Item No.2: Review of District Coastal Zone Monitoring Committees (DCZMC) of 1) Mumbai Suburban 2) Thane 3) Palghar districts

The Authority noted that the Environment Department vide GR dated 23.3.2011 constituted the District Coastal Zone Monitoring Committee as per provision 6(C) of CRZ Notification, 2011. The said DCZMCs have been entrusted with power to identify the violations of CRZ norms and take action against such violations, under Environment (Protection) Act, 1986. Identification of ecological


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sensitive coastal areas, formulation of plan for protection and conservation of coastal stretches of the districts are functions of the DCZMCs. It was noted that the MCZMA took review of functioning of its various meetings and issued necessary directions to take action on CRZ violations. It was also noted that all coastal districts have constituted the DCZMCs and are having regular meetings.

Mr. Nitin Mahajan, Deputy Collector, Mumbai Suburban presented the matter before the Authority. He presented that meeting of the DCZMC, Mumbai Suburban is taken every month, wherein complaints of CRZ violations are discussed. Till date around 158 cases of CRZ violations are reported to their office, out of which, FIR are lodged in local police station in 98 cases. In 26 cases, no substance was found and rest of the cases are under examination. He further informed that District Collector office generally receives complaints pertaining to dumping of debris/construction waste on mangroves area. In such cases, Collector office requests Municipal Corporation for removal of debris from mangroves area, however, minimal response is received from Corporation. Deputy Collector requested MCZMA to write to Municipal Corporation of Greater Mumbai in the matter so that proper mechanism can be formulated to remove the debris from mangroves area.

Mr. Vikas Gadre, Deputy Collector (General) presented that there is only one meeting of DCZMC, Thane was conducted till date. He further informed that around 89 cases of CRZ violations are reported to District officer, Thane. Out of which, FIR are lodged in 23 cases in local police station and other cases are under examination.

Mr. Kishore Tawde, from DCZMC, Palghar presented that the DCZMC of the Palghar district was constituted on 26.11.2014 and one meeting is conducted. He informed that CRZ violations cases are mainly reported from Vasai area. Around 64 complaints of CRZ violations are received.


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On hearing the representative, the Authority decided to issue the following directions to the DCZMC, Mumbai Suburban, Thane and Palghar:

1. Mumbai Suburban DCZMC to identify unauthorized developments /constructions in CRZ / mangroves area and take action on the them. The MCZMA shall write to MCGM regarding removal of debris/ construction waste from the mangrove area.
2. Thane DCZMC to take regular monthly meeting and send the minutes of the their meetings to MCZMA. Start immediate action on complaints pertaining to mangrove destruction, reclamation of Coastal water bodies. Provide the concrete information on identification of CRZ violation and action taken on them to the Authority within 2 months.
3. Palghar DCZMC to take action on mangrove destruction complaints of Vasai region. The apparent violations such as construction in CRZ I area / mangrove area should be acted upon immediately by taking action against the violators. Construction undertaken without CRZ permission in CRZ II and III area should also be listed and action taken on the same should be submitted.

Item No.3: Discussion on cases of violations of CRZ Notification, 1991 & 2011

The Ministry of Environment and Forests vide S.O.19(E) dated 19.2.1991 had published Coastal Regulation Zone Notification under section 3(1) & 3(2)(v) of the Environment (Protection) Act, 1986 read with Rule 5(3)(d) of Environment (Protection) Rules, 1986 declaring coastal stretches as Coastal Regulation Zone (CRZ). The said CRZ Notification, 1991 is superseded by the CRZ Notification, 2011 which is published by the MoEF vide S.O. 19(E) dated 6.1.2011. The Ministry of Environment and Forest, New Delhi had issued an Office Memorandum(OM) dated 12.12.2012, 27.6.2013 & 24.7.2014 pertaining to consideration of proposals for TOR / EC / CRZ clearance involving violation of E(P) Act, 1986, EIA Notification, 2006 and CRZ Notification, 1991 & 2011. The Authority was,


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implementing the said OMs of the MoEF, New Delhi. Meantime, the Hon'ble NGT, New Delhi has passed an order dated 7.7.2015 set aside the Office Memorandum dated 12.12.2012 & 27.6.2013 issued by the MoEF, GoI. In light of said order of NGT, the Environment Dept referred the certain cases back to MCZMA, wherein the MCZMA identified the violation cases and decided to apply said OMs to them.

