

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE, BENCH PUNE  
ORIGINAL APPLICATION NO. 107/2022 (WZ)**

Mr. Irba Mashnaji Konapure & Anr. ... Applicants

Versus

Union of India & Ors. ... Respondents

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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE, BENCH PUNE

MEMORANDUM OF APPLICATION

UNDER SECTION 14, 15, 18, 20 & 23 OF NGT ACT, 2010

r/w RULE NO. 24 OF NGT (P&P) RULES, 2011

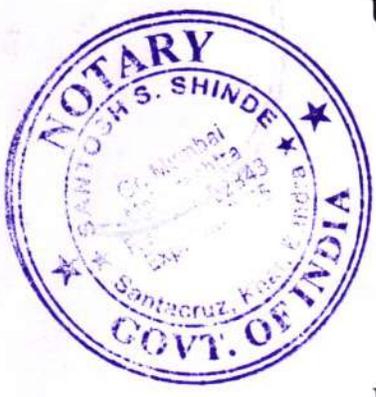
ORIGINAL APPLICATION NO. 107/2022 (WZ)

In the matter between:

Mr. Irba Mashnaji Konapure & Anr. ... Applicants

Versus

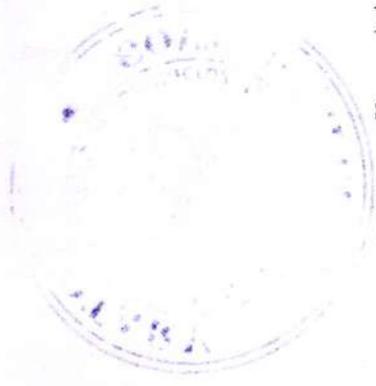
Union of India & Ors. ... Respondents



**ADDITIONAL AFFIDAVIT ON BEHALF OF  
RESPONDENT NO.11**

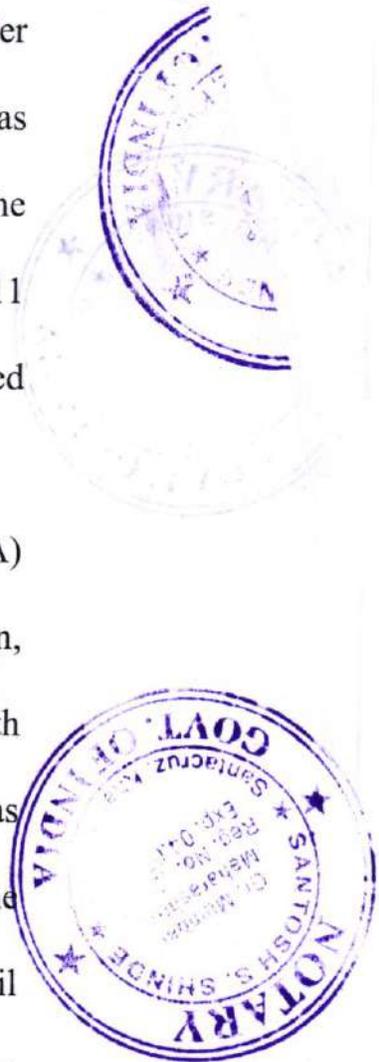
I, Vinit Barde, aged 40 years, the Authorised Signatory of the Respondent No.11, having office address at 75, old block factory, Sector I, Shristi Housing Complex, Village Penkarpada, Mira Road, District Thane, Maharashtra 401104, do hereby solemnly affirm and state as under:

1. I am the Authorized Signatory of the Respondent No.11, having my address as mentioned above and I am competent, authorized, and able to depose the present Additional Affidavit. I am filing this limited Additional Affidavit to bring on record of this Hon'ble Tribunal certain subsequent events, developments and



documents after filing of the Affidavit in Reply dated 21<sup>st</sup> January 2023 for effective adjudication of the matter.

2. The Maharashtra Coastal Zone Management Authority (MCZMA) in its 165<sup>th</sup> meeting held on 08<sup>th</sup> March 2023, after deliberation, was pleased to hold that the Plot bearing S. No. 233 (new S. No. 66) of village Penkarpada at Mira Road, Dist. Thane is situated outside the CRZ Area as per approved CZMP under the CRZ Notification, 2011. Hereto annexed and marked as **Exhibit A** is a copy of the minutes of 165<sup>th</sup> meeting of the MCZMA held on 08<sup>th</sup> March 2023. The Respondent No. 11 repeats and reiterates that no construction work has been carried out on the portion of the land which is influenced by CRZ.
3. The State Environment Impact Assessment Authority (SEIAA) in its 257<sup>th</sup> meeting held on 10<sup>th</sup> March 2023, after deliberation, was pleased to approve the grant Environment Clearance with respect to the said project. Hereto annexed and marked as **Exhibit B** is a copy of the minutes of 257<sup>th</sup> meeting of the SEIAA held on 10<sup>th</sup> March 2023. Accordingly, on 12<sup>th</sup> April 2023, SEIAA issued the Environment Clearance (EC) to the Respondent No. 11 with respect to the said project. Hereto annexed and marked as **Exhibit C** is a copy of the EC dated 12<sup>th</sup> April 2023. The Respondent No. 11 states that SEIAA while



granting the EC has taken due cognizance of the fact that construction upto 16,733 sq.mtrs has been undertaken by Respondent No. 11 and did not find any violation in this regard.

4. The Maharashtra Pollution Control Board (MPCB) vide its Notice bearing No. MPCB/ROT/PD/MPCB/PD/2303130002 dated 13<sup>th</sup> March 2023 issued certain proposed directions upon the Respondent No. 11 and sought reply to the same from the Respondent No. 11 within 7 days. Hereto annexed and marked as **Exhibit D** is a copy of the proposed directions dated 13<sup>th</sup> March 2023 passed by the MPCB upon Respondent No. 11. The Respondent No. 11 vide its detailed reply dated 20<sup>th</sup> March 2023 replied to the said Notice issued by the MPCB, thereby denying all the allegations made in the said Notice. Hereto annexed and marked as **Exhibit E** is a copy of the reply of the Respondent No. 11 dated 20<sup>th</sup> March 2023 to the proposed directions issued by MPCB.

5. Further, the Respondent No. 11 vide its letter dated 12<sup>th</sup> April 2023 apprised the MPCB about the grant of EC having Identification Number EC23B039MH162099 dated 12<sup>th</sup> April 2023 and accordingly requested MPCB to withdraw the Proposed Directions and close the matter. Hereto annexed and



marked as **Exhibit F** is a copy of letter dated 12<sup>th</sup> April 2023 addressed by the Respondent No. 11 to the MPCB.

6. Thereafter, MPCB granted a personal hearing to the Respondent No. 11 on 20<sup>th</sup> January 2023 and that the Respondent No. 11 was directed to file its limited written submissions which it did on 24<sup>th</sup> April 2023. Hereto annexed and marked as **Exhibit G** is a copy of the Written Submissions dated 21<sup>st</sup> April 2023 filed before the MPCB.
7. The Respondent No. 11 vide letter dated 21<sup>st</sup> April 2023 intimated MBMC about the receipt of the EC. Hereto annexed and marked as **Exhibit H** is a copy of letter dated 21<sup>st</sup> April 2023 addressed by the Respondent No. 11 to the MBMC.
8. In view of the additional facts brought on record, the Respondent No. 11 submits that the Original Application be dismissed by this Hon'ble Tribunal with the imposition of costs.

Solemnly affirmed at )

Dated this 26<sup>th</sup> day of April 2023 )

  
Advocates for Respondent No.11

Respondent No.11

  
V.D. Barde



VERIFICATION

I, Vinit Barde, aged 40 years, the Authorised Signatory of the Respondent No.11, having office address at 75, old block factory, Sector I, Shristi Housing Complex, Village Penkarpada, Mira Road, District Thane, Maharashtra 401104, do hereby state and declare that whatever is stated in the foregoing paragraphs of the Affidavit in Reply is true and correct to the best of my knowledge and belief.

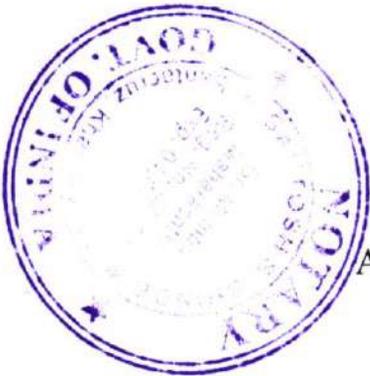
Solemnly affirmed at Mumbai )

This 26<sup>th</sup> day of April 2023 ) Respondent No. 11



*V-D Barde*

Before me,



*Shinde*

Advocates for the Respondent No. 11

**BEFORE ME**  
*26/04/2023*  
**SANTOSH S. SHINDE**  
B.Com., LL.B  
NOTARY  
(GOVT. OF IN' IA)

Place: Mumbai

Date:



**NOTED & REGD.**  
Sr. No...17...of 2023...  
BK No...04...

26 APR 2023



RECEIVED  
JANUARY 21 1902  
U.S. DEPARTMENT OF AGRICULTURE  
WASHINGTON, D.C.

...

...





Exhibit A

1864

*Minutes of 165th meeting of the Maharashtra Coastal Zone Management  
Authority held on 8<sup>th</sup> March, 2023*

**Item No. 25:** CRZ status for plot bearing S. no. 233 of village Penkarpada at Mira Raod, Dist. Thane by M/s Eversmile Properties Pvt. Ltd.

**INTRODUCTION:**

The Project proponent presented the proposal before the Authority. The PP is seeking CRZ status for plot bearing S. no. 233 of village Penkarpada at Mira Road, Dist. Thane.

**DELIBERATIONS:**

The PP during the meeting presented that the MCZMA vide letter dated 7<sup>th</sup> June, 2019 has granted the CRZ recommendation to proposed development of residential building known as Srishti Sector II- A plot bearing S. No. 235(pt) and 256(pt) (New S. No. 68(pt) & 69 (pt) village penkarpada, Mira Road (E), District Thane by M/s Evershine Properties Pvt Ltd.

Now, additional land comprised in S.N No. 233(pt), New S. No. 66(pt) of village Penkarda is attached to S. No. 235 (pt) & 256(pt) of village Penkarpada and development is proposed on entire land comprised in S. No. 233 (pt), 235 (pt) & 256 (pt) New S. No. 66 (pt), 68(pt) & 69(pt) respectively of village Penkarpada at Mira Road.

PP presented that at final CZMP under CRZ Notification, 2011, the land bearing S. No. 233 (pt), New S No. 66(pt) of village penkarpada does not fall under CRZ area. Further, the PP has submitted CRZ map in 1:4000 scale & report dated November, 2017 prepared by IRS Chennai, on which S. No, 233 is superimposed on the demarcated carried out by IRS, Chennai. From the said map also it is clear that the said survey no does not fall in CRZ area.

The Authority observed the location of the S. No. 233(new S. No. 66) on the approved CZMP under CRZ Notification, 2011 and noted that the said survey no is beyond CRZ area.

  
Member Secretary

  
Chairman



*Minutes of 165th meeting of the Maharashtra Coastal Zone Management  
Authority held on 8<sup>th</sup> March, 2023*

**DECISION:**

After deliberation, considering the CZMP in force and CRZ map of the IRS, Chennai, the Authority decided that the plot bearing S. no. 233 ( New S. No. 66) of village Penkarpada at Mira Road, Dist. Thane is situated outside CRZ area as per approved CZMP under CRZ Notification, 2011.

-----*Meeting ended with vote of thanks to chair*-----

**Annexure I**

List of members/officials present in the online meeting:

1. Dr. Mahesh Shindikar, College of Engineering, Pune, Expert Member, MCZMA
2. Mr. Maruti Kudale, Ex Director, CWPRS, Expert Member, MCZM
3. Mr. Sunil Bhat, Dyche. MCGM, Member MCZMA
4. Mr. Abhay Pimparkar, Director, Environment & CC and Member Secretary, MCZMA



  
Member Secretary

  
Chairman





Exhibit B

1866

Minutes of 257<sup>th</sup> Day - 4 (Part B) meeting of SEIAA held on 10<sup>th</sup> March, 2023

**Item no. 28**

**Proposal No.:-** SIA/MH/MIS/238569/2021

**Type of Project:** EC

**Subject-** Environmental Clearance for proposed residential development at old Survey No. 233 (Pt.), 235 (Pt.), and 256 (Pt.), {new survey no. 66 (Pt.), 68 (Pt.), and 69 (Pt.)} at Village: Penkarpada, Mira road, Thane by Eversmile Properties Pvt Ltd.

**Project Details-**

PP submitted the application for environment clearance to their proposed Residential Development project having total plot area of 37,880.43 Sq. Mtrs, Total construction area of 3,23,656.18 Sq. Mtrs and FSI area of 1,85,303.99 Sq. Mtrs. PP proposes to construct 12 Nos. of Residential buildings with shops as mentioned at Sr. no-20 of the project details.

Representative of PP was present during the meeting along with environmental consultant Enviro Analysts & Engineers Pvt Ltd. The details of project are as mentioned below:

Sr No.	Description	Details	
1	Proposal Number	SIA/MH/MIS/238569/2021	
2	Name of Project	Proposed residential development at old Survey No. 233 (Pt.), 235(Pt.) and 256(Pt.) (new survey no. 66(Pt.), 68(Pt.) and 69(Pt.) at Village: Penkarpada, Mira road, Thane by M/s Eversmile Properties Pvt Ltd.	
3	Project category	8(b) B1	
4	Type of Institution	Private	
5	Project Proponent	Name	Mr. Parag Saraiya
		Regd. Office address	101, Kalpataru Synergy, Opp. Grand Hyatt, Santacruz (E), Mumbai 400 055.
		Contact number	022 30645000
		e-mail	eversmile@kalpataru.com
6	Consultant	Name: M/s. Enviro Analysts & Engineers Pvt. Ltd. NABET Accreditation No: NABET/EIA/2023/RA0206 Validity: 13.05.2023	
7	Applied for	New	
8	Location of the project	Old Survey No. 233 (Pt.), 235(Pt.) and 256(Pt.) (new survey no. 66(Pt.), 68(Pt.) and 69(Pt.) at Village: Penkarpada, Mira road, Thane.	
9	Latitude and Longitude	Latitude: 19°16'19.39"N Longitude: 72°52'10.49"E	
10	Plot Area (sq.m.)	37,880.43 sq. mt.	
11	Deductions (sq.m.)	0.00 sq. mt.	
12	Net Plot area (sq.m.)	37,880.43 sq. mt.	
13	Ground coverage (m <sup>2</sup> ) & %	22869.166 sq .mt. (60.371 %)	
14	FSI Area (sq.m.)	1,85,303.99 sq. mt.	

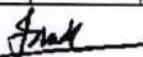
Member Secretary

Chairman

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Minutes of 257<sup>th</sup> Day - 4 (Part B) meeting of SEIAA held on 10<sup>th</sup> March, 2023

15	Non-FSI (sq.m.)	138352.19 sq. mt.					
16	Proposed built-up area (FSI + Non FSI) (sq.m.)	323656.18 sq. mt.					
17	TBUA (m <sup>2</sup> ) approved by Planning Authority till date	CC has been received dated -31/3/2022 from MBMC. Approved FSI area- 1,93,657. 72sq.m					
18	Earlier EC details with Total Construction area, if any.	NA. This is fresh project.					
19	Construction completed (FSI + Non FSI) (sq.m.)						
20	Previous EC / Existing Building	Proposed Configuration				Reason for Modification / Change	
		Building Name	Configuration	Height (m)	Building Name		Configuration
		NA	NA	A	2B + Ground + 1 <sup>st</sup> Podium + 2 <sup>nd</sup> Podium+ 1st to 33th floor	108.60	NA
				B	2B + Ground + 1 <sup>st</sup> Podium + 2 <sup>nd</sup> Podium+ 1st to 33th floor	108.60	
				C	2B + Ground/Shopping + 1 <sup>st</sup> Podium/Shopping + 2 <sup>nd</sup> Podium + 1st to 33th floor	108.60	
				D	3B + Ground/Shopping + 1 <sup>st</sup> Podium/Shopping + 2 <sup>nd</sup> Podium + 1st to 33th floor	108.60	
				E	3B + Ground + 1 <sup>st</sup> Podium + 2 <sup>nd</sup> Podium + 1st to 31 <sup>st</sup> floor	102.70	
				F	3B + Ground + 1 <sup>st</sup> Podium + 2 <sup>nd</sup> Podium + 1st to 31st floor	102.70	
				G	2B + Ground + 1 <sup>st</sup> Podium + 2 <sup>nd</sup>	102.70	

  
Member Secretary

  
Chairman

Minutes of 257<sup>th</sup> Day - 4 (Part B) meeting of SEIAA held on 10<sup>th</sup> March, 2023

				Podium + 1st to 31st floor	
			H	2B + Ground + 1st Podium + 2nd Podium + 1st to 31st floor	102.70
			I	2B + Ground + 1st Podium + 2nd Podium + 1st to 2nd floor	16.00
			J	2B + Ground + 1st to 4th floor	14.95
			K	2B + Ground + 1st Podium + 2nd Podium + 1st to 3rd floor	18.95
			L	2B + Ground + 1st Podium + 2nd Podium + 1st to 33th floor	108.60
21	No. of Tenements & Shops	Flats-2521 Nos. Shops-21 nos			
22	Total Population	11602 Nos.			
23	Total Water Requirements CMD	Total Water Requirement:1705 Domestic: 1103 Flushing: 572 Landscape: 30			
24	Under Ground Tank (UGT) location	Below ground			
25	Source of water	MBMC			
26	STP Capacity & Technology	1624 KLD MBBR technology			
27	STP Location	Ground			
28	Sewage Generation CMD & % of sewage discharge in sewer line	Sewage Generation is 1455 CMD & 634 CMD (35% of sewage discharge in the sewer line.)			
29	Solid Waste Management during Construction Phase	Type	Quantity (Kg/d)	Treatment / disposal	
		Dry waste	20	Will be handed over to a recycler	
		Wet waste	30	Will be handed over to municipal	

  
Member Secretary

  
Chairman

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Minutes of 257<sup>th</sup> Day - 4 (Part B) meeting of SEIAA held on 10<sup>th</sup> March, 2023

30	Total	Solid	Waste	Type	Quantity (Kg/d)	Treatme	
				Constructi on waste	Top Soil	6805 7 cum	waste collector To be preserved for landscapi ng.
					Demoliti on waste	Nil	NA
					Excavate d material	1375 50 cum	The excavated soil shall be reused for backfillin g to the extent possible. The excess shall be disposed off
					Cement Bags	9133 8	The empty bags shall be recycled and reused.
					Paint container (@20L)	2316 8 Cans	To be sold to recyclers
					Scrap metal generate d	706 Mt	The steel shall be sent for recycling
					Tiles	1997 87 Sq ft	The excess shall be disposed of through authorize d vendors.



