

MINUTES OF THE 19TH MEETING OF THE MAHARASHTRA COASTAL ZONE MANAGEMENT AUTHORITY HELD ON 14-08-2003 IN THE CHAMBER OF THE CHAIRMAN, MCZMA, OFFICE OF THE SECRETARY, ENVIRONMENT DEPARTMENT, GOVERNMENT OF MAHARASHTRA, 4TH FLOOR, MANTRALAYA, MUMBAI-400 032.

The following were present :

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| 1] | Secretary<br>Environment & Energy Department,<br>Government of Maharashtra,<br>Mantralaya, Mumbai-32.  | Chairman         |
| 2] | Dr. Leela Bhosale<br>Department of Botany,<br>Shivaji University,<br>Kolhapur.                         | Member           |
| 3] | Prof. S.K. Gupta,<br>Head of the Department, CESE<br>Indian Institute of Technology,<br>Powai, Mumbai. | Member           |
| 4] | Dr. Hrishikesh Samant<br>Lecturer,<br>Department of Geology,<br>St. Xavier's College,<br>Mumbai.       | Member           |
| 5] | Dr. Munshi Lal Gautam<br>Member Secretary,<br>MPCB.  | Member Secretary |

Principal Secretary, Urban Development Department, Government of Maharashtra; Principal Secretary, Department of Revenue, Government of Maharashtra and Shri S. Ayyappan, Director, Central Institute of Fisheries Education, Members did not attend the meeting.

Shri Surendra Jadhav, Deputy Secretary (Technical), Environment Department, Government of Maharashtra; Shri A.B. Jain, Law Officer, MPCB and I/c. MCZMA Cell; Shri P.V. Deshmukh, Deputy Secretary and Shri Kirtane, Section Officer, Urban Development Department, Government of Maharashtra and Shri M.L. Tambe, Deputy Chief Engineer, Development & Planning, MCGM were also present to assist the Authority.

: 2 :

The matters placed before the Authority were discussed in detail. Following is the gist of the discussions and decision taken thereon :-

**ITEM NO.1 :** To confirm the minutes of the 18th Meeting of the Maharashtra Coastal Zone Management Authority held on 23-05-2003

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The minutes of the 18th meeting of the Maharashtra Coastal Zone Management Authority held on 23-05-2003 were circulated amongst the Members vide letter bearing No.MCZMA/82 dated 16-06-2003 with a request to forward suggestions, comments, if any. The minutes were read and confirmed.

**ITEM NO.2 :** To note the follow-up actions taken in respect of decisions taken in the earlier Authority's Meetings.

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Shri A.B. Jain, Law Officer and I/c. MCZMA Cell read out the itemwise compliance in respect of decisions taken in the earlier meetings of the Authority. The same were noted. While noting follow-up actions certain decisions were taken. The gist of which is given as under :-

**Item No.2 :** Complaint received from Rishi Agarwal an activist of  
(Follow-up) Lokhandwala Complex Environment Action Group  
regarding dumping of debris and destruction of mangroves  
at Lokhandwala Complex, Andheri on coastal land.

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No discussion took place on this point. The decision of the Authority is pending since the last meeting. Chairman promised to look into the matter of prosecution of Oshiwara Developers for not complying with the decision of the Authority.

: 3 :

**Item No.4 :** To extend an opportunity of hearing to the representatives  
**(Follow-up)** of Gorai Ma Machhimar Sahakari Sanstha & Bombay  
Environmental Action Group as well as the Respondent  
M/s. Pan India Paryatan Ltd.

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Shri A.B. Jain, Law Officer informed that M/s. Pan India Paryatan Ltd., pursuant to the directions issued by the Authority have submitted their action plan and have sought time upto 31-08-2003 for submitting draft report. A letter dated 05-07-2003 received from M/s. Pan India Paryatan Ltd. was circulated amongst the Members. It was decided to direct M/s. Pan India Paryatan Ltd. to appear before the Authority alongwith officials of National Institute of Oceanography in its next meeting and present a concrete plan for making culverts in the Bandhara which is not allowing free flow of sea water thereby endangering the mangroves.

**Item No.10 :** In the High Court of Judicature at Bombay  
**(Follow-up)** Civil Appellate Jurisdiction  
PIL Writ Petition No.12/2003  
Vinayak Shridhar Nikam  
V/s  
Union of India & Ors

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Member Secretary informed the Members that the matter of grant of authorisation under the Municipal Solid Waste (Management & Handling) Rules, 2000 is pending before the Maharashtra Pollution Control Board and suggested that the matter be postponed. It is a question of granting authorisation for the improvement of existing dumping grounds as per provisions of Municipal Solid Waste (Management & Handling) Rules, 2000. Members agreed to the suggestion.