The Authority noted that the Environment Department, GoM vide letter dated 10.8.2015 requested MoEFCC to clarify / guide about the procedure for taking cognizance and suitable action against the project proponent committing / allegedly committing violation pertaining to EIA Notification, 2006 as well as CRZ Notification, 1991 & 2011. The reply from MoEFCC, New Delhi is awaited in the matter.

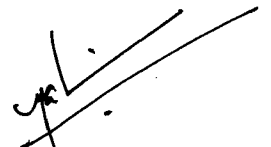
The Authority noted that around 35 cases of CRZ violations were identified by the MCZMA, wherein credible action has been taken (Case lodged in court).

The Authority noted that at local level, in order to implement the provisions of CRZ Notification, 2011 and identify the violations of the CRZ Notification, 2011, District Coastal Zone Monitoring Committees constituted by the Environment Department. Complaints of CRZ violations received to MCZMA are sent to DCZMCs for examination and action. Further, Divisional Commissioner, Konkan Divisional sends monthly report to MCZMA regarding complaints of mangroves destruction, as per directions of the Hon. High Court in PIL 87/2006.

After deliberation, the Authority decided to send a report to MoEF & CC regarding CRZ violations and functioning of the DCZMCs to Ministry of Environment, Forest and Climate Change, New Delhi.

Item No.4: Hon. High Court Order dated 29.7.2015 & 3.9.2015 in 5 MHADA layout matter.


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The Authority noted that the Chamber Summons No. 172/2007 in PIL 87/2006, 169/2015 in PIL 87/2006, Notice of Motion no. 234/2014 In PIL 87/2006, WP No. 176/2015, WP no. 180/2015, WP No. 187/2015, WP No. 190/2015, WP No. 249/2015, WP No. 251/2015 filed in the Hon. High Court of Mumbai pertains to the MHADA layout matters. The Hon. High Court order vide order dated 29th July, 2015 and 3rd Sep, 2015 allowed the said Chamber Summons and Writ Petitions with certain observations.

The Ministry of Environment and Forest, New Delhi vide letter dated 10th Feb, 2003 and 10th Nov, 2005 had granted the CRZ clearance under CRZ Notification, 1991 with certain conditions to development of 5 MHADA layouts at 1) Charkop Kandiwali 2) Gorai- Boriwali 3) Versova- Andheri 4) Mavani Malad 5) Mulund. As per the said CRZ clearance, the development of the Mhada layouts are allowed in CRZ II areas with town & Country planning regulations as on 19.2.1991. No construction is allowed in mangroves area.

In the meantime, the Hon. High Court has passed an order dated 6.10.2005 in WP 3246/2004 regarding mangroves protection. The order bans the development in 50 m. Mangroves buffer zone area. Accordingly, further development in above said 5 MHADA layouts was stopped in 50 m mangroves buffer zone area.

The MHADA sent a representation to MCZMA in the matter which was discussed in 82nd meeting of the MCZMA held on 10.6.2013. The MHADA official presented the matter before the Authority. The MCZMA observed that the MoEF, New Delhi has accorded the clearance in 2003 and 2005 for the five affected schemes, under CRZ Notification, 1991. however, as per the then Hon. High Court order dated 6.10.2005 in WP No. 3246/2004 and 27.1.2010 in PIL 87/2006, prior High Court permission is mandatory for the development, if the plot falls in mangroves or its 50 m. mangroves buffer zone area. The Authority further observed that the MHADA may approach the Hon. Mumbai High Court for seeking the mandatory prior permission for the development of plots which are affected by mangroves or its 50 m mangroves buffer zone area.


