

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

WRIT PETITION NO.14390 OF 2024

Navi Mumbai Municipal Corporation,]
CBD Belapur, Navi Mumbai] .. Petitioner

Versus

- | | | |
|--|---|----------------|
| 1. State of Maharashtra, |] | |
| Through Environment Department |] | |
| 2. Maharashtra Coastal Zone Management |] | |
| Authority (MCZMA), Mumbai |] | |
| 3. State Level Environment Impact |] | |
| Assessment Authority, Mumbai |] | |
| 4. Bombay Environmental Action Group, |] | |
| Fort, Mumbai |] | .. Respondents |

Dr. Milind Sathe, Senior Advocate, with Mr. Tejash Dande and Mr. Bharat Gadhavi, i/by Tejash Dande, Advocates for the Petitioner.

Mrs. Neha S. Bhide, Government Pleader with Mr. O.A. Chandurkar, Additional Government Pleader and Mrs. G.R. Raghuwanshi, Assistant Government Pleader for Respondent No.1-State of Maharashtra.

Smt. Jaya Bagwe, Advocate for Respondent No.2-MCZMA.

Mr. Rohan Kelkar with Ms. Sheetal Shah, Advocates for Respondent No.4-BEAG.

**CORAM : SHREE CHANDRASHEKHAR, CJ. &
GAUTAM A. ANKHAD, J.**

DATE : 28TH NOVEMBER 2025.

PER, GAUTAM A. ANKHAD, J.

The petitioner, Navi Mumbai Municipal Corporation, has filed the present petition seeking permission of this Court to undertake the proposed construction of a Light Motor Vehicular Underpass near Kesar Solitaire Building at Sector-19, Sanpada, Navi Mumbai, District Thane (in short, “the Underpass”). The

petition is necessitated as prior permission of this Court is required for any construction activity falling within 50 metres of the mangrove buffer zone. This requirement arises from the judgment of this Court in *Bombay Environmental Action Group & Anr. v. State of Maharashtra & Ors.* (Public Interest Litigation No.87 of 2006), decided on 17th September 2018.

2. The petitioner-Corporation states that the Development Plan of Navi Mumbai envisages a 650-kilometre road network to ensure seamless travel and uninterrupted flow of inter-city and intra-city vehicular traffic, including through major expressways. The region comprises several prominent business hubs such as CBD-Belapur, Vashi, Nerul and Mahape. Key arterial roads include the Thane-Belapur Road, MIDC Road, Palm Beach Road and the Sion-Panvel Expressway. The development of new residential complexes and the Navi Mumbai International Airport has further accentuated the need for better road infrastructure. In view of the increase in daily traffic on Palm Beach Road and around Moraj Circle in Sanpada, the petitioner-Corporation has identified and proposed the construction of the Underpass beneath Palm Beach Road. The geographic coordinates of the proposed Underpass are 19°03'06.61" N and 73°00'27.90" E.

3. It is stated in the petition that approximately 30,300 sq. metres of the project area falls within the CRZ, including CRZ-I(A) and CRZ-II, as delineated in the Coastal Zone Management Plan, 2011 ("CZMP-2011"). The petition annexes a detailed Project Report prepared by M/s. Aakar Abhinav Consultants Pvt. Ltd. for the construction of the proposed Underpass. As required under the CRZ Notification 2011, an Environmental Impact Assessment study has been undertaken by the Environmental Consultant, M/s. Building Environment (India) Pvt. Ltd., for obtaining the CRZ

clearance. Pursuant to the petitioner's application, the respondent no.2-Maharashtra Coastal Zone Management Authority considered the proposal and granted its CRZ recommendation at the 160th Meeting held on 12th September 2022. The relevant extract from the Minutes of the 160th meeting of the respondent no.2 is reproduced below:

"During the meeting, the PP submitted that there is no impact on mangroves. As per the EIA report, project is outside the ESZ of Thane Creek Flamingo sanctuary and has no impacts on mangroves, flamingos or other migratory species. However, part of the project activities are situated within 50 m. mangrove buffer zone area, hence, prior High Court permission should be obtained by the NMMC.

