



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR. NITIN JAMDAR

&

THE HONOURABLE MR. JUSTICE S.MANU

TUESDAY, THE 7<sup>th</sup> DAY OF JANUARY 2025 / 28TH KARTHIKA, 1946

WA NO. 212 OF 2021

AGAINST THE JUDGMENT IN WP(C) NO.34712 OF 2019 OF HIGH  
COURT OF KERALA

APPELLANT/S:

KERALA COASTAL ZONE MANAGEMENT AUTHORITY  
REPRESENTED BY ITS MEMBER SECRETARY, 4TH FLOOR,  
K.S.R.T.C. BUS TERMINAL, THIRUVANANTHAPURAM - 695  
001.

BY ADV M.P.PRAKASH

RESPONDENT/S:

- 1 P.M.SUKHILESH  
AGED 41 YEARS  
S/O. SURENDRAN B., J. S. NIVAS, MELUR POST, KANNUR  
DISTRICT, PIN - 670 661.
- 2 STATE OF KERALA  
REPRESENTED BY AGRICULTURAL PRODUCTION COMMISSIONER,  
THIRUVANANTHAPURAM - 695 001.
- 3 STATE LEVEL MONITORING COMMITTEE  
REPRESENTED BY ITS CONVENOR, AGRICULTURAL PRODUCTION  
COMMISSIONER, THIRUVANANTHAPURAM - 695 001.
- 4 DISTRICT COLLECTOR  
KANNUR, PIN - 670 001.
- 5 LOCAL LEVEL MONITORING COMMITTEE DHARMADAM  
REPRESENTED BY ITS CONVENOR / AGRICULTURAL OFFICER,  
KRISHI BHAVAN, DHARMADAM, PALAYAD POST, KANNUR



DISTRICT, PIN - 670 661.

6 DHARMADAM GRAMA PANCHAYAT  
REPRESENTED BY ITS SECRETARY, DHARMADAM, KANNUR  
DISTRICT, PIN - 670 106.

7 SECRETARY  
DHARMADAM GRAMA PANCHAYAT, DHARMADAM, KANNUR  
DISTRICT, PIN - 670 106.

OTHER PRESENT:

K. GOPALAKRISHNA KURUP (SR.), ADVOCATE GENERAL  
P. K. RAVISHANKER  
PRANOY K. KOTTARAM

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 07.01.2025,  
ALONG WITH WA.513/2021, THE COURT ON THE SAME DAY DELIVERED  
THE FOLLOWING:



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR. NITIN JAMDAR

&

THE HONOURABLE MR. JUSTICE S.MANU

TUESDAY, THE 7TH DAY OF JANUARY 2025 / 28TH KARTHIKA, 1946

WA NO. 513 OF 2021

AGAINST THE JUDGMENT IN WP(C) NO.34712 OF 2019 OF HIGH

COURT OF KERALA

APPELLANT/S:

- 1 DHARMADAM GRAMA PANCHAYAT  
REPRESENTED BY ITS SECRETARY, DHARMADAM, KANNUR 670  
106
- 2 SECRETARY,  
DHARMADAM GRAMA PANCHAYAT, DARMADAM, KANNUR DISTRICT  
670 106

BY ADVS.  
PRANOY K.KOTTARAM  
GEORGE MATHEWS

RESPONDENT/S:

- 1 P.M.SUKHILESH  
AGED 41 YEARS  
S/O. SURENDRAN B, J.S NIVAS, MELUR POST, KANNUR  
DISTRICT, PIN 670 661
- 2 STATE OF KERALA,  
REPRESENTED BY AGRICULTURAL PRODUCTION COMMISSIONER,  
THIRUVANANTHAPURAM 695 001
- 3 STATE LEVEL MONITORING COMMITTEE,  
REPRESENTED BY ITS CONVENOR, AGRICULTURAL PRODUCTION  
COMMISSIONER, THIRUVANANTHAPURAM 695 001



- 4 DISTRICT COLLECTOR,  
KANNUR, PIN 670 001
- 5 LOCAL LEVEL MONITORING COMMITTEE,  
DHARMADAM, REPRESENTED BY ITS CONVENOR/AGRICULTURAL  
OFFICER, KRISHI BHAVAN, DHARMADAM, PALAYAD POST,  
KANNUR DISTRICT, PIN 670 661
- 6 KERALA COASTAL ZONE MANAGEMENT AUTHORITY,  
REPRESENTED BY ITS MEMBER SECRETARY, 4TH FLOOR,  
K.S.R.T.C BUS TERMINAL, THIRUVANANTHAPURAM 695 001

OTHER PRESENT:

K. GOPALAKRISHNA KURUP (SR.) , ADVOCATE GENERAL  
P. K. RAVISHANKER  
M. P. PRAKASH

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 07.01.2025,  
ALONG WITH WA.212/2021, THE COURT ON THE SAME DAY DELIVERED  
THE FOLLOWING:



## JUDGMENT

Dated this the 7<sup>th</sup> day of January 2025.