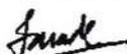
*S. S. Shinde*  
Member Secretary

*M. M. M.*  
Chairman

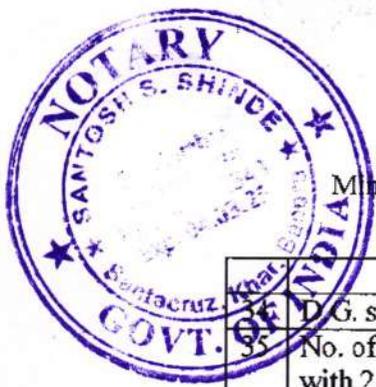
1870

Minutes of 257<sup>th</sup> Day - 4 (Part B) meeting of SEIAA held on 10<sup>th</sup> March, 2023

	Quantities with type during Operation Phase & Capacity of OWC to be installed	Dry waste	3543 kg/day	Will be handed over to a recycler.						
		Wet waste	2362 kg/day	Will be treated on OWC. Manure obtained shall be used as manure for landscaping.						
		E-Waste	8535 kg/year	Will be collected and sent to MPCB authorized recyclers.						
		STP Sludge (dry)	73 kg/day	Sewage sludge is used as manure for gardening.						
31	R.G. Area in sq. m.	<p>RG required – 3788.04 sq.m.            RG provided on Mother earth- 1.5 strip proposed            RG provided on Podium - 3788.04 sq.m.            Total – 3788.04 sq.m.</p> <p>Existing trees on the plot: 197nos            Number of trees to be planted: 1298 nos.            a) In RG area: 625 nos.            b) In Miyawaki Plantation; 1000 nos.</p> <p>Number of trees to be cut: 167 nos.            Number of trees to be transplanted: 30 nos.</p>								
32	Power requirement	<p>During Operation Phase:</p> <table border="1"> <thead> <tr> <th colspan="2">Details</th> </tr> </thead> <tbody> <tr> <td>Connected load (kW)</td> <td>37788</td> </tr> <tr> <td>Demand load (kW)</td> <td>10674</td> </tr> </tbody> </table>			Details		Connected load (kW)	37788	Demand load (kW)	10674
Details										
Connected load (kW)	37788									
Demand load (kW)	10674									
33	Energy Efficiency	a) Total Energy saving (%): 20%								

  
 Member Secretary

  
 Chairman



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Minutes of 257<sup>th</sup> Day - 4 (Part B) meeting of SEIAA held on 10<sup>th</sup> March, 2023

		b) Solar energy (%): 5%
	D.G. set capacity	3 x 910 KVA
35	No. of 4-W & 2-W Parking with 25% EV	4W – 2917 No's 2W – 3036 No's 25% EV Charging Points provided
36	No. & capacity of Rain water harvesting tanks /Pits	11 Recharge Pits
37	Project Cost in (Cr.)	Rs 1084.26crores
38	EMP Cost	Capital Cost: Rs. 366.25 lakhs O & M Cost: Rs. 47.34 lakhs/annum
39	CER Details with justification if any....as per MoEF&CC circular dated 01/05/2018	OM dated 30.9.2020 U/n F.No- 22-65/2017.IA.III supersedes earlier OM under even number dated 1st May, 2018 regarding guidelines in respect to CER
40	Details of Court Cases/litigations w.r.t the project and project location, if any.	Nil



**SEAC Deliberation –**

PP informed that the project comes in the jurisdiction of Mira Bhayandar Municipal Corporation (MBMC). PP also informed that the project site is accessible by 30.0 Mtr wide existing DP road. PP further informed that the project is proposed for IGBC Green homes certification.

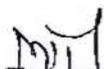
PP submitted that the project has received Terms of Reference (ToR) vide letter No-SIA/MH/MIS/238569/2021, dated: 23.03.2022 for total plot area of 37,880.34 Sq. Mtrs, Total construction area of 3,85,708.276 Sq. Mtrs. and FSI area of 2,44,659.300 Sq. Mtrs. Accordingly, PP has submitted EIA report on Parivesh portal for appraisal. However, Committee noted that the proposed total construction area of the project is 3,23,656.18 Sq. Mtrs which is well within the total construction area of 3,85,708.276 Sq. Mtrs. approved in ToR dated: 23.03.2022.

The project proposal was discussed on the basis of presentation made and documents submitted by the proponent along with environmental consultant Enviro Analysts & Engineers Pvt Ltd. All issues related to environment, including air, water, land, soil, ecology and biodiversity and social aspects were discussed. Committee noted that the project is under 8(b) B1 category of EIA Notification, 2006. Consolidated Statements, Form- 2/IA, presentation & plans submitted are taken on the record.

**During discussion following points emerged:**

- 1.PP to submit IOD/IOA/Concession Document/Plan Approval or any other form of documents as applicable clarifying its conformity with local planning rules and provisions as per the Circular dated 30.01.2014 issued by the Environment Department, Govt. of Maharashtra.
- 2.PP to submit revised CRZ NOC from MCZMA as per latest revised planning of the project.
- 3.PP to submit details energy calculation with terrace floor plan in accordance with shadow analysis & ensure that the energy savings from renewable sources shall be minimum 5 % & over all energy saving of the project is minimum 20%.

  
Member Secretary

  
Chairman

4. PP to reduce discharge of treated water up to 35%. PP to submit undertaking from concerned authority/agency/third party regarding use of excess treated water.

5. PP to revise biodiversity chapter in EIA including details of trees to be cut & compensatory plantation details.

6. PP to provide adequate mechanical ventilation in the STP-2 & include cost of it in EMP.

7. PP to provide two row plantations all along the project boundary to mitigate noise and air pollution due to vehicular movements on roads.

8. Planning authority to ensure that water supply, sewer and storm water networks are made available in the vicinity of the project before issuing occupation certificate to the project.

**Recommendations of SEAC-**

In view of above discussion and subject to compliance of above points the proposal is recommended to SEIAA for grant of Environmental Clearance.

**Deliberation in SEIAA-**

Proposal is a new construction project. Proposal is recommended by SEAC-2 in its 178<sup>th</sup> meeting for grant of Environment Clearance for total plot area of 37,880.43 m<sup>2</sup>, FSI area of 1,85,303.99 m<sup>2</sup>, Non FSI area of 1,38,352.19 m<sup>2</sup> and total BUA of 3,23,656.18 m<sup>2</sup>.

The proposal was deferred in 247<sup>th</sup> & 252<sup>nd</sup> meeting of SEIAA as PP was absent for the meeting.

SEIAA asked PP to submit undertaking regarding the no construction has been carried out on portion of land falls in CRZ-II area. PP submitted the same vide email dated 13.03.2023.

PP submitted that OA No. 107 /2022 filed before Hon. NGT pertain to the project. The matter listed on 29.11.2022, 23.01.2023 & 15.03.2023 and Hon. NGT has not passed any adverse orders in respect of said project.

SEIAA observed from the google satellite image that the construction initiated by PP on site. SEIAA asked clarification on the same. PP submitted that the construction work commenced and completed up to 16,733 m<sup>2</sup> at site as per commencement certificate by MBMC and as per Environment Dept. Circular dated 21.04.2015. SEIAA asked PP to submit Joint Statement under the signature of PP, Registered Architect & Environment Consultant to that effect. Accordingly, PP submitted the same dated 10.03.2023.

During the meeting, SEIAA observed that PP has obtained CFO NOC dated 29.12.2021 for height up to 107.25 for Building Wing-A to D, I, K & L, for height up to 101.35 m for Wing -E to H & for height up to 106.40 m for Wing -J. SEIAA decided to restrict building height as per CFO NOC.

SEIAA also asked PP to submit undertaking regarding the complying the SEAC conditions. PP submitted the same dated 25.02.2023.

SEIAA after deliberation decided to grant EC for - FSI area -1,85,303.99 m<sup>2</sup>, Non FSI area - 1,38,352.19 m<sup>2</sup> and total BUA - 3,23,656.18 m<sup>2</sup>. (Plan approval No. MBMC/TP/46/2021-22, dated- 31.03.2022) (Restricted as per appraisal)

SEIAA after deliberation decided to grant Environment Clearance subject to compliance of following conditions-

1. This EC is restricted for height up to 107.25 for Building Wing-A to D, I, K & L, for height up to 101.35 m for Wing -E to H & for height up to 106.40 m for Wing -J. SEIAA decided to restrict building height as per CFO NOC.
2. PP to keep open space unpaved so as to ensure permeability of water. However, whenever paving is deemed necessary, PP to provide grass pavers of suitable types & strength to increase the water permeable area as well as to allow effective fire tender movement.
3. PP to achieve at least 5% of total energy requirement from solar/other renewable sources.



Member Secretary

  
Chairman

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Minutes of 257<sup>th</sup> Day - 4 (Part B) meeting of SEIAA held on 10<sup>th</sup> March, 2023

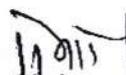
4. PP Shall comply with Standard EC conditions mentioned in the Office Memorandum issued by MoEF & CC vide F.No.22-34/2018-IA.III dt.04.01.2019.
5. SEIAA after deliberation decided to grant EC for – FSI area -1,85,303.99 m<sup>2</sup>, Non FSI area - 1,38,352.19 m<sup>2</sup> and total BUA - 3,23,656.18 m<sup>2</sup>. (Plan approval No. MBMC/TP/46/2021-22, dated- 31.03.2022) (Restricted as per appraisal)

**SEIAA Decision-**

SEIAA after deliberation decided to grant Environment Clearance.



  
Member Secretary

  
Chairman



Government of India  
Ministry of Environment, Forest and Climate Change  
(Issued by the State Environment Impact Assessment  
Authority(SEIAA), Maharashtra)

To,

The Director  
EVERSMILE PROPERTIES PVT LTD.  
101, Kalpataru Synergy, Opp Grand Hyatt, Santacruz East -400055

**Subject:** Grant of Environmental Clearance (EC) to the proposed Project Activity under the provision of EIA Notification 2006-regarding

Sir/Madam,

This is in reference to your application for Environmental Clearance (EC) in respect of project submitted to the SEIAA vide proposal number SIA/MH/MIS/238569/2021 dated 06 Apr 2022. The particulars of the environmental clearance granted to the project are as below.

- |  |  |
|--|--|
| 1. EC Identification No.                   | EC23B039MH162099   |
| 2. File No.                                | SIA/MH/MIS/238569/2021   |
| 3. Project Type                            | New  |
| 4. Category                                | B1   |
| 5. Project/Activity including Schedule No. | 8(b) Townships and Area Development projects.  |
| 6. Name of Project                         | PROPOSED RESIDENTIAL DEVELOPMENT AT Old SurveyNos 233 (pt), 235(pt) & 256(pt) New Survey Nos 66(pt), 68(pt) and 69(pt) ATVILLAGE PENKARPADA, MIRA ROAD, THANE by EVERSMILE PROPERTIES PVT LTD. |
| 7. Name of Company/Organization            | EVERSMILE PROPERTIES PVT LTD.  |
| 8. Location of Project                     | Maharashtra  |
| 9. TOR Date                                | N/A  |

The project details along with terms and conditions are appended herewith from page no 2 onwards.

Date: 12/04/2023

(e-signed)  
Pravin C. Darade , I.A.S.  
Member Secretary  
SEIAA - (Maharashtra)

*Note: A valid environmental clearance shall be one that has EC identification number & E-Sign generated from PARIVESH. Please quote identification number in all future correspondence.*

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ENVIRONMENTAL  
CLEARANCE

PARIVESH

(Pro-Active and Responsive Facilitation by Interactive)  
and Virtuous Environmental Single-Window Hub



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**STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY**

No. SIA/MH/MIS/238569/2021  
Environment & Climate Change Department  
Room No. 217, 2<sup>nd</sup> Floor,  
Mantralaya, Mumbai- 400032.

To  
M/s. Eversmile Properties Pvt Ltd.  
Village: Penkarpada, Mira road, Thane

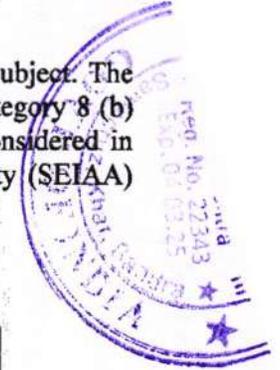
**Subject:** Environmental Clearance for proposed residential development at old Survey No. 233 (Pt.), 235 (Pt.), and 256 (Pt.), {new survey no. 66 (Pt.), 68 (Pt.), and 69 (Pt.)} at Village: Penkarpada, Mira road, Thane by M/s. Eversmile Properties Pvt Ltd.

**Reference:** Application no. SIA/MH/MIS/238569/2021

This has reference to your communication on the above-mentioned subject. The proposal was considered by the SEAC-2 in its 178<sup>th</sup> meeting under screening category 8 (b) B1 as per EIA Notification, 2006 and recommend to SEIAA. Proposal then considered in 257<sup>th</sup> meeting (Day-4) of State Level Environment Impact Assessment Authority (SEIAA) held on 10.03.2023.

2. Brief Information of the project submitted by you is as below:-

Sr. No.	Description	Details	
1	Proposal Number	SIA/MH/MIS/238569/2021	
2	Name of Project	Proposed residential development at old Survey No. 233 (Pt.), 235(Pt.) and 256(Pt.) (new survey no. 66(Pt.), 68(Pt.) and 69(Pt.) at Village: Penkapada, Mira road, Thane by M/s Eversmile Properties Pvt Ltd.	
3	Project category	8(b) B1	
4	Type of Institution	Private	
5	Project Proponent	Name	Mr. Parag Saraiya
		Regd. Office address	101, Kalpataru Synergy, Opp. Grand Hyatt, Santacruz (E), Mumbai 400 055.
		Contact number	022 30645000
		e-mail	<a href="mailto:eversmile@kalpataru.com">eversmile@kalpataru.com</a>

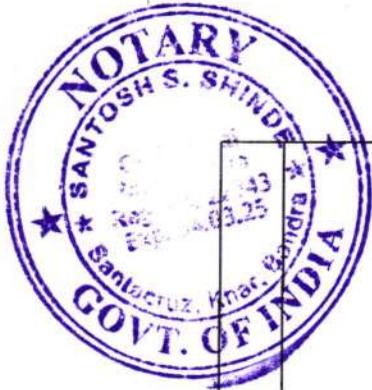


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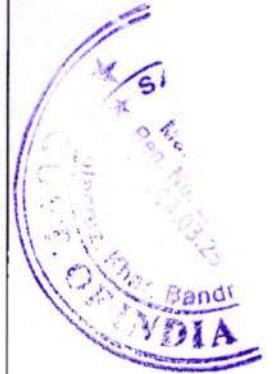
6	Consultant	Name: M/s. Enviro Analysts & Engineers Pvt. Ltd. NABET Accreditation No: NABET/EIA/2023/RA0206 Validity: 13.05.2023				
7	Applied for	New				
8	Location of the project	Old Survey No. 233 (Pt.), 235(Pt.) and 256(Pt.) (new survey no. 66(Pt.), 68(Pt.) and 69(Pt.) at Village: Penkarpada, Mira road, Thane.				
9	Latitude and Longitude	Latitude: 19°16'19.39"N Longitude: 72°52'10.49"E				
10	Plot Area (sq.m.)	37,880.43 sq. mt.				
11	Deductions (sq.m.)	0.00 sq. mt.				
12	Net Plot area (sq.m.)	37,880.43 sq. mt.				
13	Ground coverage (m <sup>2</sup> ) & %	22869.166 sq. mt. (60.371 %)				
14	FSI Area (sq.m.)	1,85,303.99 sq. mt.				
15	Non-FSI (sq.m.)	138352.19 sq. mt.				
16	Proposed built-up area (FSI + Non FSI) (sq.m.)	323656.18 sq. mt.				
17	TBUA (m <sup>2</sup> ) approved by Planning Authority till date	CC has been received dated -31//3/2022 from MBMC. Approved FSI area- 1,93,657.72sq.m				
18	Earlier EC details with Total Construction area, if any.	NA. This is fresh project.				
19	Construction completed (FSI + Non FSI) (sq.m.)					
20	<b>Previous EC / Existing Building</b>	<b>Proposed Configuration</b>				<b>Reason for Modification / Change</b>
	<b>Buildi ng Name</b>	<b>Configura tion</b>	<b>Heig ht (m)</b>	<b>Building Name</b>	<b>Configuration</b>	<b>Height (m)</b>
	NA	NA	NA	A	2B + Ground + 1 <sup>st</sup> Podium + 2 <sup>nd</sup> Podium+ 1st to 33th floor	108.60
				B	2B + Ground + 1 <sup>st</sup> Podium + 2 <sup>nd</sup> Podium+ 1st to 33th floor	108.60
				C	2B + Ground/Shopping + 1 <sup>st</sup> Podium/Shop ping + 2 <sup>nd</sup> Podium + 1st	108.60
						NA



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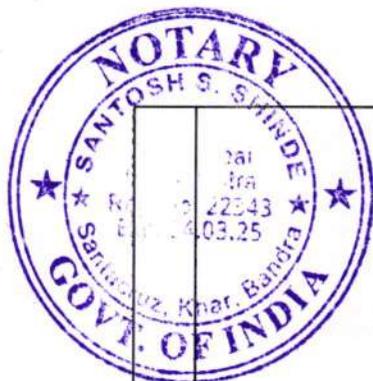
			to 33th floor	
		D	3B + Ground/Shopping + 1 <sup>st</sup> Podium/Shopping + 2 <sup>nd</sup> Podium + 1st to 33th floor	108.60
		E	3B + Ground + 1st Podium + 2 <sup>nd</sup> Podium + 1st to 31 <sup>st</sup> floor	102.70
		F	3B + Ground + 1st Podium + 2 <sup>nd</sup> Podium + 1st to 31st floor	102.70
		G	2B + Ground + 1st Podium + 2 <sup>nd</sup> Podium + 1st to 31st floor	102.70
		H	2B + Ground + 1st Podium + 2 <sup>nd</sup> Podium + 1st to 31st floor	102.70
		I	2B + Ground + 1st Podium + 2 <sup>nd</sup> Podium + 1st to 2nd floor	16.00
		J	2B + Ground + 1st to 4th floor	14.95
		K	2B + Ground + 1st Podium + 2 <sup>nd</sup> Podium + 1st to 3rd floor	18.95
		L	2B + Ground + 1st Podium + 2 <sup>nd</sup> Podium + 1st to 33th floor	108.60
21	No. of Tenements & Shops	Flats-2521 Nos. Shops-21 nos		
22	Total Population	11602 Nos.		
23	Total Water Requirements CMD	Total Water Requirement:1705 Domestic: 1103 Flushing: 572 Landscape: 30		
24	Under Ground Tank (UGT) location	Below ground		
25	Source of water	MBMC		



26	STP Capacity & Technology	1624 KLD MBBR technology			
27	STP Location	Ground			
28	Sewage Generation CMD & % of sewage discharge in sewer line	Sewage Generation is 1455 CMD & 634 CMD (35% of sewage discharge in the sewer line.)			
29	Solid Waste Management during Construction Phase	<b>Type</b>	<b>Quantity (Kg/d)</b>	<b>Treatment / disposal</b>	
		Dry waste	20	Will be handed over to a recycler	
		Wet waste	30	Will be handed over to municipal waste collector	
		Construction waste	Top Soil	6805 7 cum	To be preserved for landscaping.
			Demolition waste	Nil	NA
		Excavated material	1375 50 cum	The excavated soil shall be reused for backfilling to the extent possible. The excess shall be disposed off	
		Cement Bags	9133 8	The empty bags shall be recycled and reused.	
Paint container	2316 8	To be sold to			



