



Judg - WPL-17795-2026.doc

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION (L) NO. 17795 OF 2026

Brihanmumbai Municipal Corporation ...Petitioner
Versus
Union of India & Ors. ...Respondents

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Mr. Aspi Chinoy, Senior Advocate a/w Mr. Joel Carlos and Ms. Oorja Dhond, for the Petitioner.

Mr. Manish Kelkar a/w Ms. Gauri Phadake, for Respondent No.2/MCZMA.

Smt. Jyoti Chavan, Addl. GP a/w Smt. Nazia Sheikh, AGP for Respondent Nos.3 & 4/State.

Mr. Aditya Mehta i/by Bagla & Associates, for Respondent No.5.

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**CORAM : MAHESH CHANDRA TRIPATHI, CJ. &
ADVAIT M. SETHNA, J.**

**RESERVED ON : 9th SEPTEMBER, 2026.
PRONOUNCED ON : 17th SEPTEMBER, 2026**

JUDGMENT (Per, Mahesh Chandra Tripathi, CJ.) :-

1. The Instant Writ Petition is preferred under Article 226 of the Constitution of India for the following substantive relief: -

“(a) This Hon'ble court be pleased to issue a writ of Mandamus or any other appropriate writ or order or direction in the nature of mandamus under Article 226 of the Constitution of India, thereby granting permission to the Petitioner to cut 1237 mangroves on an area of 2.7515 Ha for the purposes of constructing the Proposed bridge of 2064 Meter on Malad creek at Versova connecting Madh Island and Versova over the Malad Creek subject to compliance with the terms and conditions set out in paras 9(A) to (E) Above.”

2. Heard. Rule. Rule made returnable forthwith, with the consent of parties.

3. The Petitioner – Corporation is the planning authority for the city of Mumbai. The Petitioner has approached this Court primarily to seek permission to cut 1237 mangroves on an area of 2.7515 Ha for the purposes of constructing the proposed bridge of 2064 meters on Malad creek at Versova, connecting Madh Island and Versova over the Malad creek. Accordingly, permission of this Court is sought *inter alia*, in terms of the judgment of a co-ordinate Bench of this Court dated dated 17th September 2018 in ***Bombay Environmental Action Group Vs. The State of Maharashtra & Ors***¹.

4. The Respondent No.1 through its Ministry of Environment, Forest and Climate Change (“**MoEFCC**”), is a nodal agency in the administrative structure of the Government for the planning, promotion, coordination and overseeing the implementation of India’s environmental and forestry policies, including but not limited to grant of Coastal Regulation Zones (“**CRZ**”) and Environment Clearance. The Respondent No.2 is the Maharashtra Coastal Zone Management Authority (“**MCZMA**”) constituted under the CRZ Notification, 1991 under the provisions of the Environment (Protection) Act, 1986 (“**EPA**”) responsible for regulation of

1 2018 SCC OnLine Bom 2680.

activities in Coastal Regulation Zones and grant of CRZ clearances. The Respondent No.3 is the State of Maharashtra through its Environment Department. The Respondent No.4 is the Additional Principal Chief Conservator of Forest, Mangrove Cell ("**Mangrove Cell**"). The Respondent No.5 is an NGO and Original Petitioner in PIL No.87 of 2006 i.e. ***Bombay Environment Action Group (Supra)***.

5. The Facts relevant for adjudication of this petition are summarized below: -

A. Factual Matrix: -

6. Historically, the city of Bombay now Mumbai was a cluster of islands. The significance of the city grew by leaps and bounds commencing from the British times, when it was used as a port city and became a center of economic growth and progress in India. The city was capital of Bombay State before the formation of State of Maharashtra. It became financial center of India and attracted people from across India in anticipation of employment.

