

The Status of the Coastal Regulation Zone in Maharashtra

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A Hostile Reception

Ever since the Apex court in 1991, ordered that the coastal states devise guidelines for construction activity in the designated coastal regulation zones, the Shiv Sena-Bharatiya Janata Party Government in Maharashtra has not only defaulted on its implementation, but has been actively conspiring to rewrite the laws of the land to benefit developers and builders. From Sindhudurg in the south, to Dahanu in the north, the record of violations is proof that the state is abetting builders and industries in perpetrating an ecological scam of monstrous proportions.

From its very inception, the Maharashtra Government has been hostile to the notification, allege environmentalists. "The state government is not very sincere about implementing the CRZ notification. It doesn't even implement its own CZMP," declares lawyer Kerban Anklesaria, "Its aim is to industrialise as much as possible, and it welcomes large projects indiscriminately." In 1994, efforts by Kamal Nath, the Union Minister for Environment and Forests, to dilute the notification, were struck down by the Supreme Court.

In the ensuing confusion, the powerful builders and developers lobby was only emboldened by fact that the notification was still not very comprehensive, and attempted to render it ineffectual by exploiting various loopholes. In its Coastal Zone Management Plan (CZMP) devised in 1995, the state government failed to designate mangrove areas as CRZ-I.

It also wrongly classified no-development areas with a view to developing them in future - an obvious attempt to please the builder's lobby, with its eye on some of the world's most expensive real estate, claim environmentalists. The plan also wrongly classified the 'ecologically sensitive' coastal areas of Murud-Janjira and Dahanu taluka as CRZ-III, instead of CRZ-I.

Even after the Coastal Task Force pointed out irregularities in the Maharashtra Government's CZMP, the state government rejected its suggestions and submitted a new plan that clearly violated the regulations laid down by the MoEF. The plan failed to designate huge tracts of mangroves in Mumbai and New Mumbai, limiting them to only 100 hectares, in an attempt to regularise ongoing, illegal construction in the Bandra-Kurla commercial complex, co-operative housing complexes in Versova and a road in New Mumbai, all of which, claim environmentalists, lie in CRZ-I designated areas.

In a clearly populist move that helped ensure the Shiv Sena government's electoral victory in 1995, the CZMP allowed the reconstruction of illegal buildings and slums in the coastal zone to facilitate the Slum Redevelopment (SRD) scheme. The plan also sought to reduce the CRZ limit on the banks of rivers, creeks and backwaters from 100 metres to 50 metres in all municipal corporation areas, and designated no-development areas around fishing villages and beaches - like Madh, Marve, Manori and Gorai - as CRZ-II, so as to allow construction in the area.

It allowed expansion of industries and dumping of wastes from thermal power stations in the CRZ, as well as reclamation of land (all banned in the 1991 notification) for roads, railway lines and stations. Furthermore, it proposed that the investment limit, for development activities in the CRZ which required clearance from the MoEF, be raised from Rs 5 crores to Rs 100 crores.

The MoEF, in September 1996, refused to grant the Maharashtra government any concessions, rejected its amendments and imposed even stricter directives, like expanding the CRZ in respect of creeks, rivers or backwaters to "150 metres where the width of the river, creek or backwater is more than 350 metres." It ordered the Maharashtra government to submit, within two months, a revised CZMP that conformed to the provisions of the 1991 notification. At the time of this writing, the government has yet to formulate the CZMP for Maharashtra, as the study by the chief hydrographer to demarcate the High Tide Line (HTL) is yet to be completed.

An MoEF notification, issued in July 1997, allowed major concessions for existing port facilities, and methods to control coastal erosion. At the same time, it strengthened environmental curbs in ecologically sensitive (CRZ-I) areas, ignored the Maharashtra government's efforts to regularise illegal slums under the SRD scheme, and strengthened the CRZ-II notification to prevent the rampant subterfuge of building roads on the seaward side of existing roads to get around restrictions on construction activity.

Mangesh Chavhan of the Centre for Holistic Studies (CHS) accuses the state government of non-implementation and non-compliance of the notification and denounces its half-hearted efforts at enforcing the legislation. Even now, efforts are being made by the Maharashtra government to either scuttle the provisions of the 1991 notification for urban areas, find loopholes to sanction their illegal schemes, or keep it in limbo till their aims are achieved.

Subverting the Law

A disturbing lack of consensus among affected people, developers, lawyers, conservationists and environmentalists, has only added to the confusion and aided the governments attempts to manipulate the law. If we appreciate the spirit behind these regulations, which were framed to protect the beauty and utility of the coastal ecosystems and prevent misappropriation of the common property of the beach sands, say activists like Debi Goenka of the Bombay Environment Action Group (BEAG), their interpretation would not be subject to the manipulations that are now being used.

