

Minutes of the second meeting of the Maharashtra Coastal Zone Management Authority
held on 5-5-2000 at 5th floor, Committee Room, Mantralaya, Mumbai-32

The following were present :

- 1) Dr.Pramod Deo, Chairman
Principal Secretary,
Environment & Energy Department
Govt. of Maharashtra,
Mantralaya, Mumbai-32.
- 2) Shri Nand Lal, Member
Principal Secretary (Revenue)
Revenue and Forests Department,
Government of Maharashtra,
Mantralaya, Mumbai-32.
- 3) Dr.Suresh Joshi, Member
Principal Secretary,
Urban Development Deptt.,
Govt. of Maharashtra,
Mantralaya, Mumbai-32.
- 4) Dr.Leela Bhosale, Member
Department of Botany,
Kolhapur University,
Kolhapur
- 5) Shri K.H. Mehta, Member-Secretary
Member Secretary,
Maharashtra Pollution Control Board,
Mumbai-1.

Dr.A.D. Diwan, Member could not attend the meeting. Leave of absence was sought by him and the same was granted by the Chairman.

Shri S.D. Jadhav, Deputy Secretary (Tech.) Environment Department, Shri A.B. Jain, Law Officer, Maharashtra Pollution Control Board and Shri A.M. Abhyankar, Desk Officer, Urban Development Deptt. Govt. of Maharashtra were also present to assist the Authority.

The Chairman welcomed the Members and gave a brief background of earlier meeting.

The items placed before the Authority were discussed in detail and following is the gist of the discussions and the decisions taken.

I) Confirmation of the minutes of the first meeting of the Authority held on 21.7.1999.

The minutes of the first meeting of the Authority were circulated amongst the members vide letter No.WP/Legal(HQ)/B-7518, dated 12.11.1999 with a request to forward suggestions for modification/amendments if any. No comments/suggestions were received in this regard. The minutes were read and confirmed.

II) To lay down procedure for transaction of business of the Maharashtra Coastal Zone Management Authority

The Member Secretary informed the Members that the second meeting of the Authority was scheduled to be held on 3.4.2000. However the same could not be conducted as some Members were not present. He further informed that since the Authority is a quasi-judicial forum, majority of members is essential for taking decisions. He informed the Members that the notification by which the Authority has been constituted is silent on the point of procedure to be followed by the Authority, particularly, the quorum aspect. He also informed that he had detailed discussions on this issue with Hon'ble Justice Shri C.S. Dharmadhikari who is Chairman of Dahanu Taluka Environment Protection Authority constituted under similar provisions of the Environment (Protection) Act, 1986 under which the present Authority is constituted. As per his advice an item note on procedural aspects is placed for approval of the Authority.

The item was discussed in detail and it was unanimously decided to follow the following procedure for transacting the business of the Authority.

Notice of Meeting (1) Meeting of the Authority shall be held at Mumbai on such dates as may be fixed by the Chairman of the Authority

(2) Notice of the meeting may be given to the members by delivering the same by messenger or sending it by registered post to his/her last known place of residence or business or in such other manner as the Chairman, may, in the circumstances of the case, think fit.

(3) No member shall be entitled to bring forward for consideration of the Authority any matter of which he/she has not given ten days clear notice to the Member Secretary, unless the Chairman in his discretion, permits him to do so.

Quorum

(1) Three Members shall form the quorum for any meeting, which will be sufficient for the working of the Authority.

(2) If at any time fixed for any meeting or during the course of any meeting a quorum is not present, the Chairman shall adjourn the meeting and if a quorum is not present on the expiration of fifteen minutes from such adjournment, the Chairman shall adjourn the meeting to such hours on the following or on some other future date as he may fix.

(3) No quorum shall be necessary for the adjourned meeting.

(4) No matter which had not been on the agenda for the original meeting shall be discussed at such adjourned meeting, except with the permission of Chairman.

Minutes

(1) Record shall be kept of the names of members who attend the meeting and of the proceedings at the meeting in a book to be maintained for that purpose by the Member-Secretary.

(2) The minutes of the previous meeting shall be read at the beginning of the every succeeding meeting, shall be confirmed and signed by the Chairman at such meeting.

(3) The proceedings shall be open to inspection by any member at the office of Maharashtra Pollution Control Board during office hours.

Maintaining order at Meeting

The Chairman shall maintain order at a meeting.

Business to be transacted at meeting

Except with the permission of the Chairman, no business which is not entered in the agenda or of which notice has not been given by a member, shall be transacted at any meeting.

