

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

PRACHI
PRANESH
NANDIWADEKAR

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WRIT PETITION NO.11718 OF 2023

Dedicated Freight Corridor Corporation	)	
of India Ltd. (A Govt. of India Undertaking)	)	
7 th Floor, Central Railway,		
New Admin Building, D.N. Road	)	
CST Station, Mumbai 400 001	)	
Through Mr. Pradeep M. Asai, authorized	)	
signatory	)	... Petitioner

Versus

1. State of Maharashtra,	)	
Through Ministry of Environment and	)	
Climate Change	)	
At Mantralaya	)	
Mumbai 400032	)	
2. The Union of India through the Ministry	)	
of Environment, Forests & Climate Change,	)	
Indira Paryavaran Bhavan, Jor Bagh Road,	)	
New Delhi – 110003	)	
3. Maharashtra Coastal Zone Management	)	
Authority,	)	
Environment Department, 217-Annex, 2 nd Floor	)	
Mantralaya, Mumbai 400032	)	
4. Chief Conservator of Forest (Wildlife),	)	
Secretary of the State Level Steering	)	
Committee for Management of Mangroves	)	
and Coral Reefs having its office at	)	
Dr. B. Ambedkar Bhavan, MECL, Seminary Hills	)	
Civil Lines, Nagpur – 440001	)	... Respondents

Ms. Kiran Bhagalia, Senior Advocate a/w. Mr. Pralhad Paranjape, Mr. Atharva A. Dandekar, Mr. Manish Kelkar and Mr. Hitendra Parab for the Petitioner.

Mr. B. V. Samant, Addl. G. P a/w. Mr. M. M. Pable, AGP for Respondent (State).

Ms. Anjali Helekar a/w. Mr. Ashutosh Misra for Respondent No. 2 (UOI).

Ms. Jaya Bagwe for Respondent No. 3 (MCZMA).

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

DATE : 23rd FEBRUARY 2024

Judgment (Per Jitendra Jain, J.) :-

. Rule. Mr.Samant, learned Additional Government Pleader waives service of notice for respondents-State, Ms.Helekar, learned counsel waives service of notice for respondent no.2 and Ms.Bagwe, learned counsel waives service for respondent no.3-MCZMA. By consent of the parties, the writ petition is heard finally.

2. By this petition under Article 226 of the Constitution of India, the petitioner has sought for following relief :-

(a) That this Hon'ble Court be pleased to pass an order granting to the petitioner to remove 3043 number of mangroves (more particularly set out in the chart annexed as Exhibit L).

3. **Brief facts are as under :-**

(i) The petitioner is a Special Purpose Vehicle (SPV) formed by Government of India to construct two freight corridors namely Eastern Dedicated Freight Corridor (DFC) and Western DFC. These two corridors would cover a distance of

about 2843 kilometers. The Western DFC would run from Jawaharlal Nehru Port Trust (JNPT) to Dadri in Uttar Pradesh and the Eastern DFC would run from Ludhiana to Sonenagar/Dankuni. The total cost of the project is estimated to be approximately Rs.91,859 crores. The project will facilitate growth and employment generation through efficiency in transportation and would also ease traffic congestion and augment the freight traffic to facilitate economic growth. The western DFC consists of railway double line starting from JNPT and ending at Dadri, Uttar Pradesh. The double railway line of western DFC will be constructed for this purpose which would involve forest/mangroves land being acquired for the said project.

- (ii) The petitioner took out Notice of Motion (L) No.75 of 2015 in PIL No.87 of 2006 seeking permission to cut 543 mangroves and this Court on 2nd March 2015 granted the said permission.
- (iii) Thereafter, the petitioner filed Writ Petition No.1269 of 2022 seeking permission to remove further 3043 mangroves for implementation of the aforesaid project.
- (iv) On 29th August 2022, this Court disposed of the said Writ

Petition No.1269 of 2022 by observing that permission for felling of 543 mangroves has been obtained by the petitioner from this Court. However, for the purpose of removing 3043 mangroves, no permission from the Competent Authority has been sought and therefore, granting permission to remove 3043 mangroves does not arise. This Court granted leave to the petitioner to approach the Competent Authority for obtaining the permission to remove/fell 3043 mangroves.

