

Item No.2

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

[THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)]

Appeal No.21/2025(WZ)

Santosh Daudkar

.....Appellant

Versus

The secretary, MoEF&CC & Ors.

....Respondents

Date of hearing: 05.03.2025

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Appellant : Mr. Aditya Pratap, Advocate

ORDER

1. This appeal has been filed by the appellant seeking quashing of the CRZ Clearance dated 03.01.2025 passed by Respondent No.3- MCZMA, which is annexed by him as Annexure- 'A-1' at page nos.33 to 36 of the paper book, on the grounds that (1) the antecedents of the proponent are replete with CRZ violations, therefore, till the time the earlier violations were purged and duly addressed, a fresh CRZ Clearance could not have been granted; (2) The Project Proponent demolished 2 "Heritage Structures" without taking a mandatory prior Environment Clearance from the MoEF&CC- Respondent No.1; (3) The entire plot under reference was reserved for an Art Gallery in the statutory Development Plan, which has been got deleted without any mandatory permission of the MCZMA; (4) the Project Proponent had done construction of Ground + 6 storied building without mandatory permission from the MCZMA; (5) since the

cost of the project was more than Rs. 5 crores, prior Environment Clearance was required to be obtained from the MoEF&CC- Respondent No.1; (6) The Project Proponent has committed fraud while constructing a deep basement of about 6 metres below the ground level, thereby extracting substantial minor minerals and ground water, which activities are prohibited in all the 3 Coastal Regulation Zone Notifications; (7) The Project Proponent perpetrated a fraud, while constructing 12 number of 1-Bedroom-Hall-Kitchen flats for mass housing and merged them all later into a super luxury single-family accommodation, in violation of the provision of Urban Land (Ceiling and Regulation) Act, 1976; (8) 'Heritage Areas' lie in CRZ-I as per the CRZ Notification of 1991, therefore, the impugned construction, which was done in the year 2004, could not have been permitted in CRZ-I area; and (9) the Project Proponent is an Artist and has got the Art Gallery reservation removed illegally.

2. Having heard the argument of learned counsel for the appellant, we are of the view that the grounds, which have been raised by him in the present appeal, do not appear to be relevant because whatever actions have been taken by the Project Proponent, were taken long back between the year 2000 to 2006. But it is also true that the CRZ recommendation, which has been impugned herein, is obtained in the year 2025 i.e. on 03.01.2025. Therefore, the present appeal has been filed within 30 days' limitation period. But we find that the grounds, on which the said CRZ recommendation has been challenged, are not proper because the CRZ Clearance, which has been granted, appears to have been granted in terms of the Clause No.8 of the CRZ Notification 2019, which provides as follows:-

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8. Procedure for CRZ clearance for permissible and regulated activities:

