



Ref. No.: TD-TRAN-ZONE-TPZO-LETR-099
Date: 16.05.2023

**The Additional Principal Chief Conservator of Forests (C)
Ministry of Environment, Forests and Climate Change
West Central Regional Office
Ground Floor, Eastern Wing
New Secretariat Building, Opposite Old VCA Stadium
Civil Lines, Nagpur – 440 001**

Sub: CRZ clearance for the erection of 220 kV Kalwa – Salsette Transmission Line in Mumbai by The Tata Power Company Limited.

Ref: 1) MoEFCC letter no: F.No.11-19/2014-IA.III dated 24.11.2015
2) MoEFCC letter no: F.No.11-19/2014-IA.III dated 21.05.2021

Dear Sir,

With reference to the CRZ clearance and extension to CRZ clearance validity received for 220 kV Kalwa – Salsette transmission line; we are submitting herewith six monthly compliance report for period of October 2022 to March 2023.

We are sending soft copy of this Six monthly compliance report on E-mail: ecompliance-mh@gov.in.

Thanking you,

Yours faithfully,

For The Tata Power Company Limited

**Vishwas Surange
Head - Transmission Projects (Zone II)**

Annexure I: CRZ clearance letter
Annexure II: Compliance report
Annexure III: Data sheet
Annexure IV: Hon'ble Bombay High Court Order

TATA POWER
The Tata Power Company Limited

Transmission Project Office Powai Receiving Station Near MTNL Hiranandani Powai Mumbai 400 076
Tel 91 22 6717 3475 Store 9122 6717 3482
Registered Office Bombay House 24 Homi Mody Street Mumbai - 400 001
CIN L28920MH1919PLC000567 • Website : www.tatapower.com • E-mail : tatapower@tatapower.com

F.No.11-19/2014-IA-III
 Government of India
 Ministry of Environment, Forest & Climate Change
 (IA.III Section)

Indira Paryavaran Bhawan,
 Jor Bagh Road,
 New Delhi - 3

Dated: 24th November, 2015

To

The Head – Vikhroli Projects (Devl.),
 M/s Tata Power Company Ltd,
 Corporate Centre, A Block, 4th Floor,
 Sant Tukaram Road, Carnac Bunder,
Mumbai – 09

Sub: '220 KV Kalwa Salsette Transmission line' (Augmentation of existing 110 KV line) in Mumbai Suburban (Maharashtra) by M/s Tata Power Company Ltd – CRZ Clearance - reg.

Sir,

This has reference to your proposal forwarded by the Member Secretary, Maharashtra Coastal Zone Management Authority (MCZMA) vide letter no. CRZ 2013/CR 264/TC 3 dated 07.04.2014 and your letters dated 11.09.2014 & 24.06.2015, to this Ministry for grant of CRZ Clearance in term of the provisions of the Coastal Regulation Zone (CRZ) Notification, 2011 under the Environment (Protection), Act, 1986.

2. The proposal for **'220 KV Kalwa Salsette Transmission line' (Augmentation of existing 110 KV line) in Mumbai Suburban (Maharashtra) by M/s Tata Power Company Ltd**, was considered by the Expert Appraisal Committee (EAC) in the Ministry for Infrastructure Development, Coastal Regulation Zone, Building/ Construction and Miscellaneous projects, in its meetings held on 19th - 21st May, 2014, 29th September, 2014 – 1st October, 2014 and 29th – 31st July, 2015.

3. The details of the project, as per the documents submitted by the project proponents (PP), and also as informed during the above said EAC meetings, are reported to be as under:-

(i) The proposal involves construction of 220 kV Kalwa – Salsette Transmission Line (Up-gradation of old 110kV Transmission Line) between Village Airoli of District Thane and Villages Mulund & Nahur of District Mumbai Suburban.

(ii) Each Transmission Line tower has 4 legs and each leg rests on a pile type foundation of about 1 to 1.2 m diameter.

(iii) The height of the towers will be approximately 60 meters and the distance between two towers will be approximately 250 m. Each tower accommodates 4 number of power circuits of 220 KV. Each circuit has got 3 power carrying conductors. In addition to that, the top wire is optical fiber guard wire which is essential for data transmission, communication, metering and protection of the power passing through the circuit.

(iv) Transmission Line project passes through CRZ I and II area of Mumbai and Thane.

(v) About 477 number of mangrove trees will get affected due to the proposed line. BNHS has suggested compensatory plantation of about 5,000 mangroves. The

Mangrove plantation will be carried out on 25 ha area at Village Sarsole under Tri Partite mode along with Forest Department.

(vi) **Wildlife issues:** The project site is at distance of 2.75 km from Sanjay Gandhi National Park. However, as per Supreme Court order it does not require clearance from National Board for Wild Life since project does not require Environment Clearance under EIA Notification 2006.

(vii) **Forest land:** The project involves diversion of 3.7496 ha of forest land.

(viii) **Investment/Cost:** The cost of the project is Rs. 217.42 Crores including underground cable costs.

(ix) **SCZMA recommendation:** The Maharashtra Coastal Zone Management Authority (MCZMA) has recommended the proposal vide letter No. CRZ 2013/CR 265/TC 3 dated 07.04.2014.

(x) **Employment potential:** Temporary employment during construction of transmission line.

(xi) **Benefits of the project:** The City life will face less problems due to improved reliability and adequate power supply to the Mumbai as well as remaining part of the state/country.

(xii) The Bombay High Court has passed an interim order on 27.01.2010 directing project proponent to approach to the competent authority to seek permission in accordance with the law.

(xiii) The report on the various alternatives was submitted to Power Grid Corporation of India Ltd (PGCIL) for their views.

(xiv) PGCIL have conveyed their views on the reports submitted by Project Proponent and recommended that there will be least damage of mangroves in the conventional approach pathways method. However, M/s Tata Powers should try to reduce damage to mangroves during the construction period using environment friendly materials. Further, M/s Tata Power should compensate the loss of mangroves through plantation of more numbers of saplings of mangroves as suggested by various Government agencies.

(xv) The Environment Impact Assessment of the Transmission Line project was carried out by Bombay Natural History Society (BNHS). BNHS have also prepared the Mangrove Conservation Plan for the project and suggested the following mitigation measures:

- a. The approach pathways with suggested dimensions and routes (temporary pathway of max 4 m wide including working space), during construction period, as per the EIA reports should be strictly followed.
- b. Complete prohibition of disposal of waste such as left over construction materials and disposal of such leftover must be done in the pre designated areas outside mangroves.
- c. The Right of way as demarcated or any other project activity should not restrict the flow of water to other mangroves and thus, adequate tidal water drainage system to be provided wherever necessary.
- d. Right of way should not be fully converted into concrete roads. Thus, on completion, dirt roads will be naturally repopulated by the mangroves.
- e. To compensate the loss of total 477 mature mangroves (394 due to approach path and 83 due to tower foundations), plantation of multi-species mangrove saplings would be undertaken.
- f. Plantation will be carried out under expert guidance.
- g. Tata Power has signed Tri-partite Agreement along with Forest Department, Government of Maharashtra and M.S Swaminathan Research Foundation, Chennai for mangrove plantation.
- h. As per the agreement, mangrove re-plantation on 25 ha. of degraded area in Survey No. 93, 99 & 100 of Sarsole Village in the vicinity of the project site.

- i. About 3,00,000 mangrove saplings of various species will be planted over a period of 5 years.
- j. This activity will cover survival, assessment and re-plantation of mangroves.
- k. The proposed species of mangroves to be planted are *Avicennia marina*, *Avicennia officinalis*, *Rhizophora mucronata*, *Cereops tagal*, *Sonneratia apatela* and *Sonneraia alba* as suggested by BNHS.

