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

WRIT PETITION NO.544 OF 2024

City and Industrial Development
Corporation of Maharashtra Ltd.,
CIDCO Bhavan, C.B.D. Belapur,
Navi Mumbai-400 614.

.. Petitioner

Versus

1. The State of Maharashtra
Through the office of Government Pleader,
High Court, Mumbai.

2. The Union of India
through the Ministry of Environment
and Forests (MOEF), Parayavaran Bhavan,
CGO Complex Lodi Estates,
New Delhi-110 003.

3. The Mah. Coastal Zone Management
Authority (MCZMA) Having its office at
Kalpataru Point, Sion Circle, Sion (E)
Mumbai- 400 022, also having
Also having address at Environment
Department, 15th Floor,
New Administrative Building,
Mantralaya, J Mumbai-400 032.

4. The Mangrove Cell Through
its Additional Principal Chief
Conservator of Forest,
Having Office at 302 Wakefield House,
Ballard Estate, Mumbai, Maharashtra.

5. Bombay Environmental Action Group
Having Address at 80,
Empire Building, 2nd Floor, 134/134,
D.N.Road, Fort, Mumbai -400 001.

.. Respondents

Mr.G.S. Hegde, Senior Advocate i/by Ms.Pinky M. Bhansali for the petitioner-CIDCO.

Mr.N.C. Walimbe, Addl. G.P a/w Mr.A. R. Deolekar, AGP for respondent no.1-State.

Mr.Y. R. Mishra a/w Mr.Upendra Lokegaonkar for respondent no.2-UOI.

Mr.Ativ Patel a/w Mr.Harshad R. Vyas i/by AVP Partners for respondent no.5.

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

Date : 17th April 2024

Judgment (Per Jitendra Jain, J.) :-

. Rule. Mr.Walimbe, learned Additional Government Pleader waives service for respondent no.1. Mr.Mishra, learned counsel for respondent no.2 and Mr.Patel, learned counsel for respondent no.5. By consent of the parties, the petition is heard finally.

2. By this petition filed under Article 226 of the Constitution of India, the petitioner is seeking permission of this Court for construction of a bridge on Taloja River for establishing connectivity from Kharghar to Pendhar. The said permission is sought pursuant to the order passed by the Coordinate Bench of this Court in PIL No.87 of 2006.

3. The petitioner is a Government Company appointed as a Development Authority for plan development of Navi Mumbai under Section 113 of the Maharashtra Regional Town Planning Act, 1966.

4. The proposed project for which the permission is sought would connect Sion-Panvel expressway through the Kharghar node and to Panchanand Pendhar area leading to Taloja Industrial Belt, Dombivali, Ambernath and Badlapur area. The said connectivity would also be more beneficial for settlement of the project affected people as per the Government policy. The importance of the proposed project is that the connectivity would reduce the congestion of traffic at Kalamboli junction and Shilphata road leading to Dombivali and Kalyan Industrial and Housing area. This would save time, energy and money for the people to reach destination in developing area of Diva-Panvel and Taloja Industrial belt by shortest distance. The proposed project would also reduce air pollution, save time and would raise the living standard of people staying around the said area.

5. The petitioner had approached various authorities to seek permission for the proposed project and had obtained the following permissions.

- a) On 15th October 2020, the petitioner made an application to Maharashtra Coastal Zone Management Authority (for short “MCZMA”) seeking permission for the said project in CRZ notified area. The MCZMA in its meeting held on 25th May 2022 sought

specific EIA report prepared by an accredited consultant. The said report was filed by the petitioner on 25th July 2022. On 6th December 2022, the petitioner submitted compliance report for the proposed project with MCZMA along with various annexures. Finally the MCZMA in its meeting held on 7th December 2022 recommended the project for further permission from SEIAA on terms and conditions specified therein.

- b) On 10th March 2023, SEIAA granted CRZ clearance to the said project after considering the recommendation of MCZMA. The said clearance is granted subject to the conditions specified in the minutes dated 10th March 2023.
- c) On 11th July 2023, Mangrove Cell office informed the petitioner about Compensatory Mangroves Afforestation model approved by them. The Mangrove Cell also informed the total of 525 mangrove saplings needs to be planted on mangrove forest land. This was based on the estimate that 175 mangroves would be cut for the said project. The plantation cost for 10 years was directed to be deposited by the petitioner. The petitioner has deposited the said amount.
- d) On 15th May 2023, MOEF & CC permitted diversion of 0.67 ha. Mangrove Forest land for the aforesaid project of the petitioner

on the conditions specified therein. The said letter further states that on compliance of the conditions specified therein, formal approval will be considered under Section 2 of the Forest (Conservation) Act, 1980.

- e) On 9th June 2023, Office of the Deputy Conservator of Forests, Alibaug gave an in-principal approval to the aforesaid diversion and directed the petitioner to pay compensatory levies. The petitioner has complied with the said deposit by making payment on 30th June 2023.
- f) On 13th February 2023, the petitioner requested the Commissioner of Fisheries to issue NOC for constructing piers for the said project. The petitioner has now clarified in an affidavit dated 11th March 2024 that they would be constructing only two piers in the water.
- g) On 23rd August 2023, the Assistant Fisheries Development Officer gave its views on the said project by stating that no fishing activity was observed at project site but mangrove area in the path of the project is likely to be affected and for which the petitioner had informed that the necessary permission has been taken.
- h) On 7th August 2023, the Executive Engineer of the petitioner informed the Forest Officer about compliance made by the petitioner with respect to the conditions imposed on in-principal

approval granted by MOEF & CC.

- i) On 19th December 2023, MOEF & CC granted final approval under Section 2 of the Van (Sanrakshan Evam Samvardhan) Adiniyam, 1980 subject to the conditions specified therein.

6. We have heard the learned counsel for the petitioner and the respondents and with their assistance have perused the documents annexed to the petition and the additional affidavit filed.

7. In our view, looking at the benefits of the proposed project which we have narrated above and which the petitioner has in detail specified in the petition, the proposed project is certainly in public interest. We have also perused various permissions granted by various authorities. There is no objection to the said project by any of the respondents. The petitioner has agreed to comply with the terms and conditions on the basis of which various authorities had granted approval. We therefore, propose to pass the following order :-

ORDER

- (i) The petition is allowed in terms of prayer clause (a) which reads thus :-

“a) That this Hon’ble Court be pleased to permit the petitioners to cut the mangroves coming within the zone of

the project in accordance with the permissions granted by the Environment & Forest authorities, so as to enable the petitioner to commence the work of Construction of proposed bridge on Taloja River with approach road, outlet structure and balancing culver for establishing connectivity from Kharghar to Pendhar, as per conditions imposed by MCZMA, MoEF & CC.”

(ii) The petitioner would file an undertaking of the responsible Officer stating therein that the petitioner would comply with all the terms and conditions specified in various approvals mentioned in paragraph 5 above within a period of four weeks from the date of uploading the order.

(iii) On the aforesaid undertaking being filed with this Court, the present order will be effective.

8. Rule is made absolute in aforesaid terms. No order as to costs.

JITENDRA JAIN, J.

A.S. CHANDURKAR, J.