

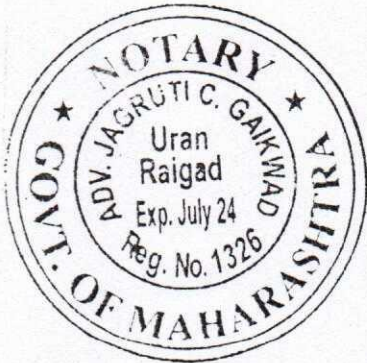
**BEFORE THE DAHANU TALUKA ENVIRONMENT
PROTECTION AGENCY**

(A GOVERNMENT OF INDIA AUTHORITY)

APPLICANT: Jawaharlal Nehru Port Authority
Administrative Building, Sheva, Navi
Mumbai

In the matter of:

Proposal on behalf of the Government of Maharashtra forwarded by the Applicant Ministry of Environment, Forest and Climate Change, Government of India ("MoEF&CC") vide Letter dated 19th November 1997 bearing No. DTEPA/Vadhavan Port/98 ("said Matter")



**APPLICATION ON BEHALF OF THE APPLICANT
ABOVENAMED FOR IMPLEADEMENT OF MINISTRY OF
ENVIRONMENT, FOREST AND CLIMATE CHANGE**

1. That, the Ministry of Ports, Shipping and Waterways, Government of India, New Delhi has made JNPA lead partner for development of Vadhavan Port. As such Jawaharlal Nehru Port Authority, Navi Mumbai is filing the present application.

(Signature)

**RECEIVED CLERK,
D.T.E.P.A. MUMBAI**

2. The present Application has been preferred by the Applicant seeking impleadment of the MoEF&CC in the said Matter.

Brief Description of MoEF&CC

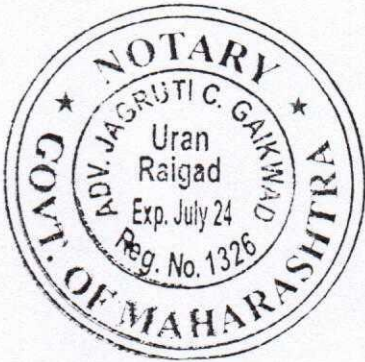
3. The MoEF&CC is the nodal agency in the administrative structure of the Central Government for the planning, promotion, co-ordination and overseeing the implementation of India's environmental and forestry policies and programmes.

4. The broad objectives of the MoEF&CC are:

- (i) Conservation and survey of flora, fauna, forests and wildlife
- (ii) Prevention and control of pollution
- (iii) Afforestation and regeneration of degraded areas
- (iv) Protection of the environment and
- (v) Ensuring the welfare of animals

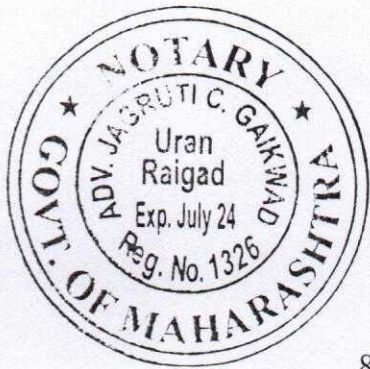
5. These objectives are well supported by a set of legislative and regulatory measures, aimed at the preservation, conservation and protection of the environment.

Brief Background



6. Vide it's Letter dated 19th November 1997, the MoEF&CC forwarded a proposal submitted by the State Government of Maharashtra for developing a modern and all weather Port at Dahanu Taluka, Thane District to this Hon'ble Authority for examination.

7. Pursuant to an Application in that regard, vide it's Order dated 5th February 1998, this Hon'ble Authority permitted one P&O Ports (India) Pvt. Ltd. to carry out work of survey and collection of data with respect to the proposal of the State Government of Maharashtra, as enumerated in their Letter dated 21st January 1998. Similar permission was also granted to P & O Ports (India) Pvt. Ltd. by this Hon'ble Authority vide it's Order dated 11th August 1998.

