IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5513 of 2026

National Highway Authority of India, through the Project Director, PIU Palghar, a statutory body constituted under the National Highways Authority of India Act, 1988, Project Implementation having site office at 202, Admin Bldg, B, Collectorate Campus, Boisar Kolgaon Road, Palghar – 401404. .. Petitioner

Versus

1. Union of India through the Ministry of Environment Forest and Climate Change, Paryavaran Bhavan, New Delhi – 110002.

2. Maharashtra Coastal Zone Management Authority, through its Chairman, The Principal Secretary, Environment Dept, 2nd floor, Annexe Building, Mantralaya, Mumbai.

3. State of Maharashtra, Environment Department, through the Office of Govt. Pleader, Bombay High Court, PWD Bldg, Mumbai. .. Respondents

4. Additional Principal Chief Conservator of Forest (Mangrove Cell), Mumbai Mangrove Conservation Unit through office of Govt. Pleader, Bombay High Court, PWD Building, Fort, Mumbai.

5. Bombay Environment Action Group (BEAG), 80, 2nd floor, Empire Building, CST Area, Mumbai 400001.

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Dr. Milind Sathe, Advocate General with Saket Mone, Anchita Nair and Fathema Kothari i/b Vidhi Partners for the petitioner.
Mr.Piyush Shah for respondent no.1.
Ms.S.D. Vyas, Addl. G.P. with Shri M.M. Pable, AGP for the State.
Ms. Jaya Bagwe for respondent no.2 MCZMA.
Mr. Aditya Mehta with Deepali Bagla i/b Bagla & Associates for respondent no.5.
Ms. Meenaz Kakalia for National Fishworkers' Forum.

CORAM : BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ
DATED : 23rd JUNE, 2026.

JUDGMENT:- (Per Bharati Dangre, J)

1. The National Highways Authority of India ('NHAI'), a statutory authority of the Government of India constituted under the provisions of the National Highways Authority of India Act, 1988 and entrusted with the development, maintenance and management of National Highways across the country, has invoked the writ jurisdiction of this Court, seeking issuance of directions in the nature of mandamus directing the respondent authorities to permit it to carry out diversion of 9.2498 hectares of mangrove forest area which would involve felling of 208 mangrove trees for carrying out the construction of 8 lane access-controlled highway for connectivity to proposed Vadhavan Port in the State of Maharashtra, because of its public importance.

The aforesaid direction is sought in the wake of the direction issued by this Court in PIL No.87/2006 and in consonance with the direction contained in paragraph no.83 (viii), as this Court by applying the doctrine of Public Trust, had observed that the State is duty bound to protect and preserve mangroves which cannot be permitted to be destructed for private, commercial or any use, unless the Court finds it necessary for public good or in public interest.

The direction issued in the Public Interest Litigation made it mandatory for the State and its agencies and instrumentality to anticipate and attack causes and consequences of degradation of mangroves by applying precautionary principle.

2. We have heard learned Advocate General Dr. Milind Sathe for the petitioner, Mr. Piyush Shah for respondent no.1, Ms. Vyas, Addl. G.P. for the State, Ms.Jaya Bagwe for respondent no.2 and Ms.Meenaz Kakalia for National Fishworkers' Forum.

The relief sought in the petition faces a strong opposition from the Bombay Environment Action Group – respondent no.5. We have heard learned counsel Mr.Aditya Mehta on its behalf.

As we proceed to deal with the rival contentions, at the outset, we must refer to the nature of the project and the background in which the permission for diversion and felling of mangroves is sought by the petitioner.

3. Jawaharlal Nehru Port Authority (JNPA) is a major container Port in India serving as a Gateway Port, patronised by all major container shipping lines, operating international seaborne trade. However, since JNPA exhausted its potential to expand further, due to geographical and natural limitations and since the additional cargo was to be served by other Ports, which too are likely to exhaust their container cargo handling capacity considering India's container cargo projections in the context of growing international trade coupled with positive economic growth, the need was felt for a new container handling Port with deeper draft to thwart the impending situation of demand supply mismatch due to full capacity utilization of JNPA and other Ports in India.

Considering the nation's projected demand of international trade, detailed research studies were carried out for identifying the sites for construction of a Major Port where large vessels can berth round the year and international seaborne trade can be carried out. Port site at Vadhavan in Dahanu Taluka, Palghar District was identified, since it had unique natural features for construction of a modern all weather Port and since the site had 18 metres draft and 20 metres navigational channel naturally available, which drastically minimizes capital and maintenance dredging, Vadhavan Port was planned to be developed by JNPA and Maharashtra Maritime Board (MMB) as Joint Venture Project.

The Expert Approval Committee (EAC) deliberated in

detail about the potential of the Vadhavan Port being developed and upon its report, the Ministry of Environment, Forests & Climate Change (MoEF & CC) approved the Terms of Reference (ToR) for the project and for preparation of EIA/EMP report, including the condition to obtain NOC from Dahanu Taluka Environment Protection Authority (DTEPA), a monitoring body constituted by MoEF. According to TOR, all the studies were completed and submitted to DTEPA, which on 31/7/2023, accorded its permission to establish and develop its Vadhavan Port in Dahanu Taluka.

