

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:

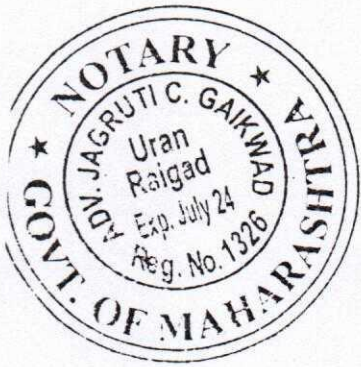
Proposal on behalf of the Government of Maharashtra forwarded by the Applicant Ministry of Environment, Forest and Climate Change, Government of India ("MoEF&CC") vide Letter dated 19<sup>th</sup> November 1997 bearing No. DTEPA/Vadhavan Port/98 ("said Matter")

APPLICATION ON BEHALF OF THE APPLICANT

ABOVENAMED FOR IMPLEADEMENT / INTERVENTION

1. The present Application has been preferred by the Applicant seeking to be impleaded / to intervene in the said Matter.

Brief Description of Applicant

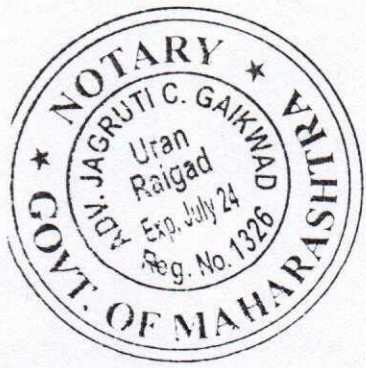


*D. Holker*

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2. The Applicant ("JNPA") operates the premier container handling port in India, accounting for around 50% of the total containerized cargo volume, across the major ports of India. Commissioned on 26<sup>th</sup> May 1989, in three decades of its operations, JNPA has transformed from a bulk- cargo terminal to become the premier container port in the country. JNPA is connected to over 200 ports in the world and is ranked 33rd in the list of top 100 Container Ports globally.

3. Currently JNPA operates five container terminals: The Jawaharlal Nehru Port Container Terminal (JNPCT), the Nhava Sheva International Container Terminal (NSICT), the Gateway Terminals India Pvt. Ltd. (GTIPL), Nhava Sheva International Gateway Terminal (NSIGT), and the newly commissioned Bharat Mumbai Container Terminals Private Limited (BMCT). The port also has a shallow Water Berth for general cargo and another Liquid Cargo Terminal which is managed by BPCL-IOCL consortium. The Fourth Container Terminal is being developed in two phases of which Phase-I is operational and Phase-II is expected to be fully operational by 2022-2025 with a quay length of 2,000 metres adding an annual capacity of 4.8



million TEUs. JNPA has developed a multi-product SEZ in its owned free hold land of 277 hectares to attract international capital and global giants in manufacturing. In addition, the JNPA is also developing 4 Dry Ports – Jalna, Wardha, Sangli and Nashik to promote industrialization of the hinterland. JNPA has firmly anchored itself as the major catalyst for the trade and commerce in the country and is strongly committed to providing seamless services to the world that docks here.

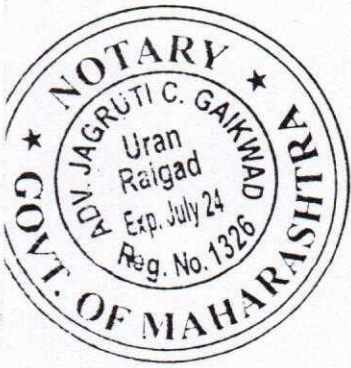
#### **Brief Background**

4. Vide its Letter dated 19<sup>th</sup> November 1997, the Ministry of Environment, Forest and Climate Change, Government of India (“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.
5. Pursuant to an Application in that regard, vide it’s Order dated 5<sup>th</sup> 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 21<sup>st</sup> January 1998. Similar permission was also granted to P & O Ports (India) Pvt. Ltd. by this Hon'ble Authority vide it's Order dated 11<sup>th</sup> August 1998.