(xvi) The proposed site for compensatory plantation will have the following coordinates:-

| Latitude (N) | Longitude (E) |
|----------------|----------------|
| 19° 02' 53.25" | 73° 00' 04.01" |
| 19° 02' 46.32" | 73° 00' 16.76" |
| 19° 02' 25.26" | 73° 00' 15.27" |
| 19° 02' 25.39" | 73° 00' 12.62" |

4. The EAC, after deliberations, in its meeting held on 29th – 31st July, 2015, has recommended the project for grant of the CRZ Clearance. As per recommendations of the EAC, the Ministry of Environment, Forest & Climate Change hereby accords CRZ Clearance for the above-mentioned project '**220 KV Kalwa Salsette Transmission line' (Augmentation of existing 110 KV line) in Mumbai Suburban (Maharashtra) by M/s Tata Power Company Ltd**, under the provisions of the CRZ Notification, 2011 and amendments thereto and circulars issued thereon and subject to the compliance of the specific and general conditions mentioned below:

PART A – SPECIFIC CONDITIONS

I. Construction Phase

- (i) The Project Proponent shall ensure minimum damage to mangroves during the construction period using environment friendly materials.
- (ii) The Project Proponent shall compensate the loss of mangroves through plantation of more as per the conservation plan suggested by the BNHS. All conditions specified by the BNHS shall be strictly adhered to.
- (iii) All the recommendations and conditions specified by Maharashtra Coastal Zone Management Authority (MCZMA) vide letter no. CRZ 2013/CR 264/TC 3 dated 07.04.2014, shall be complied with.
- (iv) Prior permission from Hon'ble High Court shall be obtained for activity in mangrove and its buffer zone as applicable.
- (v) The Project Proponent shall use solid bricks/ ash bricks on geo-textile for roads which shall be removed after completion in satisfaction of Mangrove Cell, Government of Maharashtra.
- (vi) Construction activity shall be carried out strictly according to the provisions of CRZ Notification, 2011. No construction work other than those permitted in Coastal Regulation Zone Notification shall be carried out in Coastal Regulation Zone area.

PART – B. GENERAL CONDITIONS

- (i) A copy of the clearance letter shall also be displayed on the website of the concerned State Pollution Control Board. The EC letter shall also be displayed at the Regional Office, District Industries centre and Collector's Office/ Tehsildar's office for 30 days.

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- (ii) The funds earmarked for environmental protection measures shall be kept in separate account and shall not be diverted for other purpose. Year-wise expenditure shall be reported to this Ministry and its concerned Regional Office.
5. The Environmental/CRZ clearance is subject to their obtaining prior clearance from forestry and wildlife angle including clearance from the Standing Committee of the National Board for Wildlife as applicable. The grant of environmental/CRZ clearance does not necessarily implies that forestry and wildlife clearance shall be granted to the project and that their proposals for forestry and wildlife clearance shall be considered by the respective authorities on their merits and decision taken. The investment made in the project, if any, based on environmental/CRZ clearance so granted, in anticipation of the clearance from forestry and wildlife angle shall be entirely at the cost and risk of the project proponent and Ministry of Environment, Forests & Climate Change shall not be responsible in this regard in any manner.
6. Officials from the Regional Office of MoEF&CC, Nagpur who would be monitoring the implementation of environmental safeguards should be given full cooperation, facilities and documents/data by the project proponents during their inspection. A complete set of all the documents submitted to MoEF&CC should be forwarded to the CCF, Regional office of MoEF&CC, Nagpur.
7. In the case of any change(s) in the scope of the project, the project would require a fresh appraisal by this Ministry.
8. The Ministry reserves the right to add additional safeguard measures subsequently, if found necessary, and to take action including revoking of the environment clearance under the provisions of the Environmental (Protection) Act, 1986, to ensure effective implementation of the suggested safeguard measures in a time bound and satisfactory manner.
9. All other statutory clearances such as the approvals for storage of diesel from Chief Controller of Explosives, Fire Department, Civil Aviation Department, Forest Conservation Act, 1980 and Wildlife (Protection) Act, 1972 etc. shall be obtained, as applicable by project proponents from the respective competent authorities.
10. These stipulations would be enforced among others under the provisions of Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and control of Pollution) act 1981, the Environment (Protection) Act, 1986, the Public Liability (Insurance) Act, 1991 and EIA Notification, 2006.
11. The project proponent should advertise in at least two local Newspapers widely circulated in the region, one of which shall be in the vernacular language informing that the project has been accorded CRZ Clearance and copies of clearance letters are available with the State Pollution Control Board and may also be seen on the website of the Ministry of Environment, Forest & Climate Change at <http://www.envfor.nic.in>. The advertisement should be made within Seven days from the date of receipt of the Clearance letter and a copy of the same should be forwarded to the Regional Office of this Ministry at Nagpur.
12. This Clearance is subject to final order of the Hon'ble Supreme Court of India in the matter of Goa Foundation v/s. Union of India in Writ Petition (Civil) No.460 of 2004 as may be applicable to this project.

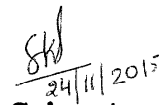
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13. Any appeal against this clearance shall lie with the National Green Tribunal, if preferred, within a period of 30 days as prescribed under Section 16 of the National Green Tribunal Act, 2010.

14. A copy of the clearance letter shall be sent by the proponent to concerned Panchayat, Zilla Parishad/Municipal Corporation, Urban Local Body and the Local NGO, if any, from whom suggestions/ representations, if any, were received while processing the proposal. The clearance letter shall also be put on the website of the company by the proponent.

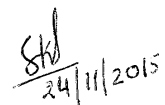
15. The proponent shall upload the status of compliance of the stipulated EC conditions, including results of monitored data on their website and shall update the same periodically. It shall simultaneously be sent to the Regional Office of MoEF&CC, the respective Zonal Office of CPCB and the SPCB. The criteria pollutant levels namely; SPM, RSPM, SO₂, NO_x (ambient levels as well as stack emissions) or critical sectoral parameters, indicated for the project shall be monitored and displayed at a convenient location near the main gate of the company in the public domain.

16. The environmental statement for each financial year ending 31st March in Form-V as is mandated to be submitted by the project proponent to the concerned State Pollution Control Board as prescribed under the Environment (Protection) Rules, 1986, as amended subsequently, shall also be put on the website of the company along with the status of compliance of EC conditions and shall also be sent to the respective Regional Offices of MoEF&CC by e-mail.


(S. K. Srivastava)
Scientist E

Copy to:

1. The Secretary, Department of Environment, Govt. of Maharashtra, Mantralaya, Mumbai – 32
2. The Chairman, CPCB, Parivesh Bhawan, CBD-cum-Office Complex, East Arjun Nagar, Delhi – 32
3. The Member Secretary, Maharashtra Pollution Control Board, Kalpataru Points, 3rd & 4th floor, Opp. Cine Planet, Sion Circle, Sion (E), Mumbai - 22
4. Additional Principal Chief Conservator of Forests (C), Ministry of Environment, Forests and Climate Change, Regional Office (WCZ), Ground Floor, East Wing, New Secretariat Building, Civil Lines, Nagpur –1
5. Guard File
6. Monitoring Cell


(S. K. Srivastava)
Scientist E

F. No. 11-19/2014-IA.III
Government of India
Ministry of Environment, Forest and Climate Change
IA-III (CRZ Division)

Annexure-I.A

Indira Paryavaran Bhawan
Jor Bagh Road,
New Delhi-110003
Dated: 21st May, 2021

To,
M/s Tata Power Company Ltd.,
Corporate Centre, A block,
4th floor, Sant Marg
Mumbai - 400 009

Subject: Construction of 220 KV Kalwa-Salsette Transmission Line (upgradation of old 110 kv Transmission Line) in Mumbai- Extension for validity of CRZ clearance - regarding.

Sir,

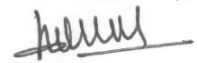
This refers to your proposal for extension for validity of CRZ clearance granted by the Ministry vide its letter dated 24/11/2015 for the project 'Construction of 220 KV Kalwa-Salsette Transmission Line (upgradation of old 110 kv Transmission Line)' in Mumbai, Maharashtra.

2. In this regard, it is to inform that the request was placed in the 259th EAC (CRZ) held on 19/03/2021. Based on recommendation of the said Committee, the Ministry hereby accords extension of validity of the CRZ clearance dated 24/11/2015 for a period of five years i.e. upto 23/11/2025, as per the provisions of the CRZ Notification under which the clearance was granted.