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Accordingly, the MHADA filed the Notice of Motion no. 234/2015 before the Hon. High Court of Mumbai seeking exemption/ variation of the order dated 6.10.2005 of the Hon. High Court. Some of individual Societies of MHADA layout had also filed WPs in the matter before the Hon. High Court of Mumbai to allow development on their plots.

Now, the Hon. High Court of Mumbai has passed an order dated 29th July, 2015 & 3rd Sep, 2015 in Chamber Summons No. 172/2007 in PIL 87/2006, 169/2015 in PIL 87/2006, Notice of Motion no. 234/2014 In PIL 87/2006, WP No. 176/2015, WP no. 180/2015, WP No. 187/2015, WP No. 190/2015, WP No. 249/2015, WP No. 251/2015. The Hon. High Court order vide order dated 29th July, 2015 and 3rd Sep, 2015 allowed the said Chamber Summons and Writ Petitions with certain observations.

The Hon. High Court in its long order has observed that the Govt of Maharashtra initiated Bombay Urban Development Project (BUDP) on 4th Jan, 1985 as a project aided by the World Bank at Gorai, Charkop, Versova, Malvani and Mulund in Mumbai. The said schemes were undertaken especially for Economically Weaker Section (EWS) and Lower Income Group (LIG) known as Site service project. The project was undertaken for allotment of plots for residential purposes which were already developed with all infrastructural services. MHADA sent proposal to MoEF on 24 September 2002 and on 10 February, 2003 MoEF granted environment clearance. As far as Notice of Motion no. 234/2015 is concerned, it seeks clearance for development of plots some of which are forming subject matter of the above writ petitions and chamber summons. The affidavit in support of the Notice of Motion of Mr. Yogesh Shivajirao Deshmukh, Estate Manager, MHADA discloses that layout approvals for Charkop in Kandiwali, Gorai in Borivali, Malvani in Virar, Versova in Andheri and Mulund has been submitted to MCGM for its approval and these approvals were received. MHADA on oath stated that the infrastructure in these areas was complete including road, water supply, sewerage main etc. by 1994. No further infrastructure is to be completed in these layouts. In most these cases, the petitioners are the societies comprising of members of low income and middle income group and considering the reported


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shortage of affordable housing for these groups in the City of Mumbai and its Suburbs, subject to precautions set out in the judgment, it is necessary to take pragmatic view of the matter. The plots adjoining most of the plots under consideration are already haing construction. Excerpts of the Hon. High Court is as follows:

Para 23. *The MHADA has inadvertently not annexed the schedule to the Chamber Summons specifying the exact particulars of plots in these layouts. MHADA shall file an affidavit in this PIL setting out particulars of various plots in these layouts that have been allotted, within a period of three weeks with copies to the PIL petitioner and MCZMA. Within a period of six weeks thereafter MCZMA will carry out similar exercise as in case of the nine plots which were considered at the time of site visit on 19th July, 2015 and file such site inspection reports along with an affidavit. it is only after ensuring that these sites also comply with the requirements of being located on the landward side of existing road or landward side of existing authorized structures.*

Para 24. *For avoidance of doubt, without MCZMA completing the aforesaid exercise in terms of aforesaid, the MHADA will not grant any permission to develop in respect of plot other than the plot for which reliefs are being granted by the present order. So also the MCGM shall not process any application received without MHADA and MCZMA certifying that the plot in question are all on the landward side of existing tar/ concrete road and are part of the completed infrastrure as on 6th Oct, 2005. All the authorities shall take notice of the same and in no case any construction of a new road or extension of existing road shall be undertaken in these areas along side the mangroves in order to facilitate any development of any vacant plot.*

Para 25. *Furthermore, it is made clear that all authorities concerned including the Municipal Corporation of Greater Mumbai and MHADA may grant permissions for construction on the plots referred to in the aforesaid*