**Nitin Jamdar, C. J.**

The learned Single Judge, by the judgment dated 12 November 2020, quashed the permission granted by the Coastal Regulation Zone Authority to the Dharmadam Grama Panchayat to construct a public crematorium in a mangrove area. Despite the site lying in dense mangroves, Dharmadam Grama Panchayat has made a series of attempts to use it for a public crematorium. These Appeals filed under Section 5 of the Kerala High Court Act are an extension of the same effort, now joined by the Kerala Coastal Zone Management Authority.

2. Twenty cents of wetland in Re-Survey No. 4/3A in Dharmadam Village, Kannur District, contains a mangrove forest and falls under the Coastal Regulation Zone (CRZ) due to its ecologically sensitive and geomorphological characteristics. This land is owned by the Dharmadam Grama Panchayat. The Panchayat intends to construct a crematorium on the aforementioned land. For this purpose, it seeks to reclaim the land. Petitioner's case is that the Panchayat is proceeding to do so despite the prohibitions under the Kerala Conservation of Paddy Land and Wetland Act, 2008 (Act of 2008), and the Coastal Regulation Zone Notifications issued by the Government of India under the Environment Protection Act, 1986 (Act of 1986).

3. To contextualize the question raised in the petition, a brief reference to the statutory provisions is necessary. The Environment (Protection) Act, 1986, was enacted to protect and improve the environment and related



matters. Section 3 grants the Central Government wide powers to take measures deemed necessary or expedient for environmental protection. Section 3(2) further empowers the Central Government to include specific measures for environmental protection, including those related to coastal zones. Under Sections 3(1) and 3(2)(v) of the Act of 1986, the Central Government issued a notification regulating activities in the coastal zone stretches, known as the Coastal Zone Regulation (CRZ). On 27 September 1996, the Coastal Zone Management Plan under the CRZ notification was approved and published. Subsequently, on 6 January 2011, the Central Government issued the CRZ Notification of 2011, superseding the 1991 notification. The Coastal Zone Management Plan under the CRZ Notification 2011 came into force on 28 February 2019.

4. The CRZ notification classifies the Coastal Regulation Zones in different areas. CRZ – I is environmentally most critical and is sub-classified as CRZ – IA, which constitutes ecologically sensitive areas and geomorphological features which play a role in the integrity of the coasts such as mangroves, coral reefs, sand dunes etc. The CRZ–IB lists intertidal zones. CRZ – II constitutes developed areas up to or close to the shoreline within the existing Municipal limits. CRZ – III are lands which are relatively undisturbed, and those do not fall under CRZ – I or II. CRZ – III is further classified into CRZ – A and CRZ – B. Coastal Regulation Zone notification prohibits certain activities within the CRZ. As regards CRZ – IA, these areas are ecologically most sensitive and generally no activities are permitted in CRZ – IA except for certain exceptions. CRZ-AB lays down activities that are regulated and permissible. CRZ–III has fewer restrictions than the other CRZ–I and permits construction for various purposes,



including a crematorium.

5. The District Collector, Kannur issued an order on 4 November 2011 stating that the subject land is a wetland and that filling it would be illegal. The Panchayat was directed to restore the land to its original condition. On 19 July 2013, the Secretary of the Panchayat submitted an application to the Coastal Regulation Zone Authority (the CRZ Authority) for the construction of a graveyard on the site. The proposal was discussed at the 68<sup>th</sup> meeting of the CRZ Authority on 15 December 2014, and the Authority decided to decline the construction as it fell under the category of CRZ I. This order was conveyed to the Panchayat on 19 December 2014.

6. The Secretary of the Panchayat sent a communication on 3 October 2016, requesting reconsideration of the decision made during the 68<sup>th</sup> meeting on 15 December 2014. The CRZ Authority, in its 76<sup>th</sup> meeting held on 4 August 2016, reiterated its earlier decision and rejected the application, which was communicated to the Appellant Panchayat on the grounds that the subject land falls within CRZ I, and construction of a crematorium would not be permissible.