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			(@20L)	Cans	recyclers
			Scrap metal generated	706 Mt	The steel shall be sent for recycling
			Tiles	199787 Sq ft	The excess shall be disposed of through authorized vendors.
30	Total Solid Waste Quantities with type during Operation Phase & Capacity of OWC to be installed	<b>Type</b>	<b>Quantity (Kg/d)</b>	<b>Treatment / disposal</b>	
		Dry waste	3543 kg/day	Will be handed over to a recycler.	
		Wet waste	2362 kg/day	Will be treated on OWC. Manure obtained shall be used as manure for landscaping.	
		E-Waste	8535 kg/year	Will be collected and sent to MPCB authorized recyclers.	
		STP Sludge (dry)	73 kg/day	Sewage sludge is used as manure for gardening.	
31	R.G. Area in sq. m.	RG required – 3788.04 sq.m. RG provided on Mother earth- 1.5 strip proposed			



		RG provided on Podium - 3788.04 sq.m. Total – 3788.04 sq.m.						
		Existing trees on the plot: 197nos						
		Number of trees to be planted: 1298 nos. a) In RG area: 625 nos. b) In Miyawaki Plantation; 1000 nos.						
		Number of trees to be cut: 167 nos.						
		Number of trees to be transplanted: 30 nos.						
32	Power requirement	During Operation Phase: <table border="1"> <thead> <tr> <th colspan="2">Details</th> </tr> </thead> <tbody> <tr> <td>Connected load (kW)</td> <td>37788</td> </tr> <tr> <td>Demand load (kW)</td> <td>10674</td> </tr> </tbody> </table>	Details		Connected load (kW)	37788	Demand load (kW)	10674
Details								
Connected load (kW)	37788							
Demand load (kW)	10674							
33	Energy Efficiency	a) Total Energy saving (%): 20% b) Solar energy (%): 5%						
34	D.G. set capacity	3 x 910 KVA						
35	No. of 4-W & 2-W Parking with 25% EV	4W – 2917 No's 2W – 3036 No's 25% EV Charging Points provided						
36	No. & capacity of Rain water harvesting tanks /Pits	11 Recharge Pits						
37	Project Cost in (Cr.)	Rs 1084.26crores						
38	EMP Cost	Capital Cost: Rs. 366.25 lakhs O & M Cost: Rs. 47.34 lakhs/annum						
39	CER Details with justification if any....as per MoEF&CC circular dated 01/05/2018	OM dated 30.9.2020 U/n F.No- 22-65/2017.IA.III supersedes earlier OM under even number dated 1st May, 2018 regarding guidelines in respect to CER						
40	Details of Court Cases/litigations w.r.t the project and project location, if any.	Nil						

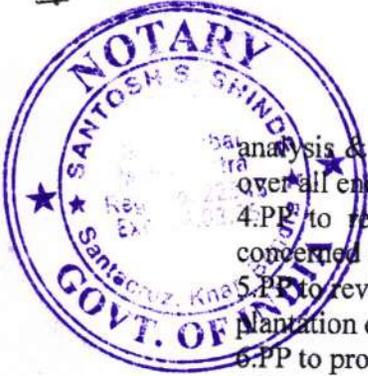
Proposal is a new construction project. Proposal has been considered by SEIAA in its 257<sup>th</sup> meeting (Day-4) and decided to accord Environment Clearance to the said project under the provisions of Environment Impact Assessment Notification, 2006 subject to implantation of following terms and conditions-

**Specific Conditions:**

**A. SEAC Conditions-**

- 1.PP to submit IOD/IOA/Concession Document/Plan Approval or any other form of documents as applicable clarifying its conformity with local planning rules and provisions as per the Circular dated 30.01.2014 issued by the Environment Department, Govt. of Maharashtra.
- 2.PP to submit revised CRZ NOC from MCZMA as per latest revised planning of the project.
- 3.PP to submit details energy calculation with terrace floor plan in accordance with shadow

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analysis & ensure that the energy savings from renewable sources shall be minimum 5 % & overall energy saving of the project is minimum 20%.

4. PP to reduce discharge of treated water up to 35%. PP to submit undertaking from concerned authority/agency/third party regarding use of excess treated water.

5. PP to revise biodiversity chapter in EIA including details of trees to be cut & compensatory plantation details.

6. PP to provide adequate mechanical ventilation in the STP-2 & include cost of it in EMP.

7. PP to provide two row plantations all along the project boundary to mitigate noise and air pollution due to vehicular movements on roads.

8. Planning authority to ensure that water supply, sewer and storm water networks are made available in the vicinity of the project before issuing occupation certificate to the project.

#### **B. SEIAA Conditions-**

1. This EC is restricted for height up to 107.25 for Building Wing-A to B, for height up to 101.35 m for Wing -E to H & for height up to 107.25 m for Wing -L. SEIAA decided to restrict building height as per CFO NOC.

2. PP to keep open space unpaved so as to ensure permeability of water. However, whenever paving is deemed necessary, PP to provide grass pavers of suitable types & strength to increase the water permeable area as well as to allow effective fire tender movement.

3. PP to achieve at least 5% of total energy requirement from solar/other renewable sources.

4. PP Shall comply with Standard EC conditions mentioned in the Office Memorandum issued by MoEF& CC vide F.No.22-34/2018-IA.III dt.04.01.2019.

5. SEIAA after deliberation decided to grant EC for - FSI area -1,85,303.99 m<sup>2</sup>, Non FSI area - 1,38,352.19 m<sup>2</sup> and total BUA - 3,23,656.18 m<sup>2</sup>. (Plan approval No. MBMC/TP/46/2021-22, dated- 31.03.2022). (Restricted as per appraisal)

#### **General Conditions:**

##### **a) Construction Phase :-**

I. The solid waste generated should be properly collected and segregated. Dry/inert solid waste should be disposed of to the approved sites for land filling after recovering recyclable material.

II. Disposal of muck, Construction spoils, including bituminous material during construction phase should not create any adverse effect on the neighbouring communities and be disposed taking the necessary precautions for general safety and health aspects of people, only in the approved sites with the approval of competent authority.

III. Any hazardous waste generated during construction phase should be disposed of as per applicable rules and norms with necessary approvals of the Maharashtra Pollution Control Board.

IV. Adequate drinking water and sanitary facilities should be provided for construction workers at the site. Provision should be made for mobile toilets. The safe disposal of wastewater and solid wastes generated during the construction phase should be ensured.

V. Arrangement shall be made that waste water and storm water do not get mixed.

VI. Water demand during construction should be reduced by use of pre-mixed concrete, curing agents and other best practices.

VII. The ground water level and its quality should be monitored regularly in

consultation with Ground Water Authority.

- VIII. Permission to draw ground water for construction of basement if any shall be obtained from the competent Authority prior to construction/operation of the project.
- IX. Fixtures for showers, toilet flushing and drinking should be of low flow either by use of aerators or pressure reducing devices or sensor based control.
- X. The Energy Conservation Building code shall be strictly adhered to.
- XI. All the topsoil excavated during construction activities should be stored for use in horticulture / landscape development within the project site.
- XII. Additional soil for levelling of the proposed site shall be generated within the sites (to the extent possible) so that natural drainage system of the area is protected and improved.
- XIII. Soil and ground water samples will be tested to ascertain that there is no threat to ground water quality by leaching of heavy metals and other toxic contaminants.
- XIV. PP to strictly adhere to all the conditions mentioned in Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 as amended during the validity of Environment Clearance.
- XV. The diesel generator sets to be used during construction phase should be low sulphur diesel type and should conform to Environments (Protection) Rules prescribed for air and noise emission standards.
- XVI. Vehicles hired for transportation of Raw material shall strictly comply the emission norms prescribed by Ministry of Road Transport & Highways Department. The vehicle shall be adequately covered to avoid spillage/leakages.
- XVII. Ambient noise levels should conform to residential standards both during day and night. Incremental pollution loads on the ambient air and noise quality should be closely monitored during construction phase. Adequate measures should be made to reduce ambient air and noise level during construction phase, so as to conform to the stipulated standards by CPCB/MPCB.
- XVIII. Diesel power generating sets proposed as source of backup power for elevators and common area illumination during construction phase should be of enclosed type and conform to rules made under the Environment (Protection) Act, 1986. The height of stack of DG sets should be equal to the height needed for the combined capacity of all proposed DG sets. Use low sulphur diesel is preferred. The location of the DG sets may be decided with in consultation with Maharashtra Pollution Control Board.
- XIX. Regular supervision of the above and other measures for monitoring should be in place all through the construction phase, so as to avoid disturbance to the surroundings by a separate environment cell /designated person.

#### B) Operation phase:-

- I. a) The solid waste generated should be properly collected and segregated. b) Wet waste should be treated by Organic Waste Converter and treated waste (manure) should be utilized in the existing premises for gardening. And, no wet garbage will be disposed outside the premises. c) Dry/inert solid waste should be disposed of to the approved sites for land filling after recovering recyclable material.
- II. E-waste shall be disposed through Authorized vendor as per E-waste (Management and Handling) Rules, 2016.

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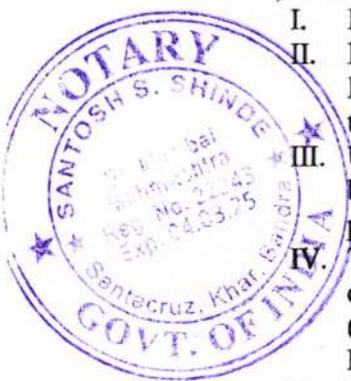
- III. a) The installation of the Sewage Treatment Plant (STP) should be certified by an independent expert and a report in this regard should be submitted to the MPCB and Environment department before the project is commissioned for operation. Treated effluent emanating from STP shall be recycled/ reused to the maximum extent possible. Treatment of 100% grey water by decentralized treatment should be done. Necessary measures should be made to mitigate the odour problem from STP. b) PP to give 100 % treatment to sewage /Liquid waste and explore the possibility to recycle at least 50 % of water, Local authority should ensure this.
- IV. Project proponent shall ensure completion of STP, MSW disposal facility, green belt development prior to occupation of the buildings. As agreed during the SEIAA meeting, PP to explore possibility of utilizing excess treated water in the adjacent area for gardening before discharging it into sewer line No physical occupation or allotment will be given unless all above said environmental infrastructure is installed and made functional including water requirement.
- V. The Occupancy Certificate shall be issued by the Local Planning Authority to the project only after ensuring sustained availability of drinking water, connectivity of sewer line to the project site and proper disposal of treated water as per environmental norms.
- VI. Traffic congestion near the entry and exit points from the roads adjoining the proposed project site must be avoided. Parking should be fully internalized and no public space should be utilized.
- VII. PP to provide adequate electric charging points for electric vehicles (EVs).
- VIII. Green Belt Development shall be carried out considering CPCB guidelines including selection of plant species and in consultation with the local DFO/ Agriculture Dept.
- IX. A separate environment management cell with qualified staff shall be set up for implementation of the stipulated environmental safeguards.
- X. Separate funds shall be allocated for implementation of environmental protection measures/EMP along with item-wise breaks-up. These cost shall be included as part of the project cost. The funds earmarked for the environment protection measures shall not be diverted for other purposes.
- XI. The project management shall advertise at least in two local newspapers widely circulated in the region around the project, one of which shall be in the Marathi language of the local concerned within seven days of issue of this letter, informing that the project has been accorded environmental clearance and copies of clearance letter are available with the Maharashtra Pollution Control Board and may also be seen at Website at parivesh.nic.in
- XII. A copy of the clearance letter shall be sent by proponent to the concerned Municipal Corporation and the local NGO, if any, from whom suggestions/representations, if any, were received while processing the proposal. The clearance letter shall also be put on the website of the Company by the proponent.
- XIII. The proponent shall upload the status of compliance of the stipulated EC conditions, including results of monitored data on their website and shall update the same periodically. It shall simultaneously be sent to the Regional Office of MoEF, the respective Zonal Office of CPCB and the SPCB. The criteria pollutant levels namely; SPM, RSPM. SO<sub>2</sub>, NO<sub>x</sub> (ambient levels as well as stack emissions) or critical sector parameters, indicated for the project shall be monitored and displayed at a convenient location near the main gate of the



company in the public domain.

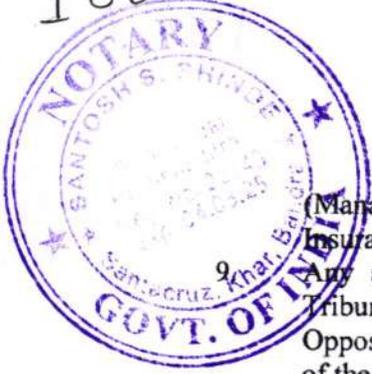
**C) General EC Conditions:-**

- I. PP has to strictly abide by the conditions stipulated by SEAC& SEIAA.
- II. If applicable Consent for Establishment" shall be obtained from Maharashtra Pollution Control Board under Air and Water Act and a copy shall be submitted to the Environment department before start of any construction work at the site.
- III. Under the provisions of Environment (Protection) Act, 1986, legal action shall be initiated against the project proponent if it was found that construction of the project has been started without obtaining environmental clearance.
- IV. The project proponent shall also submit six monthly reports on the status of compliance of the stipulated EC conditions including results of monitored data (both in hard copies as well as by e-mail) to the respective Regional Office of MoEF, the respective Zonal Office of CPCB and the SPCB.
- V. The environmental statement for each financial year ending 31st March in Form-V as is mandated to be submitted by the project proponent to the concerned State Pollution Control Board as prescribed under the Environment (Protection) Rules, 1986, as amended subsequently, shall also be put on the website of the company along with the status of compliance of EC conditions and shall also be sent to the respective Regional Offices of MoEF by e-mail.
- VI. No further Expansion or modifications, other than mentioned in the EIA Notification, 2006 and its amendments, shall be carried out without prior approval of the SEIAA. In case of deviations or alterations in the project proposal from those submitted to SEIAA for clearance, a fresh reference shall be made to the SEIAA as applicable to assess the adequacy of conditions imposed and to add additional environmental protection measures required, if any.
- VII. This environmental clearance is issued subject to obtaining NOC from Forestry & Wild life angle including clearance from the standing committee of the National Board for Wild life as if applicable & this environment clearance does not necessarily implies that Forestry & Wild life clearance granted to the project which will be considered separately on merit.



- 4. The environmental clearance is being issued without prejudice to the action initiated under EP Act or any court case pending in the court of law and it does not mean that project proponent has not violated any environmental laws in the past and whatever decision under EP Act or of the Hon'ble court will be binding on the project proponent. Hence this clearance does not give immunity to the project proponent in the case filed against him, if any or action initiated under EP Act.
- 5. This Environment Clearance is issued purely from an environment point of view without prejudice to any court cases and all other applicable permissions/ NOCs shall be obtained before starting proposed work at site.
- 6. In case of submission of false document and non-compliance of stipulated conditions, Authority/ Environment Department will revoke or suspend the Environment clearance without any intimation and initiate appropriate legal action under Environmental Protection Act, 1986.
- 7. Validity of Environment Clearance: The environmental clearance accorded shall be valid as per EIA Notification, 2006, amended from time to time.
- 8. The above stipulations would be enforced among others under the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986 and rules there under, Hazardous Wastes

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(Management and Handling) Rules, 1989 and its amendments, the public Liability Insurance Act, 1991 and its amendments.

Any appeal against this Environment clearance shall lie with the National Green Tribunal (Western Zone Bench, Pune), New Administrative Building, 1<sup>st</sup> Floor, D-Wing, Opposite Council Hall, Pune, if preferred, within 30 days as prescribed under Section 16 of the National Green Tribunal Act, 2010.

*Pravin Darade*

Pravin Darade  
(Member Secretary, SEIAA)

Copy to:

1. Chairman, SEIAA, Mumbai.
2. Secretary, MoEF & CC, IA- Division MOEF & CC
3. Member Secretary, Maharashtra Pollution Control Board, Mumbai.
4. Regional Office MoEF & CC, Nagpur
5. District Collector, Thane
6. Commissioner, Mira Bhaindar Municipal Corporation
7. Regional Officer, Maharashtra Pollution Control Board, Thane



**MAHARASHTRA POLLUTION CONTROL BOARD**

Tel : 25802272		Regional Office, Thane
Fax : 25805398		5 <sup>th</sup> Floor, Office Complex Bldg.,
Website: <a href="http://mpcb.gov.in">http://mpcb.gov.in</a>		Near Mulund Check Naka,
E-mail Id: rothane@mpcb.gov.in		Wagle Estate, Thane-400 604.
<b>"Your Service is Our Duty"</b>		

No. MPCB/ROT/PD/ MPCB/PD/2303130002

Date : 13 /03/2023

To,  
M/s. Eversmile Properties Pvt. Ltd.,  
Old Survey Nos. 233 (Pt.) ,235(Pt.) & 256 (Pt.)  
(New Survey Nos. 66 (Pt.),68 (Pt.) &69 (Pt.),  
At Village Penkarpada, Mira Road (E), Thane.

**Sub:** Proposed Directions u/s 33A of the Water (Prevention & Control of Pollution) Act, 1974 and/or u/s 31A of the Air (Prevention & Control of Pollution) Act, 1981.

**Ref:** - 1) Consent to Establish granted by Board on 2.2.2022.  
2) Committee's visit to the site under subject 20/01/2023.  
3) Action proposal submitted by Sub- Regional Officer, Thane-II vide Legal Unique No. MPCB-LEGAL\_ACTIONS- 230123010.

**WHEREAS**, the Maharashtra Pollution Control Board has granted consent to establish to your project subject to certain terms & conditions. **AND WHEREAS**, it is obligatory on your part to comply with the consent conditions and to provide adequate water & air pollution control devices so as to achieve the standards prescribed by the Board.

**AND WHEREAS**, Mr. Irba Mashnaji Konapure filed an original application no. 107/2022 before Hon'ble National Green Tribunal (NGT), Western Zone and subsequently Hon'ble NGT vide its order dtd 29.11.2022 directed a Joint Committee comprising SEIAA, MPCB and MCZMA to visit the site and submit a factual and action taken report w.r.t the violation.

**AND WHEREAS**, accordingly the joint committee visited the site on 20.1.2023 and submitted the factual report to Hon'ble NGT on 23.1.2023. **AND WHEREAS**, Hon'ble NGT in its order dated 23.1.2023 directed the Board to file its reply affidavit.

**AND WHEREAS**, the officials of the MPC Board visited your site and observed that you have taken effective steps towards implementation of the project and constructed BUA of 16733 sq.m. (as per architect's certificate) without obtaining prior Environmental Clearance from competent authority, thus you have violated the condition no. 10 of the consent to establish granted by the Board.