4. The DTEPA took note of the fact that the Environment Impact Assessment (EIA) Report was prepared by M/s.ENKAY ENVIRO SERVICES PRIVATE LTD and the EIA Report was accompanied with various studies including the Detailed Project Report for development of Greenfield Vadhavan Port as well as the demarcation of HTL and LTL for preparation of CZMP report by Institute of Remote Sensing, Chennai. It was also accompanied with the Marine biodiversity management plan for the proposed Port prepared by CSIR National Institute of Oceanography. The impact assessment of proposed sand mining on the Marine Fisheries and Fisherman Community carried out by Central Marine Fisheries Research Institute as well as the Social Impact Assessment Report by Southern Enviro Engineers Pvt. Ltd, Hyderabad was also a part of the said report.

Upon the Authority deliberating various anticipated Environment Impact and Mitigation Measures, on 15/12/2023 it asked JNPA to submit their reply to the queries raised by the Expert Members pertaining to EIA report, and accordingly, took into consideration the said response. Similarly, the Authority also took note of the status of the project as per approved CZMP, 2019, superimposing on approved CZMP as per CRZ Notification 2019, and took into consideration the following aspects:-

> "The proposed details viz. Approach Trestle, Breakwater, Navigational Area, Offshore Reclamation Area, Sheltered Area within Vadhavan Port Limited lies in CRZ-IVA and the reclamation area near shore in within Vadhavan Port Limits lies in CRZ-IB, CRZ-III (200m to 500m from HTL), CRZ-III (No development Zone), CRZ-IVA and outside CRZ areas as per approved CZMP (Map Nos: MH 95, 97, 98 & 99) vide CRZ notification of MoEF&CC)
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> The remaining Area where there is no development proposed within Vadhavan Port Limits lies in CRZ-IA, CRZ-IA (50m Mangrove Buffer Zone), CRZ-IB, CRZ-III (No Development Zone), and CRZ-IVA areas as per approved CZMP (Map nos: MH 95, 97, 98 and 99) vide CRZ notification 2019 of MoEF & CC."

5. On 6/2/2024, the Maharashtra Coastal Zone Management Authority (MCZMA) forwarded its report to the Director (Coastal Zone Regulation) Ministry of Environment, Forests & Climate Change, New Delhi, in regard to the Development of Greenfield Port at Vadhavan, District Palghar. The said report, while recommending the proposal imposed

specific conditions, in the background of the CRZ Notification, 2019 in force, in the wake of the fact that Vadhavan Port as per Ministry of Ports, Shipping and Waterways was identified as nationally important project and it received the cabinet approval.

As a part of specific conditions, it was directed that the proposed Port project should be carried out strictly as per the provisions of CRZ Notification, 2019, as amended from time to time and with a commitment of protection and conservation of coastal environment. A specific condition was also imposed that JNPA shall set up a full-fledged separate dedicated inhouse environment cell with adequate expert staff on deputation from GoI/State Government, with required experience to ensure all compliances of the various studies carried out for the project and a specific audit fund was directed to be earmarked for the said purpose, in addition to a third party monitoring Audit of such management initiatives. In addition, a Dedicated Environment Cell, in consultation with competent organisation to monitor long term effects of the eco system was also made imperative.

In addition to other specific conditions, condition no. (ix) also contemplated prior High Court permission in terms of its order dated 17/9/2018 in PIL No.87 of 2006, if the project involved cutting of mangroves or project activities are situated within 50m of mangrove buffer zone area.

In addition to the 23 conditions, the recommendation also

comprised of general conditions to be complied with at the construction phase including dealing with solid waste generated and its segregation as well as disposal of the material so as to avoid any adverse effect on the neighboring communities, keeping in mind the general safety and health aspects of people as well as the ambient noise levels to be in conformity with the residential standards etc.

The general MCZMA conditions also contemplated clearance to be accorded to the project under the CRZ notification and the recommendation from CRZ being issued without prejudice to the action initiated under the Environment Protection Act, 1986 or any Court case pending in the Court of law.

In addition, the recommendations also specify that all the stipulations contained in the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986 and the rules thereunder, Hazardous Wastes (Management and Handling) Rules, 1989 and its amendments, The Public Liability Insurance Act, 1991 and its amendments, shall be complied with.

6. On receipt of the aforesaid recommendations, the MoEF & CC, on 16/2/2024 accorded Environment Clearance (EC) to the proposed project under the provision of EIA Notification 2006, and the approval was granted identifying the importance of the project.

While proposing the infrastructure warranted for the Vadhavan Port comprising of three components i.e. (i) Waterfront (ii) Reclamation and (iii) berth area, it was noted that the basic infrastructure of the Port necessitating upfront investment such as breakwater, rail and road linkages, power, water lines and common infrastructure and services will be developed by the Special Purpose Vehicle (SPV), whereas all cargo handling infrastructure will be developed and operated by the Concessionaires.

The project is seen to be bifurcated into three major components; (I) Inside Port, (II) Outside Port and (III) Terminal Operators – Concessionaires.

Inside Port covered breakwater, Port craft/tug berth and involve reclamation area inside the Port along with roads, rail yard as well as buildings. The Outside Port involved land acquisition for road and rail connectivity as it contemplated external road connectivity of 33.4 km, 120 km wide corridor with alternative routes and rail linkages area length 12 km 60 m wide corridor with alternative routes. Apart from this, it also included the water pipeline from Surya river about 22 km from Port site and power line from PGCIL line/Tarapur Boisar power station 20 km from Port.

