

No. EXC/MTG/97.

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

Date : 5th June, 1985.

The minutes of the Ninety-Seventh Meeting of the Executive Committee of the Bombay Metropolitan Region Development Authority, held on the 28th May, 1985 are enclosed.

S. V. ASGAONKAR
(S. V. ASGAONKAR) 5/6/85
SECRETARY
EXECUTIVE COMMITTEE

To:

- The Chief Secretary to the Government of Maharashtra, General Administration Department, Mantralaya. - Chairman
- The Metropolitan Commissioner, B.M.R.D.A. - Member
- The Secretary to the Government of Maharashtra, Urban Development Department, Mantralaya. - Member
- The Secretary to the Government of Maharashtra, Housing and Special Assistance Department, Mantralaya. - Member
- The Municipal Commissioner, Bombay Municipal Corporation. - Member
- The Managing Director, CIDCO, Bombay. - Member
- Shri Charles M. Correa, Correa Consultants Pvt. Ltd., 9, Mathew Road, Bombay-400 004. - Member
- Shri Shirish 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), Poona-Nasik Road, Pune-411 026. - Member

INVITEES

- The Financial Adviser, B.M.R.D.A.
The Chief, T&C Division, B.M.R.D.A.
The Chief, T&CP Division, B.M.R.D.A.
The Chief, Planning Division, B.M.R.D.A.
The Chief Engineer, Engineering Division, B.M.R.D.A.
The Senior Planner, T&CP Division, B.M.R.D.A.
The Legal Adviser, B.M.R.D.A.

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NINETY-SEVENTH MEETING OF THE EXECUTIVE COMMITTEE

B.M.R.D.A.

DATE : 28th May, 1985 (Tuesday)

TIME : 11.30 A.M.

PLACE : The Committee Room,
Mantralaya (5th Floor).

MEMBERS PRESENT :

Shri B.G.Deshmukh, - Chairman
Chief Secretary to the
Government of Maharashtra.

Shri S.R.Kakodkar, - Member
Metropolitan Commissioner

Shri N.R.Ranganathan, - Member
Secretary to the Government
of Maharashtra, Urban
Development Department.

Shri S.S.Tinaikar, - Member
Secretary to Government of
Maharashtra, Housing &
Special Assistance
Department.

Shri J.G.Kanga, - Member
Municipal Commissioner,
Bombay Municipal Corporation.

Shri Charles M. Correa - Member

Dr. P.G.Pavankar. - Member

INVITEES :

The Financial Adviser, B.M.R.D.A.

The Chief, T & CP Division, B.M.R.D.A.

The Chief, T & C Division, B.M.R.D.A.

The Chief, Planning Division, B.M.R.D.A.

The Chief Engineer, Engineering Division, B.M.R.D.A.

The Director (Engineering Services & Projects),
Municipal Corporation of Greater Bombay.

The Senior Planner, T & CP Division, B.M.R.D.A.

The Legal Adviser, B.M.R.D.A.

Shri S.V.Asgaonkar, Secretary, Executive Committee, B.M.R.D.A.

Shri D.N.Choudhari, Secretary to Government of Maharashtra, Law & Judiciary Department was also present as special invitee in connection with Item No.10, viz. "Proposed Legislation for establishment of Truck Terminal Authority".

At the outset, the Committee placed on record its appreciation of the valuable services rendered by Shri A.N. Batabyal, ex-Metropolitan Commissioner and welcomed Shri S.R.Kakodkar, who had taken over as Metropolitan Commissioner.

At this stage, the Chairman observed that as per provision of Section 7-A of the BMRDA Act, 1974, the proceedings of the Executive Committee are required to be authenticated by the signature of the Chairman, Executive Committee or any member thereof authorised by the Chairman in this behalf. The Chairman, accordingly, authorised the member presiding over the meetings of the Executive Committee in his absence to authenticate the minutes of the respective meetings under his signature.

Item No.1 : Confirmation of the minutes of the last (96th) Meeting.