6. Thereafter, vide it's Order dated 19<sup>th</sup> 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.
7. Subsequent thereto, vide an Order dated 2<sup>nd</sup> June 2017 (passed at the instance of one Vadhavan Bandar Virodhi Sangharsh Samitee) this Hon'ble Authority, *inter alia*, directed the Applicant 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, the Applicant 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.



8. On 5<sup>th</sup> August 2019, the Ministry of Ports, Shipping and Waterways ("MoPSW") addressed a Letter to the Ministry of Environment, Forest and Climate Change ("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 20<sup>th</sup> 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.

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

10. On 13<sup>th</sup> 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.

11. In furtherance thereof, on 19<sup>th</sup> 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.

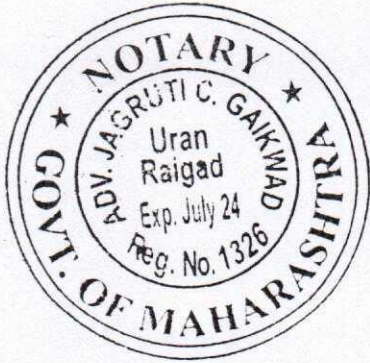
12. Pursuant to the exchange of various communications between the MoEF&CC, the Central Pollution Control Board ("CPCB")



and the MoPSW, on 10<sup>th</sup> June 2020, the MoPSW, *inter alia*, called upon JNPT to “...take further necessary action for development of Major Port at Vadhavan accordingly.”

13. On 15<sup>th</sup> 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 14<sup>th</sup> September 2006 published by the MoEF&CC (“EIA Notification”), and the subsequent amendments thereto.

14. After duly considering the aforesaid proposal and the detailed presentation made by JNPT, the Expert Appraisal Committee for Infrastructure, CRZ and other miscellaneous projects (“EAC”) in its 241<sup>st</sup> Meeting, *inter alia*, recommended the grant of TOR in respect of the said Project on 25<sup>th</sup> June 2020 and 26<sup>th</sup> August 2020, respectively.



15. Accordingly, on 7<sup>th</sup> October 2020, the MoEF&CC accorded the TOR for the said Project and for preparation of an EIA/ EMP report with public consultation.

16. In furtherance thereof, the Applicant JNPA has itself undertaken and / or commissioned all surveys / studies in compliance with the conditions mentioned in the said TOR, are completed.

17. Pertinently, one of the 'Project Specific Conditions' under the said TOR was "(v) NoC to be obtained from Dahanu Taluka Environment Protection Authority (DTEPA) as applicable." In compliance thereof, the Applicant JNPA has duly preferred an Application dated 4<sup>th</sup> / 6<sup>th</sup> April 2021 (inadvertently mentioned as 2020) before this Hon'ble Authority seeking the grant of an NoC for the said Project ("**said Application**"), which is currently pending, as on date. The Applicant JNPA has also addressed 2 reminder Letters dated 24<sup>th</sup> September 2021 and 7<sup>th</sup> October 2021, respectively.





### Brief Submissions

18. With this background, it is most respectfully submitted that the present Applicant ought to be impleaded /permitted to intervene in the said Matter for the following reasons, which are in addition and without prejudice to each other:

- (A) Vide it's Letter dated 10<sup>th</sup> June 2020, the MoPSW under the aegis of the Central Government, *inter alia*, has tasked upon the Applicant JNPA the duty to take all necessary steps and actions for the development and setting up of a major Port at Vadhavan, Dahanu Taluka;
- (B) Vide the Order dated 2<sup>nd</sup> June 2017, this Hon'ble Authority had in effect permitted the Applicant JNPA to proceed with the development of a Port only after obtaining the necessary permission from this Hon'ble Tribunal;
- (C) One of the 'Project Specific Conditions' under the said TOR issued by the MOEF&CC was to obtain an No Objection Certificate from this Hon'ble Tribunal. In compliance thereof, the Applicant JNPA has duly preferred an Application dated 4<sup>th</sup> / 6<sup>th</sup> April 2021 (inadvertently mentioned as 2020) before this Hon'ble Authority seeking