6.1. Mumbai, is the center of the Mumbai Metropolitan Region, a population of over 2.3 crores and there is huge population density and the city is also surrounded by sea. The constraints of geography and inability of the city to expand have already made it the densely populated city. In view of the massive influx of the population and business activities, the Petitioner - BMC has launched major infrastructure projects

and the present project claims to be crucial link towards this objective. The BMC has statutory obligation to develop, regulate, facilitate and administer all the civic amenities and infrastructure in the city of Mumbai.

6.2. A part of the proposed road and bridge falls in CRZ 1A (Mangroves), CRZ 1A (50 Meter Buffer Zone), CRZ-IB, CRZ-II, CRZ-III (NDZ within CRZ-II-Greater Mumbai) and CRZ-IV as per the approved CZMP Map prepared by NSCM Chennai vide CRZ Notification 2019.

6.3. The proposed project is a permissible activity as per Clause 5.1.1 (ii) and (iii) of the CRZ Notification dated 18th January, 2019. Under Clause 7(iii) of CRZ Notification 2019, the CRZ clearance has to be considered by Respondent No.1-MoEFCC based on recommendations of Respondent No.2-MCZMA.

6.4. In the course of seeking the requisite clearance, the Petitioner initially submitted an Environmental Impact Assessment (“**EIA**” for short) report to Respondent No. 2 – MCZMA on 17th June 2021. The said EIA Report estimated that approximately 2.80 hectares of mangrove area and about 560 mangrove trees would be affected.

6.5. Thereafter, the Respondent No. 2 - MCZMA on 4th February 2022 in its 157th meeting factored in the EIA report but stated that a separate proposal be submitted for the present project and prescribed further requirements for the

EIA.

6.6. Pursuant thereto, a fresh EIA was prepared, and a revised proposal was submitted by the Petitioner. The Respondent No.2 - MCZMA, upon consideration of the proposal in its 164th meeting held on 23rd February 2023, noted that the proposed alignment was necessary, *inter alia*, to ensure that the movement of local fishermen's boats was not obstructed. It further recorded that although the final alignment affected approximately 2.5 hectares of mangrove area, about 2 hectares would be restored and the permanent impact would be confined to approximately 0.5 hectare corresponding to the footprint of the bridge piers.

6.7. The Respondent No.2 - MCZMA accordingly recommended the proposal to the Respondent No. 1 - MoEFCC for grant of CRZ clearance vide its Letter dated 28th March 2023. One of the conditions attached to the recommendation was that prior permission of this Court be obtained, in view of the involvement of mangrove cutting and the Order dated 17th September 2006 passed by this Court in ***Bombay Environmental Action Group (supra)***.

6.8. Before approaching this Court, the Petitioner/the Project Proponent had acquired various clearances and permissions for carrying out the said project, particularly since it affects the mangroves in the region/area. The requisite permissions as set out in the Petition are as under: -

- A) Permission from Maharashtra Maritime Board.
- B) Permission from MCZMA.
- C) Permission from competent authority of Forest Department.
- D) Permission from MOEFCC.
- E) Other Permissions as set out in the Petition.

Rival Contentions: -

B. Submissions on Behalf of the Petitioner:-

7. Mr. Aspi Chinoy, learned Senior Counsel appearing for the Petitioner submitted that the proposed project is for the construction of a four-lane cable-stayed bridge (having a bridge length of 2064 meters) to connect Madh Island and Versova over the Malad creek. The said bridge will be line with a 27.45 M wide DP Road and the Coastal Road alignment and is a missing link part of recommendations made in Comprehensive Transportation Study (CTS) of MMRDA, DPR prepared for Coastal Road by BMC.

7.1. The newly developed DP roads and the proposed bridge will help to divert significant traffic from SV Road and Link Road and are expected to cater one-way design daily traffic of 48, 186 PCU to 29,724 PCUs from Andheri to Kandivali. Post completion of the project the distance shall be reduced by 18 to 20 kms and time taken will be reduced from the present 1.5 hrs to only 5 minutes resulting in saving of travel time of 70 to 80 minutes. He submitted that the construction of the proposed bridge will significantly reduce

the traffic congestion and accidents on the New Link Road.