The rationale of the 500 metre limit, say environmentalists, is the protection of the livelihood of 10 million people who depend directly on the coastal ecosystem, as well as the 'domino dependence' of nearly 60 million people dependent on coastal resources. It is the sea that is feeding people, not the government, states environmentalist and editor of Sanctuary magazine, Bittu Sehgal. He condemns the fact that infrastructures of survival along the coast, are being obliterated by infrastructures of commerce, such as ports, thermal power plants, urbanisation, and the disposal of effluents, causing a drop in yield and productivity. As Chavhan puts it, "The CRZ guidelines are meant to protect people who want to be part of the environment, not separated from it."

The violations of the CRZ taking place along the Maharashtra coast, with the active collusion of the state government, are so numerous that it would require a herculean effort to document them all. But the more serious and conspicuous attempts to violate the notification have been recorded by vigilant groups all over the state. In Mumbai, a survey

conducted under the auspices of the Indian National Trust for Art and Cultural Heritage (INTACH) and a number of other associations revealed that only one-third of the 34 kilometre waterfront from Colaba to Versova, is available for public use.

The survey points out the distinct nexus between private developers and the state, which perpetuates the manipulation of land. It also brings to notice the vast stretches of open space on beaches, lost to land mafias operating in collusion with local agents and municipal officials. The survey also highlights the continuing violations of the CRZ by five-star hotels, resorts and houses along the major waterfronts like Bandra Bandstand, where vested interests are destroying the natural contours of the area by levelling the hill and destroying the fort.

The government's SRD itself flouts CRZ laws as, according to an official of the Slum Redevelopment Authority, 10 to 20 percent of the slums covered by the scheme are on the seaward side of the coastal road. In fact, the Maharashtra government in April 1997, specifically requested the Centre to exempt the SRD from the CRZ notification. This move if sanctioned, say environmentalists, would help builders gain access to prime seafront land worth hundreds of crores of rupees, especially in south Mumbai.

In October 1997, Maharashtra's housing minister, Suresh Jain overruled the State Urban Development Department's objections to the reconstruction of over 8000 slum tenements falling under the CRZ, claiming that the state Advocate General had validated the legality of construction on the landward side of structures authenticated by the BMC. He went on to claim that he would also get permission for reconstruction of another 2000 slums, though the authorities had not agreed to it.

"Instead of managing their development areas, the government turns a blind eye as slum lords take over space in no-development zones," responds Sehgal. "They then try to make themselves out to be champions of the poor, as they ask for permission to hand over precious open space to builders who promise to give half of the floor space to slum dwellers. This is a commercial transaction plain and simple, in the garb of public purpose.

In any event, slum dwellers would be forced to go elsewhere, to other open spaces . . . where the circle starts again. In the process, both the slum dwellers and the environment will suffer." He accuses the government of trying to wear people down by playing deaf, so that they can succeed in their repeated attempts to manipulate land use. Environmentalists also charge that the government is deliberately violating norms, then claiming helplessness when discovered, by citing the deed as a fait accompli.

In a study conducted by NEERI, large-scale reclamation of land tracts along the coastal stretches in the suburbs, and constructions of bunds on wetlands, was cited as the reason for the obstruction of the free flow of sea water, causing ingress and inundation of shore and creek areas miles away from the reclaimed areas. Debi Goenka named Bandra, Bandra-Kurla complex, Juhu-Versova, Lokhandwala complex at Andheri, Charkop in Kandivili and Kandarpada, Borivli as some of the areas where large-scale reclamation has been carried out for building high-rise apartments and slum colonies on the western shores of Mumbai.

In New Mumbai, a stretch of mangroves has been reclaimed for constructing a now-defunct octroi post near Vashi village. A promenade built in 1997, near the Vashi hoverport, cuts through a mangrove forest and extends into the inter-tidal zone in obvious violation of the CRZ notification. A. B. Sapre, the Chief Architect and Planner of CIDCO, claimed ignorance of the latter. The irregularities perpetrated by the cartel of builders and bureaucrats were

exposed in 1997, when it was reported that the BMC was undertaking massive reclamation of low-lying areas in Malad for the Raheja's 175 acre commercial complex.

Journalist Gurbir Singh maintains that the reclamation of wetlands and mangroves in this area has been going on for the last 8 to 10 years, with the active collaboration of the BMC. He also alleges that the municipal plan was modified to show a road running on the seaward side of the reclaimed land. The fate of the Bandra-Kurla Complex too, hangs in the balance as a six-member committee under the Chief Secretary has been appointed to look into the case.