7. On the request of the then Member of the Legislative Assembly – the President of the Panchayat, a Senior Scientist from the Kerala State Council for Science, Technology, and Environment inspected the site on 7 December 2015. The report recommended reconsidering the decision made in the 68<sup>th</sup> meeting as a special case.

8. The President of the Appellant Panchayat, by letter dated 18 October 2016, requested the Chief Minister to permit construction. The Chairman



of the CRZ Authority and the Additional Chief Secretary (Environment) directed the Science and Technology Department to obtain a site inspection report. Following a communication dated 4 November 2016, the Department asked Senior Scientist Dr. P. Harinarayanan to conduct the inspection. Dr. Harinarayanan inspected the site on 7 November 2016, and submitted a report to the CRZ Authority. The report stated that the proposed construction site lies in a CRZ I(A) area, with over 1,000 sq. metres of mangroves and a 50-metre buffer zone also classified as CRZ I(A). It categorically concluded that, under Clause 8I(i) of the CRZ Notification, 1991, new constructions are prohibited in CRZ I(A). The report recommended referring the matter to the Ministry of Environment, Forest, and Climate Change for special consideration.

9. Dr. P. Harinarayanan's site inspection report was discussed during the 80<sup>th</sup> meeting of the CRZ Authority on 3 December 2016. It was decided to refer the matter to the Ministry of Environment, Forest, and Climate Change, Government of India, for CRZ clearance through a communication dated 12 January 2017.

10. The Secretary of the Appellant Grama Panchayat, by letter dated 25 June 2018, requested the CRZ Authority to permit the construction of a crematorium with a revised plinth area of 113.88 square metres. The matter was discussed in the 96<sup>th</sup> meeting of the Appellant Authority on 7 July 2018, where it was decided to deny the permission.

11. The Secretary of the Appellant Panchayat again requested the CRZ Authority to reconsider the decision made in its 96<sup>th</sup> meeting. The matter was discussed in the 99<sup>th</sup> meeting on 23 November 2018, where the





2024:KER:98315

Authority reversed all previous decisions and granted CRZ clearance for constructing a crematorium with a plinth area of 113.88 square metres, subject to certain conditions. This decision was communicated to the Appellant Panchayat by letter dated 13 December 2018.

12. Respondent No. 1/Petitioner, a resident of Melur in Dharmadam Grama Panchayat, whose house is near the site, filed W.P.(C) No. 34712 of 2019. The Petitioner challenged Exhibit-P4, the CRZ clearance dated 13 December 2018, granted for construction on the subject land by the Appellant. The Petitioner also challenged Exhibit-P3, an order by the State of Kerala permitting the Appellant Grama Panchayat to reclaim the land for construction, treating it as a paddy land.

13. When the petition was heard on 12 December 2020, the learned counsel for the CRZ Authority sought an adjournment, stating that the Authority intended to issue a corrigendum to Exhibit-P4 clearance dated 13 December 2018 to change the reference from category "CRZ I" to "CRZ III," as the CRZ Authority claimed that the current classification under "CRZ I" was a mistake and the area should have been classified as "CRZ III". The learned Single Judge granted time but clarified that the action of the CRZ Authority would not prejudice the contentions of the Petitioner. Subsequently, in its meeting on 26 February 2020, the CRZ Authority decided to issue a revised clearance changing the category from "CRZ I" to "CRZ III". This decision was communicated to the Appellant Panchayat on 10 March 2020. The Petitioner amended the writ petition and challenged the said revised clearance (Exhibit- P7). The Appellants and the State filed counter affidavits.



2024:KER:98315

14. In the judgment dated 12 November 2020, the learned Single Judge held that the rectification of the CRZ clearance on 26 February 2020, could not relate back to the clearance issued on 13 December 2018. At the time of the revised clearance, the land was admittedly classified under the CRZ I category. On these and other grounds, the learned Single Judge allowed the writ petition and set aside the impugned CRZ clearances. However, the learned Single Judge found no error in Exhibit-P3 order dated 6 April 2013. It was observed that the land was not included in the Data Bank, and the remedy of the Petitioner was to seek its inclusion. Consequently, the learned Single Judge declined to entertain the challenge of the Petitioner regarding Exhibit-P3.

15. Challenging the order passed by the learned Single Judge dated 12 November 2020 allowing the writ petition, the CRZ Authority has filed W.A. No. 212 of 2021 and the Dharmadam Grama Panchayat has filed W.A. No. 513 of 2021.