7.2 Mr. Chinoy would contend that that once the project is complete, there will be 93% reduction in Co2 from the current level and relied upon paragraph No.4(g) of the Writ Petition, which is reproduced hereunder :-

(g) On completion of the project there will be 93% Reduction in Co2 from the current levels.

<i>Design Traffic PCU per day (both way) : 15,536</i>		
Parameters	<i>Current Scenario</i>	<i>Project scenario</i>
<i>Travel Distance – current scenario</i>	<i>22 km</i>	<i>1.5 km</i>
<i>Co2 Emission (kg) – current scenario</i>	<i>38,356</i>	<i>2,615</i>

7.3. He submitted the motorable bridge will also provide a vital link for Air Force and Navy which have their stations at INS Hamla at Madh-Marve Road, to other parts the city during an emergency.

7.4. He would further submit that the Petitioner – BMC's bridges department applied to the Respondent No. 2- MCZMA as a first step towards getting the MoEFCC CRZ clearance for the proposal. The Respondent No. 2 - MCZMA in its 155th meeting deferred the matter while requiring the submission of the rapid **(EIA)** Report of the proposed project from the Petitioner. Pursuant thereto, Petitioner arranged for an EIA

report to be prepared by Tandon Urban Solution Pvt. Consultant ("BMC Consultant") regarding the Bridge Project along with other projects. The EIA report estimated that the construction of the bridge would affect mangrove area of 2.80 Ha and it estimated that 560 mangrove trees would be affected/have to be cut.

7.5. Mr. Chinoy would next submit that the Petitioner submitted the said EIA report to the Respondent No. 2 - MCZMA on 17th June 2021. The Respondent No. 2 - MCZMA on 04th February 2022 in its 157th meeting considered the EIA report but stated that instead of submitting one common proposal for 6 bridges, a separate proposal be submitted. It also issued further directions for the manner in which the EIA report should be prepared and deferred their decision for a further meeting.

7.6. Mr. Chinoy would contend that pursuant to the direction of the Respondent No. 2 - MCZMA, the Petitioner arranged for an EIA report to be prepared for the present project by Centre for Envotech & Management Consultancy Pvt. Ltd. and submitted a fresh proposal to the Respondent No. 2 - MCZMA via Parivesh Portal on 30th October 2023. The proposed Project was taken up for consideration by the Respondent No. 2 - MCZMA in its 164th meeting held on 23rd February 2023. The Respondent No. 2 - MCZMA minutes recorded that the present alignment was necessary to meet the

demands of local fishermen to ensure that that their boats not be obstructed by the bridge. The Respondent No. 2 - MCZMA minutes also noted that the final alignment affected 2.5 Ha of mangrove area, but that this 2 Ha would be restored and the permanent damage of mangroves would be about 0.5 Ha only, which is the area covered by the footprint of the piers of the bridge. Accordingly, the Respondent No. 2 - MCZMA decided to recommend the proposal to Respondent No. 1 - MoEFCC for grant of CRZ clearance.

7.7. Mr. Chinoy has submitted that accordingly vide its letter dated 28th March 2023 the MCZMA recorded the aforesaid and recommended the proposal to the Respondent No. 1-MoEFCC for grant of CRZ clearance Specific Condition No. (iii) imposed by Respondent No.2 – MCZMA in the recommendation for CRZ clearance in its letter dated 28th March 2023, which reads thus:-

“3. Prior High Court permission should be obtained by PP as per Hon’ble High Court order dated 17th September, 2018 in PIL/87/2006, since the project involves the cutting of mangroves”.