3. All other terms and conditions stipulated in the CRZ clearance dated 24/11/2015 shall remain unchanged.

This issues with approval of the Hon'ble MEF&CC.

Yours faithfully,



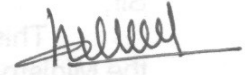
(Dr. H. Kharkwal)
Additional Director /
Scientist 'E' (CRZ)

Copy to:

1. The Secretary, Environment Department, Government of Maharashtra, 5th Floor, New Administrative Building, Mantralaya, Mumbai-400032 Maharashtra.
2. The Chairman, (Environment) & Additional Secretary, Environment Department, Maharashtra Coastal Zone Management Authority, Government of Maharashtra, 5th Floor, New Administrative Building, Mantralaya, Mumbai-400032 Maharashtra.

India Parivahan Bhawan
Jor Bagh Road
New Delhi - 110003

3. The Member Secretary, CPCB, Parivesh Bhawan, CBD-Cum-Office Complex, East Arjun Nagar, Delhi -110032
4. The Member Secretary, Maharashtra Coastal Zone Management Authority, Government of Maharashtra, Environment Department, 5th Floor, New Administrative Building, Mantralaya, Mumbai – 400032 Maharashtra.
5. The Member Secretary, Maharashtra Pollution Control Board, Maharashtra Pollution Control Board, Kalpataru Point, 3rd and 4th floor, Opp. PVR Cinema, Sion Circle, Mumbai-400022 Maharashtra.
6. The Deputy Director General, Ministry of Environment, Forest and Climate Change, Regional Office (WCZ), Ground Floor, East Wing, New Secretariat Building Civil Lines, Nagpur- 440001 Maharashtra.
7. Guard File/ Record File/ Notice Board.
8. Monitoring Cell.




(Dr. H. Kharkwal)
Additional Director /
Scientist 'E' (CRZ)

The issue with approval of the Hon'ble MCR&CC

All other terms and conditions stipulated in the CRZ clearance dated 24/11/2015 shall remain unchanged.

In this regard it is to inform that the request was placed in the 25th EAC (CRZ) held on 10/03/2017. Based on recommendation of the said Committee the Ministry hereby accords extension of validity of the CRZ clearance dated 24/11/2015 for a period of five years i.e. upto 24/11/2020, as per the provisions of the CRZ Notification under which the clearance was granted.

Yours faithfully,

(Dr. H. Kharkwal)
Additional Director /
Scientist 'E' (CRZ)

Copy to:

1. The Secretary, Environment Department, Government of Maharashtra, 5th Floor, New Administrative Building, Mantralaya, Mumbai-400032 Maharashtra.
2. The Chairman, (Environment) & Additional Secretary, Environment Department, Maharashtra Coastal Zone Management Authority, Government of Maharashtra, 5th Floor, New Administrative Building, Mantralaya, Mumbai-400032 Maharashtra.

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| Title: Status of the conditions stipulated in CRZ Clearance |  THE TATA POWER COMPANY LIMITED | Period: October 2022 - March 2023 |
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Annexure II

| Project: 220 kV Kalwa – Salsette Transmission Line by The Tata Power Company Limited. | | |
|---|--|---|
| CRZ Clearance: MoEFCC letter no. F.No.11-19/2014-IA-III dated 24.11.2015 & extension to CRZ clearance vide MoEFCC letter no. F.No.11-19/2014-IA.III dated 28.12.2021 | | |
| Sr. No. | Specific Conditions | Status |
| 4A | SPECIFIC CONDITIONS | |
| i. | The Project Proponent shall ensure minimum damage to mangroves during the construction period using environment friendly materials. | This condition is being complied with during construction of the transmission towers. |
| ii. | The Project Proponent shall compensate the loss of mangroves through plantation of more as per the conservation plan suggested by the BNHS. All conditions specified by the BNHS shall be strictly adhered to. | Plantation of mangroves is completed through Tripartite agreement between Tata Power, M S Swaminathan Foundation and Forest Department. |
| iii. | All the recommendations and conditions specified by Maharashtra Coastal Zone Management Authority (MCZMA) vide letter no. CRZ 2013/CR 264/TC 3 dated 07.04.2014, shall be complied with. | Noted |
| iv. | Prior permission from Hon'ble High Court shall be obtained for activity in mangrove area and its buffer zone as applicable. | Permission from Hon'ble High Court has been obtained on 02.03.2022 |
| v. | The Project Proponent shall use solid bricks/ ash bricks on geo-textile for roads which shall be removed after completion in satisfaction of Mangrove Cell, Government of Maharashtra. | This condition is being complied with during construction of the transmission towers. |
| vi. | Construction activity shall be carried out strictly according to the provisions of CRZ Notification, 2011. No construction work other than those permitted in Coastal Regulation Zone Notification shall be carried out in Coastal Regulation Zone area. | Noted and is being complied with during construction of the transmission towers |
| 4B | GENERAL CONDITIONS | |
| i | A copy of the clearance letter shall also be displayed on the website of the concerned State Pollution Control Board. The EC letter shall also be displayed at the Regional Office, District Industries centre and | Noted |

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| Title: Status of the conditions stipulated in CRZ Clearance |  THE TATA POWER COMPANY LIMITED | Period: October 2022 - March 2023 |
|--|--|--|

Annexure II

| Project: 220 kV Kalwa – Salsette Transmission Line by The Tata Power Company Limited. | | |
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| CRZ Clearance: MoEFCC letter no. F.No.11-19/2014-IA-III dated 24.11.2015 & extension to CRZ clearance vide MoEFCC letter no. F.No.11-19/2014-IA.III dated 28.12.2021 | | |
| Sr. No. | Specific Conditions | Status |
| | Collector's Office/ Tehsildar's office for 30 days. | |
| ii | The funds earmarked for environmental protection measures shall be kept in separate account and shall not be diverted for other purpose. Year-wise expenditure shall be reported to this Ministry and its concerned Regional Office. | This condition is being complied with during project execution. |
| 5 | The environmental/ CRZ clearance is subject to their obtaining prior clearance from forestry and wildlife angle including clearance from the Standing Committee of the National Board for Wildlife as applicable. The grant of environmental/ CRZ clearance does not necessarily implies that forestry and wildlife clearance shall be granted to the project and that their proposals for forestry and wildlife clearance shall be considered by the respective authorities on their merits and decision taken. The investment made in the project, if any, based on environmental/CRZ clearance so granted, in anticipation of the clearance from forestry and wildlife angle shall be entirely at the cost and risk of the project proponent and Ministry of Environment, Forests & Climate Change shall not be responsible in this regard in any manner. | Noted |
| 6 | Officials from the Regional Office of MoEF&CC, Nagpur who would be monitoring the implementation of environmental safeguards should be given full cooperation, facilities and documents/ data by the project proponents during their inspection. A complete set of all the documents submitted to MoEF&CC should be forwarded to the CCF, Regional office of MoEF&CC, Nagpur. | Noted. A complete set of the documents has been sent to CCF, Regional office of MoEF&CC, Nagpur vide our letter dated 30.03.2016. |

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| Title: Status of the conditions stipulated in CRZ Clearance |  THE TATA POWER COMPANY LIMITED | Period: October 2022 - March 2023 |
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Annexure II

| Project: 220 kV Kalwa – Salsette Transmission Line by The Tata Power Company Limited. | | |
|---|---|--------|
| CRZ Clearance: MoEFCC letter no. F.No.11-19/2014-IA-III dated 24.11.2015 & extension to CRZ clearance vide MoEFCC letter no. F.No.11-19/2014-IA.III dated 28.12.2021 | | |
| Sr. No. | Specific Conditions | Status |
| 7 | In the case of any change(s) in the scope of the project, the project would require a fresh appraisal by this Ministry. | Noted |
| 8 | The Ministry reserves the right to add additional safeguard measures subsequently, if found necessary, and to take action including revoking of the environment clearance under the provisions of the Environmental (Protection) Act, 1986, to ensure effective implementation of the suggested safeguard measures in a time bound and satisfactory manner. | Noted |
| 9 | All other statutory clearances such as the approvals for storage of diesel from Chief Controller of Explosives, Fire Department, Civil Aviation Department, Forest Conservation Act, 1980 and Wildlife (Protection) Act, 1972 etc. shall be obtained, as applicable by project proponents from the respective competent authorities. | Noted |
| 10 | These stipulations would be enforced among others under the provisions of Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and control of Pollution) act 1981, the Environment (Protection) Act, 1986, the Public Liability (Insurance) Act, 1991 and EIA Notification, 2006. | Noted |

