



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2636 OF 2023

Navi Mumbai Municipal Corporation,
A Municipal Corporation incorporated
under the provisions of Bombay Provincial
Municipal Corporation Act, 1949 having
its registered office at NMMC Headquarters,
Plot No.1, Near Kille Gavthan, Palm Beach
Junction, Sector-15A, CBD Belapur,
Navi Mumbai – 400614.

...Petitioner

Versus

1. State of Maharashtra,
Through the Principal Secretary,
Environment Department,
Mantralaya, Mumbai – 400032.
2. Maharashtra Coastal Zone Management
Authority,
Through its Member Secretary,
Having its office at Environment Department,
15th Floor, New Administrative Building,
Mantralaya, Mumbai – 400032.
3. The Mangrove Cell,
through its Additional Principal Chief
Conservator of Forest,
302 Wakefield House, Ballard Estate,
Mumbai, Maharashtra.
4. Bombay Environment Action Group,
80, Empire Building, 2nd Floor,
D. N. Road, Mumbai – 400001.

...Respondents

Mr. Vishal V. Jaju a/w. Mr. Prashant D. Jadhav for the Petitioner.

Mr. N. C. Walimbe, Addl. G. P. a/w. Mr. S. P. Shetye, AGP for

Respondent-State.

Ms. Jaya Bagwe for Respondent No.2-MCZMA.

Ms. Sheetal Shah i/b. M/s. Mehta & Girdharilal for Respondent No.4.

**CORAM : A. S. CHANDURKAR &
JITENDRA JAIN, JJ.**

DATE : 14th MARCH 2024.

Judgment :- (Per Jitendra Jain, J.)

. By this petition under Article 226 of the Constitution of India, the petitioner seeks permission of this Court, pursuant to the directions given in PIL No.87 of 2006, to construct a RCC bridge from Ghansoli to Airoli since this project falls within mangrove area.

2. We have heard learned counsel for the petitioner and the respondents and have perused the documents annexed to the petition, affidavit-in-reply filed by various respondents and compilation of documents tendered by the petitioner during the course of the hearing.

3. The project under consideration is for construction of RCC bridge from Ghansoli to Airoli by the petitioner. It involves construction of segmental bridge over length of approximately 3 km with 6 lane and it further merges into 4 lane bridge connecting existing road near Sector 14 of Airoli. The construction of bridge is in mangrove area. The said project is of public importance since it would link Sion-Panvel expressway to the IT hubs in Airoli, Ghansoli, Vashi, etc. The travel time

on Thane-Belapur road to the proposed link will be reduced from 16 minutes to 6 minutes which would not only save the time in travelling, but also vehicle operating cost and would reduce fatalities arising on account of accidents. This would also reduce carbon footprints and the pollution caused by vehicular traffic. The petitioner has in detail stated the economic benefits in the petition and in the project reports filed with the various authorities for seeking permissions. In our view, considering the economic benefits and on a perusal of these project reports, the proposed project is certainly in larger public interest. We now propose to refer to various permissions obtained by the petitioner.

4. On 14th February 2023, State Level Environment Impact Assessment Authority accorded CRZ clearance to the petitioner under the provisions of Environment Impact Assessment Notification, 2006 and CRZ Notification 2011, subject to implementation of the terms and conditions specified in the said permission. The said Authority has considered the report submitted by the petitioner and also report submitted by Mangrove Cell Department. The permission granted is valid for a period of 7 years and it categorically states that the work for the same shall commence within a period of 5 years from granting the permission. One of the conditions imposed by the said Authority is that the petitioner should make active efforts to minimise impact on mangrove during the construction phase of the activity. In the said

letter, it is stated that 5,500 to 6,000 trees will be affected and approximately 1,000 mangroves will be cut for the purpose of constructing piers.

5. On 28th April 2023, the petitioner in compliance with condition of the Thane Creek Flamingo Sanctuary Eco-sensitive Zone Monitoring Committee dated 25th July 2022, proposed firefighting plan for the aforesaid project in which it is stated that mangrove vegetation in the coastal environment is very unlikely to cause forest fire and in any case, the best industrial practice will be deployed to safeguard the environment at work site which will be monitored by the petitioner. The same is evident from letter dated 28th April 2023 issued by the petitioner.

6. On 28th April 2023, in compliance with the condition imposed by respondent no.2-MCZMA, the petitioner also filed the debris management plan for management of the debris while constructing the bridge. It is stated therein that no debris will be dumped in the mangrove area.

7. On 22nd November 2022, MoEF and CC granted (in-principle approval) under Section 2 of the Forest (Conservation) Act, 1980 for construction of the proposed RCC bridge subject to the conditions specified therein which included compensatory afforestation raising at least 5,000 seedlings etc.

8. On 5th April, 2022, Thane Creek Flamingo Sanctuary Eco Sensitive Zone Monitoring Committee considered the proposal of the petitioner and directed the petitioner to deposit 2% of the project costs of the project as “Conservation and Protection Fund” for protection of mangroves and marine biodiversity.

9. On 15th June 2022, the petitioner paid a sum of Rs.1,58,46,000/- pursuant to the above direction of Thane Creek Flamingo Sanctuary Eco Sensitive Zone Monitoring Committee.

10. On 25th July 2022, the aforesaid authority Thane Creek Flamingo Sanctuary Eco Sensitive Zone Monitoring Committee granted approval to the proposed project by the petitioner on terms and conditions more specifically reproduced in the said letter.

11. On 28th June 2022, the respondent no.2 in its meeting deliberated various aspects of the project and more particularly the impact on the mangroves. The said authority respondent no.2 recommended proposal to SEIAA subject to compliance of the conditions mentioned in the said minutes.

12. On 13th January 2023, Chief Conservator of Forests, Mangrove Cell, Mumbai accorded in-principle approval to the project proposed by the petitioner under consideration and directed to obtain condition-wise compliance report.

13. On directions of this Court, the petitioner filed additional affidavit of its Deputy Engineer, Mr. Kapse dated 21st February 2024, explaining how the temporary impact is going to affect on 5,500 to 6,000 mangroves by construction of the RCC bridge. The petitioner stated that by use of latest technology and proper planning the impact would be minimised and mangroves can be recovered over a period of time. The affidavit further state that measures will be taken to mitigate temporary impact during the RCC bridge construction. In the said affidavit, it is also stated by the petitioner that they would be forming a project implementation unit consisting of experts from various fields for regularly monitoring and evaluating the impact on the surrounding mangrove areas and suggesting suitable measures if necessary.

14. In view of above, the petitioner has taken necessary permission from the authorities referred to hereinabove and since the project is in larger public interest, we hereby grant permission to the petitioner to undertake the project activity. We, therefore, pass the following order:-

ORDER

- (i) Permission is granted to the petitioner to undertake the construction of RCC bridge from Ghansoli to Airoli.
- (ii) An affidavit of a responsible officer of the petitioner be filed within a period of four weeks from the date of

uploading of the order stating that they would comply with the conditions specified in the various permissions and approvals obtained for construction of the RCC bridge.

(iii) The present order will operate after filing of the aforesaid affidavit.

(iv) The writ petition is allowed. Rule is made absolute with no order as to costs.

[JITENDRA JAIN, J.]

[A. S. CHANDURKAR, J.]