**AND WHEREAS**, the above fact shows gross violation of consent conditions and clearly indicates your negligent attitude towards compliance of various Environmental Acts.

**NOW THEREFORE**, in exercise of the powers conferred upon me by the Board under section 33A of the Water (P & CP) Act, 1974 and under section 31 of the Air (P & CP) Act, 1981, I, hereby direct you as follows:

- Why your construction activity shall not be stopped forthwith?
- Why environmental compensation / penal charges for violation of consent conditions shall not be levied upon you?
- Why legal action shall not be initiated against you for violation of the provisions of the aforementioned Acts?

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: 2:

You shall submit reply to this direction within seven days, failing which further stringent legal action will be initiated, which may please be noted.

This is issued with the post-facto approval from competent authority.



(R. B. Andhale)  
Regional Officer, Thane

**Copy submitted to :**

Assistant Secretary (Technical), MPC Board, Sion, Mumbai-22.

**Copy to:-**

Sub-Regional Officer, M.P.C. Board, Thane-II - He is directed to serve these directions to project proponent and submit compliance.

Master file.



**EVERSMILE PROPERTIES  
PRIVATE LIMITED**

20<sup>th</sup> March 2023

To,

Regional Officer  
Maharashtra Pollution Control Board  
5<sup>th</sup> Floor, Office Complex Building  
Near Mulund Check Naka  
Wagle Estate, Thane – 400604

**Sub.:-** Proposed Directions u/s 33A of Water (Prevention & Control Of Pollution) Act 1974 and / or u/s 31A of the Air (Prevention & Control Of Pollution) Act 1981 vide your letter dated 13th March 2023 (“said Notice”).

**Ref. :** MPCB/ROT/PD/MPCB/PD/2303130002 dated 13th March 2023

1. This is in reference to Notice bearing No. MPCB/ROT/PD/MPCB/PD/2303130002 dated 13<sup>th</sup> March 2023 which was received via email on 13.03.2023 at 04.18 P.M, wherein the following Proposed Directions were passed:

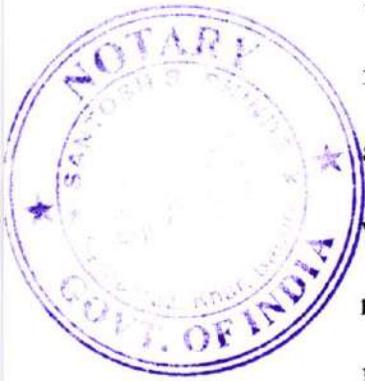
- a. Why your construction activity shall not be stopped forthwith?
- b. Why environmental compensation/penal charges for violation of consent conditions shall not be levied upon you?
- c. Why legal action shall not be initiated against you for violation of the provisions of the aforementioned Acts?

Vide the said notice, you have sought our reply to the aforementioned Proposed Directions within 7 days. In view of the same, kindly find below our responses accordingly.

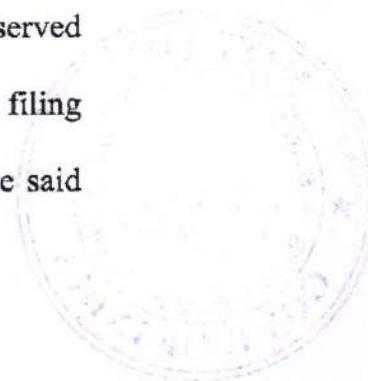
2. At the outset, we vehemently dispute and deny all the allegations, averments and contentions made in the said notice under reference and nothing be deemed to be admitted by us, either expressly or impliedly and state that the same has been issued without jurisdiction. We state that we refer and rely upon the Written Submission dated 20<sup>th</sup> January 2023 made by us before the Committee and the Affidavit in Reply dated 21<sup>st</sup> January 2023 filed by us before the Hon'ble NGT Tribunal.

**Preliminary Objections:**

3. The said Notice is neither maintainable nor sustainable in the eyes of law, as the scope and jurisdiction of this Hon'ble Authority is governed as per the Water (Prevention and Control of Pollution) Act, 1974 ("Water Act") and Air (Prevention and Control of Pollution) Act, 1981 ("Air Act"). However, the imposition of condition no. 10 seeking EC itself is beyond the scope and jurisdiction of the MPCB and that it is for the SEIAA to determine the same and hence the Proposed Directions issued under the said Notice are unwarranted and arbitrary, hence the said Notice is to be withdrawn forthwith.
4. The said Notice is issued without following procedure of law particularly Rule 34 of the Water Act which mandates that the Notice must be served in a particular mode and manner i.e. via Registered Post or delivered at the Registered office and that a minimum period of 15 days is required



to be given for such notice however, the said Notice has not been served as per law and also a period of only 7 days has been provided to filing our reply. The same is against the law of the land and hence the said Notice is not sustainable.



5. Without prejudice to the above as regards to the Consent to Establish for a residential project, it was held by the Hon'ble Delhi High Court in it's judgment dated 23.01.2012 in Letters Patent Appeal No. 895 of 2010 (Delhi Pollution Control Committee V/s. Splendor Land Base Ltd. and Ors.) that no CTE and/or CTO is required for residential projects, as provisions of Air Act and Water Act are applicable only to industry, operations and processes. A copy of the Delhi High Court judgment dated is hereto annexed as Annexure A.



Without prejudice to the aforesaid preliminary objections, the brief background and the Reply to the said Notice is given below:

**Brief Background**

6. We are developing land parcel bearing survey No. 233 (Pt.) (new survey No. 66 (Pt.)) Survey No.235 (Pt.) (new survey No.68 (Pt.)), and survey No.256 (Pt.) (new survey No.69 (Pt.) as a Township Project on land admeasuring approximately 37,880.43 square meters with a project named as "Srishti Namaah" ("said Project").



7. Vide Application dated 01.07.2021 we submitted a proposal before Maharashtra Pollution Control Board, Mumbai ("MPCB") for grant of Consent to Establish in respect of said project. The proposal was considered by the Consent Appraisal Committee on 20.12.2021 and accordingly Consent to Establish was granted on 02.02.2022, wherein Condition No. 10 was arbitrarily imposed.

8. We hereby state that, the Hon'ble Bombay High Court in several petitions filed by various Developers/Owners and Societies, have held that construction upto 20,000 sq. mtrs. of construction area doesn't require Environment Clearance. In fact, in the matter of Glomore Constructions and Ors vs The Union of India and Ors. (Writ Petition (L) No. 655/2014), the Bombay High Court giving due consideration to the previous matters decided by the High Court specifically held that "*environment clearance for the purpose of construction of buildings below 20000 sq. mtrs. is not required and the said orders have not been challenged by the Government in the Ape Court.*". For ease of reference, the copies of the such orders are annexed herewith as Annexure – B Colly.

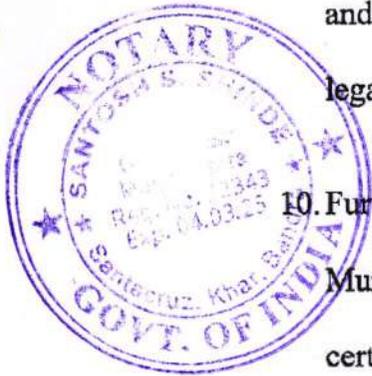
9. On the basis of such orders, the Environment Department of State of Maharashtra issued a Circular bearing reference no. ENV/2013/CR39/TC-1 dated 21<sup>st</sup> April 2015 *inter alia* holding that proposed construction wherein project proponent has undertaken total



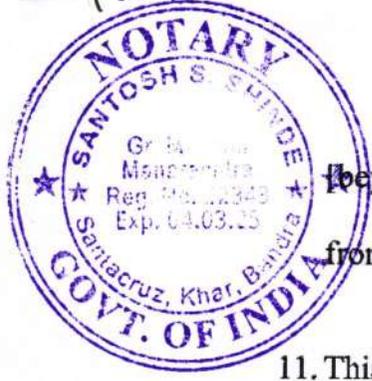
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construction below 20,000 sq. mtrs. may not be considered as violation of EIA notification 2006. The copy of the said Circular dated 21<sup>st</sup> April 2015 is annexed herewith as **Annexure – C**. This being the settled legal position on the basis of the High Court orders as well as the aforesaid Circular, SEIAA, the adjudicating authority for granting the EC, has in different projects considered the proposals for grant of EC put forth by Project Proponents (PPs who have started the construction before obtaining EC) by holding that the construction upto 20,000 sq. mtrs cannot be considered as a violation. Infact, SEIAA, Maharashtra in its 222<sup>nd</sup> has considered the aforesaid circular while deliberating the proposal No. SIA/MH/MIS/134882/2020 submitted by another developer wherein construction less than 20,000 sq.m was done before obtaining EC and observed that construction upto 20,000 sq. mtrs. cannot be considered as violation of EIA 2006 and granted EC. Hereto marked and annexed as **Exhibit – D colly** are copies of the 222<sup>nd</sup> SEIAA Meeting and also several other Minutes where SEIAA has accepted the aforesaid legal position.

10. Further, it is submitted that the planning authority i.e Mira Bhayander Municipal Corporation (“MBMC”) issued revised commencement certificate dated 31<sup>st</sup> March 2022, which allows construction upto 20,000 sq. mtrs by categorically directing that further construction permissions



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[beyond 20,000 sq.mtrs] shall be granted only after submission of NOC from Environmental Department i.e. EC to MBMC.

11. This being the settled position of law which has been consistently accepted by authorities like SEAC and SEIAA, it is clearly established that EC is required before carrying out construction beyond 20,000 sq.m. Hence, alleged non-obtaining of EC upto construction of 20,000 sq.m. is not a violation of the Consent Conditions as alleged or otherwise, since the construction done at site is less than 20,000 sq.m which can also be made out from the Architect Certificate dated 20.01.2023.

12. An application for Environment Clearances ("EC") was submitted to SEIAA on 6<sup>th</sup> April 2022 for the said project. The proposal was listed in the 178<sup>th</sup> Meeting of SEAC-II on 30<sup>th</sup> June 2022 & 1<sup>st</sup> July 2022 wherein after deliberation, SEAC-II recommended the proposal to SEIAA for grant of EC. SEAC-II in the meeting was informed about the construction carried out in accordance with permission granted by MBMC and that an architect's certificate certifying the extent of work completed at the project site upto SEAC-II 178<sup>th</sup> meeting was also submitted. SEAC-II in the said meeting did not raise any objections regarding the on-going construction and recommended the proposal to SEIAA for grant of EC.

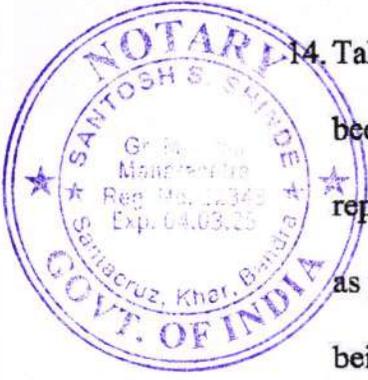
13. In the meanwhile, Original Application bearing No. 107 of 2022 came to be filed by Irba Kanapure before National Green Tribunal, Western



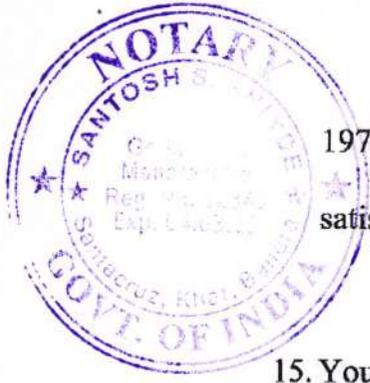
Zone, Pune in respect of the said project wherein vide Order dated 29<sup>th</sup> November 2022, the Hon'ble NGT formed a Three Members Joint Committee comprising of representatives of SEIAA, MPCB and MCZMA ("**Joint Committee**"), wherein MPCB has been designated as the nodal agency and directed them to "visit the site and submit a factual and action taken report with regard to the violation, if any, within one month". In compliance of the said direction, the Joint Committee visited the Project site on 20<sup>th</sup> January 2023 and accordingly filed conclusive Report before the Hon'ble NGT. In the said Report, admittedly there has been no observation and/or any remark from the Joint Committee in respect of any violation by us including any violation of the consent conditions. Hence, the question of levying any environmental compensation/penal charges for violation of consent conditions does not arise.



14. Taking into consideration the sections under which the said notice has been issued, it is imperative to point out that the Joint Committee in their report have observed that the STP for staff and labour has been provided as per the conditions of the Consent to Establish and that water was also being sprinkled to arrest fugitive dust. From the above, this elucidates that the provisions of Water (Prevention & Control Of Pollution) Act



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1974 and Air (Prevention & Control Of Pollution) Act 1981 stand satisfied by us.

15. You have in the said Notice mentioned that there has been a violation of condition no. 10 of the consent to establish, however due to the reasons as mentioned above which also form a part of the Written Submission made by us before the committee and the Affidavit in Reply dated 21<sup>st</sup> January 2023 filed before the NGT we state that there has been no violation of the condition no. 10 of the consent to establish and on without prejudice basis we state at the cost of repetition that whether an EC is required for a project or not is beyond the scope and jurisdiction of the MPCB and that it is for the SEIAA to determine the same and hence the Proposed Directions issued under the said notice are unwarranted and hence required to be withdrawn forthwith.

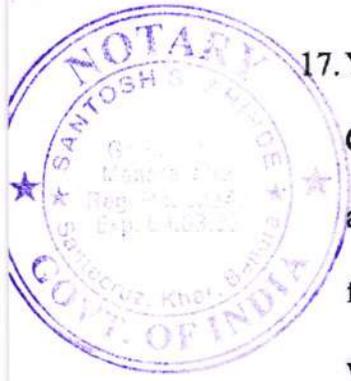


16. Also, it is very surprising to note that, MPCB issued the said notice under reference which is not only not tenable in law but also contrary to the Report filed by the Joint Committee (where MPCB is the nodal agency) before the Hon'ble NGT in the aforesaid Original Application. The purported Notice is issued *interalia* observing that the condition No. 10 of the CTE has been allegedly violated, which is nothing but an afterthought action without any basis. The alleged action on the part of MPCB clearly states out that on one hand they have filed conclusive

report (*being a nodal agency*) before the NGT holding no violation by us on the other hand they have issued the said Notice, which is not permissible. The said report has been filed after considering our Written Submissions made before the Committee wherein we have submitted an Architect Certificate dated 20.01.2023 mentioning that the construction completed on site is 16,733 Sq. mtr. (*which is below the threshold limit of 20,000 sq. mtrs.*) and also mentioning that the application for EC is pending for consideration for grant of EC before the SEIAA and that further construction work beyond the threshold would be carried out once the EC is granted and further permissions are received. However, now after a gap of around two months MPCB issued the said Notice alleging violation of the condition No. 10 of the CTE and Proposed Directions as mentioned above which is totally arbitrary and unwarranted. The said Notice came to our knowledge only when MPCB filed its Affidavit in Reply dated 13.03.2023 in the said Original Application before NGT, annexing the said Notice.



17. You have clearly ignored the Written Submissions filed by us before the Committee and the report filed by the Committee where you are the nodal agency and also failed to take into consideration the Affidavit in Reply filed by us before the NGT in the pending OA and issued the said Notice without giving an opportunity to us to make submissions before you.



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18. The aforesaid submissions are without prejudice to our rights and contentions that as per the Delhi High Court judgment dated 23.01.2012 in Letters Patent Appeal No. 895 of 2010 (Delhi Pollution Control Committee V/s. Splendor Land Base Ltd. and Ors.) for residential projects no CTE and/or CTO is required, as provisions of Air Act and Water Act are applicable only to industry, operations and processes and none of it happens in residential buildings. The same has also been annexed to the Affidavit in Reply filed by us before the NGT.

19. In view of the aforesaid facts and circumstances and settled legal position, we humbly state that we have not violated the condition No. 10 of the Consent to Establish and no violation of Water (Prevention & Control of Pollution) Act 1974 and Air (Prevention & Control Of Pollution) Act 1981 as alleged in the said Notice have taken place. Thus the Proposed Directions issued under provisions of Water (Prevention & Control Of Pollution) Act 1974 and Air (Prevention & Control Of Pollution) Act 1981 is without any basis and hence in view of the abovementioned facts we state that the construction activity need not be stopped forthwith and that we are not liable for any environmental compensation/penal charges for alleged violation of consent conditions and hence the question of any legal action for alleged violation of the provisions of the aforementioned Acts does not arise.



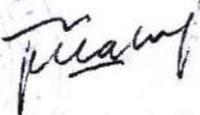
20. In view of the aforesaid facts and circumstances, we hereby request that the Proposed Directions be withdrawn forthwith and that in the interest of justice an adequate opportunity of being heard be provided, enabling us to further assist you in the matter.

21. This is without prejudice to all our rights and contentions in the matter.

22. Kindly note that we reserve our right to file a detailed reply and/or any further submissions along with additional documents as and when required to.

Yours Faithfully,

For M/s Eversmile Properties Pvt. Ltd.



Authorized signatory



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ANNEXURE-A

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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment Reserved on : 16<sup>th</sup> January 2012  
Judgment Pronounced on: 23<sup>rd</sup> January, 2012

LPA 895/2010

DELHI POLLUTION CONTROL COMMITTEE ..... Appellant  
Through: Mr.C. Mohan Rao and Mr.Lokesh Sharma,  
Advocates with Mr.Dinesh Jindal, L.O.

versus

SPLENDOR LANDBASE LTD ..... Respondent  
Through: Mr.B.B. Gupta, Ms.Mandeep Kaur and  
Mr.Harsh Hari Haran, Advocates

LPA 1/2011 & CM No.6781/2011 (Cross Objections)

DELHI POLLUTION CONTROL COMMITTEE ..... Appellant  
Through Mr.C. Mohan Rao and Mr.Lokesh Sharma,  
Advocates with Mr.Dinesh Jindal, L.O.

versus

SACHDEVA BUILDON PVT LTD & ORS ..... Respondents  
Through Mr.Sanjay Goswami, Advocate for R-1  
Mr.Neeeraj Chaudhari, CGSC with  
Mr.Akshay Chandra and Mr.Khalid Arshad,  
Advocates for UOI

LPA 6/2011 & CM No.6779/2011 (Cross Objections)

DELHI POLLUTION CONTROL COMMITTEE ..... Appellant  
Through Mr.C. Mohan Rao and Mr.Lokesh Sharma,  
Advocates with Mr.Dinesh Jindal, L.O.