After discussion, the confirmation of the minutes was deferred to the next meeting of the Committee as some queries were raised by the Secretary, Housing & Special Assistance Department on the minutes pertaining to Application No.476/18/3/85.

Item No.2 : Action taken on the minutes of the last (96th) Meeting.

In the course of discussion on this item, the following points emerged after which the action taken report was noted by the Committee :-

(1) Referring to the suggestion made at the

Committee's meeting held on 23-4-1985, it was decided that applications under Section 13 of the BMRDA Act, 1974 from Central Government or any Undertaking of the Central Government should be accepted only after NOC from the Department of Environment, Govt. of India is produced, so as to be in conformity with the decision taken by Govt. of India in that regard. In respect of applications from other bodies and persons it was decided that such applications should be accepted as per usual practice.

- (2) Referring to action taken report on shifting of Hanuman Nagar in 'E' Block of Bandra-Kurla Complex, it was felt that the facts that the hutment dwellers had moved the City Civil Court and the High Court and that those Courts had vacated the Stays earlier granted by them should be brought to the notice of the Minister of State for Housing and he may be requested to vacate the Stay granted by him. The Secretary, Housing Department agreed to look into the matter.
- (3) It was pointed out that BMRDA was one of the Respondents in Writ Petition No.989 of 1980, filed on the Ordinary Original Civil Jurisdiction of the Bombay High Court (Cyrus Guzder - Petitioner Versus State of Maharashtra and Others - Respondent). However, BMRDA was not represented in the above case and Justice Pendse had enquired as to why it was so. It was explained that in the above mentioned writ Petition, the order of the State Government in appeal against Executive Committee's decision was challenged. Since the original decision of the Executive Committee was not challenged, it was not considered necessary for BMRDA to be represented in the Court at that stage. It was also pointed out that this issue had been raised at the meeting of the Executive Committee held on 24-8-1984 and the Committee had already expressed opinion that BMRDA should be represented in the Court of Law even where it is only a proforma respondent; and in case it is felt not necessary to

do so, the matter may be reported to the Executive Committee.

The Committee desired that decisions taken by it should be defended in court in other cases also whenever the cases are filed in the Court, the line of argument before the Court should be in consonance with the decision taken by the Executive Committee in each case.

Item No.3 : Application for permission under Section 13 of the BMRDA Act, 1974.

The application bearing registration No.477/26/4/85 (M/s. Janak Manufacturing Works) was placed on the Table.

The Committee considered the application and noted that the proposal was for construction of a building with floor area of 2,319.20 square metres at Survey No.75(P), 81, 86, 88, GR.M.No.4010/(5)298, Shaikh Misri Road, in 'F-North' Municipal Ward. As per calculations made by BMRDA's Office this area worked out as 2,481.75 square metres and F.S.I. 1.327. It was stated in the area statement of the application that out of that area, area admeasuring 305.46 square metres was to be used as office, show-room and storage for office, while in the justification column thereof it was stated that two tenants on the plot viz. Janak Manufacturing Works and Nita Cosmetics were to be given area admeasuring 120 square metres and 325 square metres, respectively, as per agreement with these two concerns. It appeared that one of the tenants purported was the applicant himself. It was also noted that the applicant had not furnished correct location plan to enable verification of land use permissible for the lands under reference. A detailed justification for construction of office and storage space in the new building was also not given. It was further

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noted that eventhough the applicant and their Architect were called for discussion in BMRDA Office on 9-5-1985, they did not respond. The Municipal Corporation of Greater Bombay had intimated that there is an oil tank of the Indian Oil Corporation in the nearby locality. Shri Arvind Varma, Joint Secretary to the Government of India, Ministry of Petroleum had in his D.O. letter No.Q-17018/8/84-Dist., dated 1st January, 1985 had requested the then Chief Secretary to the Government of Maharashtra to permit residential and commercial activities at a safe distance from the oil installations. The proposal was, therefore, required to be considered in the above context. Since relevant information required for processing the application was not forthcoming from the applicant the Committee decided to reject the application.