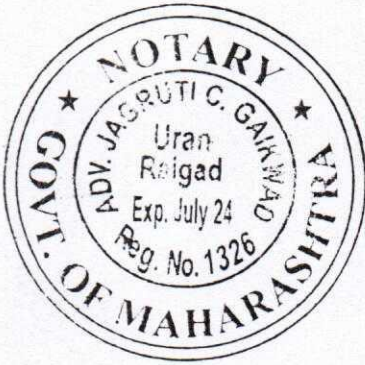


8. Thereafter, vide it's Order dated 19th September 1998, this Hon'ble Authority rejected the proposal floated by the State Government of Maharashtra to set up a modern and all weather Port at Dahanu Taluka, Thane District.

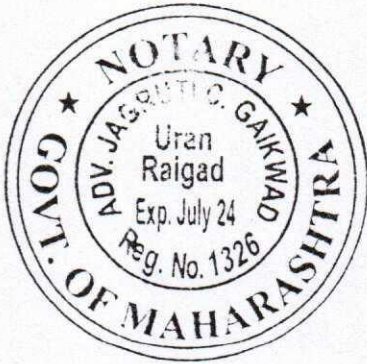
9. Subsequent thereto, vide an Order dated 2nd June 2017 (passed at the instance of one Vadhavan Bandar Virodhi Sangharsh Samitee) this Hon'ble Authority, *inter alia*, directed the Applicant Jawaharlal Nehru Port Authority ("JNPA") not to proceed with the development of a proposed satellite Port at Vadhavan, Dahanu Taluka without obtaining the necessary permission from this Hon'ble Tribunal. Further, JNPA was also directed to submit a detailed project report, map of the proposed Port at Vadhavan and other details regarding the proposed Port at Vadhavan to this Hon'ble Authority and that till then no further steps should be taken.

10. On 5th August 2019, the Ministry of Ports, Shipping and Waterways ("MoPSW") addressed a Letter to the MoEF&CC in relation to the proposal of setting up a port at Vadhavan, wherein it, *inter alia*, opined that:

- (i) The Jawaharlal Nehru Port operated by the Applicant JNPA, which is the closest port to the site at Vadhavan, was nearing saturation of its expansion capacity;



- (ii) There was no restriction in setting up of a port, per se, under the Notification dated 20th June 1991 issued by the MoEF&CC (“**Dahanu Notification**”);
- (iii) Setting up of a greenfield port at Vadhavan would not be violative of the Dahanu Notification, so long as it conformed to the environmental sustainability parameters, and extant Acts and Rules for Environmental Clearance; and
- (iv) Under the fresh Regional Development Plan for Palghar District adjoining to Dahanu Taluka prepared by the State Government, projects of National importance may be permitted with the prior sanction of the State and/ or Central Government. Thus, construction of a public interest project such as a port would now be a permissible project under the proposed Regional Development Plan.



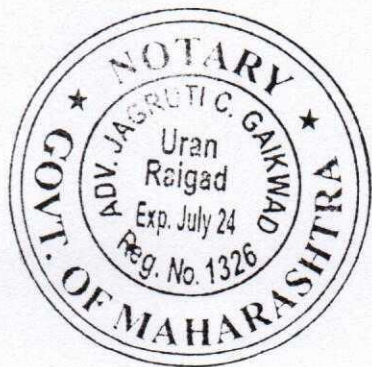
11. Accordingly, a copy of the aforesaid Letter dated 5th August 2019 was duly forwarded by the MoEF&CC to the State Government of Maharashtra on 24th September 2019 seeking its views thereon.

12. On 13th February 2020, the Applicant JNPA was informed by the MoPSW that an 'in - principle' approval had been accorded by the Cabinet for setting up a new 'Major' port at Vadhavan.

13. In furtherance thereof, on 19th February 2020, the MoPSW issued a Notification under Section 3(8) read with Section 5(2) of the Indian Ports Act, 1908 and Section 2(q) of the Major Ports Act, 1963, *inter alia*, declaring the port proposed to be set up at Vadhavan as a 'Major' port, with immediate effect.

