

Minutes of the 5th meeting of the Maharashtra Coastal Zone Management Authority held on 06-07-2001 at 6th floor, Committee Room, Mantralaya, Mumbai-32

The following were present :

- 1) The Principal Secretary, Environment & Energy Department Govt. of Maharashtra, Mantralaya, Mumbai-32. Chairman
- 2) The Principal Secretary (Revenue) Revenue and Forests Department, Government of Maharashtra, Mantralaya, Mumbai-32. Member
- 3) Dr. Leela Bhosale, Department of Botany, Kolhapur University, Kolhapur Member
- 4) Shri A.D. Diwan, Asstt. Director General (Marine Fisheries) Indian Council of Agricultural Research, New Delhi Member
- 5) Shri Munshi Lal Gautam, Member Secretary, Maharashtra Pollution Control Board, Mumbai-1. Member-Secretary

Shri A.P. Sinha, Principal Secretary, Urban Development Deptt., Member could not attend the meeting. Leave of absence was sought by him, which 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 S.V. Deshpande, Dy. Secretary, 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. Following is the gist of the discussions and decision taken.

Item No.1 : To confirm the minutes of the 4th meeting of the Maharashtra Coastal Zone Management Authority held on 14.06.2001

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The minutes of the 4th meeting of the Authority were circulated amongst the members vide letter bearing No.MCZMA/78 dated 29.06.2001 with a request to forward suggestions, comments if any. No comments, suggestions were received from the members. The minutes were read and confirmed.

Item No.2 : Complaint filed by Vasai Machhimar Sarvoday Sahakari Sanstha Maryadit, Vasai, Dist.Thane

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Ms.Maharukh Andenwalla, Learned Advocate for the Petitioners gave a brief background of the case. She informed that a Writ Petition was filed before the Hon'ble High Court, Mumbai bearing Writ Petition No.149 of 2000 which was dismissed by the Hon'ble High Court and the Petitioners were advised to approach the Maharashtra Coastal Zone Management Authority and accordingly they have filed the present complaint. She further informed that the State Govt. has allotted a plot to Prince Aga Khan Shia Imami Ismaili Khoja Jamat, Vasai some time in December, 1999 for construction of burial ground. She claimed that the plot falls within Category-I of the CRZ and therefore construction of any sort is nothing but violation of CRZ Notification dated 19.2.1991. The Petitioners furnished photographs and also filed rejoinder which was taken on record.

Shri Shaukat Merchant, Learned Advocate for the Respondent No.4 society filed a detailed affidavit in reply denying the allegations made by the Complainants and informed that the plot of land bearing Survey No.69 falls within CRZ-II of the CRZ Notification dated 19.2.1991 and the same has been certified by the Town Planner. It was further submitted that the disputed site does not fall between the LTL & HTL. It was further informed that CIDCO & Municipal Council, Vasai have given NOC before constructing the wall on the sea side. The wall on the sea side has been constructed to protect the erosion of land and to safeguard the burried bodies, the land is used as grave yard. He further denied having undertaken any new construction activities as alleged by the Complainants. The Respondent requested to file additional written submission. and the same was allowed to be filed within 7 days. Thereafter the orders would be passed in the matter and parties would be informed of the same.

Item No.3 : Petition filed by Shri Manohar D. Mohite regarding alleged construction of industrial gallas at Alibaug in violation of CRZ Notification.

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Mehul J. Shah, Advocate instructed by Little & Co. appeared for the Petitioner. The Petitioner also furnished written submission. It was informed that the MCZMA has got wide powers as contained in the order issued by Ministry of Environment & Forests, Govt. of India dated 26.11.1998. She submitted that the Authority can also look into the violation of the provisions of, not only the Environment (Protection) Act, 1986 and the rules made thereunder but also the other law which is related to the object of the said Act. The Complainants informed that the Respondent No.4 to 6 have constructed industrial gallas in violation of the CRZ Notification dated 19.2.1991. It was informed that the industrial premises on plot No.73 at village Akshi near Alibaug falls within 100 mtrs. from HTL of the river. Arguments took place whether distance has to be measured from the HTL of the river or from the bank of the river. It was agreed by the Learned Advocate of the Respondent that distance needs to be measured from H.T.L. of the river. It was also revealed that mangroves are existing on both sides of the banks. The Petitioners placed on record inspection report of the Commissioner, Konkan Division who was appointed by the Hon'ble High Court vide order dated 5.8.1999 in Writ Petition No.1912 of 1999. She further informed that due to burning of packaging material the area is polluted and the generators provided by the Respondents also cause noise pollution. The Complainant therefore prayed that the construction made by the Respondents is in violation of the CRZ Notification.