16. We have heard Mr. Prakash M.P., learned counsel for the Appellant Authority in W.A. No.212 of 2021, Mr. Pranoy K. Kottaram, learned counsel for the Appellants in W.A. No.513 of 2021, Mr. P.K. Ravishanker, learned counsel for Respondent No. 1/Writ Petitioner, and Mr. K. Gopalakrishna Kurup, learned Advocate General.

17. There are two Appellants before us; the Panchayat and the CRZ Authority. The Panchayat is aggrieved because it seeks to establish a crematorium, which is part of its function. The Petitioner contended that the CRZ Authority is acting under external pressure. The learned counsel for the CRZ Authority sought to rely upon a decision of the Hon'ble



Supreme Court in the case of *Airports Economic Regulatory Authority of India v. Delhi International Airport Ltd.*<sup>1</sup> to contend that it can file an appeal. The issue is not whether the CRZ Authority's appeal is maintainable but whether it should have filed an appeal. In response to the query as to why the CRZ Authority has filed an appeal, the learned counsel stated that the crematorium is a public utility. The Panchayat is the authority responsible for establishing the crematorium. It is not the statutory function of the CRZ Authority to ensure the construction of a crematorium; its role is to decide whether permission should be granted within the scope of the CRZ notification. The actions of the Authority will have to be noted in light of the Petitioner's contention about outside influence. Be that as it may, since the Panchayat has also filed an appeal against the same order, we have heard both the appeals.

18. The first aspect concerns the Petitioner's challenge to Exhibit-P3 Government Order dated 6 April 2013 on the ground that the land is a wetland and that no permission could have been granted under Section 10 of the Act of 2008. The learned Single Judge rejected this argument, noting that the land is not included in the Data Bank and leaving it to the Petitioner to seek its inclusion in the Data Bank. There is no appeal or challenge before us against this finding of the learned Single Judge.

19. The main issue is whether Exhibits-P4 and P6 permissions could have been issued since the Petitioner's claim is that the subject land falls within the prohibited Coastal Regulation Zone.

20. Firstly, the Appellants contended that the Petitioner had no *locus*

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<sup>1</sup> 2024 KHC Online 6571



*standi* to file the writ petition, as the Petitioner was not an aggrieved person. It was argued that the petition was primarily filed by the Petitioner as a resident of the area and, therefore, was essentially a Public Interest Litigation (PIL). It was submitted that the learned Single Judge did not have a roster for PILs, and therefore, the petition should not have been entertained under the PIL category. Reliance was placed on the decision in the case of *Divine Retreat Centre v. State of Kerala and Others*<sup>2</sup>. However, we do not find that any such objection was raised before the learned Single Judge. Counter affidavit and a reply to the counter affidavit were filed on merits, and the petition was fully heard. Furthermore, apart from Appeals, this Bench is currently taking up Public Interest Litigations also.

21. On merits the Appellants submitted as follows: The impugned judgment incorrectly assumes that the area falls under CRZ-I. If the area is classified as CRZ-III, the construction of a crematorium would be permissible. The judgment errs in stating that the area falls under CRZ-I as of the date of Exhibit-P4 notification. The Coastal Zone Management Plan (CZMP) under the CRZ Notification, 2011 had not been published when Exhibit-P4 clearance was granted. According to the CZMP of 1996, the land was categorized as CRZ-III, and the subsequent correction was simply a rectification of a mistake. The judgment wrongly assumes that the opinion of experts and the presence of mangroves would remain relevant even after the areas were demarcated by the CZMP. The CRZ Authority did not change the category but merely corrected an error that was apparent on the record. Therefore, the impugned judgment should be quashed as it is against the public interest, which would be served by

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<sup>2</sup> (2008) 3 SCC 542



providing a crematorium for the local community. When the clearance was granted on 13 December 2018, the land was, in fact, in CRZ-III, and referring to it as CRZ-I was simply an error. The Panchayat had passed a resolution to construct a crematorium for the local population, which was included in the Panchayat's development project. Currently, there is no public crematorium in the Panchayat, causing significant hardship to the residents who must travel 8 kilometres to the nearest one. The learned Single Judge overlooked this aspect of public interest. Substantial funds had been invested in the project, and thus, setting aside the permission to establish the crematorium would be detrimental to the public interest.