Accordingly, the Committee passed the following Resolution :-

RESOLUTION NO.304 :

Resolved that the application from M/s.Janak Manufacturing Works (bearing Registration No.477/26/4/85) received in terms of Section 13(2) of the BMRDA Act, 1974, be and is hereby rejected for want of relevant details.

Item No.4 : Continuance of appointment of Telecommunication Adviser and Senior Telecommunication Planner for temporary Telecommunication Cell in Transport & Communications Division.

The Committee considered the Item Note and

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approved the proposal. The Committee, accordingly passed the following Resolution :

RESOLUTION NO.305 :

Resolved that subject to the concurrence of the Authority to the continuance of the posts of Telecommunication Adviser, and Senior Telecommunication Planner, the Executive Committee hereby sanctions under clause (i) of sub-section (3) of Section 7 of the BMRDA Act, 1974 continuance of the appointment of Shri M.M.Wagle as Telecommunication Adviser and that of Shri S.S.Mony as Senior Telecommunication Planner, from 1-6-1985 to 31-8-1985 and from 21-5-1985 to 31-12-1985, respectively, on the existing terms and conditions.

Item No.5 : Deputation of Shri V.K.Phatak, Chief, Planning Division, to Washington during the period from 27-11-1984 to 10-12-1984 (including transit period), for negotiating loan assistance to Bombay Urban Development Project (BUDP) as per Government orders in Housing & Special Assistance Department.

The Committee considered the Item Note. The Committee desired that its prior sanction should invariably be obtained in future in all such proposals concerning deputation abroad. In case of urgency, the Metropolitan Commissioner may allow deputation with the consent of the Chairman, Executive Committee and thereafter obtain concurrence of the Executive Committee at its next available meeting. The Committee then accorded post-facto sanction to the proposal and passed the following Resolution :

RESOLUTION NO.306 :

Resolved that the Executive Committee hereby accords post-facto sanction to the deputation of

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Shri V.K.Phatak, Chief, Planning Division to Washington for negotiations with the World Bank for assistance to the BUDP, from 27-11-1984 to 10-12-1984 at a cost of Rs.52,765.50 from BMRDA's Funds, as proposed.

Item No.6 : Re-employment of Shri B.N.Pathak,
Deputy Director of Inspection,
Finance & Accounts Division.

The Committee considered the Item Note. The Committee did not favour re-employment of Shri B.N.Pathak for a period of one year after his superannuation but approved his re-employment for a period of three months only. Accordingly, the Committee passed the following Resolution :

RESOLUTION NO.307 :

Resolved that the Executive Committee hereby accords sanction, under clause (i) of sub-section (3) of Section 7 of the BMRDA Act, 1974 to re-employment of Shri B.N.Pathak, Deputy Director of Inspection for a period of three months only, after his superannuation, with effect from 1-7-1985 (B.N.) and to his pay on re-employment being fixed by the Metropolitan Commissioner, in consultation with the Financial Adviser, under the normal rules.

Item No.7 : Litigation pertaining to the Panchpakhadi Land Taluka Thane - Authority to file comprmise deed.

The Committee considered the Item Note. The Committee desired to have information on the following points :

- (1) Since the land under reference was falling within the jurisdiction of the Thane Municipal Corporation, it should be ascertained from Thane Municipal Corporation whether they would permit construction of a structure on the alternate plot offered by BMRDA of only 36 square metres and having a plinth area of 36 square metres.

- (2) Whether it is necessary to construct the road under reference immediately and whether it could be suitably laid out without disturbing the existing structure.
- (3) While the legal Adviser had mentioned that the land under reference would be given on lease for 60 years, neither in the Item Note nor in the draft consent terms was there a mention to that effect. The correct position in this regard needs to be clarified.
- (4) From the plan attached to the draft consent terms, it appeared that area proposed to be offered was bigger than the land in possession of the plaintiffs.
- (5) From the plan it appeared that the existing plinth was beyond the land area shown to be in possession of the plaintiff.
- (6) Confirmation as to whether after agreeing to the compromise terms it will be possible to complete construction of full road should be obtained.