7.8. According to Mr. Chinoy, most of the departments/ statutory authorities have already accorded clearance and relied upon the letter dated 23rd February 2026 of the Additional Principal Chief Conservator of Forests, Mangrove Cell, Mumbai who forwarded the mangrove restoration plan for the bridge project involving an outlay/expenditure of 12.50

crores. The mangrove restoration plan records that although a total mangrove area of 2.7515 Ha would be affected by the construction of the bridge, after the construction, 2.5 Ha would be used for *in situ* mangrove restoration and only 2005 sq.mtrs. i.e. .20 Ha mangrove (i.e. the actual area covered by the piers and pylons) would be permanently lost. He submitted the restoration plan is to be executed by the Mangrove and Marine Biodiversity Conservation Foundation of Maharashtra (Mangrove Foundation), which is an autonomous body under the Revenue and Forests Department, Government of Maharashtra.

7.9. Mr. Chinoy would emphatically submit that the proposed alignment is not passing through any Protected Area or Eco Sensitive Zone and relied upon paragraph No.5(q), wherein categorically a pleading has been set up to state “the Proposed Alignment is not passing through any Protected Area or Eco Sensitive Zone.” The Aerial Distance of the Nearest Protected area is Sanjay Gandhi National Park: 8.2 Km, Thane Flamingo Creek Sanctuary: 13.9 Km.

7.10. Mr. Chinoy would urge that all statutory and development permissions required up to this stage have been duly obtained by the Petitioner. Accordingly, the Petitioner has defrayed the substantial amounts/charges on the legitimate expectation that the Petitioner will be allowed to act in furtherance of the above permissions.

7.11. It is in the above background that the Petitioner has approached this Court for prior permission to undertake construction of the proposed bridge as it involves cutting of mangroves in the said area/region. The leave of this Court is sought in accordance with the judgment and order dated 17th September, 2018 passed by this Court in Public Interest Litigation No.87 of 2006 read with order dated 2nd November, 2018 in Notice of Motion No.278 of 2018 in Public Interest Litigation No.87 of 2006.

7.12. Mr. Chinoy would urge that in similar facts and circumstances, the Division Bench of this Court had considered the similar public utility project and in the light of a finding at paragraph No.83(viii) of the judgment and order dated 17th September, 2018 in Public Interest Litigation No.87 of 2006 was pleased to grant leave as provided for, in the said judgment. He further relied upon the order dated 24th February, 2023 passed in Writ Petition No. 4138 of 2022. The Division Bench of this Court has accorded permission to the present Petitioner to carry out construction of proposed suction tank for providing adequate water supply to citizens around Gorai village.

7.13. Mr. Chinoy has placed due reliance on various other judgments of this court as also extracted in the Petition (at para 7) where in similar situations, this Court has granted permissions to cut mangroves for projects undertaken in larger public interest.

7.14. According to Mr. Chinoy, in the present case the Petitioner -Corporation has preferred the instant Petition seeking permission to cut 1237 mangroves situated on 2.7515 Ha for the purposes of construction of the proposed bridge precisely on the ground that the construction of the same is undertaken by the Government undertaking, i.e. the Petitioner for the benefit of the citizens by carrying out construction of an important link by way of the proposed bridge. For the same, various permissions under Clause 5.1.1 read with Clause 5.1.2, Clause 5.2 and Clause 10.3 of CRZ Notification dated 18th January, 2019, have been obtained. The proposed project is, therefore, founded on the principles of public utility, sustainable development and eco-friendly systems. Moreover, the same is aimed at benefit of the citizens at large and not premised on private or commercial gain.