The Member Secretary apprised the members about the powers and functions of the Authority enumerated in the notification dated 26.11.1998 relating to the constitution of the Authority. The Authority is required to deal with various issues mainly those relating to examination of proposal for changes/modification in classification of Coastal Regulation Zone Plan, inquiring into the cases of alleged violation of the provisions of CRZ Notification

and the Rules made thereunder, identification of ecologically sensitive areas, economically important areas, areas vulnerable to erosion/degradation and formulation of area-specific management plans for such areas etc. It was pointed out that the Authority has not been given any personnel or expertise for attending to the functions of the Authority. It was therefore proposed to prepare a panel of experts to assist the Authority on different issues. Members were requested to give suggestions for preparing such a panel of expert. It was suggested that these experts should be from reputed, relevant Govt./Semi-Govt. bodies or research or educational institutions such as National Institute of Oceanography, Indian Institute of Technology, NEERI, Office of Hydrographer etc.

The Member Secretary informed the members that there is no specific budget allocated for the expenses to be incurred in connection with the working of the Authority. Although the Environment Deptt., Govt. of Maharashtra Resolution dated 24.6.1999 conveying the constitution of the Authority mentions that all the expenses relating to the working of the Authority including expenses for the meetings, T.A./D.A.s of non-official members should be done by the Environment Deptt. There is no such provision made for the purpose. It was therefore proposed that this expenditure should be incurred as on account expenditure by Maharashtra Pollution Control Board through the funds collected from Water Cess charged under the provisions of Water (Prevention & Control of Pollution) Cess Act, 1977. Member Secretary of the Board who is also the Member Secretary of the Authority was requested to take necessary action in the matter. A request should be made to Ministry of Environment & Forests for allotment of funds.

III) The Authority had received a few petitions/representations regarding violations of provisions of Coastal Regulation Zone Notification and also requesting for making necessary recommendations regarding appropriate classification of CRZ to National Coastal Zone Management Authority (NCZMA). The Authority discussed the following cases and heard all the parties at length.

A) Application filed by M/s. Marve Beach Resorts Ltd., Mumbai

Shri M.S. Hardikar represented the matter on behalf of the Company and presented the Authority letter from the company which was taken on record.

With the permission of the Chairman Shri Hardikar submitted written submissions about the proposal of development of property bearing CTS Nos. 69, (part), 72, 73 and 74 of village Aksa, Madh Marve Road, Malad (W), Mumbai.

He informed the Authority that they are the owners of property in question which is allocated for specific purpose namely for Health Club, Swimming pool, Restaurant and Water Sport facility, as per the development plan for 'P' South Ward sanctioned by Government under the provisions of Maharashtra Regional Town Planning Act, 1966. It was mentioned that this land falls under the purview of CRZ notification dated 19.2.1991. However the applicant has not been able to develop the said property since the decision about the proper classification as regards CRZ has not yet been decided. It was further mentioned that the proposal is pending for consideration since long. The applicant had approached Ministry of Environment & Forests, Govt. of India seeking approval, who in turn has referred the matter to State Authority with a request to submit comments to NCZMA.

Shri Hardikar stated that the location does not fall under CRZ-I. The proposed development is on the landward side of the existing authorised structure. He prayed for decision on classification either CRZ-II or CRZ-III as deemed fit and for onward recommendations to NCZMA for grant of clearance under C.R.Z. Notification for the proposed activity.

Chairman and Principal Secretary - Revenue requested Shri Abhyankar, representative of Urban Development Deptt. to clarify the position. Shri Abhyankar submitted to the Authority that he will examine the location plan and detailed layout plan submitted by the applicant and submit his comments to the Authority by 15-5-2000.

It was decided to consider the matter after receipt of report from Urban Development Deptt.

B) Application of Bombay Environment Action Group in respect of M/s. PAN India Paryatan Ltd. (PIPL)

Shri Debi Goenka of Bombay Environmental Action Group explained the matter in brief to the Authority. He pointed out that the non-applicant i.e. M/s. PIPL have recently constructed a new bund under the guise of repairing the existing bund. He contented that due to this act, mangroves have been destroyed to a great extent. He relied upon the inspection report of Bombay Natural History Society (BNHS) as regards the nature of mangroves. The BNHS undertook the inspection of the site on 30.9.1999. He however did not dispute the existence of old embankment shown in the map which was produced by him. He relied upon the written submission made by him. Shri Goenka also produced some photographs to emphasis his point of construction of new bund in violation of CRZ Notification. Copies were given to the non-applicants. As regards construction of 'Pagoda', he requested the Authority to get the measurement done in presence of petitioners to know the distance from the High Tide Level (HTL).