In the light of above, the Authority after deliberation decided to grant the CRZ recommendation to the proposal from CRZ point of view to SEIAA subject to following conditions:

- 1. The proposed construction should be carried out strictly as per the provisions of CRZ Notification, 2011 (as amended from time to time) and guidelines/clarifications given by MoEF from time to time.*
- 2. PP to obtain prior High Court permission, since part of the project activity falls within 50 m mangrove buffer zone area.*
- 3. NMMC to obtain NOC from the Mangrove Cell.*
- 4. Debris generated during the construction activity should not be dumped in CRZ area. It should be ensured that debris is processed in a scientific manner at a designated site.*
- 5. The Environment Management Plan and Mitigation measures suggested in the EIA report should be implemented in letter and spirit.*
- 6. All other required permission from different statutory authorities should be obtained."*

4. Thereafter, the respondent no.3-the State Level Environment Impact Assessment Authority by its permission dated 14th February 2023, has granted CRZ clearance under the provisions of the Environmental Impact Assessment Notification 2006 and the CRZ Notification 2011, subject to certain conditions. The relevant portion of the Minutes of the 255th Meeting of the

respondent no.3 held on 14th December 2022, communicated to the petitioner on 14th February 2023, is extracted below:

“5. The proposal has been considered in 255th meeting (Day-3) of SEIAA held on 14th December 2022 and decided to accord CRZ Clearance to project proponent under the provisions of Environment Impact Assessment Notification, 2006 and CRZ Notification 2011 subject to implementation of the following terms and conditions:

Specific Conditions:

- I. The proposed construction should be carried out strictly as per the provisions of CRZ Notification, 2011 (as amended from time to time) and guidelines/clarifications given by MoEF from time to time.
- II. PP to obtain prior High Court permission, since part of the project activity falls within 50 m mangrove buffer zone area.
- III. NMMC to obtain Noc from the Mangrove Cell.
- IV. Debris generated during the construction activity should not be dumped in CRZ area. It should be ensured that debris is processed in a scientific manner at a designated site.
- V. The Environment Management Plan and Mitigation measures suggested in the EIA report should be implemented in letter and spirit.
- VI. All other required permission from different statutory authorities should be obtained.
- VII. This is only CRZ Clearance.

5. Dr. Sathe, learned senior counsel for the petitioner, submits that the present petition has been filed as a part of the project activity for the proposed Underpass falls within 50 metres of the mangrove buffer zone. In such circumstances, approval of this Court is mandated under the permissions granted by the authorities and in view of paragraphs 83 and 85 of the judgment in Public Interest Litigation No.87 of 2006. He submits that the petitioner has identified the need for the Underpass across Palm Beach Road to ease the heavy traffic congestion at Moraj Circle. The Moraj Circle presently poses a major traffic bottleneck and numerous accidents have occurred in the area due to limited

visibility and erratic vehicular movement. The proposed Underpass will serve as an alternative entry point and provide a dedicated crossing for light motor vehicles to and from Sanpada, thereby reducing the load on the Moraj Circle. The project is therefore essential from an infrastructure and public safety standpoint, and it will not have any adverse impact on the mangroves. Dr. Sathe submits that the proposed development does not require the cutting of mangrove trees and relies upon Ground E at page 10 of the petition, which read as under:

“(E) That the construction activity of proposed underpass does not involve cutting of mangrove trees.”

6. Ms. Jaya Bagwe, the learned counsel appearing for the respondent no.2, supports the submissions of Dr. Sathe and relies on an affidavit dated 22nd February 2025 filed by the respondent no.2. She submits that the proposed development is not a prohibited activity in the CRZ area. The respondent no.2 has granted CRZ recommendation to the petitioner’s proposal, subject to certain conditions. She submits that the petitioner’s project is necessary for public good and public interest. At paragraph 6 of the affidavit, it is stated that officials of the petitioner have confirmed that as per the Environmental Impact Assessment Report, the site falls outside the Eco-Sensitive Zone of the Thane Creek Flamingo Sanctuary and will not affect mangroves, flamingoes or other migratory species.