In addition, the terminal Operators for container terminal including storage yard, equipment, terminal pavements, drainage, utilities, networks etc. with total berth length of 9000m capable of handling vessels of 24,0000 TEU and above

along with multi purpose berth of 1000m and one Ro Ro berth of 250m including storage and onshore facilities were also proposed as a part of infrastructure for the Port. In addition, it also contemplated a road connectivity, Vadhavan being located 12 km away from Vangaon Railway Station along Mumbai-Surat Western Rail Link and it was proposed to be linked to DFCC line at New Palghar Station. The Port location being 33.4 km away from NH 48 and 22 km away from Vadodara Expressway, all roads were proposed to be merged with the road connecting the Port to NH-48 and Mumbai Vadodara Express road.

In addition, the Final Master Plan Layout incorporated connection/accesses to the Port.

7. The TOR considered by Expert Approval Committee was considered by the Ministry of Environment and received due consideration in the EAC meetings. The exercise of conducting a public hearing was also completed and this hearing received consideration of various issues relating to fishing and related activities, with a solution being worked out in form of mitigating measures being suggested by the National Institute of Oceanography. JNPA was directed to follow all mitigative measures and regarding tree cutting, it was directed that NHIA will develop the road by following all the rules and regulations related to improvement, development, widening etc and the compensational plantation and geo-tagging will be done as per

requirement of approving authorities for tree plantation and tree relocation.

In the wake of the recommendation of the proposal by MCZMA on 6/2/2024, which covered the proposed road and rail alignment for the Port connectivity outside the Port limit, falling within CRZ-IB, CRZ-III (200m to 500M from HTL), CRZ – No Development Zone and outside CRZ area as per CRZ Notification, 2019, the recommendation of the MCZMA including the imposition of general conditions and special conditions found to be appropriately analysed and in the wake of the deliberation in the meeting of Export Appraisal Committee held on 6/4/2024 which had recommended the proposal for grant of environmental and CRZ clearance, subject to the specific terms and conditions set out therein, the following order was passed:-

> "The Ministry of Environment, Forest and Climate Change has considered the proposal based on the recommendations of the Expert Appraisal Committee (Infrastructure, CRZ and other miscellaneous projects) and hereby decided to grant of environmental Clearance and CRZ Clearance for 'Development of Greenfield Port at Vadhavan, District Palghar, Maharashtra by M/s. Jawaharlal Nehru Port Authority (JNPA) under the EIA notification, 2006 as amended and CRZ Notification, 2019 subject to strict compliance of the following specific conditions, in addition to all standard conditions applicable for such projects."

The said approval was accompanied with specific

conditions for E-Clearance as well as the statutory compliances including a specific condition that the construction activity shall be carried out strictly according to the provisions of CRZ Notification, 2019 and the State Coastal Zone Management Plan has been drawn up by the State Government and no construction work other than those permitted in the CRZ notification shall be carried out in the CRZ area.

8. Upon the aforesaid approval being granted to the development of Greenfield Port at Vadhavan and the NHAI being entrusted with the responsibility of construction of the roads, by complying all the rules and regulations, NHAI put up a proposal for construction of 8 lane access controlled highway for connectivity proposed to Vadhavan Port and the proposal submitted in Form-A (Part-I) diversion of forest land referred to the decision of Union Cabinet for developing Vadhavan Port enhancing India's maritime connectivity and strengthening its position as global trade hub. It also made a mention to the approval of the Cabinet to establish connectivity to the upcoming Port through roads and as the Cabinet had approved the establishment of road connectivity between the Port and national highway, by the Ministry of Road Transport and Highway (MoRTH) and Rail Linkage, NHAI proposed construction of 8 lane access controlled highways providing connectivity.

The Additional Principal Chief Conservator of Forest, Mangrove Cell, Mumbai, scrutinized the proposal to find that a total of 237.836 ha forest area is proposed for Vadhavan Port and out of this area, an area of 9,2498 ha mangrove forest area and 237.836 ha non-mangrove forest area fell within the jurisdiction of Mangrove Division North Konkan and and Dahanu Territorial Forest Division respectively.

Since the maximum area fell within the jurisdiction of Dahanu Territorial Forest Division, the proposal was forwarded to the office of Deputy Conservator of Forest (Territorial) Dahanu for further action.

9. The Additional Principal Chief Conservator of Forest Mangrove Cell in its proposal for recommending diversion, referred to the site inspection carried out by the Divisional Forest Office, Mangrove Division, North Konkan, along with the user agency on 16/12/2025 and reported that there are 200 mangroves and 1375 non-mangroves, totalling 1583 trees proposed to be fell for the proposed diversion.

Recording that the demand for the required mangrove forest land, as proposed was unavoidable, it was declared that the proposed site is not a part of National Park, Sanctuary, Biosphere, Tiger Reserve, Elephant Corridor. The Net Present Value (NPV) against the proposed diverted area as calculated by the Divisional Officer, Mangrove Division, North Kokan as Rs.13288910/- was found to be correct.

The remarks of the APCCF specifically included the following stipulations:-

> "8. Net present value against the proposed diverted area as calculated by Divisional Forest officer Mangrove Division- North Kokan as per revised guidelines of Government of India MoEt & CC, HQ, New Delhi vide letter No. File No.5-3/2011 -C (Vol-I), dated 06.01.2022 is Rs.13288910/- and found correct.
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> 9. The degraded forest land of 475.00 haidentified at Dhule Forest Range (251.00) and Pimpalaner Forest Range (224.00) under hule Forest Division for Compensatory Afforestation against the proposed project. Compensatory Afforestation scheme for ten years has been prepared by Dy. Conservator of Forests (Territorial) Dhule vide letter No. D-15/ Survey/100, dtd.24.11.2025 and amount for the same Rs.56,49,15,564/- shall be borne by User Agency. (Copy enclosed).
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> 10. The Central Government has accorded Environmental clearance for the above said project by stipulating certain conditions vide letter No. 10-52/2020-IA.II dtd.16.02.2024 under provision of EIA Notification 2006 (Copy enclosed).
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> 11. The User agency has given undertaking for submitting certificate of compliance of the Scheduled Tribe and Other Traditional Dweller (Recognitions of the forest Rights) Act 2006."