A number of other cases have been filed by environmental groups against offenders, including a public interest litigation filed by SOCLEEN against co-operative housing societies for Indian Forest Service officers, high court judges and film artistes built along the Versova seafront in an inter-tidal area filled with mangroves. The construction activity also violates the notification, claim the environmentalists, because it is on the seaward side of the Juhu-Versova link road. The counsel for the defence, Dhananjay Chandrachud, however argues that a proposed road on the seaward side of the societies is also part of the CZMP.

CRZ violations also feature in the arguments opposing the proposed international airport at Rewas-Mandwa. Of the total project area of 45 square kilometres required for the airport terminal, 20 square kilometres lies on the sea, necessitating the reclamation of this area which includes tracts of mangroves. The BMRDA conducted a hearing on the draft plan and, taking into account the recommendations of researcher Ritu Diwan, suggested that the project be dropped, an option that was not acceptable to the Chief Minister, Manohar Joshi. In July 1997, the CM agreed to major concessions like reducing the area to 14.5 square kilometres, considering alternate sites for the project, and preservation of green zones.

The coastal stretches of Murud-Janjira, 150 kilometres south of Mumbai, were declared as "ecologically sensitive" on the basis of a BEAG study. Its shores, upto a width of one kilometre (as opposed to 500 metres in the CRZ notification), including the sides of the entire Rajapuri creek at Murud, are protected from industrial development, even by industries of a 'non-polluting' nature.

However in 1994, the Maharashtra government, in an attempt to denotify the area, wrote to the MoEF asking them to scrap the Murud-Janjira notification on the grounds that it had become redundant after the CRZ notification came into effect. This, inspite of several critical differences between the two notifications, and the fact that the Murud-Janjira notification is additional to, and applies concurrently with the CRZ notification.

In other coastal areas of Maharashtra also, a number of projects have come under fire from local groups, including the Enron project set up by the Dabhol Power Company (DPC). The environmentalist who documented the violations, claims that the DPC construction, which began in March 1995, has violated the CRZ notification by reclaiming an area of more than two acres from the Dabhol creek - an undertaking which was neither sanctioned by the MoEF, nor mentioned in the EIA submitted by the DPC. The company, he alleges, dumped huge stones in the creek and sank pillars in the creek bed for the construction of a jetty, in an area at the mouth of Dabhol creek which is a spawning and breeding zone, and represents the main source of livelihood for the villagers around the creek.

He also charges the DPC with carrying out quarrying on the face of the hill abutting the sea, to create a road and use the landfill for reclamation. This activity which again was not mentioned in the EIA, has led to erosion he contends, and threatened a village on the hill

with landslides. The DPC has also begun construction on a fuel jetty, which will extend one mile into the sea. Accusing the company of omitting, from the rapid EIA, the environmental impact of the jetty on the prawn-rich grounds in the sea off Dabhol, he opines that the DPC may have concealed the facts from the MoEF.

Environmentalist M. Chavhan, has also documented violations by the Krishna Valley Resort in Bhandarpule, south of Ganapatiphule. The resort in question is owned by Vidya Belose, the Minister of State for Child Welfare in the last Congress government, and observes Chavhan, is situated between 50 and 100 metres of the HTL. A demolition notice was issued in 1996, by the Collector of Ratnagiri district, but the resort still stands intact. The Ganapatiphule temple, which is situated on the beach, has also been slated for reconstruction, a move which will violate the notification, says Chavhan.

The CRZ notification has also been evoked by the local fisherfolk of Velaghar-Shiroda, in the Sindhudurg district, which was earmarked as a tourism development zone by the Sharad Pawar government. The locals are presently contesting the land acquisition and eviction notices served by the Maharashtra Tourism Development Corporation (MTDC) on behalf of the Taj group of hotels, which plans to build a five-star hotel and beach resort with aqua-sports.

The government has already acquired the adjoining land of 140 acres and now intends to acquire 28 acres of waterfront, inhabited by the locals and situated within 200 metres of the HTL. The Velaghar Bachao Samiti's petition succeeded in dismissing the eviction notice in 1991. However, further lobbying raised the issue in the state legislative assembly in October 1994.

Two committees appointed since have advised against the acquisition of the locals' ancestral land, as it forms part of their livelihood. The locals claim that there is no public purpose in acquiring their lands as they do not obstruct the development of tourism in the region. They also believe that the proposed development has not been cleared by the MoEF. The fact that the source of funding for the acquisition of the land has not been disclosed, has led them to suspect that their lands are being acquired arbitrarily, to cater to individuals for private gain, and not for tourism as the MTDC claims. The case is presently being fought in the high court.