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layouts subject to strict compliance with all requirements of law including the follows:

- (a) While carrying our excavation or development work as contemplated in section 7 of the MRTP Act no excavated earth or other debris or construction material or any kind will be stored or dumped on the road or towards the store line. Any violation of such debris management will be considered as breach, with consequences to follows.
- (b) So also while carrying such debris or excavated earth or any construction materials all concerned will ensure that there is absolutely no spillage and that the shoreline of mangroves or mangroves vegetation whether such mangroves are adjoining the plots in question or otherwise area not affected. All preventative measures shall be undertaken by the authorities concerned including MCZMA, the concerned plot owners, societies and developers so as to avoid any violation of these conditions.
- (c) No mangroves shall be destroyed or polluted during construction, nor shall construction waste or municipal solid waste shall be dump on mangroves or roads or in coastal regulation zone area. Under no circumstances will any garbage refuse or rubble shall be dumped in the mangroves area or in the buffer zone b any of the persons/ developers/ contractors or the societies concerned. This would have to be monitored on regular basis by the Municipal Corporation of Greater Mumbai by the officer not lower than the rank of Assistant Municipal Commissioner who will be held responsible for the breach of these stipulations.

Para 27. In our view, therefore, Notice of Motion No. 234 of 2015 take out by the MHADA deserved to be allowed. We accordingly allow the motion and exclude the plots in the layouts for which the Environment


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Clearance was granted by MoEF on 10th Feb, 2003 and 10th Nov, 2005, subject to the observations set out above, from operation of the 50 m buffer zone requirement.

Para 28. It was because there was no such restriction in the CRZ Notification dated 19.2.1991 that this court had introduced additional safeguard for protection of mangroves, that construction activity was prohibited in the buffer zone area by interim order dated 6th Oct, 2005. Since the restriction is now incorporated in the Notification dated 6th Jan, 2011, as per interpretation place by us on CRZ Notification dated 6th Jan, 2011, where plot of land falls in 50 m buffer zone but it was already part of an approved layout with infrastructure facilities within a municipal area or in an existing legally designated urban area as on 6.1.2011 then it would have to be treated as falling in CRZ II, provided that the area was substantially developed as per explanation given in CRZ Notification and as explained in this order. In respect of the plots outside the aforesaid approved layouts, the concerned persons shall move the competent regulatory authority and not this court.

Para 29. It is clarified that when any CRZ clearance is sought, MCZMA will have to satisfy that the plot in question is landward side of existing road or on the landward side of existing authorized structures and is a part of the developed area, as explained in this judgment.

Para 30. The WP and Chamber Summons are accordingly allowed in the above terms.

Para 32. Since our order merely requires authorities to act as per environment clearance granted by the MoEF as far as back in 2003 and 2005, we do not grant the prayer for stay. the prayer is rejected.

Pursuant to above said order, the MCZMA vide letter dated 2.1.2016 requested MHADA to submit the details in the light of above said Hon. High Court orders. Accordingly, the MHADA vide letter dated 12.2.2016 replied submitting


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the information and requested to process the matter according to CRZ clearance given by the MoEF in the year 2003 and 2005 and requested to give clearance.

The Authority further noted that the MCZMA is also receiving the individual Societies applications requesting MCZMA to make site visit in the light of High Court order. The MCZMA has visited 11 sites till now. Further, applications from a) Malvani Swapnsagar Sahakari Grihanirman Sanstha Maryadit b) Charkop Gurukul Sahakari Grihanirman Sanstha Maryadit requesting MCZMA to make site visits. The MCZMA has also received applications from two Charkop societies namely Charkop Shirley CHS and Charkop Shree Lambodar CHS Ltd. in the light of court order dated 12.7.2013 in Chamber summons 10/2008 and 11/2008 before the Hon. High Court.