Shri Syam Diwan, Advocate for M/s. PIPL informed the Authority that he received the copy of the petition very late and therefore sought time for making written submission. The Chairman of the Authority requested him to proceed with his oral submission and allowed a week's time to submit written submissions.

Shri Diwan stated that the basic issue is whether the Respondents have violated the provisions of CRZ notification. He informed that the Petitioner has not disputed the existence of bund since 19th century. He relied upon decision of Bombay High Court's, 2-4-1900 report in a journal called 'Indian High Court Report'. According to Shri Diwan, the judgement clearly indicate existence of bund of 3.5 miles long, 35 feet wide at the base and 15 or 16 feet at the top. He also referred exhibit '4' i.e. Bombay Suburban Survey Map highlighting the bund in question. Shri Diwan informed that as per the CRZ notification there is no prohibition to repair or reconstruct bunds to control coastal erosion or for preventing salinity ingress or enabling sweet water discharge. Shri Diwan further pointed out that specific permission for repairing existing bund was obtained from Maharashtra Maritime Board (MMB) under Section 30 of Indian Ports Act. He therefore denied that the

Respondents have constructed one altogether new bund. As regards construction of Pagoda, Mr. Diwan drew the attention of the Authority to the results of survey carried out by a Commander of Indian Navy certifying that the site of the Pagoda would not fall within 150 mtrs. of High Tide Level.

Shri Diwan assured the Authority that he would make the written submissions within a week's time.

C) Complaint filed by Gorai Macchimar Sahakari Sanstha Ltd.,

Ms. Maharukh Adenwalla, Advocate appeared for the Gorai Macchimar Sahakari Sanstha Ltd. She informed the Authority that the Respondents have re-constructed the bund in violation of the CRZ notification. She further informed that the Tahsildar, Mumbai Suburban District, on the basis of complaint of the complainant, had directed the Respondents to demolish the bund vide letter dated 17.7.1998. She informed that despite these orders, the petitioners continued the work of construction of bund. She contended that the Respondents have disobeyed the orders of Tahasildar and have fortified the bund, thereby destroying the mangroves. She relied upon the written submission made in the complaint.

Shri Diwan stated that he has argued the matter at length in the earlier petition and therefore relied upon the written submissions made by him.

After hearing both the petitions and parties at length, the Authority decided to direct the Respondent i.e. M/s. Pan India Paryatan Ltd. to maintain status quo in respect of repair, or reconstruction of the bund till further orders.

D) Construction of jetty by PNP Maritime Services at Dharamtar Creek.

Joint Director, Regional Office at Bhopal, Ministry of Environment & Forests, had expressed apprehension about violation of CRZ Notification by construction of a jetty by M/s. PNP Maritime Services at Dharamtar Creek. This was brought to the notice of Environment Deptt. by Maharashtra Maritime Board and Environment Deptt., had

requested the Member Secretary to place this issue before Coastal Zone Management Authority for examination. A notice pointing out alleged violation by M/s.PNP Maritime Services has been served on Chairman and Member Secretary of the Authority by Shri Sanjeev Chimbalkar, Ex.General Secretary, Janata Dal, Maharashtra. A copy of his notice dated 27.4.2000 was also circulated to the Members for information.

Shri Malvankar Executive Director represented the matter on behalf of PNP Maritime Services (PNP). He informed that they have entered into a lease agreement with Maharashtra Maritime Board to develop minor port at Dharamtar. He mentioned that the jetty being used by them is existing prior to the CRZ notification and they have only increased height of the jetty for taking trial operations without violating CRZ regulations. He further informed that the company owns about 5 acres of land adjacent to the jetty and denied having reclaimed the land. He further informed that they are developing a minor port, including construction of a jetty for which necessary clearance is sought from Department of Environment, Govt. of Maharashtra. He mentioned that only after receipt of necessary clearance, they will take further steps.

After hearing the Authority decided to call for a village map and 7/12 land revenue extracts in respect of this land from Dist.Collector, Raigad. A report on alleged reclamation of 5 acres of land and on construction activity undertaken by the company, if any also is to be called from the District Collector, Raigad. The authority also decided to get copies of the map with High Tide Line and Low Tide Line duly marked from the Urban Development Deptt. The Authority decided to direct the company to maintain status quo in respect of construction and reclamation activity till further orders.

The meeting terminated with a vote of thanks to the Chair.