7.15. Mr. Chinoy would urge that each and every condition set out in paragraph 40(IV) in ***Mumbai Metropolitan Region Development Authority Vs. Union of India & Ors.***² shall be complied with by the Petitioner, to the extent relevant to the present project and for other conditions as required under CRZ Notification. In support of his submission, he has categorically stated that an undertaking would be furnished in the instant Petition by relying upon paragraph No. 9 in the Petition. For ready reference, paragraph No. 9 is reproduced hereunder: -

² 2025 SCC OnLine Bom. 2905

“9. The Petitioners say and submit :

(A) That as required under the CRZ Notification, as 1237 mangroves situated on 2.7515 Ha would be affected, compensatory mangrove plantation [three times the number of mangroves on three times the area] is to be undertaken and Approx 39000 mangroves are proposed to be planted on 9 Ha of degraded mangrove forest land in the jurisdiction of the Divisional Forest Officer, Mangrove Division North Konkan. For the same the Petitioner has deposited an amount of ₹ 1,42,02,808/- (Rupees One Crore Forty-Two Lakhs Two Thousand Eight Hundred Eight only) towards the cost of plantation, protection measures, and operation and maintenance of the said 9 hectares area for a period of 10 years, including necessary protective works.”

7.16. Mr. Chinoy would then contend that as provided in the Order dated 12th December 2025, the Petitioner further undertakes that it shall for 10 years, file an Interim Application on a yearly basis, with comprehensive status audit reports, with affidavits signed by the Petitioner, through its Municipal Commissioner – Respondent No 4 and the Chief Conservator of Forests, Nagpur.

7.17. With all the above safeguards in place, Mr. Chinoy would urge that the Petition be allowed and Rule be made Absolute.

C. Submissions on Behalf of the Respondents

8. Mr. Aditya Mehta, learned Counsel appearing on behalf of Respondent No.5 has opposed the Writ Petition raising concern regarding environmental impact from the diverse and destruction of mangroves and degraded mangroves forest land. The same would result environmentally

degradation and adverse impact on aqua maritime life. He submitted the authorities have utterly failed to adequately consider the diverse environmental impact of the project even under the facts and circumstances compensatory mangrove plantation is inadequate. He submitted it is paramount responsibility of the State to ensure the sustainable development, which is also one of the core objective of the Environment (Protection) Act, 1986 and in support of his submission placed reliance on the judgment of ***M. C. Mehta Vs. Union of India & Ors.***³.

8.1. The Respondent No. 4 has also filed affidavit-in-reply dated 8th July 2026 in this proceeding. This pleading proceeds on the premise that the Petitioner has obtained the requisite permissions from the concerned/competent authorities, with regard to the proposed bridge under the applicable statutes. The Petitioner has also paid a sum of Rs. 1,42,02,808/- to the Mangrove Biodiversity Foundation of Maharashtra as stated in paragraph 5(n) (page 32) of the Petition. A specific objection is also raised in the said Affidavit that unless the Petitioner deposits financial outlay of 12.50 crores, no permission should be accorded to the carry out the proposed bridge project.

8.2. To the above there is a clarification from the Petitioner in its Rejoinder dated 27th August 2026, which is on record. It is duly clarified that the project requires diversion of 2.8022 ha forest (mangrove) land which is in the area of

³ 1994 Supp (3) SCC 717.

diversion and not reclamation. Following consultation including that with the fishing community, the alignment of the proposed bridge was increased. Accordingly, at this stage, a figure of 2.5 Ha. for diversion was estimated by the Petitioner based on the EIA report, which was never the actual final forest diversion figure. The Petitioner stated that all the permissions are accorded strictly in accordance with law and abundant precautions are taken at this stage in order to ensure the project may not harm the environment. The project has been evaluated and finalized keeping in mind there shall not be any substantial degradation.

D. Analysis & Conclusion: -

9. We have considered the material placed on record, the nature of the proposed bridge project, the environmental impact thereof and the measures proposed for mitigation and restoration. The principal question which arises for consideration is whether, having regard to the protection accorded to mangroves under the orders passed by this Court in ***Bombay Environmental Action Group*** (*supra*), the proposed intervention can be permitted in the facts and circumstances of the present case, in the context of public good and larger public interest/welfare which has been espoused by the Petitioner-Corporation in preferring this Petition before this Court.