22. The learned counsel for the Petitioner, on the other hand, argued that if activities are prohibited under CRZ-I, a crematorium can only be established in CRZ-III. A crematorium should only be set up in areas where it is permissible, and once the area is classified as CRZ-I, no permission for its construction can be granted. The learned counsel further contended that when Exhibit-P7 was issued on 26 February 2020, the area admittedly was within CRZ-I, and the argument put forward by the CRZ Authority that it would relate to the clearance granted on 13 December 2018 is flawed. In the alternative, it was contended that even assuming the area was in CRZ-III, the notification requires a detailed enquiry. The procedure outlined in the notification must be followed, which necessitates the CRZ Authority to apply its mind to the proposal. It is not an automatic process where permission is granted the moment an application is received for a permissible activity under CRZ-III. The learned counsel for the Petitioner argued that there was no application of mind by the CRZ Authority, as demonstrated by its conduct in filing the application and



granting the permission under dictate. Therefore, the learned counsel submitted that there was no error in the view taken by the learned Single Judge.

23. There is no dispute before us that if the concerned site is in the CRZ-I, no construction of a crematorium would be permissible. Two facts are also admitted. When the CRZ Authority granted permission on 13 December 2018, stating that the land falls under CRZ-I, the land was, in fact, under CRZ-III. Later, during the pendency of the petition, when the revised clearance decision was issued on 26 February 2020, changing the reference from CRZ-I to CRZ-III, the land was admittedly categorised as CRZ-IA. The key issue, therefore, is whether the decision dated 26 February 2020 (Exhibit-P7) can be said to relate back to the clearance granted on 13 December 2018 (Exhibit-P4). Before we address this question, it is important to examine the background leading to the issuance of the Exhibit-P8 decision on 26 February 2020.

24. The file containing the relevant documents is placed before us. The documents on record reveal that despite reports of the expert advising against granting permission, the application was repeatedly placed before the CRZ Authority by the Panchayat. The CRZ Authority rejected it repeatedly before it was ultimately approved by Exhibit P4. The repeated reconsideration of the application despite expert advice against it, according to the Petitioner, was due to an outside influence. This factual background is also relevant in light of the alternate contention raised by the Petitioner that even assuming the subject land falls under CRZ-III, there still needs to be an independent application of mind by the CRZ Authority.



25. Before both the learned Single Judge and us, the argument advanced is that when Exhibit-P4 was issued, the subject land was categorized as CRZ-III, with a typographical error that was later corrected. During the pendency of the writ petition, the CRZ Authority specifically sought permission to issue a corrigendum to Exhibit-P4 dated 13 December 2018, to correct the entry from CRZ-I to CRZ-III, acknowledging a factual error. The learned Single Judge, by order dated 12 February 2020, adjourned the proceedings, stating that it was for the CRZ Authority to take appropriate action. However, it was emphasized that any steps taken by the CRZ Authority would be without prejudice to the contentions of the Petitioner. When the corrigendum was issued, as mentioned earlier, the site was classified under CRZ-IA.

26. In the case of *Usman Gani J. Khatri v. Cantonment Board*<sup>3</sup> the issue regarding the schemes of building restrictions and the amended bye-laws of 1988, which placed restrictions on the height and floor space index of multi-storied buildings, was raised for the public interest in the city of Pune. The question was whether the petitioner builder had acquired any legal rights concerning the plans unless there was a sanction in their favor. The Hon'ble Supreme Court held in the negative, emphasizing that there is no vested right unless valid permissions have been granted. In the case of *Howrah Municipal Corporation*, the issue again arose regarding the sanction of building plans. The Hon'ble Supreme Court stressed that these sanctions are governed by statutory provisions designed to ensure proper administration and the provision of civic amenities and no vested right, contrary to public interest or public convenience, can be claimed by anyone

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3 (1992) 3 SCC 455





seeking such a sanction. The Hon'ble Supreme Court reiterated its decision in *Usman Gani J. Khatri v. Cantonment Board*, affirming that no vested right can be claimed in contravention of public interest, which is the goal of these regulations. The Hon'ble Supreme Court observed thus:-

*“29. It has been urged very forcefully that the sanction has to be granted on the basis of the Building Rules prevailing at the time of submission of the application for sanction. In the case of Usman Gani [(1992) 3 SCC 455] the High Court negated a similar contention and this Court affirmed the same by observing thus:*

*“In any case, the High Court is right in taking the view that the building plans can only be sanctioned according to the building regulations prevailing at the time of sanctioning of such building plans. At present the statutory bye-laws published on 30-4-1988 are in force and the fresh building plans to be submitted by the petitioners, if any, shall now be governed by these bye-laws and not by any other bye-laws or schemes which are no longer in force now. If we consider a reverse case where building regulations are amended more favourably to the builders before sanctioning of building plans already submitted, the builders would certainly claim and get the advantage of the regulations amended to their benefit.”*