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versus

VARDHMAN PROPERTIES LTD & ORS ..... Respondents  
Through Mr.Sanjay Goswami, Advocate for R-1

**LPA 7/2011 & CM No.6780/2011 (Cross Objections)**

DELHI POLLUTION CONTROL COMMITTEE ..... Appellant  
Through Mr.C. Mohan Rao and Mr.Lokesh Sharma,  
Advocates with Mr.Dinesh Jindal, L.O.

versus

VARDHMAN PROPERTIES LTD & ORS ..... Respondents  
Through Mr.Sanjay Goswami, Advocate for R-1

**LPA 8/2011 & CM No.6782/2011 (Cross Objections)**

DELHI POLLUTION CONTROL COMMITTEE ..... Appellant  
Through Mr.C. Mohan Rao and Mr.Lokesh Sharma,  
Advocates with Mr.Dinesh Jindal, L.O.

versus

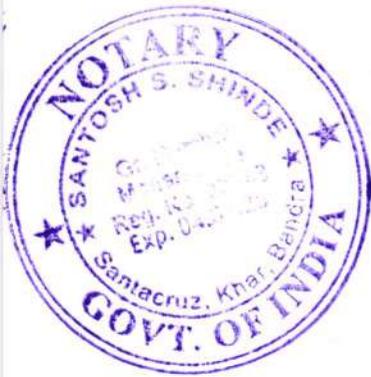
VARDHMAN PROPERTIES LTD & ORS ..... Respondents  
Through Mr.Anil Sapra, Sr. Advocate with Ms.Urvi  
Kothiala, Ms.Praneeta Vir and Mr.Sanjay  
Goswami, Advocates

**LPA 9/2011**

DELHI POLLUTION CONTROL COMMITTEE ..... Appellant  
Through Mr.C. Mohan Rao and Mr.Lokesh Sharma,  
Advocates with Mr.Dinesh Jindal, L.O.

versus

MANISH BUILDWELL PVT LTD & ORS ..... Respondents  
Through Mr.Sanjay Goswami, Advocate for R-1



1901



**LPA 10/2011**

DELHI POLLUTION CONTROL COMMITTEE ..... Appellant  
Through Mr.C. Mohan Rao and Mr.Lokesh Sharma,  
Advocates with Mr.Dinesh Jindal, L.O.

versus

MANISH BUILDWELL PVT LTD & ORS ..... Respondents  
Through Mr.Sanjay Goswami, Advocate for R-1

**LPA 11/2011**

DELHI POLLUTION CONTROL COMMITTEE ..... Appellant  
Through Mr.C. Mohan Rao and Mr.Lokesh Sharma,  
Advocates with Mr.Dinesh Jindal, L.O.

versus

VARDHMAN LAND DEVELOPERS PVT  
LTD & ANR ..... Respondents  
Through None

**LPA 22/2011 & CM No.6824/2011 (Cross Objections)**

DELHI POLLUTION CONTROL COMMITTEE ..... Appellant  
Through Mr.C. Mohan Rao and Mr.Lokesh Sharma,  
Advocates with Mr.Dinesh Jindal, L.O.

versus

PANKAJ BUILDWELL LTD & ORS ..... Respondents  
Through Mr.Sanjay Goswami, Advocate for R-1  
Mr.Neeraj Chaudhari, CGSC with  
Mr.Akshay Chandra and Mr.Khalid Arshad,  
Advocates for UOI

**LPA 23/2011 & CM No.6832/2011 (Cross Objections)**

DELHI POLLUTION CONTROL COMMITTEE ..... Appellant



Through Mr.C. Mohan Rao and Mr.Lokesh Sharma,  
Advocates with Mr.Dinesh Jindal, L.O.

versus

RAJESH PROJECTS INDIA PVT LTD & ORS. .... Respondents  
Through Mr.Sanjay Goswami, Advocate for R-1  
Mr.Neeeraj Chaudhari, CGSC with  
Mr.Akshay Chandra and Mr.Khalid Arshad,  
Advocates for UOI

**LPA 24/2011 & CM No.8168/2011 (Cross Objections)**

DELHI POLLUTION CONTROL COMMITTEE .... Appellant  
Through Mr.C. Mohan Rao and Mr.Lokesh Sharma,  
Advocates with Mr.Dinesh Jindal, L.O.

versus

BEST REALTORS (INDIA) LTD & ORS .... Respondents  
Through Mr.Sanjay Goswami, Advocate for R-1  
Mr.Neeeraj Chaudhari, CGSC with  
Mr.Akshay Chandra and Mr.Khalid Arshad,  
Advocates for UOI

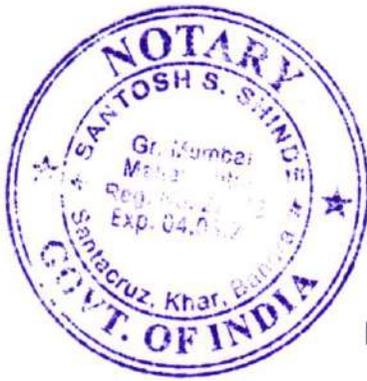
**LPA 25/2011 & CM No.6828/2011 (Cross Objections)**

DELHI POLLUTION CONTROL COMMITTEE .... Appellant  
Through Mr.C. Mohan Rao and Mr.Lokesh Sharma,  
Advocates with Mr.Dinesh Jindal, L.O.

versus

BEST CITY DEVELOPERS (INDIA) PVT LTD.  
& ORS .... Respondents  
Through Mr.Sanjay Goswami, Advocate for R-1  
Mr.Neeeraj Chaudhari, CGSC with  
Mr.Akshay Chandra and Mr.Khalid Arshad,  
Advocates for UOI

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**LPA 26/2011 & CM No.6831/2011 (Cross Objections)**

DELHI POLLUTION CONTROL COMMITTEE ..... Appellant  
Through Mr.C. Mohan Rao and Mr.Lokesh Sharma,  
Advocates with Mr.Dinesh Jindal, L.O.

versus

HOME LINKERS PVT LTD & ORS ..... Respondents  
Through Mr.Sanjay Goswami, Advocate for R-1  
Mr.Neeeraj Chaudhari, CGSC with  
Mr.Akshay Chandra and Mr.Khalid Arshad,  
Advocates for UOI

**LPA 27/2011 & CM No.6833/2011 (Cross Objections)**

DELHI POLLUTION CONTROL COMMITTEE ..... Appellant  
Through Mr.C. Mohan Rao and Mr.Lokesh Sharma,  
Advocates with Mr.Dinesh Jindal, L.O.

versus

RAJESH PROJECTS INDIA PVT LTD & ORS ..... Respondents  
Through Mr.Sanjay Goswami, Advocate for R-1  
Mr.Neeeraj Chaudhari, CGSC with  
Mr.Akshay Chandra and Mr.Khalid Arshad,  
Advocates for UOI

**LPA 28/2011 & CM No.6826/2011 (Cross Objections)**

DELHI POLLUTION CONTROL COMMITTEE ..... Appellant  
Through Mr.C. Mohan Rao and Mr.Lokesh Sharma,  
Advocates with Mr.Dinesh Jindal, L.O.

versus

VARDHMAN PROPERTIES LTD & ORS. .... Respondents



Through Mr.Sanjay Goswami, Advocate for R-1  
Mr.Neeeraj Chaudhari, CGSC with  
Mr.Akshay Chandra and Mr.Khalid Arshad,  
Advocates for UOI

**LPA 45/2011**

DELHI POLLUTION CONTROL COMMITTEE ..... Appellant  
Through Mr.C. Mohan Rao and Mr.Lokesh Sharma,  
Advocates with Mr.Dinesh Jindal, L.O.

versus

JINDAL BIOCHEM PVT LTD & ORS ..... Respondents  
Through Mr.Neeeraj Chaudhari, CGSC with  
Mr.Akshay Chandra and Mr.Khalid Arshad,  
Advocates for UOI

**LPA 46/2011 & CM No.8164/2011 (Cross Objections)**

DELHI POLLUTION CONTROL COMMITTEE ..... Appellant  
Through Mr.C. Mohan Rao and Mr.Lokesh Sharma,  
Advocates with Mr.Dinesh Jindal, L.O.

versus

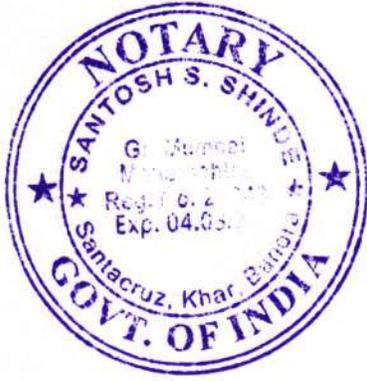
AS BUILDWELL PVT LTD & ORS ..... Respondents  
Through Mr.Sanjay Goswami, Advocate for R-1  
Mr.Neeeraj Chaudhari, CGSC with  
Mr.Akshay Chandra and Mr.Khalid Arshad,  
Advocates for UOI

**LPA 47/2011 & CM No.6825/2011 (Cross Objections)**

DELHI POLLUTION CONTROL COMMITTEE ..... Appellant  
Through Mr.C. Mohan Rao and Mr.Lokesh Sharma,  
Advocates with Mr.Dinesh Jindal, L.O.

versus

1905



MAITRI MUTUAL BENEFITS LTD & ORS ..... Respondents  
Through Mr.Sanjay Goswami, Advocate for R-1  
Mr.Neeeraj Chaudhari, CGSC with  
Mr.Akshay Chandra and Mr.Khalid Arshad,  
Advocates for UOI

**LPA 48/2011 & CM No.6823/2011 (Cross Objections)**

DELHI POLLUTION CONTROL COMMITTEE ..... Appellant  
Through Mr.C. Mohan Rao and Mr.Lokesh Sharma,  
Advocates with Mr.Dinesh Jindal, L.O.

versus

NIRVAN HIRE PURCHASE LTD & ORS ..... Respondents  
Through Mr.Sanjay Goswami, Advocate for R-1  
Mr.Neeeraj Chaudhari, CGSC with  
Mr.Akshay Chandra and Mr.Khalid Arshad,  
Advocates for UOI

**LPA 50/2011 & CM No.6827/2011 (Cross Objections)**

DELHI POLLUTION CONTROL COMMITTEE ..... Appellant  
Through Mr.C. Mohan Rao and Mr.Lokesh Sharma,  
Advocates with Mr.Dinesh Jindal, L.O.

versus

NIPUN BUILDERS & DEVELOPERS PVT  
LTD & ORS ..... Respondents  
Through Mr.Sanjay Goswami, Advocate for R-1  
Mr.Neeeraj Chaudhari, CGSC with  
Mr.Akshay Chandra and Mr.Khalid Arshad,  
Advocates for UOI

**LPA 51/2011& CM No.6829/2011 (Cross Objections)**

DELHI POLLUTION CONTROL COMMITTEE ..... Appellant  
Through Mr.C. Mohan Rao and Mr.Lokesh Sharma,  
Advocates with Mr.Dinesh Jindal, L.O.

versus

VARDHMAN PROPERTIES LTD & ORS ..... Respondents  
Through Mr.Sanjay Goswami, Advocate for R-1  
Mr.Neeeraj Chaudhari, CGSC with  
Mr.Akshay Chandra and Mr.Khalid Arshad,  
Advocates for UOI

**LPA 53/2011**

DELHI POLLUTION CONTROL COMMITTEE ..... Appellant  
Through Mr.C. Mohan Rao and Mr.Lokesh Sharma,  
Advocates with Mr.Dinesh Jindal, L.O.

versus

ESS CEE CEE & ASSOCIATES (INDIA) PVT LTD .. Respondent  
Through Mr.Anil Sapra, Sr. Advocate with Ms.Urvi  
Kothiala, Ms.Praneeta Vir and Mr.Sanjay  
Goswami, Advocates

**LPA 54/2011 & CM No.6004/2011 (Cross Objections)**

DELHI POLLUTION CONTROL COMMITTEE ..... Appellant  
Through Mr.C. Mohan Rao and Mr.Lokesh Sharma,  
Advocates with Mr.Dinesh Jindal, L.O.

versus

FARGO ESTATES PVT LTD ..... Respondent  
Through Mr.Ankit Jain, Advocate

**LPA 58/2011 & CM No.6830/2011 (Cross Objections)**

DELHI POLLUTION CONTROL COMMITTEE ..... Appellant  
Through Mr.C. Mohan Rao and Mr.Lokesh Sharma,  
Advocates with Mr.Dinesh Jindal, L.O.

versus

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**VARDHMAN PROPERTIES LTD & ORS** ..... Respondents  
Through **Mr.Sanjay Goswami, Advocate for R-1**  
**Mr.Neeeraj Chaudhari, CGSC with**  
**Mr.Akshay Chandra and Mr.Khalid Arshad,**  
**Advocates for UOI**

**LPA 94/2011**

**DELHI POLLUTION CONTROL COMMITTEE** ..... Appellant  
Through **Mr.C. Mohan Rao and Mr.Lokesh Sharma,**  
**Advocates with Mr.Dinesh Jindal, L.O.**

versus

**DLF RETAILER DEVELOPERS LTD** ..... Respondent  
Through **Mr.B.B. Gupta, Ms.Mandeep Kaur and**  
**Mr.Harsh Hari Haran, Advocates**

**LPA 95/2011**

**DELHI POLLUTION CONTROL COMMITTEE** ..... Appellant  
Through **Mr.C. Mohan Rao and Mr.Lokesh Sharma,**  
**Advocates with Mr.Dinesh Jindal, L.O.**

versus

**LAXMI BUILDTECH PVT LTD & ANR** ..... Respondents  
Through **Mr.Kailash Vasdev, Sr. Advocate with**  
**Ms.Neoma Vasdev Gupta, Ms.Ekta Mehta**  
**and Ms.Joanne Pudussery, Advocates for**  
**respondent No.1.**  
**Mr.Neeeraj Chaudhari, CGSC with**  
**Mr.Akshay Chandra and Mr.Khalid Arshad,**  
**Advocates for UOI**

**LPA 96/2011**

**DELHI POLLUTION CONTROL COMMITTEE** ..... Appellant  
Through **Mr.C. Mohan Rao and Mr.Lokesh Sharma,**



Advocates with Mr.Dinesh Jindal, L.O.

versus

MANISH BUILDWELL PVT LTD & ORS ..... Respondents  
Through Mr.Sanjay Goswami, Advocate for R-1  
Mr.Neeeraj Chaudhari, CGSC with  
Mr.Akshay Chandra and Mr.Khalid Arshad,  
Advocates for UOI

**LPA 97/2011**

DELHI POLLUTION CONTROL COMMITTEE ..... Appellant  
Through Mr.C. Mohan Rao and Mr.Lokesh Sharma,  
Advocates with Mr.Dinesh Jindal, L.O.

versus

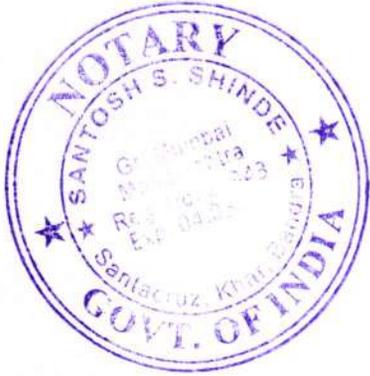
BRIGHTWAYS HOUSING & DEVELOPMENT  
LTD & ANR ..... Respondents  
Through Mr.Anil Sapra, Sr. Advocate with Ms.Urvi  
Kothiala and Ms.Praneeta Vir, Advocates  
for R-1.  
Mr.Neeeraj Chaudhari, CGSC with  
Mr.Akshay Chandra and Mr.Khalid Arshad,  
Advocates for UOI

**LPA 98/2011**

DELHI POLLUTION CONTROL COMMITTEE ..... Appellant  
Through Mr.C. Mohan Rao and Mr.Lokesh Sharma,  
Advocates with Mr.Dinesh Jindal, L.O.

versus

DLF COMMERCIAL DEVELOPERS LTD ..... Respondent



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Through Mr.B.B. Gupta, Ms.Mandeep Kaur and  
Mr.Harsh Hari Haran, Advocates

LPA 99/2011

DELHI POLLUTION CONTROL COMMITTEE ..... Appellant  
Through Mr.C. Mohan Rao and Mr.Lokesh Sharma,  
Advocates with Mr.Dinesh Jindal, L.O.

versus

GALLERIA PROPERTY MANAGEMENT  
SERVICES PVT LTD ..... Respondent  
Through Mr.B.B. Gupta, Ms.Mandeep Kaur and  
Mr.Harsh Hari Haran, Advocates

LPA 100/2011

DELHI POLLUTION CONTROL COMMITTEE ..... Appellant  
Through Mr.C. Mohan Rao and Mr.Lokesh Sharma,  
Advocates with Mr.Dinesh Jindal, L.O.

versus

PROSPEROUS ESTATES PVT LTD ..... Respondent  
Through None

LPA 101/2011

DELHI POLLUTION CONTROL COMMITTEE ..... Appellant  
Through Mr.C. Mohan Rao and Mr.Lokesh Sharma,  
Advocates with Mr.Dinesh Jindal, L.O.

versus

REGENCY PARK PROPERTY MANAGEMENT  
SERVICES PVT LTD ..... Respondent  
Through Mr.B.B. Gupta, Ms.Mandeep Kaur and  
Mr.Harsh Hari Haran, Advocates

**LPA 102/2011**

DELHI POLLUTION CONTROL COMMITTEE ..... Appellant  
Through Mr.C. Mohan Rao and Mr.Lokesh Sharma,  
Advocates with Mr.Dinesh Jindal, L.O.

versus

PALIWAL DEVELOPERS LTD ..... Respondent  
Through Mr.B.B. Gupta, Ms.Mandeep Kaur and  
Mr.Harsh Hari Haran, Advocates

**LPA 103/2011**

DELHI POLLUTION CONTROL COMMITTEE ..... Appellant  
Through Mr.C. Mohan Rao and Mr.Lokesh Sharma,  
Advocates with Mr.Dinesh Jindal, L.O.

versus

RIDGE VIEW CONSTRUCTION PVT LTD ..... Respondent  
Through Mr.Anil Sapra, Sr. Advocate with Ms.Urvi  
Kothiala and Ms.Praneeta Vir, Advocates.