Pending receipt of information on the above points, consideration of this item was deferred to the next meeting of the Committee.

Consideration of the following items No.8 and 9 was postponed. It was desired that these items be considered at a special meeting of the committee to be held in BMRDA Office in the month of August, 1985 :

Item No.8 : BMRDA's Role and Achievements.

Item No.9 : Prioritisation of issues to be pursued by the Executive Committee - Suggestions received from four members of the Executive Committee.

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Item No.10 : Proposed Legislation for establishment of Truck Terminal Authority.

Initiating discussion on this item it was mentioned that the two main objectives of the Truck Terminal Project were (1) to relocate offices and godowns of the transport companies, booking and commission agents, etc., from their present location in the highly congested areas such as Dana Bazaar, Bhat Bazaar, Chakla Street, etc., in South Bombay to the Truck Terminal; and (2) to rationalise movement of inter-city trucks in Bombay by requiring them to load/unload mainly at the Truck Terminal unless they carry full load only for a single consignee at a single address. The achievement of these objective is expected to help decongestion effort and also reduce significantly the widely prevailing misuse of roads and pavements for parking, repairs, loading/unloading, etc.

The proposed legislation was required for the establishment of Truck Terminal Authority for achieving these objectives. The proposed legislation would require the transport companies, etc. to shift their offices, godowns and activities from the present locations to the Truck Terminal when it is completed. Simultaneously, the legislation is to provide the powers to regulate the truck traffic as outlined above. However, the movement of intra-city trucks would not be affected. Regulation of inter-city truck movement is provided under Section 7 of the Bill and relocation of transport companies under Section 8. Since there were apprehensions that these Sections could prove controversial and lead to litigation discussion thereon in the Executive Committee had been desired by Chairman.

It was informed by Shri R.Y.Tambe, Chief, T & C Division, BMRDA that he had held a few days ago, discussions with the Transport Commissioner, Shri V.P.Raja on the draft legislation. Mr.Raja had agreed with the project objectives and had stated that the restrictions sought to be placed under Sections 7 and 8 were entirely desirable and reasonable. He had also expressed the opinion that while action could be taken under the Motor Vehicles Act to achieve the same end it would still be preferable to have a separate legislation as proposed.

One of the important points which was discussed in detail was whether, as feared by the Secretary, Law & Judiciary Department (who had been specially invited for the meeting), the restrictions sought to be imposed under Sections 7 and 8 of the draft bill would be considered "reasonable" by Courts of Law if their constitutional validity was challenged. In support of reasonableness the cases of regulation of wholesale and textile markets were cited. It was also mentioned that since the restrictions could be imposed under the existing Motor Vehicles Act, the same under the draft legislation could not be considered unreasonable. It was agreed that relocation of transport companies to the Truck Terminal was absolutely vital to the achievement of project objectives and it was generally felt that the only question to be considered was how best it could be ensured. It was suggested by a member that due to its crucial importance even a subsidised rate could be offered to those who take the initiative to occupy the Truck Terminal first.

So far as movement of intercity trucks is concerned various opinions were expressed. One view was that all intercity trucks must be made to load/unload at the Truck Terminal irrespective of their having small/full load for one

consignee. It was pointed out that this would be impractical and counter-productive. Example of trucks to/from Bombay docks was cited and it was pointed out that there would be no advantage in stopping them at Truck Terminal, only to break-up the load into a larger number of smaller vehicles. It was however, agreed that it would be necessary to allow free movement of intra-city trucks and to devise method of distinguishing this type of trucks from inter-city trucks. It was assured that the present draft bill would not interfere with intra-city movements. Licensing of these trucks was possible under present rules.

