

No .EXC/MTG/120

235  
BOMBAY METROPOLITAN REGION,  
DEVELOPMENT AUTHORITY,  
Griha Nirman Bhavan,  
5th Floor, Bandra (East),  
BOMBAY - 400 051.

Date :23rd May, 1989.

The minutes of the Hundred and Twentieth Meeting of the Executive Committee of the Bombay Metropolitan Region Development Authority, held on the 28th April, 1989, are enclosed.

*S. V. Asgaonkar*  
(S. V. ASGAONKAR) 23/5/89  
SECRETARY,  
EXECUTIVE COMMITTEE.

To,

- |  |            |
|--|------------|
| The Chief Secretary to the Government of Maharashtra, General Administration Department, Mantralaya                        | - Chairman |
| The Metropolitan Commissioner, BMRDA   | - Member   |
| The Principal Secretary to the Government of Maharashtra, Urban Development Department, Mantralaya                         | - Member   |
| The Secretary to the Government of Maharashtra, Housing & Special Assistance Department, Mantralaya                        | - Member   |
| The Municipal Commissioner, Bombay Municipal Corporation   | - Member   |
| The Managing Director, C.I.D.C.O., Bombay  | - Member   |
| Shri Charles N. Correa, Correa Consultants Pvt. Ltd., 9, Mathew Road, Bombay-400 004                                       | - Member   |
| Shri Shrish B. Patel, SPA Consultants Pvt. Ltd., 41, Nagindas Master Road, Bombay - 400 023                                | - Member   |
| Dr. P.G. Patankar, Director, Central Institute of Road Transport, (Training and Research), Pune-Nasik Road, PUNE - 411 026 | - Member   |

INVITEES :

The Secretary (II), Urban Development Department, Mantralaya  
The Financial Adviser, BMRDA

Copy to :

The Legal Adviser, BMRDA

-----

MINUTES OF THE 120TH MEETING OF THE EXECUTIVE COMMITTEE.

B.M.R.D.A.

DATE : 28th April, 1989 (Friday)  
TIME : 10.30 A.M.  
PLACE : Chief Secretary's Committee Room,  
5th Floor, Mantralaya.

MEMBERS PRESENT:

- Shri D.M. Sukthankar, - Chairman  
Chief Secretary to the  
Government of Maharashtra
- Shri S.R. Kakodkar, - Member  
Metropolitan Commissioner
- Shri S.S. Tinaikar, - Member  
Municipal Commissioner,  
Bombay Municipal Corporation (BMC)
- Shri D.K. Jain, - Member  
Principal Secretary to  
the Govt. of Maharashtra,  
Urban Development Department
- Shri D.K. Afzulpurkar, - Member  
Secretary to the Govt. of  
Maharashtra,  
Housing & Special  
Assistance Department
- Shri K. Nalinakshan, - Member  
Managing Director,  
CIDCO, Bombay
- Dr. P.G. Patankar - Member

INVITEES :

Shri K.R. Shanbhogue, Financial Adviser, BMRDA and  
Shri K.N. Patel, Legal Adviser, BMRDA

Shri S.V. Asgaonkar, Secretary, Executive Committee, BMRDA

Item No.1 : Confirmation of the minutes of  
the last (119th) Meeting of  
the Committee.

The minutes were confirmed.

Item No.2 : Application under Section 13 of the BMRDA Act, 1974, from Bombay Port Trust, Bombay.

Reconstruction of Transit Shed  
Nos. 11 and 12 at Indira Dock.

- 2.1. The Committee noted that the proposed reconstruction of two Transit Sheds in Indira Dock involved decreasing the floor area from 20,478 sq.mtrs. to 9,987.40 sq.mtrs. (reduction 10,490.60 sq.mtrs.).
- 2.2. It was seen that as per the sanctioned Development Plan as well as the Revised Draft Development Plan proposals of the Ward, the plot under reference fell in Special Industrial Zone wherein storage user is permissible.
- 2.3. In view of the foregoing, the Committee decided to grant the permission applied for.

The Committee also accepted the suggestion that the BPT be requested to take an overall review of transit sheds requiring reconstruction, etc. during the next 5 years or so and come up with a consolidated proposal for BMRDA's approval, rather than submitting such proposals in a piecemeal manner. The Metropolitan Commissioner was authorised to take up the matter suitably with the Bombay Port Trust.