The Authority noted that Hon. High Court of Mumbai has directed MCZMA to do the similar exercise as in case of the nine plots which were considered at the time of site visit on 19th July, 2015 and file such site inspection reports along with an affidavit. The Authority noted the extensive list of the plots forwarded by the MHADA and observed that considerable time will be required to do the site inspection. The Authority noted that time frame given by the Hon. High Court to complete the exercise is lapsed. Hence, it will be appropriate to seek more time from the Hon. High Court of Mumbai by way of moving a request petition before the Hon. High Court of Mumbai.

The Authority further decided that the MHADA officials along with expert member of the MCZMA shall do the exercise as mentioned in the said order of the Hon. High Court immediately and submit report to MCZMA for further decision on merit as per the said Hon. High Court order. Site visit should be strictly carried out for the areas identified by the Hon. High Court in its order. MHADA to ensure the same.

Relating to two Charkop societies namely Charkop Shirley CHS and Charkop Shree Lambodar CHS Ltd. in the light of court order dated 12.7.2013 in Chamber summons 10/2008 and 11/2008 before the Hon. High Court, the


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Authority decided that MCZMA member shall visit the site at the earliest and submit the report to MCZMA.

Discussion Item:

1. Delisting of proposals from the records of MCZMA:

The Authority noted that certain proposals which were received before the MCZMA in the year 2012-2013 from planning Authorities/ proponents and the MCZMA had sought certain required information in the proposals. Further, such proposals were discussed 101st, 102nd, 103rd and 104th meeting of the MCZMA. Further, reminder letters were also sent to concerned Planning Authorities / project proponents. However, no reply/ compliance were received to MCZMA till date.

Such proposals are of the year 2012-2013 and replies are not received in the proposals by the proponents / planning Authorities. The Authority felt that the proposals wherein the PP have not responded despite request letters from the MCZMA, needs to be delisted from the records of the MCZMA with approval of Chairman, MCZMA. The proponent may apply afresh to MCZMA as per the stipulated procedure of the MCZMA with required information.

2. Appointment of Advocate for MCZMA:

The Authority noted that numerous court cases are filed pertaining to CRZ issues in Hon. High Court, Hon. Supreme Court and Hon. NGT, Pune. At present, Advocate Sharmila Deshmukh is appearing before the Hon. High Court on behalf of MCZMA. Further, Advocate Deepak Gupte is handling the MCZMA matters in NGT, Pune.

It was further noted that number of court cases are increasing and at present around 200 nos. of cases are being handled by the MCZMA. Since, it is imperative to handle the cases appropriately and in time bound manner, the Authority felt that there is need to increase numbers of the Advocate appearing before Hon. High Court and NGT, Pune on behalf of MCZMA. Accordingly, the


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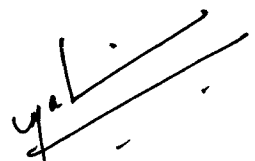
Authority decided that one advocate for High Court cases and two advocates for NGT, Pune cases should be appointed on behalf of MCZMA. Further, one more Law officer for MCZMA should be appointed on contractual basis on pay scale as per MCZMA slab. The Law officer, MCZMA to initiate action for appointment of advocates on merit for the MCZMA.

The Authority further noted that the Audit for the MCZMA has been carried out by the Accountant and General office. It was further decided that the MCZMA to appoint the Account officer on contractual basis on pay-scale (Rs.20,000-30,000/ month) as per MCZMA slab to handle the account related work of the MCZMA

The Authority further felt that the MCZMA should have a full-fledged staffing pattern in order to handle its work and same should be brought to the notice of the MoEF&CC, New Delhi.

-----Meeting ended with vote of thanks-----


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Annexure I

List of members present during the meeting:

- 1) Jt. Secretary, Urban Development Dept., GoM,
- 2) Mr. M. G. Mulay, Dy. Ch.E. (DP)-II, MCGM,
- 3) Dr. M. C. Deo, Expert Member, MCZMA,
- 4) Dr. Mahesh Shindikar, Expert Member, MCZMA,
- 5) Dr. B. N. Patil, Member Secretary, MCZMA