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| Title: Status of the conditions stipulated in CRZ Clearance |  THE TATA POWER COMPANY LIMITED | Period: October 2022 - March 2023 |
|--|--|--|

Annexure II

| Project: 220 kV Kalwa – Salsette Transmission Line by The Tata Power Company Limited. | | |
|---|---|--|
| CRZ Clearance: MoEFCC letter no. F.No.11-19/2014-IA-III dated 24.11.2015 & extension to CRZ clearance vide MoEFCC letter no. F.No.11-19/2014-IA.III dated 28.12.2021 | | |
| Sr. No. | Specific Conditions | Status |
| 11 | The project proponent should advertise in at least two local Newspapers widely circulated in the region, one of which shall be in the vernacular language informing that the project has been accorded CRZ Clearance and copies of clearance letters are available with the State Pollution Control Board and may also be seen on the website of the Ministry of Environment, Forests & Climate Change at http://www.envfor.nic.in . The advertisement should be made within Seven days from the date of receipt of the Clearance letter and a copy of the same should be forwarded to the Regional Office of this Ministry at Nagpur. | Noted. Advertisements were published in daily Indian Express and Loksatta on 01.12.2015. Copies of newspapers have been forwarded to Regional office of MoEFCC at Nagpur vide our letter dated 30.03.2016. |
| 12 | This Clearance is subject to final order of the Hon'ble Supreme Court of India in the matter of Goa Foundation v/ s. Union of India in Writ Petition (Civil) No.460 of 2004 as may be applicable to this project. | Noted |
| 13 | Any appeal against this clearance shall lie with the National Green Tribunal, if preferred, within a period of 30 days as prescribed under Section 16 of the National Green Tribunal Act, 2010. | Noted |
| 14 | A copy of the clearance letter shall be sent by the proponent to concerned Panchayat, Zilla Parisad/ Municipal Corporation, Urban Local Body and the Local NGO, if any, from whom suggestions/ representations, if any, were received while processing the proposal. The clearance letter shall also be put on the website of the company by the proponent. | Noted. Copy of the CRZ clearance was uploaded on Tata Power website on 01.12.2015 and is available at https://www.tatapower.com/sustainability/environment/environmental-compliance.aspx |

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| Title: Status of the conditions stipulated in CRZ Clearance |  THE TATA POWER COMPANY LIMITED | Period: October 2022 - March 2023 |
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Annexure II

| Project: 220 kV Kalwa – Salsette Transmission Line by The Tata Power Company Limited. | | |
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| CRZ Clearance: MoEFCC letter no. F.No.11-19/2014-IA-III dated 24.11.2015 & extension to CRZ clearance vide MoEFCC letter no. F.No.11-19/2014-IA.III dated 28.12.2021 | | |
| Sr. No. | Specific Conditions | Status |
| 15 | The proponent shall upload the status of compliance of the stipulated EC conditions, including results of monitored data on their website and shall update the same periodically. It shall simultaneously be sent to the Regional Office of MoEF&CC, The respective Zonal Office of CPCB and the SPCB. The criteria pollutant levels namely; SPM, RSPM, SO ₂ , NO _x (ambient levels as well as stack emissions) or critical sectoral parameters, indicated for the project shall be monitored and displayed at a convenient location near the main gate of the company in the public domain. | <p>Noted.</p> <p>The status of compliance of the stipulated EC conditions has been uploaded on our company website and has been sent to Regional Office of MoEFCC, Nagpur.</p> <p>However, monitoring of criteria pollutants or critical sectoral parameters is not applicable for transmission line project (Linear project).</p> |
| 16 | The environmental statement for each financial year ending 31st March in Form-V as is mandated to be submitted by the project proponent to the concerned State Pollution Control Board as prescribed under the Environment (Protection) Rules, 1986, as amended subsequently, shall also be put on the website of the company along with the status of compliance of EC conditions and shall also be sent to the respective Regional Offices of MoEF&CC by e-mail. | Since transmission line project is linear project and not being a process industry, environmental statement in Form-V is not applicable. |

Monitoring the Implementation of Environmental Safeguards
Ministry of Environment, Forest & Climate Change
West-Central Zone, Regional Office, Nagpur
MONITORING REPORT

PART – I
DATA SHEET

| | | |
|----|---|--|
| 1. | Project type: River – valley/ Mining/ Industry/Thermal/Nuclear/Other (specify) | Transmission Line Project |
| 2. | Name of the Project | 220 kV Kalwa – Salsette Transmission Line Project |
| 3. | Clearance letter(s)/OM No. and date | F.No.11-19/2014-IA-III dt. 24 th November 2015 & extension to CRZ clearance vide letter no. F.No.11-19/2014-IA.III dt 21 st May 2021 |
| 4. | Location: | |
| | a) District(s) | Thane & Mumbai Suburban |
| | b) State(s) | Maharashtra |
| | c) Location | Airoli, Mulund & Nahur Villages |
| | Latitude/Longitude | Not Applicable |
| 5. | Address for correspondence | |
| | a) Address of the concerned Project Chief Engineer (with Pin Code & Telephone/ Telex/fax numbers | Mr. Vishwas Surange, Head - Transmission Projects (Zone-II), The Tata Power Company Limited, Transmission Projects Dharavi Receiving Station Near Shalimar Industrial Estate, Matunga Labour Camp Mumbai 400 019 Email: surangev@tatapower.com Phone : 9223311433 |
| | b) Address of the Executive Project Engineer / Manager / (with Pin Code & telephone / Telex / fax numbers | Same as above |
| 6. | Salient features | |
| | a) Of the project | Tata Power has a 110 kV transmission line corridor available between Kalwa & Salsette. This corridor of 110 kV Double Circuit line can be utilized by constructing a 220 kV four circuit line. This will help in utilizing of existing corridor for higher capacity to transmit additional power and meet the demand of consumers in Mumbai. The existing corridor is in the form of overhead transmission line i.e. 110 kV KKS-2 (Kalwa Kalyan Salsette-2). Since the lines are more than 50 years old and have crossed their life, it will be prudent to replace these lines. The proposed 220 kV line will be of twin high ampacity conductor of 900 amps each i.e. about 690 MVA capacity. The new line will be of 2 circuits (i) 220 kV TWIN HIGH AMPACITY (ii) 110 kV TWIN WOLF as per approved project. |

| | | |
|-----|---|---|
| | b) Of the Environmental Management plans | All the conditions of CRZ clearance will be strictly adhered to. Mangrove plantation will be carried out at Sarsole Village. Mangrove Conservation Plan prepared by BNHS will be strictly adhered to during execution of the project. |
| 7. | Break up of the project area | |
| | a) Submergence area: forest & Non-forest | 3.7496 ha. Area of Forest Land (Mangroves) & Non forest area: 3.45 ha. |
| | b) Others | Not Applicable |
| 8. | Break up of the project affected Population with enumeration of those losing houses/dwelling units only agricultural land only, both dwelling units & agricultural land & landless laborers/artisans a) SC, ST/Adivasi b) Others (Please indicate whether these figures are based on any scientific and systematic survey carried out or only provisional figures, if a survey is carried out give details & year of survey) | As per cadastral surveys carried out during 2010 - 2012, no population was losing any houses/dwelling units under the right of way of transmission line. |
| 9 | Financial details | |
| | Project cost as originally planned and subsequent revised estimates and the year of price reference | Total cost of the project is Rs. 208 crores, out of which cost of the project in CRZ area is Rs. 35 Crores. Year 2019. |
| | Allocation made for environmental management plans with item wise and year wise break up | Estimated cost for Environmental Protection measures (Use of solid ash bricks for approach paths, removal of bricks and restoration of the area): Rs. 70 Lakhs approx. which will be utilized during project execution. |
| | Benefit cost ratio/internal rate of Return and the year of assessment | IRR: 15 % FY22 |
| | Whether cost includes the cost of environmental management as shown in the above | YES |
| | Actual expenditure incurred on the project so far | Rs. 3.75 Crores |
| | Actual expenditure incurred on the environmental management plans so far | Rs. 2.5 Lakhs |
| 10. | Forest land requirement | |
| | a) The status of approval for diversion of forest land for non-forestry use | Regional Office-MoEFCC Nagpur has granted Stage-I Forest Clearance to the project on 13-12-2021. Stage-II Forest Clearance is granted on 30.06.2022. |
| | b) The status of clearing felling | Total 477 mangrove trees need to be displaced. Felling till date : 258 |