The Committee passed the following Resolution :

RESOLUTION NO.427 :

"Resolved that in exercise of the powers conferred on it by clause (iv) of sub-section (3) of Section 7 of the BMRDA Act, 1974, read with sub-section (3) of Section 13 of the said Act and all other powers enabling it in this behalf, the Committee hereby grants permission to the Bombay Port Trust (application bearing registration No.530/1/3/89) for reconstruction of Transit Shed Nos. 11 and 12 on C.S.No.1187, Indira Dock, in 'A' Municipal Ward with total floor area of 9,987.40 square metres, for transit storage of cargo, as detailed in the application."

Item No.3 : Application under Section 13 of the BMRDA Act, 1974 from M/s. Sadhana Textile Mills Private Limited.

Change of use from factory to offices of Central Government Undertakings.

3.1. The Committee noted that the proposal was for change of use from 'factory' to 'Quasi Central Govt. Bodies' in respect of 6100 sq.mtrs. floor area (65,000 sq.feet) in the premises of Sadhana Textile Mills Pvt. Ltd. (Sadhana Mills) located on Plot No.3, S.No.1621, Scheme No.61, Fergusson Road Estate, Off Pandurang Budhkar Marg, Worli, Bombay-400 018, in 'G-South' Municipal Ward.

3.2. The applicant Company had submitted the proposal on the ground that it was facing financial crisis and was declared a sick unit by BIFR, New Delhi. The Company had stated that if the change of use was sanctioned as requested, it would be able to get regular income by leasing the premises for offices of Central Government bodies which would help it to return to a healthy working condition. The Company wanted to lease out a part of its premises to M/s. Bharat Petroleum Corporation Ltd. and some other Undertakings of Govt. of India which were not specified in the application. It was, however, noted that the Company had not furnished its Annual Report and Balance Sheet to support its contention about financial crisis, even though called upon to do so.

3.3. The Committee noted that the plot under reference had been leased in perpetuity by the Municipal Corporation of Greater Bombay to the applicant Company and that it fell in General Industrial Zone as per sanctioned Development Plan as well as the Revised Draft Development Plan proposals. As per Clause 11 of the Lease Deed, use of the main buildings on the land under reference is factory, workshop connected therewith, residences for the persons connected with the factory, shops dealing with the goods manufactured in the factory and those necessarily required for the purpose of the goods manufactured in the factory or for the benefit of the workers in the factory. It was seen that the said clause specifically provided that the premises or any part thereof on the land shall not be used or permitted to be

used for any business, trade, occupation or purposes whatsoever, other than as provided in the clause, without the prior consent in writing of the Municipal Commissioner, Bombay Municipal Corporation. The Company had not obtained such consent from the Municipal Commissioner.

3.4. The Committee further noted that as per the provisions of existing Development Control Rules for Greater Bombay, offices of commercial organisations, including those of the Government Undertakings which have no nexus with the area, are not permissible in the General Industrial Zone or for that matter even in the Special Industrial Zone.

3.5. The Committee took note of the fact that Government in Urban Development Department had decided in principle to introduce a new D.C.Rule with a view to enabling Government to permit, as a special case, the use of existing or newly built-up space in industrially zoned plots for office/commercial purpose to help revival/rehabilitation of potentially viable sick industrial units. The Committee, however, agreed with the Legal Adviser that unless the relevant D.C.Rule is actually drafted, duly approved and formally published by the Government, it will not be legally possible for the Committee to take cognizance of it and be guided by it. The Committee felt that once the proposed new D.C.Rule is duly approved and published by the Government, the case of Sadhana Textile Mills could be reviewed and an appropriate decision could be taken within the framework of the new D.C.Rule.

3.6. In regard to the proposed new D.C.Rule, the Chief Secretary & Chairman of the Executive Committee desired that the package of measures for revival/rehabilitation of any potentially viable sick industrial unit must necessarily be recommended by BIFR/Financial Institutions apart from the Commissionerate of Industries. In other words, merely the recommendation of the Commissionerate of

Industries would not be enough. The Chairman accordingly directed that the proposed new D.C.Rule should be suitably reworded by the Urban Development Department.

