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Vyomesh Shah

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Boman R. Irani
Harish Patel

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Nainesh Shah

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Sukhraj Nahar

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I.A.S. (Retd.)

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Rasesh Kanakia
Parag Munot

HON. JOINT SECRETARIES
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Lakshman Bhagtani

JOINT TREASURER
Mukesh Patel

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Pujit Aggarwal
Domnic Romell

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Nayan Bheda
Sanjay Chhabria
Shailesh Sanghvi
Tejas Vyas
Jitendra Jain
Deepak Gundecha
Sandeep Shah

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Munish Doshi
Navin Makhija
Rushank Shah
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Late Lalit Gandhi
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Ajay Ashar

PRESIDENT, KALYAN-DOBIVLI
Praful Shah

PRESIDENT, MIRA VIRAR CITY
Ashit Shah

PRESIDENT, RAIGAD
Vilas Kothari

PRESIDENT, NAVI MUMBAI
Prakash Baviskar

Ref. No. MCHI/PRES/16-17/136

To,
Hon'ble Shri Devendra Fadnavis
Chief Minister
Government of Maharashtra,
Mantralaya,
Mumbai 400 032

Sub: Disposal of Solid Waste generated in Mumbai City at the dumping grounds of Deonar and Mulund.

Ref : Our letter dated MCHI/PRES/16-17/115

Respected Sir,

This is in reference to our meeting held at your Varsha Residence on 10th April, 2017 with yourself and the Members of CREDAI-MCHI and our further to that our letter dated 12th April, 2017.

In continuation of the last meeting with yourself after the High Court order about Dumping Ground, we would like to bring to your notice some facts :-

1. The generation, collection, storage, transportation and disposal of Solid Waste in Mumbai City in accordance with law, is critical for the health, safety and right to life of all citizens.
2. Due to non-compliance by MCGM and the State Government of the provisions of applicable law and orders passed by the Hon'ble Bombay High Court in the year 2013 pertaining to Solid Waste, the Hon'ble High Court passed an Order dated 26th and 29th February, 2016 restraining MCGM and the State Government from granting development permissions / IODs / Commencement Certificates on applications / proposals submitted from 1st March, 2016 for construction of new buildings for residential or commercial use including Malls, Hotels and Restaurants. Certain categories of redevelopment under Regulations 33(5), 33(6), 33(7), 33(8), 33(9), 33(10) of the DCR 1991, and, certain other developments (educational institutions, hospitals etc.) were not restrained and continue to be permitted.
3. The ban on new developments and redevelopments, is a grave and unprecedented restriction and socio-economic hardship caused to our members. You will no doubt appreciate the considerable and proven loss to the State exchequer, and also the hardships suffered by our members' various employees, contractors, support staff, labour and workmen.
4. A very brief history of the events that have led to the current state of affairs, are set out below,-
 - (i) A consent order dated 2nd April 2013 was passed by the Hon'ble High Court in PIL No.217 of 2009 ("Consent Order") whereby *inter alia*, directions were issued for the implementation of the Municipal Solid Waste Rules 2000 i.e. the then existing law governing Solid Waste. MCGM was directed to immediately close and discontinue the Deonar and Mulund dumping grounds and set up and commission new processing facilities at the Mulund, Deonar and Kanjurmarg dumping grounds within a period of 24 (twenty four) months from the date thereof.
 - (ii) However, since MCGM was unable to comply with the Consent Order, MCGM filed a Civil Application No.221 of 2013 seeking for extension of time for compliance of the conditions of the Consent Order.
 - (iii) The Hon'ble High Court passed an Order dated 26th and 29th February ("2016 Order") in Civil Application No. 221 of 2013 partly allowing the Application and

मुख्यमंत्री सचिवालय
महाराष्ट्र शासन
मंत्रालय, मुंबई - ४०० ०३२.
दिनांक ११/०५/१७

May 11, 2017

granting extension of time till 30th June, 2017 to MCGM to comply with the directions contained in the Consent Order. However, the construction development restrictions as detailed above were also imposed. A copy of the 2016 Order is annexed as Annexure "A" hereto, for your ready reference.