10. On 24/2/2026, the Revenue and Forest Department recommended that the Forest Land may be allowed to be diverted under Section 2(ii) of the Van (Sanrakshan Evam Samvardhan) Act, 1989, subject to the conditions proposed by the Principal Chief Conservator of Forests (HoFF), Maharashtra State, and Additional PCCF and Nodal Officer, Nagpur.

This was followed by the 'In-Principle' approval granted by MoEF & CC, Government of India, on 20/3/2026 when on careful consideration of the proposal submitted by the State Government, with the approval of the Regional Empowered Committee (REC) in its 140th meting held on 16/3/2026,

approval was granted under section 2(1) of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 for diversion of 237.086 ha. Protected Forest, Reserved Forest, Private Forest and Mangrove, for construction of 8 lane access-controlled Highway and railway for connectivity to proposed Vadhavan Port. The In-Principle approval contained various conditions, including the compensatory afforestation over 475.00 ha of degraded forest land identified in 19 patches in Dhule division at the cost of the user agency. The State Forest Department was directed to undertake compensatory afforestation at a density of 1000 plants per hectare and was directed to raise plantations as per the VSS Rules, 2023 and implement the Compensatory Afforestation (CA) Scheme within the prescribed time limit. In addition, the Government was directed to charge the Net Present Value of the diversion land admeasuring 237.086 ha from the user agency.

In addition, it was made imperative for the user agency to obtain Coastal Regulation Zone (CRZ) and Environmental Clearance from the competent authorities wherever applicable and obtain all statutory approvals under the applicable Acts, rules, regulations and guidelines, prior to commencement of the actual work.

This was followed by a demand note for deposit of Rs.4,83,03,145/- towards compensatory plantation against mangrove trees in 9.2458 ha. Forest land as a compliance to the conditions mentioned in the first stage approval for diversion of

237 ha forest land by MoEF&CC and the user agency deposited the aforesaid amount to the account of Mangrove and Marine Biodiversity CFM.

11. The project also received a Final Clearance from the MoEF&CC on 16/5/2026 for construction of 8 lane access controlled highway and rail for connectivity to proposed Vadhavan Port. It is in this background and in the wake of the requirement of seeking approval from this Court in light of the direction issued by this Court in PIL No.87/2026, the petitioner is before us.

12. Dr. Sathe representing the petitioner has submitted before us the procedure that has been followed right from the year 2020 when the proposal for Vadhavan Project was submitted for obtaining Environmental and CRZ Clearance, resulting into the Terms of Reference (7/10/2010) granted for the Port project. According to him, on 2/6/2023, an amended TOR was granted by MoEF&CC considering the evolving scope and technical requirements of the project and in accordance with the amended TOR all subsequent environmental, technical and Impact Assessment Studies had been carried out.

It is submitted on behalf of the petitioner that the requirement of land for rail and road is 571 ha, and the same was proposed to be acquired as per the applicable rules and regulations. Apart from this, an area of 1,000 ha government land was identified for Port enabled services and Port related

infrastructure. He would submit that the Institute of Remote Sensing (IRS), Anna University, an Agency authorised by the MoEF&CC, submitted a report based on the approved Coastal Zone Management Plan (CZMP) for Palghar district as per CRZ Notification, which did not show existence of the mangroves for road connectivity to the proposed Vadhavan Port and therefore, EIA report did not contemplate cutting of mangroves and the clearance granted for the project on 16/2/2024 included condition no. (xxiv), stating that no mangroves shall be cut or affected due to Port construction.

According to Mr.Sathe, during Joint Measurement conducted in December 2025, the growth of mangroves in certain areas of the road and rail connectivity project was noticed, which involved its cutting and therefore, the petitioner preferred an application seeking approval for cutting of mangroves and diversion of forest and after due deliberation, Stage–I Forest Approval was granted on 20/3/2026.

Dr. Sathe would also place on record a communication dated 24/4/2026, when the Additional Principal Chief Conservator of Forest clarified that no mangrove felling is required for Port construction and the area required for the Port and road/rail are different, and there is no need to amend EC and CRZ Clearance granted on 16/2/2024.

It is asserted by Dr. Sathe that in any event, the permission/clearance required for diversion of forest land is under section 2 of the Van Adhiniyam 1927, and the Project

Proponent i.e. the petitioner has followed the procedure for securing such permission and accordingly, has secured the requisite permissions and on 16/5/2026, the Final Forest Clearance for the project u/s.2(i) of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 is also obtained.

He would submit that the Divisional Forest Officer, Mangrove Division, who carried out the site inspection on 16/12/2025 gave a list of specific species of trees to be fell and this covered total 1,583 trees out of which 208 are mangroves, and 1375 are non-mangrove trees. This even find mention in the report of APCCF in his recommendation dated 31/12/2025, both the authorities making reference to the actual site inspection carried out by the Divisional Forest Officer.