3.7. The Committee did not agree with the contention that in view of the Government in U.D.'s decision to introduce a new D.C.Rule as mentioned above, clearance of the proposal of the Sadhana Mills by the Executive Committee was not necessary. In this connection, the Legal Adviser clarified that so long as Section 13 Notification, dated 10th June 1977 was in operation, the change of use of any premises into office premises shall necessarily require prior permission of the Executive Committee of BMRDA as Section 13 of the BMRDA Act, 1974 begins with non-obstante clause viz. "notwithstanding".

3.8. In view of the foregoing, the Committee decided that since it had no powers to grant any permission which may be in excess of or contrary to any provision of the Development Control Rules for the time being in force, the application had to be summarily rejected as not maintainable. The Committee, therefore, rejected the application and passed the following Resolution :

RESOLUTION NO.428 :

"Resolved that the application submitted by M/s. Sadhana Textile Mills Private Limited (bearing registration No.531/17/3/89) for change of use of 6100 sq.mtrs. floor area (65,000 sq.feet) in its premises on S.No.1621, Plot No.3, Scheme No.61, Fergusson Road Estate, Off Pandurang Budhkar Marg, Worli, Bombay-400 018, in 'G-South' Municipal Ward, from factory to offices of Quasi Central Government Bodies, being not within the powers of the Committee, and, therefore, not maintainable is hereby rejected for the reasons recorded in the minutes."

Item No.4 : Application under Section 13 of the BMRDA Act, 1974 from Bombay Port Trust, Bombay.

Reconstruction of Shed Nos.3 and 4 for cargo storage.

4.1. The Committee noted that the proposal was for

reconstruction of Transit Shed Nos.3 and 4, on S.No.145, at Hay Bunder (BPT extended Dock Area), in 'F-South' Municipal Ward, thereby increasing the floor area for storage of transit cargo from 1,950.96 sq.mtrs. to 3,208.28 sq.mtrs. (increase 1,257.32 sq.mtrs.) The increase in floor area was attributable to the diversion of dates' traffic (formerly handled at Haji Bunder) to Hay Bunder.

4.2. It was seen that as per the sanctioned Development Plan as well as the Revised Draft Development Plan proposals of the Ward, the plot under reference fell in Special Industrial Zone, wherein the storage user is permissible.

4.3. Taking into consideration the fact that the sheds under reference are used for operational purposes of the Bombay Port Trust, the Committee decided to grant the permission applied for and passed the following Resolution :

RESOLUTION NO.429 :

"Resolved that in exercise of the powers conferred on it by clause (iv) of sub-section (3) of Section 7 of the BMRDA Act, 1974, read with sub-section (3) of Section 13 of the said Act and all other powers enabling it in this behalf, the Committee hereby grants permission to the Bombay Port Trust (application bearing registration No.532/7/4/89) for reconstruction of Transit Shed Nos. 3 and 4, on S.No.145, at Hay Bunder (BPT extended Dock Area) in 'F-South' Municipal Ward, with total floor area of 3,208.28 sq.mtrs., for storage of transit cargo, as detailed in the application."

Item No.5 : Appointment of BMRDA as Special Planning Authority for Vasai-Virar Notified Area, and its role in Planning and Development of the area.

5.1. Initiating discussion on this item, the Metropolitan Commissioner highlighted the various major problems, infrastructural deficiencies and institutional inadequacies of the Vasai-Virar Notified

Area (VVNA) which need to be tackled by determined and concerted efforts by all concerned agencies. He pointed out that while this large sub-region (380 kms.) was subjected to heavy pressure of urbanisation because of the special advantage it enjoys in terms of major rail and road access (W.Railway suburban system and the Bombay Ahmedabad National Highway traverses the entire region), it is plagued by a host of problems such as critical water supply position, absence of proper drainage and sewerage system, inadequate internal road network and bus transportation system, highly overstretched suburban rail transport system and, above all, absence of strong and capable local authorities needed to perform city level functions and provide and maintain municipal services. The two small Municipal Councils of Vasai and Virar at present covered barely 7% of the total area of the sub-region. It was proposed to enlarge their areas and also to establish a new Municipal Council for Nallasopara. But even so, it was doubtful whether they would be able to provide the strong institutional and financial support to the large area of VVNA which is beset with major problems referred to above.

5.2. The Metropolitan Commissioner stated that a Special Planning Authority for VVNA would be expected to perform the following important functions, viz. :

- (i) Preparation of Development Plan;
- (ii) Exercising development control;
- (iii) Provision of municipal services and amenities; and
- (iv) Maintenance of civic amenities.