**LPA 104/2011**

DELHI POLLUTION CONTROL COMMITTEE ..... Appellant  
Through Mr.C. Mohan Rao and Mr.Lokesh Sharma,  
Advocates with Mr.Dinesh Jindal, L.O.

versus

RC SOOD & CO PVT LTD ..... Respondent  
Through Mr.Shobhit Chandra, Advocate

1911



**LPA 709/2011**

DELHI POLLUTION CONTROL COMMITTEE ..... Appellant  
Through Mr.C. Mohan Rao and Mr.Lokesh Sharma,  
Advocates with Mr.Dinesh Jindal, L.O.

versus

LODHI PROPERTY CO LTD ..... Respondent  
Through Mr.B.B. Gupta, Ms.Mandeep Kaur and  
Mr.Harsh Hari Haran, Advocates

**LPA 710/2011**

DELHI POLLUTION CONTROL COMMITTEE ..... Appellant  
Through Mr.C. Mohan Rao and Mr.Lokesh Sharma,  
Advocates with Mr.Dinesh Jindal, L.O.

versus

BHARTI REALTY LTD ..... Respondent  
Through Mr.Dushyant Manocha and Ms.Tarunima  
Vijra, Advocates

**LPA 866/2011**

DELHI POLLUTION CONTROL COMMITTEE ..... Appellant  
Through Mr.C. Mohan Rao and Mr.Lokesh Sharma,  
Advocates with Mr.Dinesh Jindal, L.O.

versus

ANUSH FINLEASE & CONSTRUCTION PVT  
LTD ..... Respondent  
Through Mr.Ajay Kumar and Mr.Naveen Tayal,  
Advocates



**LPA 867/2011**

DELHI POLLUTION CONTROL COMMITTEE ..... Appellant  
Through Mr.C. Mohan Rao and Mr.Lokesh Sharma,  
Advocates with Mr.Dinesh Jindal, L.O.

versus

TIRUPATI INFRAPROJECTS PVT LTD ..... Respondent  
Through Mr.Ajay Kumar and Mr.Naveen Tayal,  
Advocates

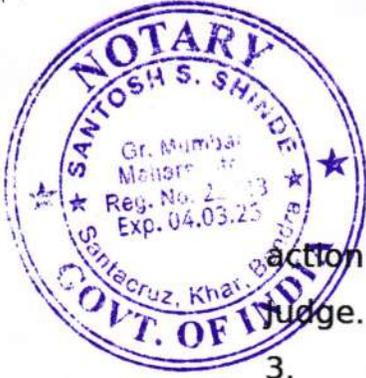
**CORAM:**  
**HON'BLE MR. JUSTICE PRADEEP NANDRAJOG**  
**HON'BLE MS. JUSTICE PRATIBHA RANI**

**PRADEEP NANDRAJOG, J.**

1. A batch of 38 writ petitions was decided by a learned Single Judge vide order dated September 30, 2010. The said decision has been followed subsequently by another learned Single Judge. Instant appeals lay a challenge to the said decisions pronounced by the learned Single Judges of this Court; and since the reasoned decision is the one which was pronounced on September 30, 2010, learned counsel for the parties conceded that it is said decision which needs to be reflected upon by us in the appeal(s).

2. Writ petitions were filed challenging notices issued by the Delhi Pollution Control Committee (DPCC) to the writ petitioners or penalties levied, which were paid under protest or bank guarantees submitted by the writ petitioners, which were under threat of being invoked. The petitions have succeeded, not in full, but in part. Directions have been issued to DPCC to take

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action afresh and guided by the decision of the learned Single Judge.

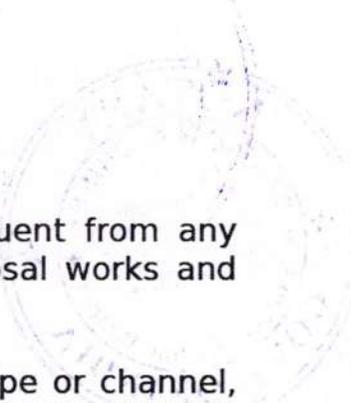
3. The buildings with respect whereto action was proposed to be taken or was taken by DPCC, are of three kinds: (i) Residential Housing Complexes, (ii) Commercial Shopping Complexes, and (iii) Shopping Malls. Actions were initiated or decisions were taken on the allegation that with respect to the buildings constructed, the writ petitioners had not obtained a 'consent to establish' as required under The Water (Prevention and Control of Pollution) Act, 1974 (hereinafter referred to as 'the Water Act') and 'consent to operate' as required under The Air (Prevention and Control of Pollution) Act, 1981 (hereinafter referred to as 'the Air Act').

4. Issues have been debated before the learned Single Judge and even before us with reference to Sections 2(g), 2(gg), 2(k), Section 25 and Section 33A of the Water Act, and Sections 2(a), 2(j), 2(k), Section 21 and Section 31A of the Air Act. Thus, we begin our chartered journey by noting the said provisions.

5. Section 2(g), 2(gg), 2(k), relevant part of Section 25 and Section 33A of The Water (Prevention and Control of Pollution) Act, 1974 read as under:-

**"2. Definitions.- In this Act, unless the context otherwise requires,-**

- (a) .....
- (b) .....
- (c) .....
- (d) .....
- (e) .....
- (f) .....



(g) 'sewage effluent' means effluent from any sewerage system or sewage disposal works and includes sullage from open drains;

(gg) 'sewer' means any conduit pipe or channel, open or closed, carrying sewage or trade effluent;

(h) .....

(i) .....

(j) .....

(k) 'trade effluent' includes any liquid, gaseous or solid substance which is discharged from any premises used for carrying on any industry, operation or process, or treatment and disposal system, other than domestic sewage.

**25. Restrictions on new outlets and new discharges.-**

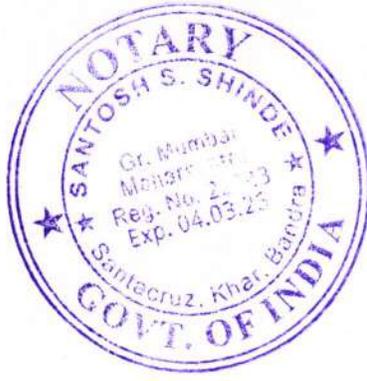
(1) Subject to the provisions of this section, no person shall, without the previous consent of the State Board,-

(a) establish or take any steps to establish any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, which is likely to discharge sewage or trade effluent into a stream or well or sewer or on land (such discharge being hereafter in this section referred to as discharge of sewage); or

(b) .....

(c) .....

Provided that a person in the process of taking any steps to establish any industry, operation or process immediately before the commencement of the Water (Prevention and Control of Pollution) Amendment Act,



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1988, for which no consent was necessary prior to such commencement, may continue to do so for a period of three months from such commencement or, if he has made an application for such consent, within the said period of three months, till the disposal of such application.

- (2) .....
- (3) .....
- (4) .....

(5) Where, without the consent of the State Board, any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, is established, or any steps for such establishment have been taken or a new or altered outlet is brought into use for the discharge of sewage or a new discharge of sewage is made, the State Board may serve on the person who has established or taken steps to establish any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, or using the outlet, or making the discharge, as the case may be, a notice imposing any such conditions as it might have imposed on an application for its consent in respect of such establishment, such outlet or discharge.

- (6) .....

(7) The consent referred to in sub-section (1) shall, unless given or refused earlier, be deemed to have been given unconditionally on the expiry of a period of four months of the making of an application in this behalf complete in all respects to the State Board.

- (8) .....



**33A. Power to give directions.**— Notwithstanding anything contained in any other law, but subject to the provisions of this Act, and to any directions that the Central Government may give in this behalf, a Board may, in the exercise of its powers and performance of its functions under this Act, issue any directions in writing to any person, officer or authority, and such person, officer or authority shall be bound to comply with such directions.

*Explanation.*— For the avoidance of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct—

- (a) the closure, prohibition or regulation of any industry, operation or process; or
- (b) the stoppage or regulation of supply of electricity, water or any other service.”

6. Section 2(a), 2(j), 2(k), relevant part of Section 21 and Section 31A of The Air (Prevention and Control of Pollution) Act, 1981 read as under:-

**2. Definitions.**— In this Act, unless the context otherwise requires,—

- (a) ‘air pollutant’ means any solid, liquid or gaseous substance (including noise) present in the atmosphere in such concentration as may be or tend to be injurious to human beings or other living creatures or plants or property or environment;
- (b) .....
- (c) .....
- (d) .....
- (e) .....

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(f) .....

(g) .....

(h) .....

(i) .....

(j) 'emission' means any solid or liquid or gaseous substance coming out of any chimney, duct or flue or any other outlet;

(k) 'industrial plant' means any plant used for any industrial or trade purposes and emitting any air pollutant into the atmosphere;

**21. Restrictions on use of certain industrial plants.-** (1) Subject to the provisions of this section, no person shall, without the previous consent of the State Board, establish or operate any industrial plant in an air pollution control area:

Provided that a person operating any industrial plant in any air pollution control area immediately before the commencement of section 9 of the Air (Prevention and Control of Pollution) Amendment Act, 1987 (47 of 1987), for which no consent was necessary prior to such commencement, may continue to do so for a period of three months from such commencement or, if he has made an application for such consent within the said period of three months, till the disposal of such application.

(2) .....

(3) .....

(4) Within a period of four months after the receipt of the application for consent referred to in sub-section (1), the State Board shall, by order



in writing, and for reasons to be recorded in the order, grant the consent applied for subject to such conditions and for such period as may be specified in the order, or refuse such consent:

Provided that it shall be open to the State Board to cancel such consent before the expiry of the period for which it is granted or refuse further consent after such expiry if the conditions subject to which such consent has been granted are not fulfilled:

Provided further that before cancelling a consent or refusing a further consent under the first proviso, a reasonable opportunity of being heard shall be given to the person concerned.

- (5) .....
- (6) .....
- (7) .....

**31A. Power to give directions.**— Notwithstanding anything contained in any other law, but subject to the provisions of this Act and to any directions that the Central Government may give in this behalf, a Board may, in the exercise of its powers and performance of its functions under this Act, issue any directions in writing to any person, office or authority, and such person, officer or authority shall be bound to comply with such directions.

*Explanation.*— For the avoidance of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct—

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- (a) the closure, prohibition or regulation of any industry, operation or process; or
- (b) the stoppage or regulation of supply of electricity, water or any other service.

7. With reference to the Water Act as originally framed in the year 1974 and as amended in the year 1988 and with reference to the Statement of Objects and Reasons of the Amending Act, the learned Single Judge has opined that the legislative amendments carried out in the original Water Act were intended to expand the scope of the Water Act. The learned Single Judge has highlighted that the expression *'establish any industry, operation or process or any treatment and disposal system or any extension or addition thereto, which is likely to discharge sewage or trade effluent'* in clause (a) of Sub-Section (1) of Section 25 made it clear that the requirement to obtain previous consent to establish any industry, operation or process was no longer restricted to trade effluent being discharged but would also encompass if 'sewage effluent' was discharged and with reference to the definition of 'sewage effluent' as per Section 2(g), has held that the same would include sewage of any kind, including domestic sewage. The learned Single Judge has also noted the expanded definition of 'trade effluent' as per Section 2(k) of the Water Act. Noting the definition of the words 'operation' and 'process' in para 12 of the decision, and thereafter noting the decisions that purposive construction needs to be followed where the mischief which existed before passing the statute was detected and was intended to be remedied, the learned Single Judge has concluded that *collective operation or process of* LPA 895/2010 & connected matters

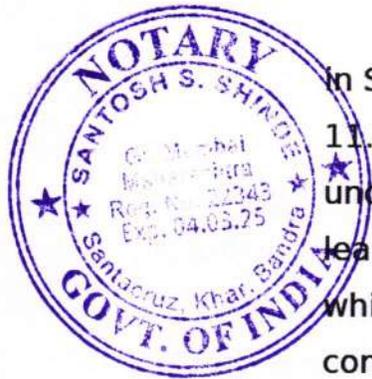
*bathing in the bathroom and such processes as take place in the toilet and cooking and washing in the kitchen would be operations and processes contemplated by Section 25(1)(a) of the Water Act for its applicability to residential complexes.* This is the conclusion arrived at in para 16, but in the immediate next para i.e. para 17, the learned Single Judge has lodged a caveat by stating that he was not answering the question with reference to single storeyed constructions.

8. With reference to the commercial complexes i.e. Commercial Shopping Complexes and Shopping Malls, the learned Single Judge has held that the definition of 'trade effluent' as per Section 2(k) would encompass all kinds of non-domestic sewage and has thus held that these buildings would be governed by clause (a) of Sub-Section 1 of Section 25 of the Water Act.

9. As regards the very act of constructing a building, in paras 19 and 20, the learned Single Judge has held that the very act of constructing a commercial shopping complex, shopping mall or a residential complex would make applicable clause (a) of Sub-Section 1 of Section 25 and for which the reasoning of the learned Single Judge is that construction of commercial shopping or residential complexes is likely to have impact on water pollution because large quantities of water are used during construction and are also discharged.

10. Since, in all the cases, DPCC rose from the slumber after buildings were completed and put to use, the learned Single Judge opined that DPCC could not levy penalties and for which remedial action, as per the learned Single Judge, was as provided

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In Sub-Section 5 of Section 25 of the Water Act.

11. The argument of DPCC that the power to give directions under Section 33A of the Water Act has been negated by the learned Single Judge, with reference to various decisions cited which hold that the power to levy penalty has to be expressly conferred by the statute.

12. Pertaining to the Water Act, the learned Single Judge has summarized the legal position, in para 29 as under:-

"29. The discussion so far on the legal position under the Water Act in relation to the petitioners may be summarized thus:

- (i) Section 25 (1) of the Water Act is intended to cover not just 'industry' which discharges 'trade effluent' but any 'process or operation' that results in a discharge of 'sewage' not limited to trade effluent.
- (ii) The words 'operation or process' occurring in Section 25(1)(a) have to be given the widest possible meaning and scope. This approach is consistent with the SOR of the 1988 amendments to the Water Act which make it clear that the legislative intent was to expand the scope of the regulatory powers of the state PCC. The principle of *ejusdem generis* is therefore inapposite in the context.
- (iii) Commercial shopping complexes, shopping malls and even residential complexes are covered by Section 25(1)(a) of the Water Act.
- (iv) The liability under the Water Act does not get exempted only because the sewage

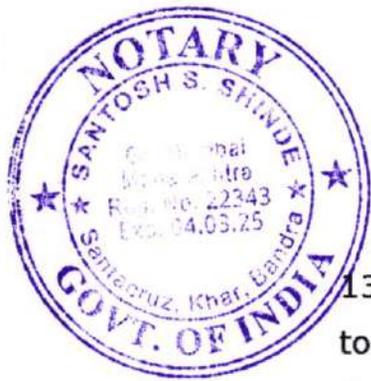


discharged from such complexes joins the main municipal sewerage system which may or may not be treated in keeping with the water pollution norms.

- (v) The pollution caused by discharge of domestic sewage from a residential complex or trade effluent from a commercial complex or industry during the construction phase as well as at any stage after the complex becomes functional would attract the various provisions of the Water Act.
- (vi) With the buildings in question having already been constructed without obtaining prior consent to establish, the direction of the DPCC that those who had failed to obtain prior consent to establish should now apply for such consent is a direction that is not capable of being complied with. Instead the DPCC should invoke the powers under Section 25(5) of the Water Act, issue show cause notices setting out the conditionalities required to be complied with within a time frame and upon failure to do so, invoke the powers to issue directions under Section 33A Water Act.
- (vii) The Water Act is in a separate domain and its provisions will have to be complied with notwithstanding that the MCD has the power to lay down a separate set of regulations and bye-laws for use of water.

Where an applicant has not been communicated any decision of the DPCC for four months after the making of an application, the deeming provision of Section 25(7) would kick in and it would be deemed that the consent to establish has been granted. In such circumstances, Section 25(1) of the Water Act cannot

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obviously thereafter be enforced.”

13. Discussing the applicability of the Air Act, as conceded to by learned counsel for the parties at the hearing of the appeal, the learned Single Judge has inadvertently referred to the pre-amended provisions of the Air Act, though the learned Single Judge has referred and noted the fact that the Air Act of 1981 was amended in the year 1988.

14. Pertaining to residential complexes, the learned Single Judge has noted the unamended Section 21 of the Air Act which did not have the word 'establish' and had only the word 'operate' in Sub-Section 1 thereof, and thus the learned Single Judge has held that no permission from DPCC is needed to establish residential complexes, but on the same reasoning as followed in paras 19 and 20 pertaining to the Water Act, has held that during construction phase of residential complexes, permission under the Air Act has to be obtained. Qua shopping complexes and shopping malls, it has been held that under the Air Act, for these complexes, to operate them, prior permission has to be obtained as also during construction phase.

15. The learned Single Judge has summarized the position under the Air Act, in para 41 as under:-

“41. The position under the Air Act may be summarized:

(i) A collective reading of Section 21(1) of the Air Act with Section 2(a), 2(b) and 2(k) thereof leads this Court to the conclusion that a commercial shopping complex or a shopping mall would be covered within the scope of Section 21(1) of the Air Act.



(ii) The definition of 'air pollution' under Section 2(a) read with Section 21(1) of the Air Act, and the fact that the commercial shopping complexes or shopping malls are going to be used for a trade activity, is sufficient to attract the provisions of Section 21(1) of the Air Act.

(iii) As far as a purely residential complex is concerned, on the present wording of Section 21(1) of the Air Act, there is no requirement of obtaining the prior consent of the DPCC to operate.

(iv) During the construction phase and after the complex becomes functional, every building, whether it is a commercial shopping complex or a shopping mall or a residential complex, will have to comply with the norms under the Air Act and the Water Act and for that matter the EPA.

(v) Where the construction of a commercial shopping complex or shopping mall has been allowed to be completed without a prior consent to operate, the DPCC can inspect the building, issue a show cause notice requiring time bound compliance with the conditionalities imposed by it under the Air Act failing which it can issue directions under Section 31A Air Act."

16. A perusal of Section 25 of the Water Act would reveal, on a bare reading thereof, that without the previous consent of the State Pollution Board, '*no person could establish or take any steps to establish any industry, operation or process,..... which is likely to discharge sewage or trade effluent*'. Thus, even if sewage effluent as defined in Section 2(g) was discharged from any

1925



industry, operation or process intended to be established, the requirement of prior consent would be necessary and to this extent the view taken by the learned Single Judge is correct.

17. But, what would encompass 'any industry, operation or process'?

18. The Water Act does not define, 'industry', 'operation' or 'process'. As held in the decisions reported as 1993 (3) SC 2529 Commissioner of Income Tax Orissa vs. M/s.N.C.Budhiraja & Co. and 2010 (320) ITR 420 (Delhi) Ansal Housing & Construction Ltd. vs. Commissioner of Income Tax, the ordinary dictionary meaning of 'industry' or an 'industrial undertaking' would not include the activity of construction. The word 'operation' is defined, as noted by the learned Single Judge, in the New Shorter Oxford English Dictionary (Lesie Brown Ed.) as follows:

**"operation:** An action, deed; exertion of force or influence; working, activity; an act of a practical or technical nature, esp one forming a step in a process."

19. The same dictionary defines 'process', as noted by the learned Single Judge, as under:-

**"process :** The action or fact of going on or being carried on; a continuous series of actions, events or changes; a systematic series of actions or operations directed at a particular end."

20. As noted herein above, applying purposive construction, the learned Single Judge has held, in para 15, that the two words 'operation' and 'process' have to be given their widest amplitude and meaning. The purposive construction

applied by the learned Single Judge is that widest amplitude needs to be given to Section 25(1)(a) of the Water Act.

21. The error committed by the learned Single Judge is to mechanically note the definition of '*operation*' and '*process*', and ignore the sweep of the span of the two words. We do so. Operation is defined as an *activity or an act of a practical or technical nature*, with emphasis of the acts forming '*a step in a process*'. The word '*process*' is a going on action or a continuous series of actions '*directed at a particular end*'. Thus, an operation would be a working or an activity, where the core of the act constituting the activity is of a practical or technical nature especially one forming a step in a process, and since process is an going on action or a continuous series of action directed at a particular end, the conjoint reading of an operation and a process or even if the two have to be read disjunctively would mean that the expression '*establish or take any steps to establish any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, which is likely to discharge sewage or trade effluent*' would mean to take steps to establish any industry, establishment or undertaking where the operation or process i.e. activity is of a practical or technical nature, at the core of which are ongoing acts, in a series, directed at a particular end. Thus, the act of ablution in the toilet or washing vegetables and dishes in the kitchen of a residential complex, within the precincts of residential flats, by no stretch of imagination can be called or labeled as an operation or a process.