(v) On 9th December 2022, respondent no.3-MCZMA on a proposal submitted by the petitioner deliberated the issue of permission for cutting 3043 mangroves pursuant to the High Court's order dated 29th August 2022 in Writ Petition No.1269 of 2022 and decided to send the matter to the MOEF & CC for appropriate decision since the said authority felt necessary for early completion of the nationally important project.

(vi) Pursuant to the above, on 15th December 2022, the petitioner made an application to the Ministry of Environment, Forest and Climate Change (MOEF & CC) for extension of validity and amendment in CRZ clearance for construction of railway double line from JNPT to Dadri.

- (vii) On 19th July 2023, MOEF & CC informed the petitioner that the aforesaid proposal was considered in a meeting held on 7th February 2023 and after detailed deliberation they have accorded approval for extension of validity and amendment for CRZ clearance for the said project subject to the compliance of the terms and conditions specified therein which included removal of mangroves to the extent of 3586 (543+3043) with prior permission from this High Court and structure in CRZ-I shall be constructed on stilt at all water flow points without affecting mangroves or flow conditions. The communication also states that all other terms and conditions stipulated in CRZ clearance of 17th November 2014 shall remain unchanged.
- (viii) On 5th September 2023, MOEF & CC accorded final approval to the project subject to the fulfillment of the conditions specified therein which *inter alia* included compensatory afforestation etc.

4. It is on this backdrop, the petitioner is seeking permission of this Court for further removal of 3043 mangroves.

5. We have heard the learned senior counsel for the petitioner and the learned counsel for the respondents and with their assistance perused the documents annexed to the petition and the additional affidavit filed on behalf of the petitioner.

6. Admittedly, the Supreme Court of India in its order in IA No.3586-3587 in the matter of *T. N. Godavarman Vs. Union Of India* in PIL Writ Petition No.202 of 1995 has taken judicial note of the national importance of the said project. The national importance of the said project has also been reiterated by the order dated 2nd March 2015 of this Court in Notice of Motion (L) No.75 of 2015 while granting permission to cut 543 mangroves. There is no doubt that the project is of national importance and in a larger public interest.

7. The petitioners have obtained the necessary permissions on 19th July 2023 from respondent no.2-MOEF & CC for removing 3043 mangroves. The respondent no.2-MOEF & CC have also given final approval to the project on 5th September 2023 subject to the conditions specified therein. The petitioner in its additional affidavit dated 14th February 2024 has stated that they have deposited compensatory levies for 3403 mangroves with respondent no.1 sum of Rs.7,39,91,895/-.

8. In our view, after examining the permissions obtained by the petitioner and the nature of the project, it is in the larger national and public interest that the permission to cut additional 3043 mangroves be accorded. The petitioner has already paid requisite amount for afforestation and has undertaken to comply with all the conditions which they are required to fulfill in various approvals granted to them by appropriate authorities.

9. In view of the above, we pass the following order :-

(i) The petitioner is permitted to remove 3043 mangroves trees.

(ii) The petitioner is directed to file an undertaking of a responsible officer to this Court within a period of 2 weeks from the date of uploading of this order stating that they would comply with all the conditions specified in the approvals granted by respondent nos.1, 2, 3 and 4 being:-

- (a) Approval granted by respondent no.2-MOEF & CC vide letters dated 17th November 2014, 5th September 2023, 19th July 2023, 24th August 2021, 16th December 2015 and 24th January 2013.
- (b) Approval granted by respondent no.3-MCZMA vide letter dated 9th December 2022.
- (c) Approval granted by officer of Chief Forest Conservator (Authority) Thane Forest News, Thane vide letter dated 16th November 2021.

10. The petition is allowed in terms of prayer clause (a). No order as to costs.

JITENDRA JAIN, J.

A.S. CHANDURKAR, J.