- (i) The project proponents shall apply with the following documents to the concerned State or the Union territory Coastal Zone Management Authority for seeking prior clearance under this notification:-
- (a) Project summary details as per Annexure-V to this notification.
 - (b) Rapid Environment Impact Assessment (EIA) Report including marine and terrestrial component, as applicable, except for building construction projects or housing schemes.
 - (c) Comprehensive EIA with cumulative studies for projects, (except for building construction projects or housing schemes with built-up area less than the threshold limit stipulated for attracting the provisions of the EIA Notification, 2006 number S.O 1533(E), dated 14th September, 2006) if located in low and medium eroding stretches, as per the CZMP to this notification.
 - (d) Risk Assessment Report and Disaster Management Plan, except for building construction projects or housing schemes with built-up area less than the threshold limit stipulated for attracting the provisions of the EIA Notification, 2006 number S.O 1533(E), dated 14th September, 2006).
 - (e) CRZ map in 1:4000 scale, drawn up by any of the agencies identified by the Ministry of Environment, Forest and Climate Change vide its Office Order number J-17011/8/92-IA-III, dated the 14th March, 2014 using the demarcation of the HTL or LTL, as carried out by NCSCM.
 - (f) Project layout superimposed on the CRZ map duly indicating the project boundaries and the CRZ category of the project location as per the approved Coastal Zone Management Plan under this notification.
 - (g) The CRZ map normally covering 7 kilometre radius around the project site also indicating the CRZ-I, II, III and IV areas including other notified ecologically sensitive areas.
 - (h) "Consent to establish" or No Objection Certificate from the concerned State Pollution Control Board or Union territory Pollution Control Committee for the projects involving treated discharge of industrial effluents and sewage, and in case prior consent of Pollution Control Board or Pollution Control Committee is not obtained, the same shall be ensured by the proponent before the start of the construction activity of the project, following the clearance under this notification.
- (ii) The concerned Coastal Zone Management Authority shall examine the documents in clause (i) above, in accordance with the approved Coastal Zone Management Plan and in compliance with this notification and make recommendations within a period of sixty days from date of receipt of complete application as under:-
- (a) For the projects or activities also attracting the EIA Notification, 2006 number S.O. 1533(E), dated 14th September, 2006, the Coastal Zone Management Authority shall forward its recommendations to Ministry of Environment, Forest and Climate Change or SEIAA for category 'A' and category 'B' projects respectively, to enable a composite clearance under the EIA Notification, 2006 number S.O. 1533(E), dated 14th September, 2006, however, even for such Category 'B' projects located in CRZ-I or CRZ-IV areas, final recommendation for CRZ clearance shall be made only by the Ministry of Environment, Forest and Climate Change to the concerned SEIAA to enable it to accord a composite Environmental Clearance and CRZ clearance to the proposal.
 - (b) Coastal Zone Management Authority shall forward its recommendations to the Ministry of Environment, Forest and Climate Change for the projects or activities not covered in the EIA notification, 2006, but attracting this notification and located in CRZ-I or CRZ-IV areas.
 - (c) Projects or activities not covered in the aforesaid EIA Notification, 2006, but attracting this notification and located in CRZ-II or CRZ-III areas shall be considered for clearance by the concerned Coastal Zone Management Authority within sixty days of the receipt of the complete proposal from the proponent.
 - (d) In case of construction projects attracting this notification but with built-up area less than the threshold limit stipulated for attracting the provisions of the aforesaid EIA Notification 2006, Coastal Zone Management Authority shall forward their recommendations to the concerned State or Union territory planning authorities, to facilitate granting approval by such authorities.
- (iii) The Ministry of Environment, Forest and Climate Change shall consider complete project proposals for clearance under this notification, based on the recommendations of the Coastal Zone Management Authority, within a period of sixty days.
- (iv) In case the Coastal Zone Management Authorities are not in operation due to their reconstitution or any other reasons, then it shall be responsibility of the Department of Environment in the State Government or Union territory Administration, who are the custodian of the CZMP of respective States or Union territories, to provide comments and recommend the proposals in terms of the provisions of the said notification.
- (v) The clearance accorded to the projects under this notification shall be valid for a period of seven years, provided that the construction activities are completed and the operations commence within seven years from the date of issue of such clearance.
- The validity may be further extended for a maximum period of three years, provided an application is made to the concerned authority by the applicant within the validity period, along with recommendation for extension of validity of the clearance by the concerned State or Union territory Coastal Zone Management Authority.
- (vi) Post clearance monitoring:
- (a) It shall be mandatory for the project proponent to submit half-yearly compliance reports in respect of the stipulated terms and conditions of the environmental clearance in hard and soft copies to the regulatory authority(s) concerned, on the 1st June and 31st December of each calendar year and all such compliance reports submitted by the project proponent shall be published in public domain and its copies shall be given to any person on application to the concerned Coastal Zone Management Authority.

- (b) The compliance report shall also be displayed on the website of the concerned regulatory authority.
- (vii) To maintain transparency in the working of the Coastal Zone Management Authority, it shall be the responsibility of the Coastal Zone Management Authority to create a dedicated website and post the agenda, minutes, decisions taken, clearance letters, violations, action taken on the violations and court matters including the Orders of the Hon'ble Court as also the approved CZMP of the respective State Government or Union territory.

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3. If any violation of the above procedure has been committed by the Project Proponent or the MCZMA, the same may be submitted by the appellant specifically along-with the evidence in support of that, within four weeks, failing which we would be left with no option but to dismiss the present appeal for non-compliance of the order of this Tribunal, at the stage of admission itself.

4. Put up this matter for admission on 23.04.2025.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

March 05, 2025
Appeal No.21/2025(WZ)
P.Kr