| | | |
|-----|--|--|
| | c) The status of compensatory afforestation, if any | Stage-I clearance has been received. Amount of Rs Rs.73,00,530/ has been transferred to DCF – Thane towards Compensatory Afforestation vide HDFC Bank UTR no. N053221843954514 dt. 22/02/2022. |
| | d) Comments on the viability & sustainability of compensatory afforestation program in the light of actual field experience so far. | Not applicable |
| 11. | The status of clear felling in non-forest area (such as submergence area of reservoir, approach roads) if any with quantitative information required | Not applicable |
| 12. | Status of construction (Actual and/or planned) | |
| | a) Date of commencement (actual and/or planned) | Planned: July 2022 (actual) |
| | b) Date of completion (actual and/or planned) | Planned: Sept. 2023 (planned) |
| 13 | Reasons for the delay if the Project is yet to start | Final Forest clearance was delayed. Post receipt of this approval execution of project has been started. |
| 14 | Dates of the site visits | |
| | a) The dates on which the project was monitored by the regional officer on previous occasions, if any | NIL |
| | b) Dates of site visits for this monitoring report | 15.11.2022 19.12.2022 08.03.2023 |

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

WRIT PETITION NO.1207 OF 2022

1. The Tata Power Company Limited
A Company incorporated under the
provisions of Indian Companies Act, 1913
having its registered office at 24, Bombay House,
Homi Modi Street, Mumbai – 400 001.

2. Hanoz Minoo Mistry
Shareholder of Petitioner No.1,
residing at 36A, Engineer's Bungalow,
Block No.1, Sunmill Road,
Lower Parel, Mumbai – 400013.

... Petitioners

Versus

1. Union of India
Through the Ministry of Environment Forest
& Climate Change,
Paryavaran Bhavan, New Delhi 110002.
And also at :
Aayakar Bhavan, 2nd Floor,
Maharshi Karve Road, New Marine Lines,
Mumbai – 400 020.

2. Maharashtra Coastal Zone Management Authority
Environment Department, 2nd Floor, Room No.217,
Annexe Building, Mantralaya, Mumbai – 32.

3. State of Maharashtra
Environment Department, through the
Office of Government Pleader, (O.S.),
Bombay High Court, PWD Building,
Fort, Mumbai 400 001.

4. Chief Conservator of Forest (Mangrove Cell)
through the Office of Government Pleader, (O.S.),
Bombay High Court, PWD Building,
Fort, Mumbai 400 001.

5. Principal Chief Conservator of Forest
(Head of Forest Force)
Nagpur, State of Maharashtra
through the office of the Government Pleader, (O.S.),
Bombay High Court, PWD Building,
Fort, Mumbai 400 001.

6. Maharashtra State Electricity Transmission
Company Ltd.
A wholly owned corporate entity under
the State of Maharashtra incorporated under
the provisions of the Companies Act, 1956
having its registered office at Prakashganga,
Plot No.C, 19-E Block, Bandra Kurla Complex,
Bandra (E), Mumbai 400 051.

... Respondents

Dr. Milind Sathe, Senior Counsel & Mr. Bhushan Deshmukh, Counsel a/w
Mr. H.N. Vakil i/by Mulla & Mulla and Craigie Blunt & Caroe for the
Petitioners.

Mr. Advait M. Sethna i/by Mr. N.R. Bubna for Respondent No.1-UOI.

Mr. A.L. Patki, Additional GP for Respondent-State.

Mr. Abhijeet A. Joshi a/w Ms. Varsha Sawant for Respondent No.6-
MSETCL.

Mr. Pheroze F. Mehta and Ms. Rishika Harish – Amicus Curiae.

CORAM : **A.A. SAYED AND
ABHAY AHUJA, JJ.**

DATE : **2ND MARCH 2022**

ORAL JUDGMENT : (PER ABHAY AHUJA, J.)

1. By this Petition, filed under Article 226 of the Constitution of India, Petitioners are seeking a direction of this Court to the Respondent Authorities to allow Petitioners to implement the project for 220 KV transmission line between Kalwa and Salsette pursuant to the permissions granted under the provisions of the Environment (Protection) Act, 1986 (for short “EPA, 1986”), Forest (Conservation) Act, 1980 (for short “FCA, 1980”) and the Notifications issued under the provisions of EPA, 1986.

2. Petitioner No.1 is a Company supplying electricity to the consumers in the island city of Mumbai. To implement the scheme approved by the State Transmission Utility (“STU”) and the Maharashtra Electricity Regulatory Commission (“MERC”), Petitioners propose to construct of 220 KV transmission line of about 5 kilometers from Kalwa to Salsette (the “Project”) to augment the existing 110 KV transmission line corridor, which will be passing through the existing Right of Way (“ROW”) of 22 meters width over an area consisting of mangroves and also falling within 50 meters mangrove buffer zone.

3. Dr. Milind Sathe, learned Senior Counsel for the Petitioners submits that in this regard, Petitioner No.1 has obtained the Environmental Impact Assessment (“EIA”) report from the Bombay Natural History Society (“BNHS”) regarding the possible impact of the Project on the mangroves in the existing ROW. The said Report has highlighted the following :-

- (i) Total number of transmission towers are 29 out of which 14 transmission towers are falling in Coastal Regulatory Zone (“CRZ”).
- (ii) About 477 number of mangroves will be displaced due to the proposed project.
- (iii) BNHS has suggested compensatory plantation about 5000 mangroves saplings.

Learned Senior Counsel submits, on instructions, that Petitioners would undertake the compensatory plantation as above for protection of the environment.

4. He submits that Petitioner No.1 has also received the following approvals which are necessary for execution of the Project :-

- (i) The Maharashtra Electricity Regulatory Commission (MERC) has granted “in-principle” clearance/ permission to the Petitioner No.1 on 8th November

2020 for the said Project to augment its transmission lines to 220 KV (Exhibit “D” to the Petition).

- (ii) Coastal Regulation Zone (CRZ) clearance dated 24th November 2015 and CRZ clearance validity extension dated 21st May 2021 from Ministry of Environment, Forest and Climate Change (MoEFCC) valid upto 23rd November 2025 where Specific Condition No.(iv), Part A, I-Construction Phase requires prior permission of this Court for activity in Mangroves and its buffer zone.
- (iii) Forest Stage-I “in-principle” clearance dated 13th December 2021, from Regional Office of Ministry of Environment, Forest and Climate Change (MoEFCC), Nagpur.

5. It is submitted that the current power generation in Mumbai is 1877 MW, whereas, the power demand is 3800 MW. The gap of about 2000 MW is bridged by procuring power from outside Mumbai through transmission lines connected with State Grid. Due to upcoming infrastructure projects, the power demand is expected to increase, which can lead to shortage of power. Many of the generating plants located in Mumbai are more than 25 years old and are ageing fast. Therefore, the need to augment the existing 110 KV transmission line connecting Kalwa Receiving Station to various generating stations is a project in public interest.