He stated that the BMRDA being basically a Regional Planning Authority created with a view to bringing about a planned and coordinated development of the entire Bombay Metropolitan Region, it could at best undertake preparation of Development Plan and exercise broad development control in the area. However, BMRDA, as presently structured and equipped, would not be able to undertake on its own provision of infrastructural services such as execution and maintenance of water supply projects, road projects, sewerage, storm water drainage projects or to provide amenities such as schools,



hospitals, markets, etc. as these were essentially municipal functions which require for their performance large engineering and maintenance staff, and can best be performed by local authorities. He pointed out that the BMRDA which is essentially a regional level planning, co-ordinating and monitoring organisation could not be expected to perform local municipal functions. He stated that the BMRDA could, however, carry out a detailed survey of the region, identify its needs over a short-term as well as long term perspective, identify specific infrastructural projects, prepare project profiles and even provide limited financial assistance for their implementation by the respective State level agencies such as MWSSB or district agencies such as Zilla Parishads or local authorities such as Municipal Councils. BMRDA could play overall planning, coordinating and monitoring role so that the projects and schemes beneficial to the region get implemented properly and speedily by the respective agencies.

5.3.1. The Metropolitan Commissioner also informed the Committee that on the BMRDA's appointment as Special Planning Authority, as many as 700 accumulated building proposals were suddenly passed on to the BMRDA and that on an average 200-250 additional building proposals were being filed with the BMRDA every month. The BMRDA had no personnel to handle this massive volume of work. The BMRDA had, therefore, requested Government's permission for filling 20 sanctioned posts which are lying vacant due to zero base budgeting, creation of 30 new posts and establishment of a Sub-Regional Office at Vasai and securing of office space, furniture, equipment, etc. However, despite the urgency, the proposal was still languishing in the Urban Development Department. The Metropolitan Commissioner urged that unless the required staff etc. were made available, it would not at all be fair or reasonable to expect BMRDA to perform the additional responsibilities cast on it. He emphasised that the necessary staff should have been allotted alongwith the appointment of the

BMRDA as Special Planning Authority.

5.4. There was considerable discussion on the subject during the course of which the following observations were made :

- (i) The Secretary (Housing) was of the view that, side by side with performing the role of preparation of Development Plan and exercising Development Control, the BMRDA should also take upon itself the role of coordinating various works to be undertaken by other bodies such as MWSSB, PWD, etc. and where no agency was available, or forthcoming to execute certain projects, BMRDA should consider executing the necessary schemes and projects itself.
- (ii) The Principal Secretary (UD) stated that for expansion of the jurisdiction of present Municipal Councils, there was some opposition. Similarly, there was also opposition for creating a single Municipal Corporation for the entire VVNA. Eventhough the BMRDA had submitted a detailed staffing proposal, it could not be processed further as it was still not clear as to which agency would take up the functions of providing municipal services and amenities and maintenance of civic amenities, etc.
- (iii) The Municipal Commissioner, BMC, expressed the view that building permissions may be allowed to be granted by District Collector provided supporting staff was made available to him and the relevant provisions of the Rules framed under the Land Revenue Code were substituted by Development Control Rules. He was of the opinion that it will not be possible for the BMRDA to exercise development control in the area. He stated that exercising development control was essentially the function and responsibility of local authorities. Hence this task should

be left to the local authorities or to the Collector where the local authorities do not exist. He further stated that Zilla Parishads may be asked to take up the road improvement works by making available the required funds and that the MWSSB should be similarly called upon to take up schemes for augmentation of water supply. He said that for implementing infrastructural schemes, the BMRDA should be only a channelising agency.

- (iv) The Chairman, however, pointed out that Zilla Parishads are functioning under the Rural Development Department and as such provision of funds would have to be made in DPDC budgets or alternatively, schemes of road improvement in this Area would have to be treated as State Level Schemes and funds distributed either through the BMRDA or the concerned Departments.