7. We have heard the learned counsel appearing for the respective parties. When the matter was listed on 20th November 2025, the petitioner was directed to file an affidavit specifying the manner in which it proposes to comply with the conditions imposed by the respondent no.2 as recorded in the Minutes of the 160th Meeting held on 12th September 2022. In compliance thereof,

an additional affidavit dated 26th November 2025 has been filed by Mr. Prashant Vasantryao Deshmukh, Executive Engineer of the petitioner-Corporation, furnishing further particulars. The relevant portions of the affidavit are extracted below:

- “2. I say that in respect of Condition No.1, to carry out the construction strictly as per the provisions of CRZ Notification 2011, the proposed agreement and work order to be executed with the contractor shall have such responsibility casted on the Contractor.*
- 3. I further say that, in any case, it is the responsibility of the present petitioner i.e. the Corporation and the Corporation shall ensure that the proposed construction shall be carried out strictly as per the provisions of CRZ Notification 2011.*
- 4. I further say that in respect of Condition No.2, the present petition is filed before this Hon’ble Court and the proposed construction would be commenced only after obtaining the permission form this Hon’ble Court.*
- 5. I further say that in respect of Condition No.3, the Divisional Forest Officer visited the site on 25.11.2025 and was pleased to issue an NOC dated 25.11.2025 bearing Outward No.3039 of 2025-26, thereby certifying that there are no mangroves on the site, however part of the proposed site is falling within 50 meter buffer zone. It is further clarified by the said authority that since there are no mangroves on the proposed site, there is no necessity to obtain any further NOC from the said authority.*
- 6. I further say that in respect of Condition No.4, total excavated material quantity is estimated to be about 63,000 M³, about 40 Metric Tonne of reinforcement still cuttings, cement bags etc.*
- 7. I further say that the petitioner-Corporation is having its own Construction and Demolition (C&D) Waste Treatment Plant with a capacity of 150 metric tons per day. The said plant is having advanced machinery and technology, it processes debris to recycle materials like concrete and asphalt for use in projects. The said Project is situated at Turbhe, Navi Mumbai.*
- 8. I further say that in view of availability of such C and D Waste Treatment Plant, I undertake to abide by the said Condition at Serial No.4, i.e., no debris shall be dumped in CRZ area and it will be ensured that the debris is processed in a scientific manner in the said C and D Plant at Turbhe, Navi Mumbai.*
- 9. I further say that the petitioner-Corporation undertake to follow and abide by all the guideline and norms prescribed by the Maharashtra Pollution Control Board while carrying out the entire construction of the project and while transporting the debris.*
- 10. I further say that in respect of Condition No.5, the Environmental Management Plan and Mitigation measures as indicated in Environmental Impact Assessment Report shall be*

implemented in its letter and spirit while executing the said project.

11. *I further say that in respect of Condition No.6, the Corporation shall obtain all other required permissions from different statutory authorities and only after grant of all the necessary permissions, the project shall be commenced.*
12. *I further say that the above referred statements may kindly treated and accepted as an undertaking to this Hon'ble Court."*

8. Having considered the aforesaid pleadings, statements and material on record, we are of the view that the project is in the larger public interest and for infrastructure development and the present petition deserves to be allowed. Respondent nos.2 and 3 who are the statutory authorities, have examined the proposal and granted the requisite recommendations and approvals. The respondents, being expert bodies, have endorsed the proposal of the petitioner-Corporation and we see no reason to substitute their expert opinion. The proposed project shall, needless to state, proceed only upon obtaining all necessary permissions and approvals and strictly in accordance with the conditions stipulated therein. We may also note that by order dated 17th April 2025 passed in Writ Petition No.14380 of 2022 (Navi Mumbai Municipal Corporation v. The Union of India & Ors.), this Court granted similar permission permitting construction of service road, drains and footpath from T.S Chanakya Signal to Plot no.7, Sector-58, Nerul, Navi Mumbai in respect of a project falling in CRZ-II and situated within 50 metres of the mangrove buffer zone. In view of the above, **Writ Petition No.14390 of 2024 is allowed** in terms of prayer clause (a), which read as under:

"(a) This Hon'ble Court be pleased to permit the petitioner to carry out its project of construction of light motor vehicular underpass near Kesar Solitaire Building at Sector-19 of Sanpada, Navi Mumbai, District Thane on such terms and conditions as this Hon'ble Court may deem fit and proper."

[GAUTAM A. ANKHAD, J.]

[CHIEF JUSTICE]