- (iv) The 2016 Order requires MCGM to comply with the following principal directions,-
 - (a) To engage the services of IIT or NEERI as consultants to suggest and supervise the implementation of measures to be taken to properly maintain the Deonar site till proper facility is created thereon as per the MSW Rules; *(at paragraph 30(iii) of the order);*
 - (b) To constitute a Monitoring Committee in the manner more particularly stated therein for recommending all necessary measures for the maintenance of the site at Deonar;
 - (c) To nominate any officer not below the rank of the Deputy Commissioner to be in-charge of the Deonar site within a period of three weeks from the date thereof, who will be responsible for implementing the suggestions given by the IIT or NEERI, as the case may be, and/or by the Monitoring Committee; *(at paragraph 30(vii) of the order);*
 - (d) Pending the constitution of the Monitoring Committee, the MCGM was directed to take steps to construct a fencing or compound wall around the Deonar site; *(at paragraph 30(ix) of the order);*
 - (e) Pending the constitution of the Monitoring Committee, the MCGM was directed to take steps to install CCTV cameras at various strategic locations in and around the Deonar site; *(at paragraph 30(x) of the order);*
 - (f) To take immediate steps for removal of encroachments made on the Deonar site by construction of structures; *(at paragraph 30(xi) of the order);*
 - (g) To abide by the recommendations of the IIT/NEERI and then Monitoring Committee appointed as the case may be for the management for the deonar site till the facility as per the MSW Rules, is established; *(at paragraph 30(xii) of the order)*
- (v) The 2016 Order requires the State Government to comply with the following principal directions,-
 - (a) To nominate an officer who would be responsible for the implementation of the MSW Rules; *(at paragraph 30 iii) of the order);*
 - (b) To nominate any officer not below the rank of a Deputy Commissioner of Police with a period of three weeks from the date thereof who would be in-charge of the protection of the Deonar site from anti-social elements. The officer is to deploy adequate number of police personnel at the site with the guidance of the Monitoring Committee.. *(at paragraph 30(viii) of the order)*
- (vi) The 2016 Order requires the MCGM and State Government to comply with the following principal directions,-
 - (a) Both were prohibited from granting development permissions / IODs / Commencement Certificates on applications / proposals submitted from 1st Match, 2016 for construction of new buildings for residential or commercial use including Malls, Hotels, Restaurants. However, the above prohibition does not apply to the provisions of Regulation 33(5), 33(6), 33(7), 33(8), 33(9)

and 33(10) of the DCR 1991, hospitals, educational institutions and repairs/reconstruction of existing buildings which do not utilise additional FSI already consumed; *(at paragraph 30(i)(a) of the order)*;

- (b) The State Government and/or the MCGM were directed to undertake a scientific assessment of impact on the generation of the MSW including construction waste in the city by construction of new buildings and new development projects for a period of atleast 10 years; *(at paragraph 30(i)(b) of the order)*;
- (c) The State Government and/or the MCGM were directed to take steps in accordance with Circular dated 15th February, 2016 and duly amend the DCR not only for giving effect to the directions issued in terms of the circular but also incorporating the suggestions in paragraph 2.2. of the additional affidavit of Shri Swadeen Kshatriya I.A.S., Hon'ble Chief Secretary dated 15th February, 2016; *(at paragraph 30(i)(b) and 30(i)(d) of the order)*.

5. We filed a Review Petition (Lodging) No.3720 of 2017 before the Hon'ble High Court, bringing on record various laws, rules and regulations that were not brought to the attention of the Hon'ble High Court at the time of the 2016 Order. We prayed for modification of the 2016 Order and removal of the construction development restrictions, on the grounds more particularly mentioned therein. It is pertinent to note that MCGM filed an Affidavit in Reply dated 17th April, 2017 in our Review Petition, detailing the steps taken to comply with the directions imposed upon them under the 2016 Order and the Consent Order, which are briefly summarised below,-

- (i) MCGM's Building Proposal Department is stated to not be issuing development permissions / IODs for construction of residential or commercial uses as per the restriction imposed in the 2016 Order.
- (ii) MCGM is stated to have issued work order dated 3rd November, 2016 to All India Local Self Government to carry out scientific assessment of impact on the generation of Solid Waste and impact of the construction likely to come up in the city for at least 10 years.
- (iii) MCGM is stated to have undertaken modification to the DCR 1991 being (i) An additional sub-section to section 23 being Section 23(ii)(f) which provides for the construction of a Solid Waste Management System in the layout of Recreational Grounds having plot of 2000 square meters or above, (ii) New Clause 70 which makes in mandatory for compliance of the condition of segregation and treatment on waste and garbage, on the plots having total construction area of 20,000 square meters and above. Further it provides biodegradable waste treatment plant of required capacity shall be provided and maintained. However, the modifications are still under process. MCGM is stated to have received approval from the Improvement Committee in the meeting held on 5th December 2016 and awaiting approval from the Corporation.
- (iv) IIT, Mumbai is stated to have been appointed as a consultant to suggest and supervise the measures for the implementation of the measures to be taken to properly maintain the site till proper facility is created thereon. Accordingly, the report has been submitted by the IIT, to which suitable changes have been suggested by the MCGM. The report thereafter from IIT is still pending.
- (v) Monitoring Committee is formed, and a regular review is being undertaken for the maintenance and safety of the site of the Deonar Ground. The remuneration as well as other transport and other facilities as directed, are made available to the members of the Monitoring Committee.