14. Pursuant to the exchange of various communications between the MoEF&CC, the Central Pollution Control Board ("CPCB") and the MoPSW, on 10th June 2020, the MoPSW, *inter alia*, called upon the Applicant JNPT to "...take further necessary action for development of Major Port at Vadhavan accordingly."

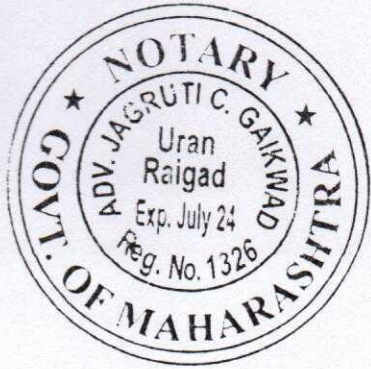
15. On 15th August 2020, the Applicant JNPA submitted an online proposal to the MoEF&CC, *inter alia*, seeking Terms of Reference ("TOR") to obtain an Environment Clearance Certificate ("EC") for the 'Development of Greenfield Port at



Vadhavan, District Palghar, Maharashtra', as mandated by the Notification 14th September 2006 published by the MoEF&CC ("EIA Notification"), and the subsequent amendments thereto.

16. After duly considering the aforesaid proposal and the detailed presentation made by the Applicant JNPA, the Expert Appraisal Committee for Infrastructure, CRZ and other miscellaneous projects ("EAC") of the MoEF&CC in its 241st Meeting, *inter alia*, recommended the grant of TOR in respect of the said Project on 25th June 2020 and 26th August 2020, respectively.

17. Accordingly, on 7th October 2020, the MoEF&CC accorded the TOR for the said Project and for preparation of an EIA/ EMP report with public consultation imposing several terms and conditions therein, including (i) conduct of several surveys and studies by reputed national level institutions, (ii) submission of exhaustive facts, figures, data, details, maps, etc. in relation to the said Project, (iii) obtaining of statutory permissions and NoCs from various authorities, (iv) submission of requisite undertakings, declarations, etc.

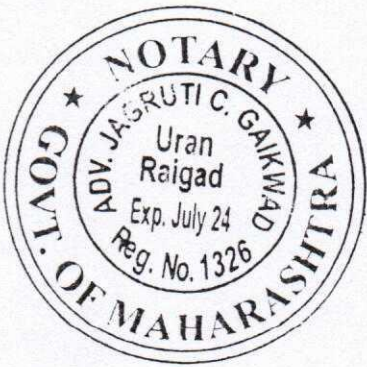


18. Pertinently, one of the 'Project Specific Conditions' imposed by the Applicant MoEF&CC under the said TOR was "(v) NoC to be obtained from Dahanu Taluka Environment Protection Authority (DTEPA) as applicable." The Applicant MoEF&CC has been informed that in compliance thereof, JNPA has duly preferred an Application before this Hon'ble Authority seeking the grant of an NoC for the said Project.

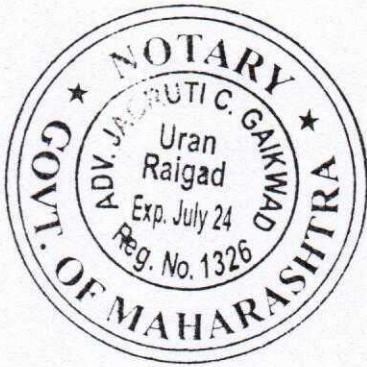
Brief Submissions

19. With this background, it is most respectfully submitted that the MoEF&CC ought to be impleaded in the said Matter for the following reasons, which are in addition and without prejudice to each other:

(A) This Hon'ble Authority came to be constituted in pursuance of the Order dated 31st October 1996 passed by the Hon'ble Supreme Court of India in Writ Petition No. 231 of 1994 titled Bittu Seghal v. Union of India & Ors, by virtue of the Notification dated 19th December 1996 published by the MoEF&CC.;



