

Agenda of the First Meeting of the Mangrove Protection and Conservation Monitoring Committee 12th November, 2018.

Office of the Divisional Commissioner, Konkan Bhavan, CBD Belapur, Navi Mumbai.

Introduction

1. On 17th September 2018, the Hon'ble High Court of Bombay pronounced the final judgement in PIL 87 of 2006 (Bombay Environmental Action Group and another V/s. The State of Maharashtra and others), which concerns the issue of destruction of mangroves in the entire State of Maharashtra. In this Matter, the Hon'ble Court had earlier passed a detailed interim order on 6th October, 2005, which gave a series of directions to the State Government and its agencies in respect of the Conversation of mangroves in the State. These directions have been quoted verbatim in pages 7 to 11 of the final judgement of 17th September 2018.
2. In compliance of the interim order, the State had initiated several steps for conversation of Mangroves including the notification of about 15,088 ha of mangroves on government land as Reserve forests under section 4 of the Indian Forest Act. These initiatives were listed out in the Affidavit filed on behalf of the State by Shri. Milind Panditrao, Divisional Forest Officer, Mumbai Mangrove Conversation Unit.(the status of compliance in this affidavit is quoted in page 12 to 15 Of the final judgement). Hon'ble High Court has observed that the State has shown willingness to Abide by all directions issued by the Court under the order dated 6th October 2005.
3. After taking into consideration the above affidavit and the submissions by the senior counsel Appearing for the petitioner, the Hon'ble Court has made some very significant observations And clarifications, which are summarised below:
 - (i) A land regardless of its ownership on which there are mangroves, is a forest within the Meaning of the Forest Conversation Act of 1980, and therefore, the provisions of section 2 of the said Act of 1980 and the law lay down by the Apex Court in the case of T.N.Godavarman will squarely apply to such land;
 - (ii) A mangroves area on a Government land is liable to be declared as a protected forest or A reserved forest, as the case may be, within the meaning of the Indian Forest Act of 1927;
 - (iii) All mangrove land, irrespective of its area will fall in CRZ-I as per both the CRZ notifications Of 1991 and 2011;
 - (iv) All mangroves lands fall in CRZ-I, and in case the area of such land is 1000 square Meters or more, even a buffer zone of 50 meters along the said area shall be a part of CRZ-I. In respect of the mangroves area of less than 1000 square meters, the buffer zone of 50 meters will not be a part of CRZ-I, but is required to be kept free of constructions;
 - (v) If there is any violation of the CRZ nonfictions regarding mangroves area, it will attract Panel provision under section 15 of the Environment Protection Act of 1986;
 - (vi) The destruction of mangroves offends the fundamental rights of the citizens under Article 21 of the Constitution of India; (emphasis added)
 - (vii) In view of the provisions of Articles 21, 47, 48A and 51A(g) of the constitution of India, It is a mandatory duty of the State and its agencies and instrumentalities to protect and Preserve mangroves;
 - (viii) In view of applicability of public trust doctrine, the State is duty bound to protect and Preserve mangroves. The mangroves cannot be permitted to be destructed by the State for private, commercial or any other use unless the Court finds it necessary for The public good or public interest;

- (ix) The precautionary Principle makes it mandatory for the State and its agencies and Instrumentality to anticipate and attack causes and consequences of degradation of Mangroves.
4. The following directions issued in the interim order dated 6th October 2005 shall continue To operate as final directions in following terms:
- (I) There shall be a total freeze on the destruction and cutting of mangroves in the entire State of Maharashtra;
 - (II) Dumping of rubble/garbage/solid waste on the mangrove areas shall be stopped forthwith;
 - (III) Regardless of ownership of the land having mangroves and the area of the land, all Construction taking place within 50 meters on all sides of all mangroves areas shall be Forthwith stopped. The area of 50 meters shall be kept free of construction except Construction of a compound wall/fencing for its protection;
 - (IV) No development permission whatsoever shall be issued by any authority in the State of Maharashtra in respect of any area under mangroves. All authorities including the Planning Authorities shall note that all mangroves lands irrespective of its area will fall in CRZ-laps per both the CRZ notifications of 1991 and 2011. In case of all mangrove areas of 1000 sq.meter or more, a buffer zone of 50 meters along the mangroves will also be a Part of CRZ-I area. Though buffer zone of 50 meters in case of a mangroves area of less than 1000 meters will not be a part of CRZ-I, It will be subject to above restriction specified in clause III above.
- (The important direction issued by the Hon'ble Court in the above PIL are summarised in pages 74-83 of the judgement)

5. Constitution of Monitoring committee and Sub Committee.

5.1. Hon'ble Court has directed the State Government constitute, within one month, a monitoring committee headed by the Divisional Commissioner to oversee the implementation of the directions issued in this judgement. The function of the committee will be to ensure that various agencies/authorities/officers who are vested with the statutory powers act promptly and effectively. The committee shall also be responsible for the preservation and conservation of mangroves and for restoration of reclaimed mangroves areas.

5.2. The committee may consist of the following:

- i. District Collector of costal districts
- ii. Nodal Police officers of each district not bellow the rank of DY. Superintendent of Police
- iii. Nodal officer of appropriate higher rank appointed by all Planning Authorities, which are having coastal areas within its jurisdiction.
- iv. Higher Officers of the Forest Department.
- v. Officer of Mangrove Conservation Unit/Mangrove Cell
- vi. Member Secretary, MCZM
- vii. Regional Officer of the Maharashtra Pollution Control Board.
- viii. Representative of NGOs working in the field.
- ix. Representative of organizations of local fisher folk communities
- x. Experts in the field of conservation

The State Government may consider of including the Petitioners in PIL 87 of 2006 and PIL 218 of 2013 in the committee.