The Violation of Vadhvan

Perhaps no other instance of the government's attempts to dilute environmental laws in the name of development, evokes as much controversy and emotion as the bid by a multinational company, Peninsular & Orient, to locate its proposed 30-berth port in Vadhvan.

Dahanu taluka, where Vadhvan is located, is one of three notified ecologically fragile, no-development zones in which no change of existing land use is permitted and only environmentally benign industries are allowed.

The last of the pristine areas - with 49 percent forest cover - located between the two heavily polluted and industrialised areas of MIDC and GIDC, Dahanu is home to the unassimilated Warli tribals, and a thriving, self-sufficient and self-employed fishing, farming and die (jewellery mould)-making community.

It is doubly protected by the Dahanu notification of 1991 and the CRZ notification of 1991 - under which it is classified as an ecologically sensitive region - and hence, falls under CRZ-I (i) zoning regulations, which prohibit construction of any kind within 500 metres of the HTL.

In 1989 under the Congress government, a 500 MW BSES thermal power plant (TPP) in Dahanu creek, was given conditional clearance. Kitayun Rustom of the Dahanu Taluka Environmental Welfare Association (DTEWA), charges the BSES with reneging on its commitment to meet the conditions, and deplores the government's shoddy record of monitoring the BSES's violations.

The DTEWA claims that the BSES has not only constructed part of the TPP in the 500 metre submergent zone, but also reclaimed a large portion of an 875-hectare stretch of wetlands using precious topsoil from the rest of the taluka. Furthermore, they allege, the BSES has not switched over from coal to natural gas, nor has it installed the Flue Gas Desulphurisation (FGD) plant recommended by the Supreme Court and the MoEF, conditional to its clearance.

The DTEWA also alleges that the government suppressed the MoEF's 1991 Maudgal report highlighting the BSES's violations and their adverse effects on the ecology and productivity of the region. In October 1996, at the behest of the DTEWA, the Supreme Court hauled up the Maharashtra government for failing to implement and abide with the laws, and imposed further restrictions to protect Dahanu.

Kerban Anklesaria, counsel for the DTEWA, cites a NEERI report, carried out in 1996 at the instance of the Supreme Court, which reiterated the court's stand that Dahanu was ecologically fragile and should be protected. The report also observed that increased activity and reclamation of land in the coastal areas of Dahanu was not environmentally viable, and recommended more than Rs 300 crore in pollution control equipment for the TPP, as well as protection and rejuvenation of the wetlands in Dahanu.

It also pointed out other violations of the CRZ, such as the construction of an illegal jetty to off-load coal in December 1996. The NEERI recommendations were included in the Supreme Court Directives on implementation of the Regional Plan for Dahanu. But, claims the DTEWA, since 1991, the Maharashtra Government has been lobbying to denotify Dahanu, to enable the expansion of the TPP to 2000 MW.

The Maharashtra government's enduring disregard for the law was highlighted in February 1997, when it allowed the multi-national P&O to shift its bid for the construction of a \$ 1 billion all-weather port, from Alewadi to Vadhwan in Dahanu taluka. The Regional Manager of P&O, Jimmy Sarbh, admitted publicly that shifting the site to Vadhwan had a lot to do with reduced costs.

According to the DTEWA, in an interview with the Australian Broadcasting Corporation (ABC), he stated that he would lobby to have Dahanu denotified, and also claimed that the government had assured him that the necessary approvals would be obtained. In August 1997, P&O claimed that the company was "confident of taking on the port project." The P&O officials were not available for further comment. Advocate Navroze Seervai, counsel for P&O, declined to comment on the matter.

"The state government is quite negative about the eco-fragile status of Dahanu," avows Anklesaria. Dr. S. B. Katole, a scientist with the state Environment Department, questions the premise on which Dahanu was notified as an eco-fragile area, as no baseline studies

have been conducted to assess this claim. The study by NEERI, he argues, was done only after the Dahanu notification of 1991, and was not comprehensive enough to substantiate the claim.

Mr. Nalinakshan, Principal Secretary of the State Urban Development Department avers, "The Dahanu Regional plan was prepared under the order of the court - not under the MRTP act. Hence, the procedures normally followed under the MRTP act, such as inviting objections from the affected people, were not observed."

Minister for Environment and Forests, Ganesh Naik, is confident that he will win over the locals, and that they will welcome the project once they realise the benefits that will accrue to them. "If you have an orchard and you find a gold-mine under it, wouldn't you prefer the gold to the fruits?" he reasons.