(B) There has been a sea change in the environmental regulatory and compliance sector since the constitution / establishment of this Hon'ble Authority. Since 1996, various statutory, judicial and quasi judicial bodies have been established and/ or constituted that presently carry the onus of implementing extant statutory enactments and/ or notifications having the force of law. Over the last two decades, numerous rules and regulations have been made by the Central Government and the State Government to safeguard and conserve the environment including the coastal environment. In order to implement these rules, several separate authorities namely State Coastal Zone Management Authority, Water Quality Assessment Authority, Aquaculture Authority and Central Groundwater Authority, etc. have also been established;



(C) The MoEF&CC is the primary and foremost body concerned with (i) Conservation and survey of flora, fauna, forests and wildlife, (ii) Prevention and control of pollution, (iii) Afforestation and regeneration of degraded areas, (iv) Protection of the environment and (v) Ensuring the welfare of animals. Notifications / actions under various

environmental legalisation, rules and regulations such as the Environment Protection Act, 1986, Water (Prevention & Control of Pollution) Act, 1974, Air (Prevention & Control of Pollution) Act, 1981 are published / issued by the MoEF&CC;

(D) The Order dated 19th September 1998 came to be passed by this Hon'ble Tribunal on the proposal floated by the State Government of Maharashtra with one P & O Ports (India) Pvt. Ltd. as the proposed Project Proponent in entirely different facts and circumstances, and in the absence of the MoEFF&CC;

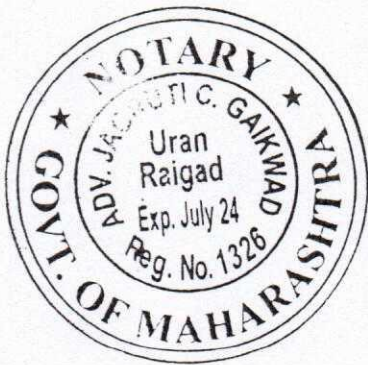
(E) Even the Order dated 2nd June 2017, in entirely different facts and circumstances, came to be passed by this Hon'ble Authority in the absence of the MoEF&CC;

(F) Pertinently, the Notification dated 20th June, 1991 declaring the Dahanu area as an 'ecologically fragile area', the 1991 CRZ Notification, the 1997 CRZ Notification, the 2019 CRZ Notification, the EIA Notification, etc. which have been relied upon by this Hon'ble Authority while passing the aforesaid Orders dated 19th September 1998 and 2nd June 2017, have all been issued / published by the MoEF&CC;

(G) The Applicant JNPA's TOR for the said Project and for preparation of an EIA/ EMP report with public consultation whereunder several terms and conditions have been imposed, including (i) conduct of several surveys and studies by reputed national level institutions, (ii) submission of exhaustive facts, figures, data, details, maps, etc. in relation to the said Project, (iii) obtaining of statutory permissions and NoCs from various authorities, (iv) submission of requisite undertakings, declarations, etc, has been accorded / issued by the MoEF&CC;

(H) Thus, it is evident that it would be fit, proper and necessary to implead MoEF&CC in the said Matter, so as to effectively assist this Hon'ble Authority;

(I) The National Green Tribunal passed an order on 15.6.2021 in O.A. No.22 of 2021 (WZ) (I.A. No.17 of 2021) asking MOEF & CC to revisit by undertaking assessment and evaluation by an expert group of impact of setting of port on overall ecology of the area. It is learnt in the light of the above direction of NGT that the said Ministry has constituted the Committee and therefore it is necessary to have the happenings post NGT order which can only be



placed by MOEF before this Authority. For this reason also it is necessary to add the said Ministry as Party.

(J) As such, no harm or prejudice will be caused to any of the parties in the said Matter if the reliefs as prayed for herein are granted, whereas grave prejudice and irreparable loss will be caused to the Applicant if the reliefs as prayed for herein are not granted. The balance of convenience, thus, clearly lies in favour of the Applicant.