9.1. The word “Mangrove” is considered to be a combination of the Portuguesia word “Mangue” and the English

word “Grove”. Mangroves are salt tolerant plants of tropical and sub-tropical inter tidal regions of the world. The specific regions where these plants occur are termed as ‘Mangrove Ecosystem’. These are highly productive but extremely sensitive and fragile. It is said about the mangroves that they are living life on the edge, with one foot on land and one in the sea. They are tenacious and useful for the environment. Mangroves no doubt perform a critical protective function by acting as natural buffers against coastal erosion, tidal surges and flooding, thereby safeguarding life, property and vital coastal infrastructure. They are of particular ecological significance in creeks and coastal stretches of Mumbai and Thane. It is in such backdrop that this Court in ***Bombay Environmental Action Group (supra)***, where the Court was examining the issue of mangrove destruction in the State of Maharashtra, invoked the public trust doctrine to unequivocally hold that mangroves cannot be destroyed for private, commercial or other purposes, unless such action is demonstrably required in public interest.

9.2. Applying the above principles, this Court in ***Brihanmumbai Municipal Corporation v/s Union of India & others***⁴ was confronted with a challenge mounted by the same Respondent No. 5 in this Petition, to the proposed Versova-Bhayandar coastal road, intended to connect two municipal corporations, namely the BMC and the Mira-Bhayandar Municipal Corporation, respectively, primarily on

⁴ Writ Petition No.3790 of 2025; 12th December 2025

the ground of cutting of mangroves for such project. This Court gainfully observed that it is settled law that courts do not intrude into the domain of policy decisions. A decision as to whether an infrastructure project should be undertaken, its nature and its mode of execution squarely lies within the realm of executive policy making. Where the State has taken safeguards to minimize the environmental impact, the Court will not substitute its own assessment for that of statutory bodies who have applied their technical expertise with objectivity. We in our analysis, are driven by such settled legal principles in this regard including those affirmed by the Supreme Court in decisions discussed below, serving as the pole star, in arriving at our conclusion, in the present case.

9.3. The present project is a public infrastructure project intended to establish a direct road connectivity between Versova and Madh Island across Malad Creek. The material before us indicates that the proposed bridge would constitute an important missing link in the existing road network and would also connect with the proposed Coastal Road/DP Road alignment. The project is expected to substantially reduce the travelling distance between the two points and consequently, the time presently required for such journey. The resultant diversion of traffic from the existing roads would also have the effect of reducing congestion on those roads and, correspondingly, the environmental burden arising from prolonged vehicular movement.

9.4. The Petition categorically states that there will be 93% reduction in Co2 from the current levels, upon completion of the project. The chart referred to above indicates that the Co2 emission (kg) is at 38,356, which upon completion of the project would be reduced to 2615. This would show that the environmental interests would be protected, paving way for sustainable development. Further, the project would additionally provide an alternative route which may be utilized by the Air Force and the Navy in situations of emergency. We find nothing on record to controvert such position.

9.5. Contextually, these aspects assume significance while considering whether the proposed intervention is in public good or greater public interest. The project is clearly not one undertaken for a private commercial purpose or for the benefit of a particular private entity. It is being undertaken as part of the development of public infrastructure and is intended to serve the public at large by improving connectivity between Madh Island and the western suburbs of Mumbai. The proposed bridge is aimed at providing some respite to the Mumbaikars from the menace of inordinate delays in travel due to traffic jams/congestion on such widely used roads of the city. As indicated in the chart above, the travel distance between Versova and Madh Island to connect which the proposed bridge is to be constructed, would be substantially reduced from the present 22km to 1.5km after completion of the project. This is an important factor to be considered in the given factual complexion.