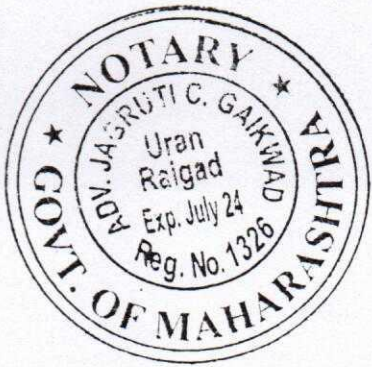


the grant of an NOC for the said Project, which is currently pending;

(D) The Order dated 19<sup>th</sup> 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. Thus, the Applicant JNPA had not yet had the opportunity of approaching this Hon'ble Authority and preferring an appropriate application along with all supporting documents to enable this Hon'ble Authority to take a decision thereon;

(E) The said Project, which is a public infrastructure project of national importance, is proposed to be implemented by the Applicant JNPA in strict compliance with the applicable provisions of law, after obtaining all the requisite statutory permissions / sanctions, after conducting thorough studies and survey by reputed and national level institutions;

(F) The material facts, details, correspondences, documentary evidence, law and authorities that will be required to be considered by this Hon'ble Authority while deciding the said Application, considering the sheer magnitude, scale,



complexity and public importance of the said Project, clearly warrant the Applicant JNPA being permitted to be impleaded / intervene in the said Matter, so as to effectively assist this Hon'ble Authority;

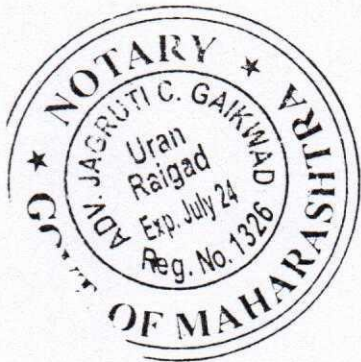
(G) Thus, it is evident that it would be fit, proper and necessary to implead / permit the Applicant JNPA to intervene in the said Matter;

(H) 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

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

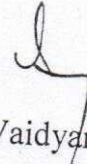
(A) this Hon'ble Authority be pleased to permit the Applicant to be impleaded / intervene in the said Matter;



(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

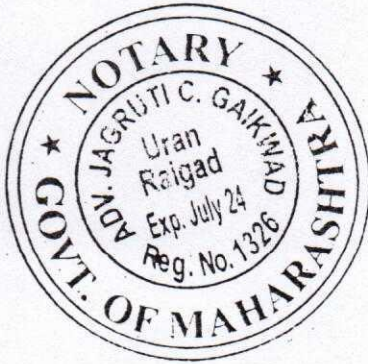
I, G. Vaidyanathan, the Authorized Representative of the Applicant above named, do hereby solemnly affirm and declare that that what is stated in accompanying application are true to my own knowledge and/or on the basis of documents and official records and I believe the same to be true and correct.

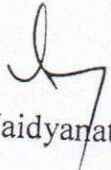
Solemnly affirmed at Mumbai )

on this 12<sup>th</sup> 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

**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")



**AFFIDAVIT IN SUPPORT**

I, G. Vaidyanathan, the Chief Manger PP&D 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.

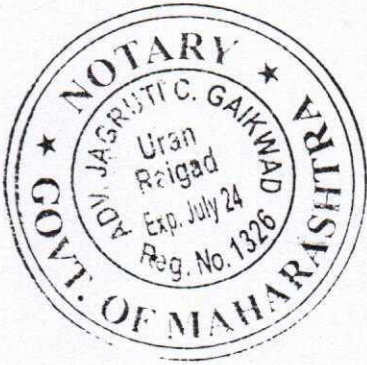
*G. Vaidyanathan*  
**NOTARY**

2) For the sake of brevity, I repeat, reiterate and confirm the contents of the Application as if the same are specifically set out 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 12<sup>th</sup> day of May 2022 )



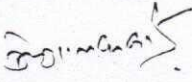
THE PARTY IS KNOWN TO ME  
AND IDENTIFIED BY ME

Serial No. 631 Date 12 MAY 2022

  
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