While recommending the proposal on 24/2/2026, the Government of Maharashtra took note of a chart categorising total 29.293 trees division wise under 'Dahanu division' and 'mangrove division' and noted that 28,430 trees fell under Dahanu division and 1583 trees fell under mangrove division, out of which 208 are mangrove and remaining 1375 are non-mangroves.

13. The learned Senior Counsel also urge that the recommendation of the APCC Mangrove Cell dated 23/12/2025 and recommendation of the DFA Mangrove Cell dated 18/12/2025 has to be read with the recommendation of

Government of Maharashtra dated 24/2/2026, which covers both mangroves and non-mangroves.

Apart from this, it is also insisted by Dr.Sathe that in lieu of 9.2498 ha of mangrove forest area and cutting of 208 mangrove trees, the compensatory afforestation of 1,33,320 number of mangroves are to be planted by the project proponent on 20 ha of land in Vadkun village and 10 ha at Agawan village. Apart from this, the cost of compensatory afforestation to the tune of Rs.4,83,03,145 has already paid by the petitioner on 1/4/2026 and there is also deposit of Rs.134,52,27,915/- in compliance with the conditions stipulated in stage – 1 forest clearance.

14. In the wake of the aforesaid compliances being ensured, it is the submission of Mr. Sathe that in light of the guiding factor to be determined before the cutting of mangroves, in terms of the observation of this Hon'ble Court in PIL No.87/2026, holding that destruction of mangroves offended fundamental right of citizens under Article 21 of the Constitution of India and it was the mandatory duty of the State and its agency to protect and preserve mangroves, the necessary steps are taken.

15. We have minutely perused the documents placed before us which include the Environmental Impact Assessment Report for the development of a greenfield Port at Vadhavan, district Palghar. This Port with a capacity of 298 million tons per annum with 9 container terminals, 4 multi purpose berths, 4

liquid berths, Ro-Ro berth, coastal berth, Coast Guard berth and 10.14 kms breakwater, is conceptualised as a milestone in strengthening connectivity along the Maharashtra Coastline and enhancement in economy of the State of Maharashtra. The project with substantial positive impact on socio-economic profile of Vadhavan in and around Dahanu, both in terms of overall employment and skill development on local work force, is expected to bring upliftment in the socio-economic scenario in the region as it is likely to create employment for the local residents.

The project of construction of Vadhavan Port being conceived in the background fact that maritime transport is economical and the only means to transport larger volumes of cargo across oceans, Ports and harbors etc. with the capability of handling larger volumes of cargo through puts of both raw material as well as products. On one hand, meeting the demand of a Port for handling bigger size ships and deploying state of art cargo handling systems, which necessarily require augmentation/expansion of facilities at existing Ports and development of new Port and harbors, it was also imperative to consider its impact on environment, since it involved activities like dredging, reclamation, construction work, development of utilities and services, discharges from ships and waterfront industries, cargo operations and other Port related operations.

The potential of developing a Port and the project contemplating the ‘greenfield’ project was proposed to be

constructed in such a way to have minimal impact on the environmental and fishery activities, mangroves and locals, called for ascertainment of its impact on the environment and for that purpose, an 'Environmental Impact Assessment Report' from the environmental consultant was called for. It is worth to note that the project of the greenfield Port was proposed by JNPA in coordination with Maharashtra Maritime Board in the backdrop of the necessity of such Port being available to meet the demand of additional cargo, as JNPA had exhausted its potential to expand further on account of the limitations whereas, it was also necessary to take into consideration India's container cargo projections in the context of growing international trade, coupled with the positive economic growth.

The Port site at Vadhavan in Dahanu taluka was identified by JNPA on account of its unique natural features and the EIA report prepared by M/s.ENKAY ENVIRO SERVICES PVT. LTD, was based on various studies carried out to strike a balance with the developmental work as against its impact on the environment as well as the existing marine life.

The project being floated as a mega project was considered to be of significant importance for Maharashtra State from its development and economic point of view and was flagged by the Ministry of Ports Shipping and Waterways as a nationally important project with the potential of contributing to the wealth of the nation and also generating considerable employment opportunities for local people.

16. The project report based its finding on the recommendations of Zoology Survey of India, CMFRI, CWPRS as well as the National Centre for Coastal Research (NCCR), Marine Biodiversity Management Plan by NIO, and in light of various representations received from local people, and JNPA was directed to initiate all possible measures to address their concerns specially fisher folks.

The whole process involved public hearing by the JNPA officials as it was suggested that JNPA shall ensure implementation of the action plan in the backdrop of the issues raised during the public hearing.

The project also has involvement of Dahanu Taluka Environment Project Authority (DZTEPA), a monitoring body constituted by MoEF in the year 1991 and its active involvement in the whole process of conceiving and in implementation of the project is crucial.

Upon receipt of the EIA report, the DTEPA deliberated various anticipated environment impact and mitigation measures as reported in EIA report which had examined various facets and the detail project report (DPR) which is part of the EIA report refer to all those studies which were undertaken to assess the viability of the project and its impact on various aspects like environment, coastal fisheries, sand mining, social impact, etc. Various studies have been carried out which form part of EIA as its annexures and it include the following :-

(i) Detailed Project Report for Development of Greenfield Vadhavan Port by Royal Haskoning DHV (May 2023).