9.6. The fact that the project serves a public purpose, however, cannot by itself conclude the environmental enquiry. In this context, the principle of sustainable development assumes particular significance. In ***Maharashtra Maritime Board v. Union of India***⁵, this Court, while considering public works in the vicinity of mangroves, relied upon the principles reiterated by the Supreme Court in ***N.D. Jayal v. Union of India***⁶, ***Vellore Citizens Welfare Forum v. Union of India***⁷ and ***M.C. Mehta v. Union of India***⁸. The Court recognized that a balance between environmental protection and developmental activity is to be maintained through strict adherence to the principles of sustainable development. Sustainable development does not contemplate development at the cost of the environment; rather, it requires a course which permits development while preserving environmental balance and the interests of future generations.

9.7. On the environmental aspect, the material before us indicates that the project proponent initially estimated an impact upon approximately 2.80 hectares of mangrove area and about 560 mangrove trees. Pursuant to the directions of the Respondent No. 2 - MCZMA, the proposal was thereafter reconsidered, and a separate EIA was undertaken for the present project. The revised proposal was examined by the competent authority, which took note, *inter alia*, of the

5 2021 SCC OnLine Bom 3667

6 (2004) 9 SCC 362

7 (1996) 5 SCC 356

8 2002 4 SCC 356.

necessity of the alignment of the proposed bridge to ensure that the movement of local fishermen's boats was not obstructed.

9.8. More importantly, the environmental impact has not been left unaddressed. The restoration plan placed by the Petitioner is indicative of the fact that approximately 2.7515 hectares of mangrove area may be affected during the construction phase, while approximately 2.5 hectares is proposed to be restored *in-situ* and only 2005 sq meters i.e. 0.20 Ha of mangroves (actual area covered by the piers and pylons) would be lost permanently which is estimated at approximately 2005 square metres. We have not come across these aspects to be controverted on pleadings. Accordingly, we are not persuaded to not accept but in fact consciously consider the same, as the proposed bridge is a project in larger public interest.

9.9. The mitigation measures proposed are also noteworthy. Against the proposed impact upon 1237 mangroves over approximately 2.7515 hectares, the project contemplates plantation of approximately 39,000 mangroves over 9 hectares of degraded mangrove forest land. An amount of ₹1,42,02,808/- has also been deposited towards plantation, protection, operation and maintenance for a period of ten years. The restoration measures are to be implemented through the Mangrove and Marine Biodiversity Conservation Foundation of Maharashtra. These measures demonstrate that

the project has been conceived keeping in mind the environmental impact which ought not to be disregarded, being quint essential for sustainable development.

9.10. We have also taken note of the fact that the proposed alignment does not pass through any Protected Area or Eco-Sensitive Zone. The project has been examined by the statutory authorities concerned and the Respondent No. 2 - MCZMA. After considering the revised proposal and the environmental implications, it has recommended the proposal for CRZ clearance subject to the conditions set out therein. The requisite permissions and clearances referred to before us have also been obtained from the concerned authorities. Moreover, the Affidavit in Reply dated 27th August 2026 filed by Respondent No.2 - MCZMA clarifies that they had recommended the proposed project for CRZ clearance subject to fulfilment of conditions and that the said Respondent confirms in the said Reply on record of the proceedings (paragraph 24) that the proposed project is permissible in accordance with the provisions of the CRZ Notification 2019. This being so, the objections raised by the Respondents in the given fact situation fall short of convincing us.

9.11. We are, therefore, of the view that the present case falls within the category of projects where the Court is required to reconcile environmental protection with a legitimate and substantial public welfare/ interest. The intervention sought is not being permitted merely because the project is

characterized as a public project. It is the combination of the public utility of the project, the environmental assessment undertaken, permissions granted by statutory authorities and the restoration cum compensatory measures proposed by the Petitioner, which persuades us that the proposed project being in larger public interest, justifies the grant of relief in prayer clause (a) supra.