- (vi) MCGM is stated to have nominated an officer not below the rank of the Deputy Municipal Commissioner to be in-charge of the Deonar site. The officer appointed in also the Secretary of the Monitoring Committee and is regularly attending the meetings of the committee.
- (vii) The compound wall of 2.9 km has been constructed by MCGM around the Deonar site, leaving the creek area on one side. The additional 270 meter wall on the mangroves creek side will be completed by obtaining necessary permission.
- (viii) MCGM has on date installed 12 C.C.T.V cameras at the entrance and weighbridge at Deonar ground. 40 C.C.T.V. cameras have been installed and working from 30th March, 2017 around the Deonar dumping ground.
- (ix) MCGM has removed all encroachments from the Deonar Site.
- (x) The State Government has appointed the Deputy Commissioner of Police for protection of the Deonar site from anti-social elements.
- (xi) MCGM is stated to have been trying to abide by the recommendations of the IIT, Mumbai and the Monitoring Committee from time to time. Further the Secretary of the Urban Development Department has been nominated by the State Government who is invited to attend the meetings of the Monitoring Committee as a Special invitee from time to time. Similarly, the Deputy Commissioner of Police has been attending the meetings as and when require by the Committee.
- (xii) The Kanjurmarg Processing Facility is stated to be operated successfully since March, 2015 and is scientifically processing 3000 MT of Solid Waste per day. In addition, after receiving Environment Clearance, MCGM has stated that they will be capable of processing additional 1000 Metric Tonnes per day by way of existing bio-reactor technology.
- (xiii) The Affidavit further sets out the present status of the following dumping grounds:-
 - (a) **Deonar Dumping Ground:**

M/s Tata Consulting Engineers is stated to have been appointed as Consultant for waste to energy project at Deonar. They have submitted DPR and Draft Tender and accordingly, tenders have been appointed. An environment consultant has been appointed in order to get different clearances from the different authorities.
 - (b) **Mulund Dumping Gound:**

Tenders are stated to have been re-invited to process existing dump and to recover the land which were due on 27th April, 2017. In response, thereto three agencies have submitted the online tender.
 - (c) **Mulund (East) Near Airoli Bridge:**

The land at Mulund (East) near Airoli Bridge is not yet handed over to the MCGM by the Government of Maharashtra due to their dispute with the Salt Commissioner. Although, the process of appointing Environment Consultant and installation of Construction and Demolition Waste processing facility is in process.


(d) Mauje Karvale (near Taloja):

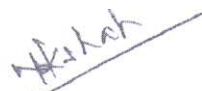
The joint measurement of the said land is in process. The total area is about 52 Hectares consisting of about 38 Hectares Government Land and about 14 Hectares private Land. The advance possession of the part of the government land which is encroachment free is given to MCGM. After removing the encroachment and the acquisition of private land, the necessary approval for processing MSW including construction and demolition material will be proposed.

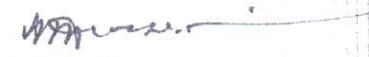
6. A copy of the Affidavit filed by MCGM is annexed and marked as Annexure "B", for your reference and record.
7. The Hon'ble High Court declined to grant any reliefs to us in the Review Petition, for the reasons mentioned in the Order dated 4th May, 2017 ("**2017 Order**"), a copy whereof is enclosed herewith and marked as Annexure "C" for your reference and record.
8. From an examination of the Consent Order, 2016 Order, 2017 Order and MCGM's Affidavit, it may be noted that although MCGM has complied with certain directions, several directions including setting up of new processing facilities that would have capacity to treat the Solid Waste of about 8000-9000 MT generated every day in Mumbai City, are yet to be complied with.
9. The time granted to MCGM to comply with the directions contained in the 2016 Order expires on 30th June 2017.
10. We respectfully request you to urgently take note of this grave situation, and undertake all the necessary acts as may be required to ensure that MCGM and the State Government comply with the directions contained in the Consent Order and 2016 Order. Considering the gravity of the situation, we shall be happy to provide you with any assistance that you may require.

Thanking you,

Yours faithfully,
For CREDAI-MCHI


Dharmesh Jain
President


Nainesh Shah
Hon. Secretary



S. S. Hussain I.A.S (Retd.)
Chief Executive Officer

CC to:

✓ Hon'ble Shri Prakash Mehta
Minister
Housing Department,
Government of Maharashtra
Mantralaya
Mumbai 400032

✓ Shri Sumit Mullik (I.A.S.)
Chief Secretary
Government of Maharashtra
Mantralaya
Mumbai 400032


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मंत्री, गृहनिर्माण
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✓ **Shri Ajoy Mehta (I.A.S.)**
Municipal Commissioner
Municipal Corporation of Greater Mumbai
Brihanmumbai Mahanagar Palika
Mumbai 400001

✓ **Dr. Nitin Kareer (I.A.S.)**
Principal Secretary (I)
Urban Development Department
Government of Maharashtra
Mantralaya -400032

(Gurush)
11/05/17

✓ **Smt. Manisha Patankar-Mhaiskar (I.A.S.)**
Principal Secretary (II)
Urban Development Department
Government of Maharashtra
Mantralaya -400032

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