(ii) Demarcation of HTL and LTL for preparation of CZMP report by Institute of Remote Sensing, Chennai (October 2023)

(iii) Mathematical Model Studies to assess the impact of proposed capital dredging on tidal hydrodynamics of nearby area of proposed port at Vadhvan by Central Water and Power Research Station (T. R. 5970-November 2021).

(iv) Mathematical Model Studies to assess the impact of Proposed Port Development at Vadhavan on Flooding in Dahanu Creek and Nearby control area under Cyclonic Conditions by Central Water and Power Research Station (T. R. 6173-October 2023).

(v) Marine biodiversity management plan for the proposed greenfield port at Vadhavan, Palghar district, Maharashtra by CSIR National Institute of Oceanography (SSP 3374- October 2023).

(vi) 2D Desktop Navigation Simulation Study by DHI/ Force (March 2022.

(vii) Traffic analysis in the vicinity of proposed port at Vadhavan by Indian Institute of Technology, Mumbai (May 2021).

(viii) Dispersion of silt during dredging from marine Burrow pit for reclamation by Department of Ocean Engineering, Indian institute of technology Madras, Chennai (October 2022).

(ix) Impact of Breakwaters and Transport Carrier on the Erosion/ Accretion for the Vadhavan Port by National Centre for Coastal research (NCCR) and Indian National Centre for Ocean Information Services (INCOIS), Ministry of Earth Sciences. (September 2023).

(x) Biodiversity study for the proposed Burrow pit region in arabian sea with Reference to development of vadhavan port, Palghar, Maharashtra by Zoological Survey of India (October 2023)

(xi) Impact study of proposed Vadhavan Port on Coastal Fisheries by Central Marine Fisheries Research Institute (October 2023).

(xii) Impact Assessment of Proposed Sand Mining on the Marine Fisheries and Fishermen Community of Daman Union Territory is carried out by Central Marine Fisheries Research Institute (October 2023).

(xiii) Social Impact Assessment Report Vadhavan Port by Southern Enviro Engineers Pvt. Ltd., Hyderabad (March 2022).

(xiv) Dahanu Taluka Environmental Protection Authority (DTEPA) Order dated 31 July 2023 granted permission to JNPA to establish and

develop the Vadhvan port in the Dahanu Taluka.

(xv) Letter From Ministry Of Earth Sciences, Government of India dated 25th May, 2023.

(xvi) Marine Biodiversity at Shankodhar Point, Dahanu Taluka, Maharashtra conducted by CSIR-National Institute of Oceanography (June 2023).

17. The EIA report has also taken into consideration the anticipated Environmental Impact and has suggested the mitigating measures to overcome it.

The report also include the data of fishing villages around the proposed area and it has also relied upon the ICAR-CMFRI socio economic survey in all 16 selected fishing villages around 10 km radius of proposed Port limit based on a structured questionnaire prepared by the socio-economic valuation and technology transfer division of ICAR. In addition, there is also a detailed study of the flora and fauna and the steps to be taken by way of mitigation measures on each aspect of the impact, which even include the impact of the project on marine water quality as well as the impact due to land reclamation/waste water generation. Similarly, the report also identify that due to several intrusive rocks and other hard rock and recent rock formations, the geological and hydrological aspect need to be studied very closely to ascertain water resources, specifically ground water, since both road and rail alignments were passing through lineaments and its potential impact during construction and operation are specifically highlighted with several suggestions being offered in form of mitigating measures. The

road alignment and rail alignment impacts are specifically highlighted with the potential of the tourist and other Port staff using the same frequently and several mitigating measures are also suggested.

18. The entire EIA report was thoroughly scrutinized by the Authority, which was of the view that there should be a dedicated environmental Cell to ensure compliance of various studies carried for the project and to carry out the environment monitoring. In addition, it also proposed constitution of a technical Committee headed by JNPA for evaluation and effectiveness of mitigations/remedial and measures during construction and operation phase, with the specific recommendation that the Technical Committee shall have experts from marine ecology, coastal engineering, representative from reputed Government Institute like IIT/IIM, representative of CMFRI, MPCB, representative from DTEPA, NIO and other experts. The Authority also noted the provision of CRZ Notification 2019, and after detailed discussion and deliberation, decided to recommend the proposal to MoEFF&CC, New Delhi from CRZ point of view, subject to several conditions (23 in number) as well as general conditions to be adhered to, in construction phase.

19. The total area of the Project i.e. development of greenfield Port, involved area of 17,471 ha out of which 16,900 has been declared as Port limit and 571 outside Port limit for

road and rail connectivity. The basic infrastructure of the Port necessitating upfront investment such as breakwater, rail and road linkages, power, water lines and common infrastructure, and services, apart from the activities inside the Port, the outside Port activities covered the external road connectivity of 33.4 km and rail linkage area length of 12 km with 60 m wide corridor with alternative routes.

Thus, it is evident that mere development of the Port or area inside the Port is not the whole conspectus of the project, but Vadhavan Port comprises of infrastructure inside and outside the Port. The project envisage reclamation of 1448 ha and acquisition of 571 ha, with reclamation in inter-tidal zone proposed near the shore in various levels and acquisition of 571 ha land for road and rail linkages. It is in this background, when one of the important infrastructure very much essential for development of the greenfield Port at Vadhavan, was the construction of the Roads, pursuant to the Environmental Clearance (EC) being granted to the proposed project under the EIA Notification 2006, and the project involved construction of connectivity to the proposed Vadhavan, this work being entrusted to NHAI, it preferred an application for “Construction of 8 lane Access Controlled Highway for connectivity to proposed Vadhavan Port in the State of Maharashtra”. NHAI, the Project Proponent followed the procedure prescribed by making an application for diversion of forest by indicating the details in the Toposheet and the location details covering the

forest land proposed for diversion and indicated that the work of construction of 8 lane as proposed, involved total forest area of 237.086 ha and total non-forest land area of 369.543 i.e. total area of 606.629.