6. Learned Senior Counsel submits that pursuant to judgment dated 17th September 2018 in **Public Interest Litigation No.87 of 2006 (Bombay Environment Action Group and Another Vs. The State of Maharashtra and Others)** alongwith connected Petitions (2019 (1) Bom CR 1), any development in respect of mangroves of 1000 sq. meters or more, including a buffer zone of 50 meters being part of CRZ-I has been banned except with the leave of this Court. It is in these circumstances, Petitioners have approached this Court for directions to the Respondent Authorities to permit execution of the Project in public interest. It is further submitted that many such similar projects have commenced work after directions of this Court. Learned Senior Counsel has taken us through various orders in the compilation forming part of the Petition.

7. Respondent No.1, viz., Ministry of Environment Forest and Climate Change has filed an affidavit submitting that the approval dated 13th December 2021 is an in-principle approval and that in accordance with the said approval, Petitioner No.1 has not yet submitted the compliance report of the conditions stipulated in Stage-I approval and the same is awaited for grant of Stage-II approval. It is submitted that after

receipt of compliance report duly authenticated by the competent authority in the State Government, the Stage-II approval will be considered under Section 2 of the FCA, 1980.

8. Mr. Adwait Sethna, Learned Counsel for the Respondent-MoEFCC takes us to the conditions in the in-principle approval and submits that it is only after the receipt of report on the compliance of conditions and undertakings duly authenticated by the competent authority in the State Government that formal approval will be considered under the FCA, 1980. He submits that this Court may therefore consider directing the Respondent Authorities to postpone the commencement of work by Petitioners until the said formal approval, as stated in the in-principle approval, is obtained. In support of his contention, he refers to the order dated **19th December 2019** in **Writ Petition No.2188 of 2019** in the case of **Mumbai Metropolitan Region Development Authority Vs. Union of India & Ors.** as set out in the compilation of orders in similar projects where a compliance report had been filed.

9. Dr. Sathe, Learned Senior Counsel for the Petitioners takes us through the decision of this Court in **Writ Petition No.1646 of 2019** in the

case of **Mumbai Metropolitan Region Development Authority Vs. Union of India & Ors.** dated **19th December 2019** and other orders to submit that even in these cases where there was an in-principle Stage-I approval accorded, this Court had directed the authorities to permit the execution of the proposed project therein, subject to the undertakings to comply with the conditions contained in the said approvals/permissions.

10. Learned Senior Counsel further submits that for commencement of work, the Guidelines dated 7th May 2015 by the MoEFCC are applicable which should allay the apprehension expressed by learned Counsel for Respondents. He would submit that the said guidelines have been issued in compliance of directions issued by the National Green Tribunal in Original Application No.52 of 2015 in the matter of **Milind Pariwakam & Anr. Vs. Union of India**. He takes us through the following guidelines and submits that the said guidelines are applicable to the present Project :-

“3. In compliance of directions issued by the Hon’ble NGT in the said O.A. and in supersession of this Ministry’s said letters/guidelines of even number dated 8th August 2014 and 15th January 2015, I am directed to say as below :

- (i) *With a view to facilitate speedy execution of projects involving linear diversion of forest land such as laying of new roads, widening of existing highways, transmission lines, water supply lines, optic fiber cabling, railway lines, etc., in-principle approval under the Forest (Conservation) Act, 1980 (FC Act) issued by the Central Government may be deemed as the working permission for tree cutting and commencement of work, if the required funds for compensatory afforestation, net present value (NPV), wildlife conservation plan, plantation of dwarf species of medicinal plants, and all such other compensatory levies specified in the in-principle approval are realised from the user agency and where necessary, for compensatory afforestation, transfer and mutation of non-forest/revenue forest land in favour of State Forest Department is affected;*
- (ii) *After the afore-mentioned compensatory levies specified in the in-principle approval are realised from the user agency and where necessary, for compensatory afforestation, transfer and mutation of non-forest/revenue forest land in favour of State Forest Department is affected, the State Government or a Senior Officer not below the Rank of a Division Forest Officer, having jurisdiction over the forest land proposed to be diverted, duly authorized in this behalf by the State Government, shall pass an order for tree cutting and commencement of work of a linear project in forest land;*
- (iii) *No non-forest activity in the forest area that is covered under Section 2 of the FC Act would be permitted and carried on in any manner whatsoever*

unless an order specified in para (ii) above has been passed by the competent authority of that State Government and is placed in the public domain by putting it on its website and all other requirements in accordance with law are complied with;

(iv) For the purpose of Section 2A of the FC Act and Section 16(e) of the National Green Tribunal Act, 2010 (NGT Act) the Order for tree cutting and commencement of work of linear project in forest land, order specified in para (ii) above, shall be an order under Section 2 of the FC Act;”

Dr. Sathe submits that therefore pursuant to the “in-principle” approval dated 13th December 2021, Petitioners can commence work and that Petitioners would undertake to abide by the aforesaid guidelines. Learned Senior Counsel submits that this should take care of the concerns raised on behalf of the Respondent-MoEFCC.

11. Considering that mangroves being centres of biodiversity and the most productive ecosystems that play a crucial role in protecting and preserving the environment, on 8th February 2022, we deemed it appropriate to appoint Mr. Pheroze Mehta and Ms. Rishika Harish as Amicus Curiae to assist the Court in the present matter.

12. Learned Amicus Curiae were present in the Court on 1st March 2022 and are also present today to assist the Court. Learned Amicus Curiae submit that a bare perusal of the Guidelines dated 7th May 2015 for diversion of forest land for non-forest purpose under the FCA, 1980 indicate that the in-principle approval under EPA, 1986 issued by the Central Government is to be deemed as the working permission for tree cutting and commencement of work if the required conditions including compensatory afforestation, etc., as specified in the in-principle approval are complied with. They would submit that if three fold undertakings, viz., (1) for compliance of conditions under the existing clearances/permissions including the in-principle approval dated 13th December 2021 *inter alia* in respect of the compliance of the condition with respect to the formal approval, (2) to abide by the guidelines dated 7th May 2015, (3) to obtain all necessary/further clearances for the Project and to comply with the conditions therein, are obtained and furnished by Petitioners, that should be sufficient to direct the respective authorities to commence the Project work.

13. We have heard the learned Counsel for the parties and the learned Amicus Curiae and with their able assistance we have perused the papers, proceedings, the orders passed in similar matters and in particular the conclusions in the Environmental Impact Assessment by BNHS and the conditions in the approvals/permissions obtained by Petitioners, the Guidelines dated 7th May 2015 by MoEFCC and given our thoughtful consideration to the matter.

14. The concept of public trusteeship/the public trust doctrine primarily rest on the principle that certain resources like air, sea, water and the forests have such great importance to the people as a whole that their preservation, protection and conservation would be the responsibility of the State such that these gifts of nature should be made available to everyone irrespective of their status in life. The doctrine enjoins upon the Government to protect the resources for enjoyment of the general public rather than to permit their use for private ownership or commercial purposes. The Hon'ble Supreme Court in the case of **Karnataka Industrial Areas Development Board Vs. C. Kenchappa & Ors., AIR 2006 Supreme Court 2038** has in a judgment authored by Hon'ble Shri Justice Dalveer Bhandari (as His Lordship then was) with respect to the "public trust

doctrine” observed as under :-

“82. *In the case of M.C. Mehta vs. Kamal Nath, ((1997) 1 SCC 388), this Court dealt with the Public Trust Doctrine in great detail. The Court observed as under:*

"35. We are fully aware, that the issues presented in this case illustrate the classic struggle between those members of the public who would preserve our rivers, forests, parks and open lands in their pristine purity and those charged with administrative responsibilities, who, under the pressures of the changing needs of an increasingly complex society, find it necessary to encroach to some extent upon open lands heretofore considered inviolate to change. The resolution of this conflict in any given case is for the legislature and not the court. If there is a law made by Parliament or the State Legislatures the courts can serve as an instrument of determining legislative intent in the exercise of its powers of judicial review under the Constitution. But in the absence of any legislation, the executive acting under the doctrine of public trust cannot abdicate the natural resources and convert them into private ownership, or for commercial use. The aesthetic use and the pristine glory of the natural resources, the environment and the ecosystems of our country cannot be permitted to be eroded for private, commercial or any other use unless the courts find it necessary, in good faith, for the public good and in public interest to encroach upon the said resources."