On the question of the need to regulate movement of inter-city trucks in Bombay through Section 7, one view was that once the transport companies were shifted to the Truck Terminal all the trucks would have an option but to go to the Truck Terminal since it is mainly through booking agents/transport companies that most inter-city trucks get loads or delivered loads to. In this view Section 7 may not be essential. It was pointed out that while the propensity of inter-city trucks would no doubt be to devolve towards the transport companies in the Truck Terminal there would be no separate and clear obligation or duty for them to load/unload or operate only from the Truck Terminal. Thus, for example, a truck owner/operator could claim that he was delivering goods to a few parties in Bombay directly and that there was nothing in the law which prevented him from doing so. This and similar loopholes were sought to be plugged through Section 7 of the draft legislation whereby loading/unloading at the Truck Terminal only (except in case of full loads for one consignee/address)

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would become the bounden duty and obligation of every inter-city truck owner/operator by virtue of a condition of his licence. It was stressed that this was, therefore, an equally important provision which must be included in the bill. When it was contended that the bill if enacted will virtually stop all truck movement, it was pointed out that this fear was totally unfounded since the bill specifically excluded from its ambit all intra-city trucks including all inter-city trucks with full loads for single consignor/consignee.

On the question of whether exemptions will lead to corruption, it was pointed out that no case-by-case exemption was at all contemplated. The law would apply to only inter-city trucks. All intra-city trucks which have licence only for Bombay will be beyond the mischief of the Act. Any and every inter-city truck carrying full load for/from single consignee or consignor would be exempted for that trip. Law breakers would have to be detected as other law-breakers (including of other conditions of licence) are and dealt with under provisions of the bill. Again if any corruption arises, it will arise due to the desired attempt to regulate and not specifically because it is sought to be done by one law or another.

A suggestion was made that a clause be inserted banning parking and repair of trucks except at the Truck Terminal. It was pointed out that, in fact, such bans existed on selective basis even today but were virtually unenforceable due to lack of alternate sites. Provision has however, been made for ample repair and parking facilities at the Truck Terminal and it was expected that when most trucks will operate from/park at the Truck Terminal, the menace of unauthorised parking and repair shops elsewhere will become

more controllable.

Another important issue discussed was whether or not new/separate legislation was essential to achieve project objectives or whether the same could be realised under existing laws such as Motor Vehicles Act. In this connection it was pointed out that a legislation to set up a Truck Terminal Authority was in any case necessary to clothe it with powers to declare a "control area", set-up a truck terminal, charge for services provided and all other conservancy and similar actions which had to be taken up for the proper and smooth operation of the Truck Terminal. It was found necessary and advisable to include within such legislation the enabling provisions to relocate transport companies and regulate movement, loading and unloading inter-city trucks. Similar need for separate legislation was found in cases of textile as well as agricultural markets. It was further pointed out that only with such clear-out composite legislation would the transport trade gear up to shift to the Truck Terminal and its absence may encourage recalcitrant traders and vested interests to adopt dilatory tactics and defeat the important social objectives of the project.

In sum, the consensus was that relocation of transport companies was absolutely essential. The regulation of inter-city truck movement was also desirable. Therefore, there was need for finding legally competent ways and means for ensuring these and to set-up a Truck Terminal Authority for administering the Truck Terminal. It was felt that unless the transport companies were legally forced to shift from this existing locations to the Truck Terminal, the scheme would not be successful in practice.

The Chairman requested Secretary, Law & Judiciary Department to examine the matter in all its aspects and suggest by the next meeting of the Executive Committee (to be held in June 1985) how atleast the compulsory relocation of transport companies (including booking agents, commission agents, etc.) offices and godowns to the Truck Terminal could be legally achieved.

Consideration of the following Items Nos.11, 12,13 and 14 were then postponed to the next meeting of the Executive Committee :

Item No.11 : Inland Water Transport (IWT) Services around Bombay Harbour.

Item No.12 : Broad parameters to allow office area in the Island City of Bombay under Section 13 of the BMRDA Act.

Item No.13 : Regional Investment Plan for BMR - Final Report.

Item No.14 : Rationalisation of location of scrap yards/junk godowns, etc. scattered over various locations in the City and Suburbs proposal for undertaking a study.

The meeting then concluded after a vote of thanks to the Chair.