20. We have already referred to the procedure that has been followed in securing In-Principle approval and the final approval from the MoEF &CC for diversion of 237.086 ha forest Protected Forest, Reserved Forest, Private Forest and Mangrove for construction of 8 lane access controlled highway and Railway providing connectivity to the Vadhavan Port, to find that when the permission being granted subject to compliances, all the compliances have been ensured by the Project Proponent.

21. The objection raised by respondent no.5 BEAG is two fold; firstly while Environmental Clearance was obtained on an express representation that no mangroves would be cut; and secondly, the legality of the Vadhavan Port Project itself is sub-judice before the Apex Court.

As far as first contention is concerned, the learned counsel Mr. Mehta has asserted that the Terms of Reference for the project approved by the MoEF on 7/10/2020 reflected the Project Proponent's stand presented before the Expert Appraisal Committee and at the relevant time, the Project Proponent represented that the project will not involve cutting of any trees

and while filling up the column – 'Whether the project involves diversion of forest land' the remark was 'not applicable'. Apart from this, it is urged that the Environmental Impact Assessment Report submitted by Project Proponent declared 'no mangroves destruction' and similar statement was also made in the EIA report specifically in the context of submissions made regarding the road project. It is also urged that the EIA report contain a statement that 10,179 trees will be impacted by the road and the rail alignment, however, it refers to the species like chickoo, palm and other wild trees and there is no disclosure of any mangroves.

Similarly, in the application seeking CRZ permission, the Project Proponent disclosed that it involves 86 ha forest land for rail and road connectivity within notified Port limit area falling in CRZ-1A, 98.3 acres for Vadhavan Port, but there was no disclosure made at all regarding the existence of any mangrove forest land or mangrove trees, thereby indicating that what was involved was only a regular forest land.

Therefore, it is urged that it is in light of the aforesaid representations made by the Project Proponent that no mangroves/mangrove forest area was involved in the project, on 16/1/2024, the MoEF granted Environmental Clearance for Vadhavan Port project with a specific condition (xiv) that no mangroves shall be cut or affected due to Port construction. It is therefore urged that despite this, now permission is sought to cut 208 mangrove trees and divert

9.2498 ha of mangrove forest, which clearly violate the Environmental Clearance granted.

22. We do not find merit in the said objection, as we find that after the Environmental Clearance and CRZ clearance was granted on 16/2/2024, to the proposed Vadhavan Port by MoEF&CC by including the condition (xxiv) that 'no mangroves shall be cut, a Joint field measurement was conducted in December 2025, as a part of the land acquisition for construction of 8 lane access controlled highway and during this inspection, the growth of mangroves in certain areas of the road and rail connectivity of the project was noted. This prompted the Project Proponent to prefer an application for diversion of forest land and on consideration of this application, it was granted Stage-I forest approval on 20/3/2026.

Dr. Sathe has also placed on record a communication dated 24/4/2026 addressed by the Addl. Principal Chief Conservator of Forest, Mangroves Cell to the NHAI, with reference to its letter dated 23/12/2025, bringing it to the notice of the CRZ Authorities the requirement of 9.2498 ha of mangroves land and felling of 208 mangrove trees for their consideration in the backdrop of the communication dated 16/2/2024, under which the CRZ approval was granted by MoEF&CC which was subject to the condition that "no mangroves shall be cut or affected due to Port construction". It

is in this regard with reference to the proposal indicating that the Port construction do not require any diversion of mangroves and as the MoEF&CC granted in-principle approval for the project after considering diversion of 9.2498 ha of mangrove forest involving 208 mangrove trees and subjecting it to the condition that the user agency shall obtain prior approval from the Bombay High Court before commencement of work and implement all mitigation measures, if any, as directed by the Court.

In this regard, the communication clarify thus:

> "The matter was verified by Divisional Forest Officer, Mangrove Division North Konkan and submitted a report vide letter reference no.3 dated 24/4/2026. As per the report, mangroves felling is not required for port construction and that the area required for the road/rail are totally different."

Considering the circumstances above, it is clarified that there is no need to amend the Environmental Clearance and CRS Approval given by the MoEF&CC vide letter dated 16/2/2024. However, it is advised that the user agency shall follow/comply with all the conditions which are stipulated in the "In-Principle approval (Stage-I) as well as CRZ approval accorded by the Ministry of Environment, Forest Climate Change."

23. In the wake of the aforesaid, we find that since the requisite permission/clearance require for diversion of forest land, is under section 2 of the Van Adhiniyam 1927, the said

procedure for obtaining the permission is followed in entirety and all necessary permissions have been secured by the petitioner. On 16/5/2026, even the final forest clearance has been granted to the project u/s.2(1) of Van Adhiniyam, 1980 and therefore, we do not find merit in the opposition of BEAG that there was some misguiding on part of the Project Proponent.