*30. This Court, thus, has taken a view that the Building Rules or Regulations prevailing at the time of sanction would govern the subject of sanction and not the Rules and Regulations existing on the date of application for sanction. This Court has envisaged a reverse situation that if subsequent to the making of the application for sanction, the Building Rules, on the date of sanction, have been amended more favourably in favour of the person or party seeking sanction, would it then be possible for the Corporation to say that because the more favourable Rules containing conditions came into force subsequent to the submission of application for sanction, it would not be*





*available to the person or party applying.”*

If a permission validly granted is merely being rectified, it would be a different matter, However, in the case at hand, the permission (Exhibit-P4) was, on its face, an erroneous permission. There was no question of granting permission by the CRZ Authority when the permission itself indicated that the subject land fell in CRZ – I. It is important to note that when the Panchayat applied to the CRZ Authority on 21 June 2018, it referred to the property as CRZ – I. Subsequently, the CRZ clearance was granted, categorising the area as CRZ – I. Throughout the application, which is in the vernacular, the Panchayat consistently referred to the area as falling under CRZ – I. Further, the learned Single Judge rightly held that matters of environmental protection would be distinct from mere construction permits. The learned Single Judge is right in holding so following the decision of the Hon’ble Supreme Court in the case of *Howrah Municipal Corporation v. Ganges Rope Co. Ltd.*<sup>4</sup>.

27. The learned counsel for the Petitioner has highlighted the extent of mangroves in the area based on the maps and photographs on record. The subject area is adjacent to the Dharmadam River, which later joins the Anjarakandi River, and the entire side is covered with a dense belt of mangroves. The Senior Scientist commissioned by the Kerala State Council for Science, Technology, and Environment, who inspected the site, reported that the site has thick mangroves cover in an area greater than 1000 sq. metres and should be categorised as CRZ-IA. Considering the presence of thick mangroves and the characteristics of the land falling within CRZ-IA, the CRZ Authority, entrusted with protecting these zones,

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4 (2004) 1 SCC 663



should have carefully considered the implications of the “rectification” when the land was already categorised as CRZ-IA. By issuing the order of “rectification”, the CRZ Authority was effectively sanctioning the destruction of an area that, under the notification at the time, required the highest degree of protection being under CRZ-IA. We, therefore, find that the learned single judge was right in quashing the permissions.

28. There is merit in the alternate argument of the Petitioner as well. Assuming that the area falls within CRZ-III and that a crematorium is a permitted activity in that zone, the permission cannot be granted automatically. The history of this case shows that the CRZ Authority had repeatedly rejected the proposal, as evidenced by multiple rejections, including those in the communications from 3 October 2016, where the CRZ Authority informed the Panchayat that the earlier decision of 19 December 2014, refusing permission, could not be reviewed. In this background, the CRZ Authority should have conducted a thorough review before issuing Exhibit-P4 and, subsequently, Exhibit-P7 in view of the presence of significant mangroves in the area. Even if the subject land were to be classified under CRZ-III, permission for construction should have been considered on a case-by-case basis, taking into account the specific environmental characteristics of the site, including the mangrove presence. In this case, Exhibits-P4 and P7 suffer from a complete lack of application of mind on the part of the CRZ Authority. The presence of thick mangroves and the environmental implications should have been carefully examined before granting any clearance. Consequently, both Exhibits-P4 and P7 cannot be sustained on this ground as well.



29. While exercising writ jurisdiction, the Court will have to consider the legislative intent behind the Act of 1986 and the CRZ Notifications. The Coastal Zone Regulations aim to protect the ecologically fragile coastal areas. As of today, the area in question is covered with dense mangroves and is classified as CRZ – IA, which requires the highest level of protection. No construction of a crematorium is thus permissible. If we allow the appeals, we would effectively be permitting the Panchayat to undertake construction in an ecologically fragile coastal area that is meant to be protected from any disruptive activities. It will defeat the very essence of the Coastal Regulation Zone regulations enacted to safeguard these ecologically sensitive coastal areas. Therefore, considering the present classification of the area, as well as the larger public interest in environmental protection, we cannot allow the subject construction on the site which falls in the CRZ – IA area.

30. To conclude, there is no merit in both the Appeals. The Appeals are dismissed.

Sd/-  
NITIN JAMDAR,  
CHIEF JUSTICE

Sd/-  
S. MANU,  
JUDGE