22. The view taken by the learned Single Judge pertaining

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to shopping malls and commercial shopping complexes on the applicability of the Water Act is accordingly upheld and the view taken pertaining to the applicability of the Water Act to residential housing complexes is incorrect.

23. A building where shops would be made and in which shops goods or services would be sold as also shopping malls would be buildings where operation and or process is carried on for the reason they would be places where the activity carried on is of a practical or a technical nature and at the core of which activity would be ongoing acts, in a series, directed at a particular end i.e. if goods are purchased and sold, the sale and purchase of goods; and if service is rendered, the rendition of service directed towards a particular end. If from these buildings sewage is discharged, since sewage effluent as defined in Section 2(k) of the Water Act means effluent from any sewage system, if these buildings are intended to be established, necessary permission would be required from the Board under the Water Act.

24. With respect to the decisions reported as 1993 (3) SC 2529 Commissioner of Income Tax Orissa vs. M/s.N.C.Budhiraja & Co. and 2010 (320) ITR 420 (Delhi) Ansal Housing & Construction Ltd. vs. Commissioner of Income Tax, where it has been held that constructing a building per-se is not an industrial activity the view taken by the learned Single Judge that constructing a building, whether to be used for a residential purpose or to be used for a commercial shopping complex or for shopping malls would be an industrial activity; running contrary to the aforesaid judgments is incorrect.



25. The reasoning of the learned Single Judge to expand the scope of Section 25(1)(a) of the Water Act; that the object of the Water Act was to control water pollution in its widest amplitude and hence the reasoning that while constructing buildings, water is used and sometimes discharged thus requiring a wider meaning to be given, ignores that the Environment (Protection) Act 1986 deals with this larger issue in the context of 'environment' therein being defined to include water, air and land and the inter relationship which exists amongst them and human beings and other living creatures, plants and micro-organisms. The said Act and the Rules framed under the said Act are wide enough to cover exploitation of water and the impact thereof on environment and we see no vacuum in the fight against environmental degradation, by understanding the various expressions and their meaning in Section 25(1)(a) of the Water Act as adopted by us.

26. A word on purposive construction. It simply means that while adopting a purposive approach, Courts should seek to give effect to the true purpose of legislation and must keep in view all material that bears on the background against which a legislation was effected and where more than one construction is possible, the one which eliminates the mischief identified should be favoured. But, where only one construction is possible, the Court is not to strain backwards and then bend forward followed by leaning to the left and then to the right to appropriate a space not intended to be appropriated by the legislation. The Water Act requires prior permission to establish any industry, operation or

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process which is likely to discharge sewage or trade effluent. It is not intended to apply to all and sundry establishments. It is restricted to only when a building, housing an industry is sought to be established or a building in which an operation or a process is intended to be carried on where effluent or trade effluent would be discharged.

27. To summarize the position under the Water Act the position may be summarized thus: 'Section 25(1) of the Water Act would apply where a building is proposed to be constructed to set up an industry or carry on an operation or a process as explained in para 21 above and this would mean that the Water Act would not apply to buildings housing residential apartments/units. It would apply to all other buildings where effluent or trade effluent is discharged, be they where manufacturing activity is carried on, sale or purchase of goods is carried on or services are provided.

28. Pertaining to the Air Act, there is a material difference in the language used in Section 21 of the said Act, vis-à-vis the language used in Section 25 of the Water Act. Whereas the Water Act requires a permission to establish any industry, operation or process, the Air Act restricts its span to prior permission being necessary only where it is intended to establish or operate any industrial plant.

29. Since the learned Single Judge has referred to the unamended provision and has ignored the amendments carried out to the Air Act in the year 1988, we note that as per the amended Section 21, the obligation to obtain the consent of the State Pollution Control Board is only to establish or operate any

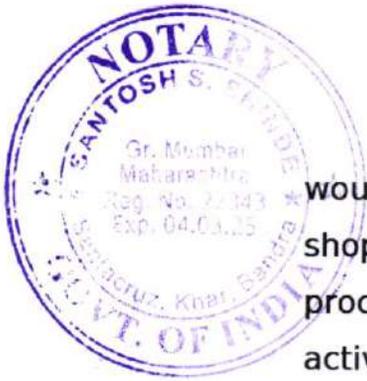
industrial plant in an Air Pollution Control Area. Section 2(k) defines an 'industrial plant' to mean any plant used for any industrial or trade purposes and emitting any air pollutant.

30. The learned Single Judge has read the unamended Section 21 of the Air Act to mean that prior consent is needed to operate an industrial plant. Since the decision of the learned Single Judge has not noted the language of the amended Section where the words 'establish or' have been inserted prior to the word 'operate', we need to re-look into the issue.

31. Highlighting the definition of the words 'industrial plant' as defined in Section 2(k) of the Air Act, the learned Single Judge has noted that the definition expands the meaning of the words 'industrial plant' to include a building used for a trade purpose and with reference to Section 21 of the Air Act has held that a building where trade is carried on the prior consent would be required to operate the building.

32. Since the learned Single Judge has noted the unamended Section 21 and since the amended Section 21 requires prior consent even to establish an industrial plant in an Air Pollution Control Area, agreeing with the reasoning of the learned Single Judge that in view of the extended definition of the expression 'industrial plant', which includes a building where trade is carried on, the inevitable conclusion has to be that prior consent under the Air Act would be needed where a building is proposed to be constructed wherefrom trade would be carried on and since from a shopping mall and from a commercial shopping complex trade is carried on, we hold that prior consent under the Air Act

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would be required when commercial shopping complexes and shopping malls are established i.e. at the commencement of the process of establishment i.e. before the building construction activity commences.

33. As noted herein above, the learned Single Judge has held construction per-se as requiring prior permission, both under the Water Act and the Air Act, and thus the learned Single Judge has held that under the Air Act, consent during construction phase would have to be obtained.

34. For our reasoning herein above pertaining to the Water Act, the said reasoning of the learned Single Judge pertaining to the Air Act is overruled, but would make no difference to the final conclusion arrived at by us pertaining to the applicability of the Air Act when construction activity commences in respect of shopping malls and commercial shopping complexes for the reason, prior consent to establish the same is required on the language of Section 21 of the Air Act in view of the expanded definition of the expression 'industrial plant'. But, for residential complexes, we hold that neither to establish nor to operate, (in fact the concept of 'to operate' is not even applicable to a residential complex), any permission is required under the Air Act.

35. The learned Single Judge has held that neither the language of Section 33A of the Water Act nor the language of Section 31A of the Air Act contemplates the power on the State Pollution Boards to levy any penalty.

36. The learned Single Judge has noted the decisions reported as 1975 (2) SCC 22 *Khemka & Co. (Agencies) Pvt. Ltd. vs.*

State of Maharashtra, 1994 (4) SCC 276 J.K.Synthetics Ltd. & Birla Cement Works vs. Commercial Taxes Officer and 1997 (6) SCC 479 India Carbon Ltd. vs. State of Assam to opine that power to levy penalty has to be conferred by a substantive provision in the enactment.

37. We concur with the reasoning of the learned Single Judge in paras 58 to 64 of the impugned decision and thus do not elaborate any further, but would additionally highlight that the power to issue directions under Section 33A of the Water Act and the power to issue directions under Section 31A of the Air Act, on their plain language, does not confer the power to levy any penalty. We would further highlight that under Chapter VII of the Water Act, and under Chapter VI of the Air Act penalties and procedure to levy the same have been set out. A perusal of the provisions under the Water Act would reveal that penalties can be levied as per procedure prescribed and only Courts can take cognizance of offences under the Act and levy penalties, whether by way of imprisonment or fine. Similar is the position under the Air Act. The legislature having enacted specific provisions for levy of penalties and procedures to be followed has specifically made the offences cognizable by Courts and the power to levy penalties under both Acts has been vested in the Courts. The role of the Pollution Control Boards is to initiate proceedings before the Court of Competent Jurisdiction and no more.

38. We would be failing not to note that on the issue of a delegatee not being empowered (by law) to further sub-delegate the delegated power, learned counsel for DPCC conceded to said



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position and thus we leave undisturbed the view taken by the learned Single Judge on the subject.

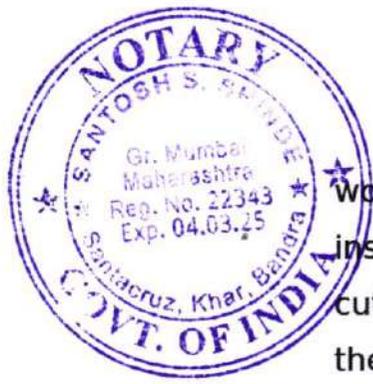
39. Since our reasoning aforesaid results in the finding, by way of interpreting the provisions in the Water Act and the Air Act, as requiring prior consent to establish and operate shopping malls and commercial shopping complexes and the provisions being not applicable to residential complexes, we declare void actions initiated by DPCC pertaining to residential complexes and we further hold that said writ petitions are allowed in terms of the prayers made. The impugned decision(s) by the learned Single Judge(s) qua residential complexes is set aside. Qua shopping malls and commercial shopping complexes, since we have held that prior permission is required under both Acts to establish shopping malls and commercial shopping complexes as also to operate them and noting that even DPCC was not too sure of the legal position and thus misinformed a few applicants that no permission was required and qua most persons permitted them to commence and complete construction of shopping malls and commercial shopping complexes, the question which now needs to be answered is: Whether, pertaining to the Water Act, Sub-Section 5 of Section 25 is the answer to what needs to be done and in the absence of a similar provision in the Air Act, what action needs to be directed to be taken.

40. The language of Sub-Section 5 of Section 25 of the Water Act makes it plain clear that the only solution to a situation of a building being constructed to establish an industry, operation or process without obtaining prior consent of the State Pollution

Control Board is the power of the Board to serve upon the person concerned a notice imposing such conditions as might have been imposed on an application seeking prior consent; and we find that the learned Single Judge has correctly so opined and has rightly issued the direction that the only way out, pertaining to the Water Act, is to permit DPCC to inspect the shopping malls and the shopping commercial complexes and if it is found that pertaining to discharge of sewage from these buildings any steps are required to prevent water pollution, DPCC would be authorized to issue notices requiring the owner of the building to take steps in terms of the notice issued. Pertaining to the Air Act, notwithstanding there being no similar provision, but the concept of a post decisional hearing may be made applicable with the modification that no hearing would be required inasmuch as there is no decision, but DPCC should be empowered to inspect the shopping malls and the shopping commercial complexes and pertaining to air pollution, if any deficiencies are found, to notify the same to the owner requiring corrective action to be taken. Needless to state, if the owners of the buildings do not take corrective action, DPCC would always have the power to file criminal complaints before the Courts of Competent Jurisdiction, which Courts would alone have the power to impose fine and additionally impose sentence of imprisonment upon the offending persons.

41. On the issue of Air Pollution, we would like to pen a post-script pertaining to shopping complexes and shopping malls for the reason the only activity of air pollution in these buildings

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Would be through the air conditioning plants and generators installed to supply electricity to the buildings in case of power cuts, for the reason the trade of sale and purchase of goods in these complexes does not entail any activity which causes air pollution. We find that pertaining to DG sets, permissions in any case have to be obtained from DPCC if the capacity of the DG set is beyond a prescribed wattage and thus DPCC may suitably reconsider all shopping complexes and shopping malls where consent of DPCC has been obtained with respect to DG sets installed as also air-conditioning plants installed in the buildings for if for the DG sets and air-conditioning plants, sanctions have already been obtained, nothing further remains to be got sanctioned under the Air Act.

42. In a few cases, we find that since DPCC was not permitting the buildings to be occupied, under protest, the owners paid the penalty to DPCC and have immediately approached the Court seeking refund and the same has been ordered for the reason neither under the Water Act nor under the Air Act there exists any power in DPCC to levy penalty or impose conditions of furnishing bank guarantee. The decision of the learned Single Judge is correct in directing the bank guarantees to be discharged and penalties levied to be refunded for the reason the said act of DPCC is ultra-vires its power under the two statutes and the levy of penalty is without any authority of law. In the decision reported as 1997 (5) SCC 536 *Mafatlal Industries Ltd. & Ors. vs. UOI & Ors.*, under writ jurisdiction refund can be directed where the levy is without jurisdiction and the same would include a penalty levied

without any jurisdiction. In the instant case the penalty levied is unconstitutional being not sanctioned by any power vested in DPCC either under the Water Act or the Air Act. The impugned decisions where penalty levied has been directed to be refunded are upheld.

43. The appeals filed by DPCC are dismissed and the cross objections filed are allowed in terms of paras 27, 33, 34 and 39 above.

44. We leave the parties to bear their own costs.

45. All interim orders stand vacated.

(PRADEEP NANDRAJOG)  
JUDGE

(PRATIBHA RANI)  
JUDGE

JANUARY 23, 2012  
dk

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ANNEXURE-B

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION**

**WRIT PETITION NO.1352 OF 2014**



Glomore Constructions and Ors.

... Petitioners

Vs

The Union of India and Ors.

... Respondents

*Mr. Arnav N. i/b Wadia Ghandy & Co., for the Petitioners.*

*Mr. Niranjan Pandit, AGP for Respondent No.2.*

**CORAM : V.M.KANADE &  
REVATI MOHITE DERE, JJ.**

**DATE : 18<sup>th</sup> DECEMBER, 2014**

**P.C. :**

1. We are informed that Environment clearance has been granted. Learned Counsel for the petitioners have placed before us the Minutes of the meeting of SEIAA held on 28<sup>th</sup> and 29<sup>th</sup> October, 2014, which shows that Environment clearance has been granted to the petitioners. The said order has been communicated to the petitioners by a letter



dated 11<sup>th</sup> December, 2014.

2. That being the position, the petition has become infructuous and is accordingly disposed of reserving the rights of the petitioners to apply for restoration in the event according to the petitioners counsel some reliefs still survive in the petition.

**REVATI MOHITE DERE, J.**

**V.M.KANADE, J.**



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ANNEXURE-B

- 1 -

(WP L 655 of 2014)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION (L) No.655 OF 2014

Glomore Constructions and Ors. ...Petitioners

Vs.

The Union of India and Ors. ...Respondents

\*\*\*\*\*

Mr. Virag Tulzapurkar, Senior Counsel with Mr. Rafi Patni with Ms. Anjali S. Mohan i/b. Wadia Ghandy & Co. for Petitioners

None for Respondents

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**CORAM : V. M. KANADE &  
A.K. MENON, JJ.**

ANNEXURE-B

**MARCH 24, 2014**

P.C.

1. Heard the learned counsel appearing on behalf of the Petitioners. None appears on behalf of the Respondents, though they were served. Two affidavits of services are taken on record.

2. The grievance of the Petitioners is that though the Petitioners propose to construct the buildings, which are less than 20000 sq.mtrs. and though this Court, in number of cases, has held that for construction of buildings, which are below 20000 sq.mtrs., environmental clearance is not required, even then, Respondents State have issued a stop work notice, directing the Petitioners to stop the construction work of the buildings which are in project and are admittedly below 20000 sq.mtrs. It is submitted that the

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Petitioners have given an undertaking that they shall not carry out construction work of the buildings beyond 20000 sq.mtrs. It is submitted that in view of this, the impugned notice which has been issued by Respondent No.3 may be stayed.

3. This Court in several petitions, has already held that environmental clearance for the purpose of construction of buildings below 20000 sq. mtrs. is not required and the said orders have not been challenged by the Government in the Apex Court. A Notification, accordingly, has been issued by the State Government recently, taking into consideration, the law laid down by this Court. In spite of that, the impugned notice has been issued by Respondent No. 2. Prima facie, therefore, case is made out for grant of ad-interim relief.

4. Ad-interim relief is granted in terms of prayer clauses (j) and (k). Undertaking given by the Petitioners in Ground (M) is accepted. The Petitioners, however, shall file a further undertaking that they shall not carry out any construction beyond 20000 sq.mtrs., within one week. It is clarified that the Petitioners may be permitted to carry out construction of the free sell component of the buildings in the said project.

5. Issue notice to Respondent Nos.1 to 7, returnable on 28.4.2014. Humdust permitted.

**[A.K. MENON, J.]**

**[V. M. KANADE, J.]**

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ANNEXURE-B

wp-504-12



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION**

**WRIT PETITION NO.504 OF 2012**

Naresh Janardhan Mali

... Petitioner

Versus

The State of Maharashtra and others

... Respondents

Mr. Niranjan pandit, Assistant Government Pleader for respondent No.1.  
Mr. Mukul Taly with Ms. Mallika Taly, Mr. Yusuf Shaikh, Mr. Rakesh Misar  
i/by M/s. S. Mahomedbhai & Co. for respondent Nos.3 and 4.

**CORAM : MOHIT S. SHAH, C.J. &  
RANJIT MORE, J.**

**Thursday, March 29, 2012**

**P.C.**

In this petition purporting to be PIL, the petitioner has challenged the letter dated 3 January 2012 (Exhibit `K' at page 49 of the petition) by which the Slum Rehabilitation Authority has withdrawn the stop-work notice dated 3 September 2011.

2. It is the petitioner's contention that respondent Nos.3 and 4 are carrying on the construction of more than 20,000 sq. meters. without getting environmental clearance from the State Government and, therefore, the Slum Rehabilitation Authority which had initially issued stop-work notice dated 3 January 2011 is not justified in withdrawing the same.

3. Our attention is invited to the applications made by respondent Nos.3 and 4 for construction of 28,000 sq.mtrs of built up area.

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4. The learned counsel for respondent Nos.3 and 4 submits that at present respondent Nos.3 and 4 are only proposing to construct the rehabilitation tenements for resettling 370 slum dwellers out of whom 160 slum dwellers have already been shifted to the transit accommodation and, therefore, respondent Nos.3 and 4 cannot be restrained from proceeding with the project of constructing rehabilitation tenements. The learned counsel for respondent Nos.3 and 4 submits that when about 650 applications for environmental clearance are pending with the State Government, the applicant does not expect to get environmental clearance immediately and that since the CRZ notification requires environmental clearance from the State Government only when the construction is in excess of 20,000 sq.meters, no useful purpose will be served by requiring respondent Nos.3 and 4 not to proceed with the construction of rehabilitation tenements which will be only for construction of about 14,000 sq.mtrs and which would come to about 18,000 sq.mtrs if construction of closed area and area open to the the sky is taken into consideration.

5. Mr. Niranjn Pandit, learned Assistant Government Pleader has submitted that when the project proponent cannot undertake construction project for more than 20,000 sq.meters of built up area without obtaining prior environmental clearance, the project proponent cannot be allowed to commence the construction within the limits of 20,000 sq.meters also without obtaining prior environmental clearance.