: 4 :

**Item No.14 : Environment Clearance for Borivli-Virar Quadrupling  
(Follow-up) Railway Project under MUTP by partly World Bank Aid  
in MMR Area**

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Member Secretary informed that the proposal has been submitted to the National Coastal Zone Management Authority with due recommendations. Dr. Leela Bhosale, Member sought permission to visit the site to assess the status of mangroves. Member Secretary explained that since the proposal found satisfying the norms, it has been recommended <sup>to NCZMA</sup> in public Interest. Compensatory plantation of mangroves is the part of the Project.

**Item No.15 : Coastal Regulation Clearance for proposed development  
(Follow-up) on land bearing CTS No.5/10 of Village Borla of Chembur,  
Tal. Kurla for Kutch Sarvodaya Trust**

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Member Secretary informed the Members that the site in question was visited by team alongwith Prof. S.K. Gupta, Member on 01-08-2002. He informed that MCGM has drained the nalla. While doing so the land has been reclaimed. He further informed that MCGM have knowingly violated the provisions of CRZ Notification and suggested that explanation be called from the MCGM before taking any action in the matter.

**Item No.18 : Proposal received from Janata Naya Nagar Co-op. Hsg.  
(Follow-up) Society for development of the plot under Slum  
Rehabilitation Scheme.**

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Member Secretary informed the Members that the site was visited by him alongwith Dr. Hrishikesh Samant, Member on 7th July, 2003. He informed that the Project Proponents have proposed a Slum Rehabilitation Scheme on the subject land bearing CTS No.2116 (pt), 1500 (pt) and 1618 of Mahim Division. As per the approved CZMP, the plot is partly affected by CRZ. He further informed that the Project Proponents have carried out fresh survey through Centre for Earth Science and Studies (CESS), Trivendrum. The report submitted by



CESS was perused by the Members and also the map prepared by them wherein HTL demarcated was also perused. The Members felt that part of the plot falls within 500 metres Regulation Zone along the sea side. However, part of the eastern side is outside the CRZ areas landward side of the creek. The Project Proponent informed the Members that MCGM while giving DP remarks have shown the land under reference "as mostly falls within CRZ areas".

Members accepted the report of the CESS and it was decided to inform the Corporation that survey done by CESS is correct and may be accepted.

**Item No.19 : Proposal received from Society for Promotion of Area  
(Follow-up) Resources Centres (SPARC), Mumbai for development  
of the plot under Slum Rehabilitation Scheme.**

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Shri S. Burra, Advisor, Society for Promotion of Area Resources Centres (SPARC) gave a brief background of the project and informed the Members that in the approved CZMP the northern side, i.e. Bandra-Kurla Complex is shown having width of the creek as 60 metres from HTL, whereas on the southern side of the said creek it is shown as 100 metres from HTL. He relied upon the amended Notification issued by the Ministry of Environment & Forests, Government of India dated 21-05-2002 wherein it is specified that the distance from HTL shall apply to both sides in the case of rivers, creeks and backwater and can be modified on a case to case basis by recording reasons in writing. He further informed that SPARC which is a Non-Governmental Organisation which has taken up the Slum Rehabilitation Scheme on CS NO.343 (pt) at Kalyanwadi, Dharavi. He further informed that the development permission is being granted with 1.33 FSI as was prevailing on 19-02-1991 instead of 2.5 FSI which is otherwise permissible for slum projects. He requested the Authority that the error, i.e. width of 100 metres shown on Dharavi site should be corrected as 50 metres as per site condition since the same distance has been shown by MMRDA in the nearby site.

The matter was discussed and it was decided to recommend the case to National Coastal Zone Management Authority considering the existence of 30 metres road constructed prior to 1991 and abutting the mangroves. 50 metres from the HTL, i.e. the mangroves may be measured here as has been done in MMRDA cases just on the other side of the creek.