83. *Joseph L. Sax, Professor of Law, University of Michigan-proponent of the modern Public Trust*

Doctrine - in an erudite article "Public Trust Doctrine in Natural Resource Law: Effective Judicial Intervention", Michigan Law Review, Vol. 68, Part 1 p. 473, has given the historical background of the Public Trust Doctrine as under:

"The source of modern public trust law is found in a concept that received much attention in Roman and English law - the nature of property rights in rivers, the sea, and the seashore. That history has been given considerable attention in the legal literature, need not be repeated in detail here. But two points should be emphasized. First, certain interests, such as navigation and fishing, were sought to be presented for the benefit of the public; accordingly; property used for those purposes was distinguished from general public property which the sovereign could routinely grant to private owners. Second, while it was understood that in certain common properties - such as the seashore, highways and running water - 'perpetual use was dedicated to the public', it has never been clear whether the public had an enforceable right to prevent infringement of those interests. Although the State apparently did protect public uses, no evidence is available that public rights could be legally asserted against a recalcitrant government."

15. Similarly, the concept of "sustainable development" has been a matter of several judicial expositions by the Hon'ble Supreme Court. It has been consistently observed that while economic development should not be allowed to take place at the cost of ecology or or by causing

widespread environment destruction and violation; at the same time the necessity to preserve ecology and environment should not hamper economic and other developments. Both development and environment must go hand in hand, in other words, there should not be development at the cost of environment and vice versa, but there should be development while taking due care and ensuring the protection of environment. The concept of sustainable development has been aptly described in Paragraph 4 of the Rio Declaration on environment and development of 1992 held in Rio de Janeiro, wherein in Principle 4, it has been agreed that in order to achieve sustainable development, environmental protection shall constitute an integral part of development process and the same cannot be considered in isolation of it. The same principle was articulated in the 1997 "Earth Summit". The following Paragraphs 96, 99 and 100 from the decision in the case of **Karnataka Industrial Areas Development Board (supra)** are apt in this regard and are quoted as under :-

“96. In the Rio Conference of 1992 great concern has been shown about sustainable development. "Sustainable development" means ‘a development which can be sustained by nature with or without mitigation’. In other words, it is to maintain delicate balance between industrialization and ecology. While development of industry is essential for the growth of economy, at the same time, the environment and the

ecosystem are required to be protected. The pollution created as a consequence of development must not exceed the carrying capacity of ecosystem. The Courts in various judgments have developed the basic and essential features of sustainable development. In order to protect sustainable development, it is necessary to implement and enforce some of its main components and ingredients such as - Precautionary Principle, Polluter Pays and Public Trust Doctrine. We can trace foundation of these ingredients in number of judgments delivered by this Court and the High Courts after the Rio Conference, 1992.

99. *Sustainable use of natural resources should essentially be based on maintaining a balance between development and ecosystem. Coordinated efforts of all concerned would be required to solve the problem of ecological crisis and pollution. Unless we adopt an approach of sustainable use, the problem of environmental degradation cannot be solved.*

100. *The concept of sustainable development was propounded by the 'World Commission on Environment and Development', which very aptly and comprehensively defined it as 'development that meets the needs of the present without compromising the ability of future generations to meet their own needs'. Survival of mankind depends on following the said definition in letter and spirit."*

16. This Court on 17th September 2018 in Public Interest Litigation No.87 of 2006 in the case of **Bombay Environmental Action Group and Anr. (supra)**, authored by Hon'ble Shri Justice Abhay S. Oka,

(as His Lordship then was), after invoking the public trust doctrine in respect of mangroves, in Paragraph 83(viii) has observed that the State is duty bound to protect and preserve mangroves and they 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.

17. After extensively analysing the provisions of the FCA, 1980, EPA, 1986 as well as the concept of ‘forest’ pursuant to the decision of the Apex Court in the case of **T.N. Godavarman Thirumulkpad Vs. Union of India & Ors., (1997) 2 SCC 267** as well as the decision of this Court in the case of **Laxman Ichharam Vs. Divisional Forest, AIR 1953 Nagpur 51**, this Court in the judgment dated 17th September 2018 has observed that a land covered by mangroves would be a ‘forest’. Further, after considering the “Coastal Regulation Zone” (CRZ) notifications of 1991, 2001 and various orders by the Government of India thereunder, it was observed that all mangroves fall in CRZ-I irrespective of its area and in case the said area is one thousand square meter or more, even a buffer zone of fifty meters along the said area shall be a part of CRZ-I, where no new construction shall be permitted except *inter alia*, pipelines, conveying systems, including

transmission lines. Highlighting the fundamental duty of the State and the citizens to protect and improve the environment and to safeguard the forests and the wildlife of the country as enshrined in Article 48-A as well as 51-A (g) of the Constitution of India and taking into account the public trust doctrine, precautionary principle, the RAMSAR Convention and Article 21 of the Constitution of India, this Court observed that mangrove eco systems play vital role in human life and if a citizen is to lead a meaningful life as contemplated by Article 21 of the Constitution of India, the mangroves will have to be preserved and protected and the destruction of the mangroves and the failure of the State to take steps for its restoration will amount to violation of the fundamental rights guaranteed by Article 21 of the Constitution. This Court, accordingly, directed a total freeze on the destruction and cutting of mangroves in the entire State of Maharashtra. In Paragraph No.83, a summary of all important findings was set out. The said Paragraph 83 is quoted as under :-

“SUMMARY OF IMPORTANT FINDINGS

83 The summary of some of the important conclusions read thus :

- (i) A land regardless of its ownership on which there are mangroves, is a forest within the meaning of the said Act of 1980 and therefore, the provisions of Section 2*

of the said Act of 1980 and the law laid 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 said Act of 1927;*
- (iii) All mangroves lands irrespective of its area will fall in CRZ-I as per both the CRZ notifications of 1991 and 2011;*
- (iv) In 1991 CRZ notification, it is provided that all mangrove areas will fall in CRZ-I. By virtue of the order dated 27th September 1996, in case of mangrove areas of 1000 square meters or more, 50 meter buffer zone abutting it was also included in CRZ-I. By order dated 9th January 2000, it was provided that 50 meter buffer zone will not be required, provided a road abutting the mangroves was constructed prior to February 1991. Under the 2011 notification, 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. But, the buffer zone of 50 meters which is required to be kept free of constructions in respect of the mangroves area of less than 1000 square meters will not be a part of CRZ-I.;*
- (v) if there is any violation of the CRZ notifications regarding mangroves area, it will attract penal provision under Section 15 of the said Act of 1986 which is attracted in case of the failure to comply with the provisions of orders or directions issued under the said Act of 1986. The conditions imposed in the the letter dated 27th September 1996 as amended will have to be construed as an order or direction under the said*

Act of 1986 as CZMP is required to be approved by the Central government in view of the clause 3(i) in the CRZ notification of 1991 which is an order or direction under the said Act of 1986. Hence, if there is any violation of the condition in the letter dated 27th September 1996 in respect of the 50 meter buffer zone, it will attract penal provision of Section 15 of the said Act of 1986.

- (vi) The destruction of mangroves offends the fundamental rights of the citizens under Article 21 of the Constitution of India.*
- (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”.*

18. The following directions in the operative part of the order in Paragraph 85-A are relevant and are quoted as under :-

ORDER

- (A) The following directions issued in the interim order dated 6th October 2005 shall continue to operate as final directions in following terms;*

- (I) *That 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 constructions taking place within 50 metres 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-I as 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 mangroves area of less than 1000 meters will not be a part of CRZ-I, it will be subject to above restrictions specified in clause III above;*
- (V) *The State of Maharashtra is directed to file in this Court and furnish to the petitioner copies of the maps referred to in paragraph 10 of the affidavit dated 16th August, 2005, filed by Mr.Gajanand Varade, Director, Environment Department, State of Maharashtra (Page 346 on the record), within four weeks from today. The soft or hard copies of the maps be supplied to the Petitioner within the same period;”*

19. It is not in dispute that electricity supply is an essential service under the Essential Services Maintenance Act and has become a basic necessity in modern day living and working. Considering the industrial growth and the need to provide livelihood to the growing population of the nation, a balance would need to be struck between development and protection and conservation of environment. Therefore, the need for sustainable development where both the needs of development and economy on the one hand and protection and conservation of the environment on the other are balanced. The aforesaid exposition on the public trust doctrine and sustainable development in the Hon'ble Supreme Court's decision in the case of **Karnataka Industrial Areas Development Board (supra)** lends credence to our view.