Prayers

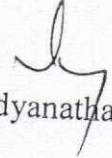
20. In the premises aforesaid, the Applicant prays that:

- (A) this Hon'ble Authority be pleased to permit the Ministry of Environment, Forest & Climate Change to be impleaded in the said Matter;
- (B) for such other and further reliefs as this Hon'ble Court may deem fit in the facts and circumstances of the present case.



For Jawaharlal Nehru

Port Authority,


G. Vaidyanathan,

(Chief Manager

PP&D)

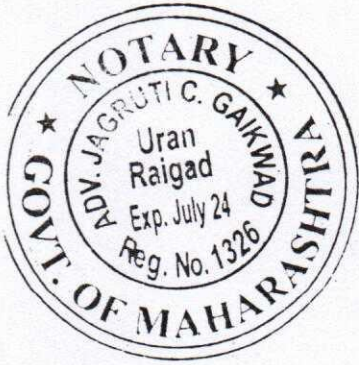
VERIFICATION

I, G. Vaidyanathan, the Authorized Representative of the Applicant above named, do hereby solemnly affirm and declare that that what is stated in accompanying application are true to my own knowledge and/or on the basis of documents and official records and I believe the same to be true and correct.

Solemnly affirmed at Mumbai)

On this 12th day of May 2022)





On this 12th day of May 2022)

For Jawaharlal Nehru

Port Authority,



G. Vaidyanathan,

(Chief Manager

PP&D)

**BEFORE THE DAHANU TALUKA ENVIRONMENT
PROTECTION AUTHORITY**

(A GOVERNMENT OF INDIA UNDERTAKING)

Jawaharlal Nehru Port Authority

||

...Applicant

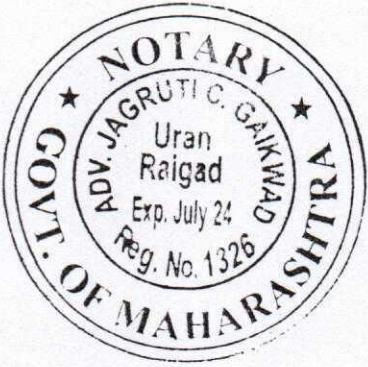
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AFFIDAVIT IN SUPPORT

I, G. Vaidyanathan, an adult Indian inhabitant, the Chief Manger Traffic of the Applicant abovenamed, do hereby state on solemn affirmation as follows: -

- 1) I say that I am duly authorized on behalf of the Applicant to file the present Application.
- 2) For the sake of brevity, I repeat, reiterate and confirm the contents of the Application as if the same are specifically set out



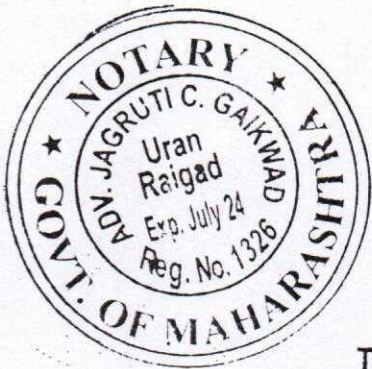
G. Vaidyanathan
NOTARY

herein and affirmed. I state that no prejudice will be caused to the Respondents if the relief/s prayed for in the Application are granted whereas grave and irreparable loss, damage and injury will be caused to the Applicant if the relief/s are not granted. I state that the balance of convenience is also in favor of the Applicant.

3) I therefore pray that the Application be allowed in toto.

Solemnly affirmed at Mumbai)

On this 12th day of May 2022)




THE PARTY IS KNOWN TO ME
AND IDENTIFIED BY ME

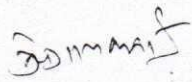
Notarial Register 12 MAY 2022
Serial No. 630 Date.....



For Jawaharlal Nehru
Port Authority,


Authorized Signatory
(Applicant)

ATTESTED BY ME


Mrs. JAGRUTI C. GAIKWAD
B.Com, LL.B
ADVOCATE & NOTARY
RAIGAD DISTRICT
19/B, Inamdar House, State Bank Bldg Uran