5.5. After further discussion, a broad consensus emerged in favour of setting up a full-fledged New Town Development Authority (NTDA) for Vasai-Virar area on the lines of similar authorities established for New Aurangabad and Nasik. It was, however, felt that the areas of the existing Municipal Councils in the sub-region should be specifically excluded from the purview of the proposed NTDA for Vasai-Virar area. It was also recognised that the NTDA will have to be given adequate funds initially by Govt. and should also be permitted to levy suitable development charge while granting development permissions in order to enable it to raise necessary funds for undertaking projects and schemes for infrastructural development such as water supply, drainage and sewerage, transport and communications etc. as well as for providing and maintaining civic services in the area. It was accordingly decided to make the following recommendations to Government :

- (i) That having regard to the complexities and magnitude of the work involved in securing

orderly development of the rapidly urbanising Vasai-Virar Sub-Region, a separate full-fledged New Town Development Authority should be created for the said Sub-Region, excluding the areas presently within the purview of the Municipal Councils of Vasai and Virar. Alternatively, CIDCO may be appointed as the NTDA for the area under the relevant provisions of the MR&TP Act; and

- (ii) That with a view to making the proposed New Town Development Authority financially viable and self-sustaining, the State Government be requested to enact suitable legislation to enable levy of betterment charges and/or development charges in the area of jurisdiction of the proposed New Town Development Authority.

Item No.6 : Writ Petition No.2095 of 1984.  
 Ajit D. Khanvilkar V/S. State  
 of Maharashtra and Others -  
 Appointment of Advocates and  
 Solicitors.

The Committee approved the proposal contained in the agenda note and passed the following Resolution :

RESOLUTION NO.430 :

"Resolved that in exercise of the powers conferred under clause (vi) of sub-section (3) of Section 7 of the BMRDA Act, 1974 and all other powers enabling it in this behalf, the Executive Committee hereby accords its post facto sanction to the appointment of M/s. Siganporia & Dalvi, Advocates and Solicitors to appear on behalf of BMRDA in Writ Petition No.2095 of 1984 in the High Court of Bombay and authorises the Metropolitan Commissioner to incur necessary expenditure on proceedings, legal fees and other incidentals as may be necessary, as proposed."

Item No.7 : Appointments/Promotions made under powers delegated by the Executive Committee - Sanction to the -

The Committee accorded sanction to the appointments/promotions made by the Metropolitan Commissioner and passed

the following Resolution :

RESOLUTION NO.431 :

"Resolved that the Executive Committee hereby accords sanction to the appointment/promotion detailed in Annexure to this Item Note made by the Metropolitan Commissioner in accordance with the proviso to Guideline No.5 of the Staff Appointment Guidelines, 1984, during the period ended on 31st March, 1989, as proposed."

The following item was then placed before the Committee as a Table Item, with the permission of the Chair :

Table Item : Request of M/s. Gas Authority of India Limited to allot to them built-up premises in BMRDA's Office Building in 'E' Block, Bandra-Kurla Complex.

The Committee noted that M/s. Gas Authority of India Limited (GAIL), to which Government of Maharashtra had issued a letter of intent for establishing a pipeline network for domestic gas supply to the Metropolitan City of Bombay, requires office space in Bandra-Kurla Complex for accommodating their growing office in Bombay. The Committee also noted that the Minister for Industries had addressed a letter to Minister (UD) strongly recommending GAIL's request for the BMRDA's sanction.

2. After discussion, the Committee recommended that an area admeasuring approximately 4,171 sq.feet on the 2nd floor, left wing of the BMRDA's office building be allotted to M/s. Gas Authority of India on leave and licence basis, initially for a period of three years, on a basic compensation of Rs.18 (Rupees eighteen only) per sq.ft., per month, all levies and taxes as well as service charges, etc. on pro rata basis being borne by GAIL, and that any continuation of leave and licence beyond 3 years be as per stipulation mentioned in para.7 of the Item Note. The Committee then authorised the Metropolitan Commissioner to submit necessary proposal in terms of the above for the Authority's sanction.

3. The Committee also felt that the BMRDA should have a small office near Mantralaya. The Committee, therefore, desired the Metropolitan Commissioner to explore possibility of getting about 500 sq.feet space from GAIL out of the office space presently occupied by GAIL at Nariman Point, on reasonable terms and conditions.

4. The Committee also authorised the Metropolitan Commissioner to invite tenders by public advertisement for disposal of 6095 sq.ft. built-up space on 1st floor of left wing of BMRDA's office building for opening branch of a bank.

The Meeting then terminated with a vote of thanks to the Chair.

-----