**ITEM NO.3 :** In the High Court of Judicature at Mumbai  
Writ Petition No.1236/2002  
Eversmile Constructions Co.Pvt. Ltd.,  
V/s.  
Union of India & Ors.  
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The matter was discussed. The representative of M/s. Eversmile Constructions Co.Pvt. Ltd. gave a brief background of the matter and also order passed by the Hon'ble High Court dated 26-08-2002 in Writ Petition No.1236 of 2002 wherein the Maharashtra Coastal Zone Management Authority has been asked to examine the matter in respect of width of Mahul Creek, the demarcation of HTL in accordance with the CRZ Notification, 1991 expeditiously. Dr. Hrishikesh Samant, Prof. S.K. Gupta and Mrs. Leela Bhosale, Members perused the map and seen the HTL all along the property of the Company which is abutting the Mahul Creek. Mr. Deshmukh, Deputy Secretary, Urban Development Department presented the letter of Government of India dated 16-04-2002 wherein the Ministry of Environment & Forests, Government of India has pointed out that since the width of the creek is more than 350 metres, hence 150 metres as per rules has to be left from the HTL. The letter was taken on record. The letter issued earlier by Chairman of the Authority dated 21-07-2001 was also read out before the Authority. In this letter, Chairman has maintained that MCGM has granted permission to the Company as per conditional CZMP approved by the Ministry of Environment & Forests vide letter No.J-17011/8/95-1A-III, dated 27-09-1996. Thereafter the State Govt. submitted revised CZMP vide letter dated 25-11-1998. In this revised plan 50 mtrs. distance has been left from HTL, i.e. a buffer from the existing mangroves rather than keeping in mind the width of the creek. Surprisingly the report of the Chief Hydrographer



has not mentioned the width of the creek. However creeklet along the property has been shown and also the mangroves towards the land ward side of this creek let. On the other side of the creek let, there are mangroves meeting the sea, i.e. entire area is part of CRZ-I(i).

M/s. Eversmile Constructions Co.Pvt.Ltd., Director Shri Vinod Goenka and Shri Dilip Kamteekar were present. They explained their stand as under :

They informed the Members that they are governed by the CZMP approved by the Ministry of Environment & Forests, Government of India vide letter dated 27-09-1996. ✓ They further brought to the notice of the Members the letter written by the Chairman, MCZMA dated 21-07-2001 wherein it was categorically mentioned that at the project site the distance from the existing mangroves 50 metres has been maintained. It was further informed that there are 23 locations (21 MCGM and 2 of MMRDA) within the city of Mumbai wherein 50 metres buffer zone from the mangroves (i.e. HTL) was considered while approving the CZMP of Mumbai and not the width of the creek. They relied upon a letter addressed by MCGM to the Deputy Secretary, Urban Development Department, Government of Maharashtra dated 06-05-2002, wherein clarification in respect of 21 such sites was given. The documents produced were taken on record including a map wherein the said 23 locations are shown.

The report prepared by the National Hydrographic Office was perused. It was noted that the office has no views on the matter either way. It was decided that the following recommendation be made to MoEF.

CZMP was prepared by Urban Development Department (UDD), Government of Maharashtra on the assumption that the discernible width of the creek should be taken as the width of the creek and not the distance between the HTL on either side of the creek. This CZMP was approved by Government of India and on that basis in 23 cases building permission has been given. This stand has been consistently taken by UDD



and has been taken earlier by the Chairman. The Authority feels that this being a matter of interpretation and since there is no overwhelming reason to change the earlier interpretation, communication should accordingly be made to NCZM A, who in any case are bound to have their own interpretation in the matter and are competent to decide accordingly.

**ITEM NO.4 :** Application received from M/s. Dynamix Hotels Ltd.  
at JVPD Scheme Vile Parle (West), Mumbai for getting  
physical survey carried out through Chief Hydrographer.

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The report of National Hydrographic Office, Dehradun and the map (tracing) received were perused. It was decided to refer the matter to the City Survey Office to demarcate the boundary of property so that the distance from the HTL can be properly measured. Once the City Survey report is received, the same should be forwarded alongwith National Hydrographic Office's report and maps to the National Coastal Zone Management Authority for making necessary modifications in the approved CZMP.

**ITEM NO.5 :** Slum Resettlement & Redevelopment Project at New Babrekar  
Nagar, Malwani, Malad (W) concessions required under CRZ  
regulations in Mumbai.

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Member Secretary explained the proposal in brief and informed the Members that he had visited the site alongwith Dr. Hrishikesh Samant, Member on 07-06-2003. He informed that the slum resettlement and redevelopment project is taken up by MHADA (A Government of Maharashtra Undertaking) at New Babrekar Nagar, Malwani, Malad (W), Mumbai. The project is now taken up by Youth for Unity & Voluntary Action (YUVA) a non-governmental organisation on behalf of MHADA. He further informed that the land under reference falls in CRZ-III and CRZ-I. The request of the applicant is to allow them to construct access road from survey No.263 which falls in CRZ-I and also to permit them to implement the slum rehabilitation project on site bearing No.265 (pt) which falls in CRZ-III.