He states that the locals must realise that such projects will not only reduce unemployment among them, but also increase development in the state, and attributes the protests to a gap in communication between the people, the company, the government, and "so-called NGOs, who are not concerned about the interests of the state and the nation".

He pledges that before his tenure in government concludes, he will ensure that the villagers are given adequate compensation, and that definite arrangements are made for rehabilitation. If this is guaranteed, he maintains, there will be no protest from the locals. He believes that better public awareness and involvement will ensure monitoring of lapses in implementation of regulations by industry, and invites the public to bring such lapses to his notice.

"Tribal lands are bought up by outsiders for a song, using loopholes in the law," disputes Rustom, "Whatever productive land the tribals have is irreversibly lost, ensuring that they are permanently enslaved. It is our ultimate aim to see that each tribal is self-employed, instead of having to do hazardous and menial work in polluting factories which come up in so-called backward areas. Any adivasi who wants blue-collar jobs only needs to travel a short distance to MIDC or GIDC. We want Dahanu to be a prototype of sustainable development."

The DTEWA also cites the original feasibility study conducted by the Consulting Engineering Services Pvt. Ltd., which concluded that Vadhvan was not suitable for the construction of an all-weather, multi-purpose port. The consultants noted a number of disadvantages, namely the cost of widening the narrow roads leading to the site, and the acquisition of the largely privately owned lands at Vadhvan point. It also pointed out the obstacles of obtaining clearances for the handling of chemicals/POL etc., by the Department of Environment and Forests, as Dahanu is notified as an ecologically sensitive region.

In 1997, a socio-economic study commissioned by P&O revealed that 70 percent of the villagers opposed the port, and the rest supported it conditionally. The study also observed that the locals did not view the port as a means of development. In fact, they warn, it will result in the loss of livelihood for 30,000 families. The rock shelf on which the port will be built, claims the DTEWA, is a breeding ground for lobsters which the locals export.

For fisherman Y.P.Tandel, the rich fishing grounds near the picturesque fishing village of Dhakti Dahanu have been his family's source of livelihood for generations. He fears that the port will create congestion, increasing the chance of collisions and making fishing impossible, as large fish, like pomfret, are caught by dragging the fishing net through the

water.

The breakage of nets due to other shipping traffic will, he fears, cost the fishermen dearly. Remarking that each boat feeds 11 families, he warns that a scarcity of fish (due to the port), will cause hundreds of people to starve. He also accuses the industries of splitting local opinion with promises of jobs. His father, H.L.Tandel, proclaims, "Manohar Joshi didn't even come to listen to our problems. He's only interested in his seat."

"Tell the CM that we will never allow him to build a port here," declares Vasant Patil of the Vadhvan Bandar Virodhi Samiti. Most local politicians oppose the port, including Congress MP Shankar Nam, BJP representative and former MP Chintaman Wanga, and CPM representative Mr. Dhangar.

Narayan Patil, Chairman of the People's Alliance for Implementation of the Law (PAIL), which represents 14 local organisations, also voices his concern that the proposed port's proximity to the western border poses a threat to national security, lying as it does, between the Tarapur Atomic Power Station (TAPS) on one hand, and the BSES TPP on the other.

At a public hearing held in May 1997, the locals vehemently opposed the port. The locals have also courted arrest and organised a unique trawler morcha in the sea off Dahanu, with the help of activist Thomas Kocherry, in protest against a P&O soil-strata survey. They have also enlisted the help of the WWF-UK and some British MPs, to mobilise international opinion, on P&O's home turf, against what they perceive as the MNC's interference with the implementation of Indian laws.

The Maharashtra government's determination to rewrite the law to please multinationals like P&O, is evident in a letter dated 28th August 1997, from Mr. Nalinakshan to the Secretary of the MoEF, which states, "In view of the government's decision mentioned above, it is requested to modify the existing Regional Plan for Dahanu taluka to show the development of a modern and all-weather port at Vadhvan taluka."

In October 1997, the government initiated a move to prepare a Regional Plan for the whole of Thane district - of which Dahanu is a part. They claim that objections will be invited, as is required under the MRTP act. The DTEWA however, argues that if the Regional Plan is amended, it could amount to violation of the Supreme Court Directives, as the State Government is under an obligation to implement the RP that was finalised by the Supreme Court.

The Dahanu Taluka Environment Protection Authority (DTEPA) constituted in December 1996, was authorised by the MoEF to apply the "Precautionary Principle" and the "Polluter Pays" principle to protect the ecologically fragile areas of Dahanu. In February 1998, the authority allowed P&O to conduct studies assessing the suitability of Vadhvan for a port. The fate of Vadhvan now depends on the findings of the study, and the judgement passed by the DTEPA on the matter.