Shri Milind Sathe, Advocate who appeared for Respondent No.4 to 6 and 9 to 16 submitted that except Plot No.73, the other plots in question are situated few kilometres away from the HTL and therefore the matter may be heard in limited compass. it was further submitted that requisite permissions were obtained from the concerned authorities including Consent from Maharashtra Pollution Control Board. It was submitted that the activity being carried out by the Respondent is non polluting in nature i.e. tailoring and stitching of garments. The Advocate for the Respondent pointed out that they have carried

out construction on plot No.73 at a distance of 102 mtrs. from the H.T.L. of creek. It was denied that mangroves have been cut near the disputed site. It was informed that the high tide line has not been demarcated so far and therefore the same was got done through the State Hydrographer. The Respondents submitted that the plot in question i.e. plot No.73 falls in CRZ-III. It was further pointed out that the Coastal Zone Management Plan submitted by the Urban Development Deptt., Govt.of Maharashtra to the Ministry of Environment & Forests, Govt. of India and which was approved by them, has not classified the creeks.

The point of measuring the distance from the bank of river or from the high tide mark of the river was also discussed and it was agreed upon by both the parties that required distance as per 1991 Notification has to be measured from HTL of the river/creek in question.

After hearing both the parties and as requested by them they were allowed to file additional written submission within a week's time, whereafter a decision would be taken in the matter and parties would be informed of the same.

Item No. 4: To consider grant of permission for construction/widening of bridge at Km.1/800 on Chena Creek/Laxmi River received from Maharashtra State Road Development Corporation.

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Shri D.R. Rasal, Advisor, Maharashtra State Road Development Corporation explained the matter in brief. He informed that that the proposal of widening of the bridge at Km.1/800 on Chena Creek/Laxmi River has been entrusted to Maharashtra State Road Development Corporation. He informed that the construction part i.e. pillars of the bridge marginally fall in tidal water and therefore falls in CRZ-I category. He further informed that by virtue of an amendment to the original CRZ Notification i.e. amendment dt.9.7.1997 widening/construction of the project has been classified as permissible activity. It was further submitted that since the project cost is less than rupees 5 crores (Rs.2.42 crores) the activities can be permitted by the State Govt. It was, therefore, requested that necessary permission may be granted for construction/widening of the Chena bridge.

The matter was discussed by the Authority and it was decided to grant permission as sought.

- Item No. 5: Proposal for redevelopment of slum properties bearing Nos. 30(pt), 31 (pt) of Village Juhu and 195 (pt) of village Andheri under slum rehabilitation scheme for new Sangamner CHS Ltd., and New Kapaswadi Juhu Ekata Co.Op. Hsg. Society Ltd.

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Shri Mahendra M. Chheda, Director and Shri P.S. Subramanian represented M/s.Mayurpankh Properties Pvt.Ltd. The matter was explained to the members. The Developer S R D sites relied upon a study conducted by 'Centre for Earth Science' Thuruvikkal Trivendram, an approved agency of MoEF, Govt. of India. The Agency has certified that the proposed sites are outside the CRZ. The plots according to the developers is being developed to rehabilitate slum dwellers. As per the scheme approved by government authority 50% of developed area has to be given to slum dwellers society and 50% is to be sold in the market to recover the cost of project.

The representative of the said Company informed that for want of proper guidance from the Urban Development Deptt. they have suffered a lot and as per the advice given by the MoEF, Govt. of India they had appointed 'Centre for Space Earth' for getting the status report and requested the Authority to allow them to continue the construction work and declare the sites as beyond the purview of CRZ Notification dated 19.2.1991.

After due deliberation it was decided to visit both the sites on 29th July, 2001.

- Item No. 6: Development of a playground in S.No.161 of village Versova in Brihan Mumbai Municipal Corporation area in CRZ-I category - application received from M/s.Manjara Charitable Trust, Mumbai

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A letter bearing No.TPB-2000/52/CR-III/2000/UD12 dated 4.7.2001 addressed to the Member Secretary, MCZMA by the Section Officer, Urban Development Deptt., Govt. of Maharashtra alongwith letter dated 26.6.2001 from the MoEF, Govt. of India was taken on record. In view of the permission granted by the MoEF, Govt. of India allowing the use of open place as playground (without putting permanent structure on it), the proposal was withdrawn by the representative of the Urban Development Deptt., Government of Maharashtra.

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