

No. 2, herein), and the Expert Appraisal Committee (for short “EAC”).

2. The Petitioner is a Company, incorporated under the Companies Act, 1956. The project of laying down submarine cable in various countries, including India in Mumbai has been undertaken by the Petitioner, and more particularly, 18 Kms. cable is to be laid on the beach, which would end on the beach of Versova, and the cable laying operations shall be carried out by a process which is internationally accepted.

3. For the purpose of laying down the said cable, one of the conditions is to get the approval from the authorities for CRZ clearance. The first notification in respect Coastal Regulation Zone (for short “CRZ”) was issued on 19th February, 1991 by Respondent No. 1 under Section 3 of the Environment (Protection) Act, 1986 and the rules framed thereunder. By virtue of the said notification an area of 500 Km. from the High Tide Line (for short “HTL”) was declared as “CRZ” area. The said HTL was to be demarcated by the authorities recognized by the Central Government for that purpose.

4. Thereafter on 26th November, 1998 Respondent No. 1

issued a notification constituting Maharashtra Coastal Zone Management Authority (for short “MCZMA”), which was to carry out various functions under the CRZ Notification of 1991. A fresh notification dated 6th January, 2011 was issued by Respondent No.1, which superseded the CRZ Notification of 1991. The said Notification of 2011 provided that the Coastal Zone Management Plans (for short “CZMP”), which was already approved under the CRZ Notification of 1991 will be valid for a period of 24 months. Thereafter the said period was extended by Respondent No. 1 upto 31st January, 2014, by virtue of Notification dated 22nd August, 2007.

5. Since the exercise of carrying out CZMP was not completed, again Respondent No. 1 issued further notification dated 7th May, 2014, and extended validity of the already approved CZMP upto 31st January, 2015.

6. In view of clause clause 4(ii)(d) of the CRZ Notification of 2011, the work of laying of pipeline, conveying system, etc. required CRZ clearance of Respondent No. 1. The procedure for obtaining the said clearance is mentioned in Clause 4.2 of the said CRZ Notification. In view of the said provision, the Petitioner by

application dated 12th February, 2015 had applied for clearance under the CRZ Notification of 2011. Alongwith the said application, Petitioner submitted an Environment Impact Assessment Report, Project Layout Map marked on CRZ Map prepared by the Authorised Agency, 7-Km. Radius map around the Project Site, Development Plan remark for the Beach Man Hole (for short “BMH”) location obtained from the MCGM.

7. The Environment Impact Assessment for the project, as required under the CRZ Notification of 2011, was conducted by M/s. EQMS India P. Ltd. The said report indicated that laying down of the cable will have low and insignificant impact on the environment.

8. In the meantime, Respondent No. 1 again issued further Notification dated 31st March, 2015 extending the validity of the already approved CZMP upto 31st January, 2016.

9. In the meantime, pursuant to the application dated 12th February, 2015, the Respondent No. 2 held a meeting and considered Petitioner's application and observed that there is no ecological sensitive areas / mangroves at the landing point of the said project.

Respondent No. 2 further observed that as per para 4(ii)(d) of the CRZ Notification of 2011, prior clearance of Respondent No. 1 is required. Respondent No. 2 has recommended the proposal of the Petitioner to Respondent No. 1. In view of that recommendation, the application of the Petitioner was placed for consideration before the Expert Appraisal Committee for projects relating to infrastructure development, Coastal Regulation Zone, etc.

10. The grievance of the Petitioner is that in the meantime, the National Green Tribunal (for short “NGT”) by its order dated 10th February, 2016 in one application, which was filed before it, viz. Application No. 117/2015, directed Respondent No. 1 viz. MoEFCC not to grant permission regarding developmental and construction activities in the CRZ areas, and not to allow any regularisation of CRZ violations until the CZMP maps under the Notification of 2011 were published. Respondent No. 1, after realising that preparation of CZMP may take some more time, issued a further Notification dated 22nd March, 2016, extending further the validity of the already approved CZMP upto 31st March, 2017 or till such time the approval is given by the Ministry to the fresh Coastal Zone Management Plans,

whichever is earlier.

11. It is submitted that the NGT passed said order since the order of approval of CZMP had lapsed on 31st January, 2016, and an order of extension was not issued till the date of order i.e. dated 10th February, 2016. It is submitted that by virtue of order of extension upto 31st January, 2017 or till such time approval is given by the Ministry to the fresh CZMP, the earlier Notification of 1991 would stand revives, and the earlier CZMP, which was already approved in 1998 would also stand revived. It is further submitted that the blanket order, not to process any application, is required to be modified. Our attention is also invited to two orders passed by this Court dated 4th July, 2016 in (i) ***Writ Petition No. 7393 of 2016, in the case of – Maharashtra Coastal Zone Management Authority, Petitioner Vs. Vanashakti Public Trust & Ors., Respondents***; and (ii) ***Writ Petition No. 2944 of 2015, in the case of – PNK Space Development Pvt. Ltd. & Anr., Petitioners Vs. Union of India & Ors. Respondents***, in which the blanket orders passed by the NGT dated 10th February, 2016 and 26th May, 2016 were modified. In paragraph 10 of the order passed in Writ Petition No. 7393/2016, it was observed by this Court

as under:

“10. In our view, the NGT obviously has overlooked and ignored the two Oms dated 1st July, 2011 and 8th August, 2011 and also has misconstrued the explanation which has extended the validity to the existing valid plan of 1991. In these categories of cases, at least, there was no necessity of granting a blanket order of stay. We, therefore, to that extent, modify the said order and we direct that all applications which are made by the individuals falling under these two categories, mentioned in paragraph 8 of this order, will have to be processed and a decision may be taken by the MCZMA. The order is accordingly modified.”

12. In the present case all the formalities have been completed. Respondent No. 2 – MCZMA and the EAC have, in fact, made a recommendation in favour of the Petitioner, herein. However, on account of ban imposed by the NGT by its orders dated 10th February, 2016, modified on 26th May, 2016, Respondent No. 1 is not processing the application of the Petitioner.

13. Since we have modified the said order passed by the NGT, as mentioned hereinabove, we, therefore, direct Respondent

No. 1 to process the application of the Petitioner expeditiously and take a final decision within four weeks. Writ petition is accordingly disposed of in the aforesaid terms.

. Parties to act on an authenticated copy of this order.

Sd/-
[M. S. SONAK, J.]

Sd/-
[V. M. KANADE, J.]

Vinayak Halemath