He further informed the Members that the matter was taken up by the Government of Maharashtra at the directions of National Human Rights Commission who visited the site and had expressed their concern for the slum dwellers and their immediate rehabilitation. He further informed that project is financially assisted by Ministry of Science and Technology, Government of India (TIFAC).

Member Secretary further informed the Members that rehabilitation has already taken place and there appears to be no alternative but to modify the CRZ area from CRZ-III to CRZ-II. He further informed that a road is already in existence in Survey No.263 which is being used by people rehabilitated in Survey No.265 and also the local inhabitants. After due deliberation it was decided to recommend the case to National Coastal Zone Management Authority with due justification for modification of CRZ area and CZMP on the above lines.

**ITEM NO.6 :** Application for grant of permission to construct bandhara from Priyadarshani Park to Amar Sons Park, Malbar Hill, Mumbai.

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The matter was discussed. The representative of Urban Development Department and Environment Department, Government of Maharashtra brought to the notice of the Authority that similar proposal received earlier was referred by the State Government to the Ministry of Environment & Forests, Government of India which in turn had rejected the proposal.

Considering the fact that no construction is permissible in CRZ-I (ii), i.e. between HTL & LTL. The proposal received for grant of permission to construct bandhara from Priyadarshani Park to Amar Sons Park, Malbar Hill, Mumbai difficult to be considered. However, it was decided to give further opportunity to the applicant to present his case. Authority also decided to visit the site.



**ITEM NO.7 : Changes or modifications in classification of CRZ areas and in CZMP.**

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The matter regarding proposal being received by the Authority's Office for changes/modifications in classification of CRZ areas and CZMP was discussed. Chairman of the Authority opined that there has to be some consistency in CZMP which is an important document and further opined that the work of redemarcation of HTL shall be referred to National Hydrographic Office, Dehradun. Prof. S.K. Gupta, Member was of the opinion that Ministry of Environment & Forests, Government of India has authorised 6 agencies for demarcation of HTL and LTL and it would not be appropriate to restrict to National Hydrographic Office, Dehradun. Chairman of the Authority informed that MoEF, Government of India has authorised 6 agencies for demarcation of HTL and LTL of the entire State and not for carrying out demarcation work in piecemeal.

After due deliberation, it was decided to refer the cases/proposals of redemarcation of HTL and LTL to the National Hydrographic Office, Dehradun. It was also decided that individual proposal received by the Authority's Office shall be dealt with at Member Secretary and Chairman's level after examining the proposal and confirming the need of such redemarcation and after receipt of report from the Chief Hydrographer the same shall be placed before the Authority for decision as to changes in the CZMP.

TABLE : Order passed by Hon'ble Court in Writ Petition No.85/2000  
ITEM filed by the Colaba Cuffe Parade Citizens Group V/s Union  
NO.1 of India regarding violation of CRZ Notification - compliance  
regarding

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Member Secretary explained the item in brief and informed that despite repeated instructions given to the Collector-Mumbai, Additional Collector (Encroachment) Mumbai for taking action against the hutments which have come up in CRZ area after 19-02-1991, no concrete action has been taken so far. He further informed that Government of India is required to submit action taken report to the Hon'ble High Court and the Petitioners are also insisting on taking action in the matter. Considering the



seriousness of the matter, it was decided to issue legal notice under Section 15 of the Environment (Protection) Act, 1986 (read with the provisions of CRZ Notification of 1991) to the erring officials and if no action is taken within 30 days, prosecution may be launched against them.

**TABLE :**      **Proposal received from Mumbai Slum Improvement Board**  
**ITEM NO.2**    **regarding restoration of Dadar Prabhadevi Chowpatty**

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The representative of MHADA explained the proposal in brief and informed the Members that they intend to restore the beach and to check the rapid erosion in the area. The proposal includes 3 aspects, viz. beach nourishment plan, improvement of existing roads and garden and landscape. The representative of Urban Development Department informed that the activities proposed falls in CRZ-I (ii) area and are not permissible activities. The other Members also took the same view and it was unanimously decided not to recommend the proposal to the National Coastal Zone Management Authority. It was decided to inform MHADA accordingly. As a matter of fact Government agencies should not refer such cases to the Authority which are prima facie violation of Notification. It unnecessarily increases the work load of the Authority.

The meeting terminated with vote of thanks to the Chair.

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