9.12. The permission sought must, however, necessarily remain subject to strict compliance with the conditions imposed by the competent authorities and the safeguards governing the protection and restoration of mangroves. The Undertaking sought to be given by the Petitioner – BMC, would act as a catalyst in ensuring compliance with the terms and conditions with regard to mangrove plantation, *in situ*, by the Petitioner. This should dispel the apprehension of the Respondents and the given case of *in situ* plantation of mangroves, would in fact help restore the ecological balance in the very region that may suffer de forestation, rather than having it in distant areas. A coordinate Bench of this Court made such observations in ***Mumbai Metropolitan Regional Development Authority v/s Union of India & Ors.***⁹ which would assist the case espoused by the Petitioner.

9.13. We have carefully examined the decision of a co-ordinate Bench of this Court in ***Maharashtra State Electricity Transmission Company Ltd. vs. State of***

⁹ 2025 SCC Online Bom. 3180.

Maharashtra and Others¹⁰ duly relied on by Mr. Aditya Mehta Ld Counsel for Respondent No.5. Here the court permitted compensatory afforestation for non-mangrove trees at a distant location as an exceptional case and having regard to the national importance of that project. However, we are confronted with a situation of the Petitioner's undertaking to carry out *in situ* rehabilitation of the cut mangroves. For such reasons, the said decision pressed into service by Mr. Mehta is of no assistance to the Respondents.

9.14. We find it apposite at this juncture to also refer to the decision of a co-ordinate Bench of this Court in ***National Highways Authorities of India (Ministry of Road and Transport Highways) Thane v/s. State of Maharashtra & Ors.***¹¹ The Court placed due reliance on the decisions of the Supreme Court in ***N.D.Jayal vs Union of India, Citizens Welfare Forum (Supra)*** and ***M.C. Mehta vs Union of India (supra)*** where the Supreme Court held that adherence to the principles of sustainable development is a *sine qua non* for the maintenance of a symbiotic balance between the rights to environment and sustainable development. It was held that construction of a dam or a mega project is definitely an attempt to achieve the goal of wholesome development and such works could be very well treated as an integral component for development. To ensure sustainable development is held to be one of the goals of Environment

10. 2026 SCC Online Bom 8130.

11. 2023 SCC Online Bom 343.

Protection Act 1986 which is necessary to make effective the guarantee of “right to life” under Article 21 of the Constitution of India.

9.15. Having regard to the aforesaid facts and circumstances, we are satisfied that the proposed project is in furtherance of a genuine public cause/purpose. In view thereof, this court’s limited intervention *qua* the mangroves in the region coupled with all necessary safeguards and restoration measures as noted above, would sub serve larger public interest. It is only on the basis of the express ecological commitments made and the categorical undertaking furnished by the Petitioner – Corporation as a public body, that *in situ* plantation of the mangroves would be carried out along with the periodic monitoring for 10 years as noted (*supra*), that we are inclined to entertain this Petition. Moreover, we clarify that the Petitioner will be liable not only *qua* civil but also criminal consequences in the event of any breach of such Undertaking (*Supra*). Mr. Chinoy in his usual fairness, has, on instructions, duly acceded to this position.

9.16. As a sequel to the above discussion, with we are of the considered opinion that the Petitioner has become entitled to proceed with the proposed project on the touchstone of larger public good strictly in accordance with the Undertaking furnished by the Petitioner as recorded by us above, coupled with the permissions granted by the authorities and subject to the conditions carved out therein. They are also entitled to the

exception carved out as observed in the decision of this Court in ***Bombay Environment Action Group*** (supra) as stated in paragraph 83 (viii), in as much as the Court finds it necessary and expedient for public good and in public interest that the proposed project ought to proceed, subject to the observations/directions in our judgment as noted above.

9.17. For all the above reasons, Writ Petition is allowed in terms of prayer clause (a). Rule is made Absolute accordingly.

9.18. All concerned to act on an authenticated copy of this Judgment.

[ADVAIT M. SETHNA, J.]

[CHIEF JUSTICE]