Item No: 1

Subject: Constitution of Sub Committee at District and Taluka Level.

As per the directions of Honourable Bombay High Court, the Maharashtra state government has authorised Divisional Commissioner, Konkan Division to constitute sub -committee at District and Taluka level vide its GR dated 16th Oct, 2018. Accordingly following subcommittee is being proposed for consideration.

At District Level

Collector – Chairman

Superintendent of Police – Member

Deputy Conservator of Forest – Member

District Superintendent of Land Records – Member

Assistant conservator of Forest – Member secretary (The Government GR S-10/2012/SN 326/F-3 has made ACF are the nodal officers for mangrove protection of coastal districts)

At Taluka Level:

Tehsildhar – Chairman

Police Inspector – Member

Taluk land Record officer – Member

Range Forest officer – Member Secretary

The committee and subcommittee shall be responsible for

- a) The preservation and conservation of mangroves
- b) For restoration of reclaimed mangrove areas
- c) For implementation of the directions of the Honourable Court

Item NO: 2

Subject: to set up Grievance Redress Mechanism

Honourable Court has directed the state government to create a Grievance Redressal Mechanism for enabling the members of the public to lodge complaints about the activity of destruction/removal of the mangroves. The Grievance Redressal Mechanism shall be set up within a period of three months.

The matter is placed before the committee to

- a) Discuss the same and set up a mechanism to receive the complaint and immediate action to stop the illegal destruction or acts amounting to cause damage to the mangrove areas.
- b) Creation of Separate Website: The committee may consider receiving the complaints from the existing website Mumbaimangrove.org (which can be renamed as Konkanmangrove.org). The provision of uploading photographs and other documents are made through the website.

c) Toll Free Number to receive the complaint: 1926 Service already in place to receive the complaints from public. The committee may direct to nominate nodal officers from each district (one officer each from Revenue, Police and Forest) and to share their mobile numbers, office contact numbers and e-mail id within 15 days.

The call centre will directly communicate the complaint details to concerned district nodal officers and Member Secretary of the committee.

d) To receive complaints on physical form to the officers or offices nominated

Item No: 3

Subject: Publicity regarding the availability of Grievance Redress Mechanism.

Honourable Court has directed State Government to provide adequate publicity regarding the availability of the Grievance Redress Mechanism in leading newspapers as well as local newspapers. Information also to be displayed in the offices of District Collectors, Sub Divisional Officers, Tehsildhars in the coastal districts as well as in the offices of the MPCB, MMB and Municipal Corporations/Municipal Councils of coastal districts.

The publicity shall be given at regular intervals of at least six months to the details of the grievance redress mechanism in leading newspapers having good circulation in the coastal areas.

The committee may direct all the concerned authority to follow the directions of the Honourable Court.

Item No: 4

Subject: Restoration of Mangroves.

Honourable High Court has asked state to replant destructed mangroves and to restore mangrove areas which are illegally reclaimed. The said areas shall be restored to its original condition. In what manner restoration shall be done must be decided by the committee headed by the Divisional Commissioner after consulting experts in the field.

The matter is placed before the committee for discussion.

Item No: 5

Subject: To Identify Vulnerable mangrove areas and their constant surveillance.

Honourable court has asked the committee

- a) To identify the vulnerable mangrove areas in the state and direct its constant surveillance by the Police/Forest Guards/security Guards of the Maharashtra Security Corporation.
- b) To ensure that barricades are erected for preventing the entry of vehicles in such vulnerable areas.
- c) The committee shall also consider of installing CCTVs along the vulnerable stretches to keep a vigil.

d) The committee shall also cause to undertake satellite mapping of mangroves area in the state at periodical intervals of not more than six months by using resolutions as suggested in paragraph no 28 of the note submitted by the learned senior counsel appearing for the petitioner. Any changes seen shall be considered by the committee and remedial measures shall be taken. The State Government shall sanction necessary amount for that purpose.

The matter is placed before the committee for discussion and necessary action.

Item: 6

Subject: Transfer of Government Mangrove Land to Forest Department and Consequential making revenue entries.

The Honourable court has directed all the authorities to transfer Government mangrove land to Forest Department and consequential directions regarding making revenue entries shall be complied within a period of three months from the date on which judgement and order is uploaded.

The committee may discuss and direct the concerned district collectors to follow the directions.

Item: 7

Subject: Nomination of Nodal officers to the committee.

The composition of the committee includes the representatives from MMRDA, CIDCO, MHADA, MIDC, SRA, Police Commissioners etc. It is important to have senior officers to be part of the committee and also the same officer can coordinate better than the presence of different officers in each meeting of the committee.

Hence committee can ask each authority to nominate a senior person as its nodal officer and he/she can attend the meeting regularly.

Item 8:

Subject: Mangrove mortality due to Kharland bunds.

It is of the opinion that large scale mangrove mortality is occurring due to Kharland bunds (Both New and Existing) which completely blocks the tidal flow into the mangrove patch. It is necessary to direct the concerned authority to facilitate proper water flow into the mangrove patches.

The committee may discuss and give necessary directions.

Item 9:

Subject: Final notification of mangrove into Reserve forest.

It was observed that in some of the area the SDO (Forest settlement officer) has deleted some mangrove patches from the final notification in his/her enquiry report. As these lands are government land and it needs to be transferred to forest department as per honourable high court direction, fair opportunity has to be given to forest department to submit their claims.

The committee may consider the same and provide necessary directions to all the collectors.