24. Dealing with the second objection about pendency of the Special Leave Petition before the Apex Court, it is to be noted that Public Interest Litigation filed by Conservation Action Trust as well as Writ Petition No.15320/2023 filed by the National Fishworkers Forum, were heard by the Division Bench of this Court in the background fact that on 31/7/2023, the Dahanu Taluka Environment Protection Authority – DTEPA passed an order allowing application filed by JNPA, seeking permission to establish and develop greenfield Port at Vadhavan, Taluka Dahanu, District Palghar, the permission being made subject to various terms and conditions imposed by MoEF&CC.

The said challenge was considered threadbare and the Court noted that the DTEPA had considered all the relevant aspects before it conferred its approval and even the MCZMA had considered the proposal submitted by JNPA and recommended it to MoEF&CC from CRZ point of view. The Court noted that the environmental public hearing was also conducted by the Maharashtra Pollution Control Board on

19/1/2024 and the Expert Appraisal Committee (EAC) in its 356th Meeting considered the proposal. It was also noted that as prescribed by the TOR, the Project Proponent had carried out various studies through expert agencies and only thereafter, EAC had recommended the proposal for environmental and CRZ clearance by imposing several conditions and on 16/2/2024, the Environmental Clearance was granted to the project along with CRZ clearance for development of greenfield Port at Vadhavan. In conclusion, the Division Bench had categorically held thus :-

> "26. When the entire proceedings conducted by the DTEPA are considered, we find that the Authority has taken into consideration all relevant aspects for arriving at the conclusion that approval for setting up the Greenfield Port at Vadhavan, Taluka Dahanu ought to be granted. The effect of the CPCB Circular dated 30th April 2020 as well as Office Memorandums dated 8th June 2020 and 26th May 2022 has been taken into consideration. The report submitted by NCSCM which was requested by the MoEF&CC to submit the same has also been considered. The DTEPA has found that the initial ToR dated 7th October 2020 came to be amended by the additional ToR dated 2nd June 2023. It concluded that the complexion of the project had undergone a substantial change in view of re-location of the Port at a distance of about six kilometers from the shore area. The aspect of mangrove protection has also been gone into. The concerns raised by the Conservation Action Trust on 11th January 2023 based on the Shoreline Change Atlas of India, Volume 2, 2014 have also been considered. The DTEPA has relied upon the NCSCM report as well as the report of the National Centre of Coastal Research - NCCR. It has found that the report on Shoreline Changes Atlas of the Indian Coasts was based on data of five to six years while the NCSCM report was based on data of about twenty four years. Since the NCCR and NCSCM reports were published by the MoEF&CC, it preferred to go by the said reports. With the change of location to off-shore, it was found that the Greenfield Port was to be established at a distance of about six kilometers from the shore line. The off-shore area was found to fall beyond the area of Dahanu Taluka and within the domain of the Central Government.
>
> It is thus found that the DTEPA as an Authority under Section 3 of the Act of 1986 has considered all relevant aspects having material bearing on the issue as to whether approval should be granted to the Greenfield Port. It has also proposed mitigation

> measures by constituting a Monitoring Committee for different subjects to have constant monitoring. A Grievance Committee has also been constituted for considering the grievances of all stakeholders as well as all those concerned with the project."

25. On the Public Interest Litigation and the connected Writ Petition being dismissed, a Special Leave Petition is filed before the Apex Court by the National Fishworkers Forum and on 28/2/2025, the Court refused to grant interim relief, but made the acquisition proceedings and all other steps subject to further orders which may be passed in the petitions.

The aforesaid order came to be passed in the background that at present, only the land acquisition work is in progress and the commencement of work will start after acquisition of land near the shore.

We are not ready to accept the contention that the order of the Apex Court dated 28/2/2025 amount to grant of stay to the development of the Vadhavan Port and all the steps taken towards its development are made subject to the outcome of the proceedings before the Apex Court. Therefore, we do not find any merit even in this objection raised by respondent no.5.

26. In the wake of the aforesaid discussion, since we have noted that the Project Proponent has obtained all necessary approvals for the proposed Rail and Road alignment for Port connectivity and this included the Environmental Clearance granted by the MoEF&CC as well as CRZ Clearance by following the appropriate procedure. While granting Stage-I

(in-principle Forest Clearance), the conditions imposed have been duly ensured and the Project Proponent has fulfilled the demand towards compensatory afforestation as well as the NPV as it made the requisite payment of Rs.4,83,03,145/-on 1/4/2026 and on 17/4/2026, an amount of Rs.134,52,27,915/- (inclusive of Rs.74,22,51,176/-) is deposited towards compensatory afforestation of 475 ha land, for ensuring the compliance of the conditions stipulated in Stage-I forest clearance. As on date, even the final forest clearance is received by the Project Proponent on 16/5/2026 from the MoEF&CC.

In light of the aforesaid compliances being ensured and all the conditions imposed by the MoEF&CC having been complied with, resulting into the final approval being granted by the Ministry for the project, which in our view, is in larger public interest, we deem it appropriate to accord our approval in favour of NHAI, for construction of an 8 lane road connecting the proposed Vadhavan Port to NH-48 by diversion of 9.2498 of mangroves forest area and by permitting felling of 208 mangrove trees.

In our view, the said project being of public utility, would provide connectivity to the Vadhavan Port which is being developed as a major Port on landlord Port development model, which would open an opportunity for India to make into the countries with top 10 container Ports in the world.

Hence we grant our approval for diversion of forest and felling of 208 mangroves.

Writ Petition is allowed in terms of prayer clause (a).

(MANJUSHA DESHPANDE, J) (BHARATI DANGRE, J.)