20. Further, the decision of this Court in the case of **Bombay Environmental Action Group and another (supra)**, not only highlights these principles, but also re-enforces the trust that the public reposes in the Courts when in Paragraph 83 (viii); it states that 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. The Courts therefore need to be fully aware and conscious of its responsibility as a guardian of public good and public interest.

21. This Court in the case of **Mumbai Metropolitan Region Development Authority Vs. Union of India & Ors.** in **Writ Petition No.1646 of 2019** while considering a similar petition seeking to execute a project involving construction of car maintenance yard at Malvani for the Mumbai Metro Line – 2A and construction of piers at Valnai involving cutting of 86 mangroves where Stage-1 in principle approval under Section 2 of the FC Act, 1980 was granted and after considering the judgment in the case of **Bombay Environmental Action Group and another (supra)**, directed the execution of the car maintenance yard at Malvani and construction of the piers at Valnai, subject to Petitioners strictly complying with the conditions imposed in the permissions granted by the Respondent Authorities.

22. We note that this is a Project which will be augmenting the existing 110 KV transmission line to 220 KV transmission line to meet the growing needs of electricity demand in the city of Mumbai. The selected route passes through existing ROW including non-mangrove areas and mangrove areas and the Project falls within the 50 meters mangrove

buffer zone. The BNHS' EIA Report has suggested three alternates to mitigate the possible environmental impact. It is observed that about 477 number of mangroves will be displaced due to the proposed project and has suggested compensatory plantation of about 5000 mangroves saplings, which as recorded earlier, Petitioners have undertaken to comply. It is also observed that 14 transmission towers out of a total number of 29 are falling in CRZ. Petitioners have received the necessary permissions from the MERC dated 8th February 2020, from the CRZ dated 24th November 2015 and CRZ validity extension dated 21st May 2021 from the Ministry of Environment Forest and Climate Change and the MoEFCC, Nagpur has issued its in-principle clearance dated 13th December 2021. The condition of the in-principle approval requires submission of the compliance report of conditions stipulated in Stage-I approval for grant of Stage-II approval. It is noted that it is only after receipt of compliance report duly authenticated by the competent authority in the State Government that Stage-II approval will be considered under Section 2 of the FCA, 1980.

23. It would be pertinent here to briefly refer to the decision of the Supreme Court in the case of **T.N. Godavarman Thirumulpad vs Union Of India & Ors. (supra)**, where on the issue of net present value (NPV)

and compensatory afforestation management and planning authority the Hon'ble Supreme Court observed that the forest policy had a statutory flavour and the non fulfillment of the principal aim of the policy which is environmental stability and maintenance of ecological balance would be violative of Articles 14 and 21 of the Constitution. The Hon'ble Supreme Court emphasized compulsory afforestation and a need for a systematic approach so as to balance economic development and environmental protection. It held that in the ultimate analysis, economic development at the cost of degradation of environment and depreciation of forest cover would be counter productive and that there was an absolute need to take all precautionary measures when forest lands were sought to be diverted for non forest use. This decision as well as the decision of the National Green Tribunal in the case of Milind Pariwakan and Another V/s. Union of India (supra) led to the 7th May 2015 guidelines. We note from the guidelines dated 7th May 2015 that with a view to facilitate speedy execution of projects, the in-principle approval granted by the Central Government under FC Act, 1980 which in this case is the approval dated 13th December 2021, may be deemed as a working permission for tree cutting and commencement of work, if the conditions and the other directions *inter alia* with respect to realisation of funds for compensatory

afforestation/compensatory levies, NPV Wildlife Conservation Plan etc. as well as other requirements contained therein are complied with.

24. We also note that this Court has in several matters including in **Writ Petition No.164 of 2019** in the case of **MMRDA Vs. Union of India (supra)** considered similar projects in public interest as well as the in-principle approvals and granted orders directing the Respondent Authorities to permit execution of the projects of *bona fide* public utility.

25. In our view, the project for the construction of 220 KV transmission line between Kalwa and Salsette is necessary for the public good and in the public interest and a project of *bonafide* public utility.

26. Having considered the aforesaid submissions and the above discussion, it would appear to us that if the Petitioner is put to terms by way of 'undertaking' for compulsory afforestation for recommendation of the BNHS in its EIA report as well as undertaking to comply with the conditions of the permissions/clearances already granted as well as to be granted and more particularly, in terms of the in principle approval dated 13th December 2021, to submit a compliance report of the conditions

stipulated in the Stage-I approval and to obtain a formal approval thereupon under the FCA, 1980 and an undertaking that the Petitioners shall abide by and adhere to the guidelines dated 7th May 2015, issued by the MoEFCC, that should adequately meet the requirements of sustainable development discussed above.

27. Considering that similar directions have been previously issued by this Court in appropriate cases where the projects have been sought to be executed for public good or in *bona fide* public interest, permission would also need to be granted in this case, subject to the undertakings from Petitioners as discussed above.

28. Coming to the order dated **19th December 2019** in **Writ Petition No.2188 of 2019** in the case of **Mumbai Metropolitan Region Development Authority (supra)** referred to by learned Counsel for MoEFCC in support of his contention that this Court had therein permitted execution of the proposed construction of elevated corridor in the nature of flyover/link road between Airoli Bridge to Thane Belapur Road in Thane District, at a stage wherein the compliance report pursuant to Stage-I approval had already been submitted by the various authorities,

we note that though there is an observation that the compliance report had been submitted in that case, however, there is no mention that the formal Stage-II approval was in place and, therefore, in our view learned Counsel's reference to the said decision would not really assist the case of the Respondent-MoEFCC, particularly in view of our discussion above as well as the guidelines dated 7th May 2015 and the proposed safeguards in the form of undertakings.

29. We accordingly direct the Respondent Authorities to permit Petitioners to execute the proposed construction of 220 KV Kalwa Salesette Transmission Line (Upgradation of old 110 KV Transmission Line in Mumbai) in mangrove area and its buffer zone in view of the public importance of the project, subject to Petitioners complying with the conditions imposed in the clearances/permissions granted by the Respondent Authorities and the undertakings mentioned hereinbelow and the undertakings mentioned hereinbelow.

30. The aforesaid order is subject to the condition that the responsible officer of Petitioners files an undertaking before this Court that Petitioners shall undertake the compensatory plantation of 5000 mangrove

saplings as suggested by BNHS, shall strictly comply with the conditions as imposed in the permissions/clearances granted by the various authorities such as Ministry of Environment, Forest and Climate Change, Maharashtra Coastal Zone Management Authority, Chief Conservator of Forest (Mangrove Cell), Forest Department and other authorities-that have granted permissions/ clearances as well as the undertaking in terms of the in-principle approval dated 13th December 2021 to submit a compliance report of the conditions stipulated in Stage-I approval for grant of Stage-II approval and that Petitioners will abide by and adhere to the guidelines dated 7th May 2015 issued by the Ministry of Environment, Forest and Climate Change for diversion of forest land for non-forest purpose under the Forest (Conservation) Act, 1980 as well as obtain any further approvals/permissions that may be necessary for executing the Project and to comply with the conditions therein. The aforesaid undertakings to be furnished to this Court within ten days from the date of uploading of this order.

31. We record our appreciation of Mr. Pheroze F. Mehta and Ms. Rishika Harish, learned Amicus Curiae for ably assisting this Court.

32. Writ Petition is accordingly allowed in the above terms. There shall be no order as to costs.

(ABHAY AHUJA, J.)

(A.A. SAYED, J.)