6. In order to assure the Court that respondent Nos.3 and 4 will not undertake any construction activity equal to or exceeding the limit of 20,000 sq.meters as prescribed by notification dated 14 September 2006, Mr. Percy S. Chowdhry, Director of respondent No.3 company-developer has filed affidavit dated 29 March 2012 giving the following undertaking:-

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“8. I undertake to this Hon'ble Court that I as the Developer will not carry out any construction exceeding the limit i.e. equal to or beyond 20,000 sq.meters, as prescribed by the provisions of Notification No.S.O. 1533 dated September 14, 2006 on the land bearing CTS No.G/626 and G/164 A (Part) of Village Bandra under the Slum Rehabilitation Scheme for Narli Agripada (SRA) Co-operative Housing Society (Prop.) at Ram Krishna Mission Road, Khar (West), Mumbai, without obtaining prior environmental clearance from the State Environment Impact Assessment Authority (SEIAA).”



7. Having heard the learned counsel for the parties and also having regard to the fact that the project in question is for rehabilitation of 370 slum dwellers out of whom 160 slum dwellers have already shifted to the transit accommodation, and also having regard to the fact that a large number of environmental clearance applications are pending with the Government and that environmental clearance is required only when the built up area exceeds 20,000 sq.meters and having regard to the aforesaid undertaking given on behalf of respondent No.3, we are inclined to accept the submissions made on behalf of respondent Nos.3 and 4.

8. We accordingly accept the above undertaking and direct that while calculating the area, respondent Nos.3 and 4 shall take into account notification No. S.O.1533 dated September 14, 2006 under which built up area is to include covered construction and in the case of facilities open to the sky continue to be activity area. As per the current approvals, respondent Nos.3 and 4 have approval for built up area of 18,031.78 sq meters.

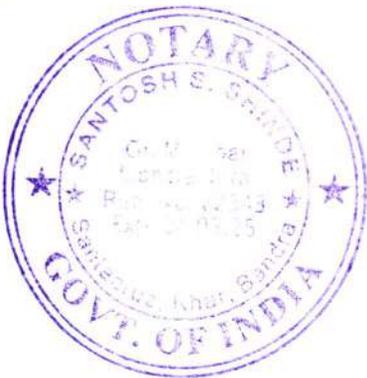
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9. Accordingly, subject to the direction that respondent Nos.3 and 4 shall act in accordance with the aforesaid undertaking and shall not undertake any construction in excess of 20,000 sq.meters without obtaining prior environmental clearance from the Competent Authority of the State Government, the petition is disposed of.

**CHIEF JUSTICE**

**RANJIT MORE, J.**



## IN THE HIGH COURT OF JUDICATURE AT BOMBAY

## ORDINARY ORIGINAL CIVIL JURISDICTION

## WRIT PETITION NO. 654 OF 2013

Tridhaatu Ventures LLP

... Petitioner

Versus

State of Maharashtra &amp; Ors.

... Respondents

Dr. Milind Sathe, Senior Advocate with Mr. Saket Mane i/b. Vidhi Partners for the petitioner.

Mr. D.J. Khambata, Advocate General with Ms. Geeta Shastri, AGP for respondent State.

Ms. Sharmila Modle for respondent-BMC.

**CORAM: MOHIT S. SHAH, C.J. & M.S. SANKLECHA, J.**

**DATE : 9 May 2013**

P.C.

Rule.

Heard learned counsel for the parties on the question of interim relief.

2. Under Environment Impact Assessment Notification dated 14 September 2006 a person proposing construction exceeding 20,000 sq. mtrs is required to take environmental clearance from the Ministry of Environment & Forest (MoEF) through the State Environment Impact

Assessment Authority (SEIAA). The relevant clause in the said Notification reads as under:-

**“ Requirement of prior Environmental Clearance (EC):-** The following projects or activities shall require prior environmental clearance from the concerned regulatory authority, which shall hereinafter referred to be as the Central government in the Ministry of Environment and Forests for matters falling under Category 'A' in the Schedule and at State level the State Environment Impact Assessment Authority (SEIAA) for matters falling under Category 'B' in the said Schedule, before any construction work, or preparation of land by the project management except for securing the land, is started on the project or activity:

(i) All new projects or activities listed in the Schedule to this notification.

(ii) Expansion and modernization of existing projects or activities listed in the Schedule to this notification with addition of capacity beyond the limits specified for the concerned sector, that is, projects or activities which cross the threshold limits given in the Schedule, after expansion or modernization.

(iii) Any change in product, mix in an existing manufacturing unit included in Schedule beyond the specified range.”

(emphasis supplied)

3. Relevant portion of the Schedule in Clause (2) of the Notification reads as under:-

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Project or activity	Category with threshold limit		Condition if any	
	A	B		
8	Building/Construction projects/Area Development projects and Townships			
1	2	3	4	5
8(a)	Building and Construction projects		>20000 sq.mtrs and < 1,50,000 sq.mtrs. of built-up area	The built up area for the purpose of this Notification is defined as "the built up or covered area on all the floors put together including basement(s) and other service area, which are proposed in the building/construction projects.
8(b)	Township and Area Development projects.		Covering an area >50 ha and or built up area >1,50,000 sq.mtrs.++	All projects under item 8(b) shall be appraised as Category B1

4. The petitioner herein submits that it had applied for environmental clearance for a project of 40,000 & odd sq. mtrs., but the petitioner's application has been rejected by the State Expert Appraisal Committee on the ground that there will be violation of the Office Memorandum dated 7 February 2012 of the Ministry of Environment and Forests, which prescribes the minimum width of the road abutting which the proposed building is to be constructed. As per the said Office Memorandum for a building with height of 69 meters i.e. above 60 meters, the width of the road should be minimum 30 meters and desirable 45 meters.

5. The impugned decision dated 1 to 3 January 2013 of SEAC reads as under:-

*Item No.21: Proposed residential cum commercial development project 'Sri Swati CHS' at CTS No.275, 27/1 to 276/1 to 16 & 277 village of Borla, Govandi.*

*The project proposal was discussed on the basis of the presentation made and documents submitted by the proponent, PP claimed that access to the project site is through a road junction having a width above 36 m. Hence, his case will not be affected by OM dated 7 February 2012. However, the Committee observed that the plot actually abuts on to 9.15 m wide road, and PP's contention is not acceptable. The project in its present form is not in accordance with the OM dated 7 February 2012. The PP may recast the project as per the above OM, if he so desires.*

*In view of the above, the proposal is delisted."*

6. Dr. Sathe, learned senior counsel for the petitioner submits that the petitioner has challenged the above OM dated 7 February 2012 as the question of width of the road for proposed construction of the building is governed by Development Control Regulations for Greater Mumbai 1991 and not by any of the provisions of the Environment (Protection) Act, 1986 and Rules made thereunder. Relying upon Regulation 31 prescribing the height of building, it is submitted that the petitioner's case meets with the requirements of Regulation 31(1) and therefore, the State Expert Appraisal Committee had no authority to delist the petitioner's proposal. It is submitted that there is no other objection raised by the Committee except the above objection.

7. Learned counsel for the petitioner further relies upon the order dated 10 April 2013, wherein another Division Bench of this Court had an occasion to examine the challenge to the said OM and the Court made the following observations in the said order dated 10 April 2013:



“5. In both the petitions, the challenge is to the same Office Memorandum dated 7th February, 2012 which purports to incorporate the guidelines regarding height of the buildings. The contention of the petitioners is that apart from the fact that the challenge is to the very authority of the Union of India to issue the Memorandum, in a City like Mumbai, several building projects will be stalled. The learned Senior Counsel appearing for the petitioner in Writ Petition No.1180 of 2012 invited our attention to the minutes of the 111th Meeting of Infrastructure and Miscellaneous Projects and CRZ held on 16/17<sup>th</sup> April, 2012 of the Ministry of Environment and Forest. In the meeting Item No.4.19 was as regard the impugned memorandum dated 7<sup>th</sup> February, 2012. After discussion, the Committee members were of the view that guidelines are advisory in nature and may not be considered as mandatory. “

(emphasis supplied)

In the said order the Division Bench also referred to the letter dated 27 April 2012 of the Chief Minister of the State of Maharashtra to the Minister of State for Environment and Forests of Union of India in the following terms:-

“6. The learned Government Pleader has placed on record a photocopy of letter dated 27th April, 2012 addressed by the Hon'ble Chief Minister to the Hon'ble Minister of State for Environment and Forests of Union of India, requesting that the Office Memorandum dated 7th February, 2012 should be kept in abeyance. In the said letter, he has stated that in the State like Mumbai most of the construction projects are those of redevelopment of old, cessed, dilapidated buildings. It is also pointed out that there are schemes of Slum Rehabilitation (SRA) in the City of Mumbai. It is pointed out that the restrictions in the guidelines incorporated in Memorandum dated 7<sup>th</sup> February, 2012 will hamper the progress of the said projects and the construction activities would be

*brought to stand still. It is pointed out that the width of the roads in most of the States is well below the requisite standards prescribed by the Memorandum."*

8. It is submitted by learned counsel for the petitioner that in view of lack of jurisdiction of the authority under the Notification of 2006 and in view of the fact that guidelines contained in OM dated 7 February 2011 are clearly advisory in nature and cannot be treated as mandatory, the petitioner's proposal ought not to have been delisted for non-compliance with the said OM, when the petitioner complies with the DCR 1991 prescribing width of the road.

9. Learned counsel for the petitioner submits that in any view of the matter the petitioner is presently concerned with rehabilitation of 75 members of Sri Swati Co-operative Housing Society. Flats of 78 members of the society were demolished in 2010 for the purpose of redevelopment. The Municipal Corporation has already granted IOD and Commencement Certificate for 4,935 sq. mtrs for three floors, and the petitioner being developer for the said society has submitted plans for total construction of 19,833.41 sq. mtrs. including 4,935 sq. mtrs. already constructed. It is submitted that, however, the Municipal Corporation is not considering the petitioner's application on the ground that the petitioner has not obtained environmental clearance under the aforesaid EIA Notification dated 14 September 2006.

10. Learned counsel submits that the question of obtaining environmental clearance arises only when the petitioner proposes to construct more than 20,000 sq. mtrs. of built up area. The petitioner's proposal for the construction of more than 20,000 sq. mtrs. has been

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delisted of non-compliance of OM dated 7 February 2011, which the petitioner has already challenged in the present petition. However, merely because those contentions will be dealt with later on, that should not be treated as ground for not permitting the petitioner to put up construction of 19,833.41 sq. mtrs. built up areas, which is necessary for accommodating 75 members of 'Sri Swati Co-operative Housing Society.'

11. Learned counsel has placed reliance on judgment dated 6 March 2013 in Writ Petition (I) No.470 of 2013 and orders passed in several other matters being orders dated 16 January 2013 and 24 September 2012.

12. On the other hand, learned Advocate General has opposed the grant of any interim relief and has submitted that granting any such permission would amount to violation of Notification dated 14 September 2006, which provides that expansion and modernization of existing project or activities scheduled in the Notification which crosses the threshold limits given in the schedule will require prior environmental clearances. It is submitted that the project of the construction of more than 20,000 sq. mtrs. cannot be divided into two phases and the petitioner cannot be allowed to contend that since the first phase of the project is less than 20,000 sq. mtrs. no prior environmental clearance will be required. Reliance is also placed on the OM dated 19 August 2010 issued by the Government of India in Ministry of Environment & Forests, which provides that no activities relating to any project can be undertaken at site without obtaining prior environmental clearance as is mandated under the EIA Notification,



2006 except fencing of the site to protect it from getting encroached and construction of temporary sheds for the guards.

13. Learned Advocate General further submitted that environment clearance is required to monitor, control the local construction activities, water/air/noise pollution, traffic congestion and other construction activities affecting human health by various standards, code and rules laid down under the Environment (Protection) Act and Rules which other departments like Municipal Corporation for Greater Mumbai, Maharashtra Pollution Control Board will not be able to monitor. It is submitted that proper infrastructure facilities are required to be provided from inception of the construction activity from the environment point of view.

14. It is brought to our notice that on the basis of IOD and Commencement Certificate granted by the Municipal Corporation, the petitioner has already constructed 4,935 & odd sq. mtrs. of built-up area and photograph indicating the present construction is placed on record.

Learned counsel for the petitioner submitted that further construction upto to 19,000 sq. mtrs. including 4,935 & odd sq. mtrs. built up area will not require any further digging in the earth or laying any further foundation structure. It is, therefore, submitted that apprehension of the respondent-authority that even if the proposed construction in the first phase will be less than 20,000 sq. mtrs, but the foundation structure and other facilities and amenities for bigger project may cause serious damage to the environment will not arise in the facts of the present case.

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15. We have given anxious consideration to the rival submissions on the question of interim relief.

16. In judgment dated 6 March 2013 in Writ Petition (L) No. 470 of 2013, this Court has dealt with a similar controversy and held as under:-

*“17. We do, however, find some substance in the last submission made by the learned counsel for the petitioner that even if the petitioner is required to obtain CRZ clearance from MCZMA again on the basis that the built up area of the project will exceed 20,000 sq. meters, the petitioner is entitled to get the same reliefs which this Court has been granting in case of many other parties where similar prayer was made. In Writ Petition No.1916 of 2012 (Vardhman Developers Limited vs. Union of India & Ors.) and Writ Petition No.2809 of 2012 (Nahur Vivekanand Cooperative Housing Society Ltd. & Anr. vs. Union of India & Ors). We have rejected a similar contention urged on behalf of the respondent authorities that when the project proponent cannot undertake construction project for more than 20,000 sq. meters of built up area without obtaining prior environmental clearance, the project proponent cannot be allowed to commence the construction within the limits of 20,000 sq. meters, without obtaining prior environmental clearance. This Court has held that when clearances are required only for projects with built up area exceeding 20,000 sq. meters, redevelopment projects for residential buildings should not be unnecessarily delayed even to the extent of construction upto 20,000 sq. meters when the developer is ready to give undertaking not to exceed the construction beyond 20,000 sq. meters without first obtaining environmental clearance. This Court has noted that the Authorities take considerable time for taking a decision on the application for environmental clearance or for CRZ clearance. In the meantime the redevelopment projects are being*

delayed. This Court has been granting relief in such cases on the basis that even if ultimately the authorities were to reject the applications for clearance, there will be no illegality in so far as the developer has made construction upto 20,000 sq. meters."

(emphasis supplied)

17. Having heard learned counsel for parties, and in the facts and circumstances of the case and particularly in view of the fact that the width of the road is sufficient as required by the DCR 1991 and as far as OM is concerned, the same is treated as advisory and not mandatory and in the facts of the present case where the petitioner does not propose to make any further digging in the earth or laying any further foundation structure for the purpose of putting up construction upto to 19,000 sq. mtrs. of built-up area including 4935 sq. mtrs already put up by the petitioner, we are inclined to direct the respondent-Municipal Corporation to permit the petitioner to put up construction upto to 19,000 sq. mtrs. including 4935 sq. mtrs. already put up, subject to following conditions:-

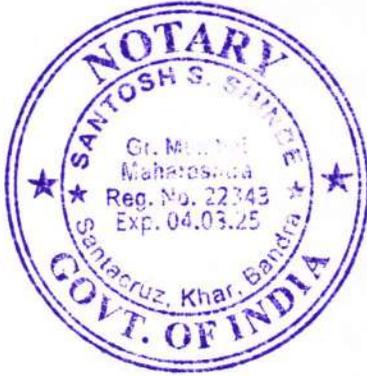
- (i) that the petitioner as well as the Chairman of 'Sri Swati Co-operative Housing Society' shall file undertakings stating that the petitioner and the society shall not put up any construction exceeding 20,000 sq. mtrs including the existing construction on the site being land CTS No.275, 275/1 to 276/1 to 16 & 277 village of Borla, Govandi.
- (ii) that the petitioner will be putting up construction of 19,000 sq. mtrs for the purpose of accommodating 75 or maximum 78 members of 'Sri Swati Co-operative Housing Society',



Bombay High Court

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whose flats have already been demolished in 2010 for the purpose of redevelopment and not for any other purpose.



(iii) that the petitioner shall not do any further digging on the ground for laying foundation and shall only continue with the construction on the existing construction by raising height of the building within the limits permissible as per the DCR 1991 and in accordance with plans which may be sanctioned by the Municipal Corporation.

(iv) that the petitioner will not claim equity on the basis of this order.

17. It is directed accordingly.

**CHIEF JUSTICE**

**M.S. SANKLECHA, J.**

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.**

**ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.1916 OF 2012

Vardhman Developers Limited ...Petitioner

v/s.

Union of India & Ors. ...Respondents

Mr.Milind Sathe, Senior Advocate with Mr.D.H.Mehta i/b  
Mr.Jitendra J. Shah for petitioner.

Ms.Navina Kumai for respondent no.1.

Mr.G.W.Mattos, AGP for State.

Ms.Sharmila Modle for respondent No.4-(BMC).

Mr.Parag Shah with Mr.Mahesh Shah for respondent No.5.

**CORAM: MOHIT S. SHAH, C.J. &  
N.M. JAMDAR, J.**

**DATE : 24 September 2012.**

**P.C.**

Rule. Respective counsel waive service of rule.

2. In the facts and circumstances of the case, the matter is taken up for final hearing.

3. The petitioner-company is a developer, which has acquired development rights from respondent No.5-Mazgaon Dholkawala Co.operative Housing Society (proposed) having premises on City Survey No.366(part) and City Survey No.1/367 of Mazgaon Division, 'E' Ward in Mumbai. The land admeasures about 13,098.96 sq.meters.

4. It is the petitioner's case that part of the above land is reserved for municipal primary school as per the Development Plan. However, some portion of the land was encroached upon by slum dwellers. The other land is occupied by 54 municipal tenants. In view of the above situation, the development agreement has been entered into between respondent No.5-society and the petitioner-developer, and the Municipal Corporation has also agreed to the arrangement under which-

(i) the petitioner will construct municipal school on the land admeasuring 1045 sq.meters and hand over the same to the Municipal Corporation free of costs.

(ii) the petitioner will also construct, free of costs, municipal employees quarters on the land of 1,952.84 sq.meters.

(iii) the Municipal Corporation will also get Rs.51,33,11,059/- over and above the above constructed properties.

(iv) all the municipal tenants/ and eligible slum dwellers will be rehabilitated and will be allotted permanent accommodation free of costs and they will also receive corpus fund each of the commercial occupants Rs.37,500 and each of the residential tenants/eligible slum dwellers Rs.18,750/-.

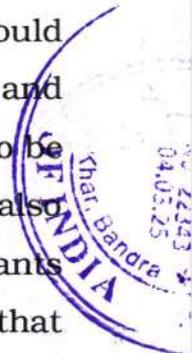
5. According to the petitioner, the Municipal Corporation has already sanctioned the above proposal and the Municipal Corporation has also issued Intimation of Disapproval (IOD) under section 346 of the Mumbai Municipal Corporation Act on 25 April 2012. In accordance with the said redevelopment agreement, the petitioner has already demolished the existing structures on the land and is also paying compensation in lieu of transit accommodation to tenants and eligible slum dwellers, who are going to be allotted permanent accommodation free of costs.

6. The grievance of the petitioner in this petition is that clause 29 of the IOD provides that the petitioner cannot obtain commencement certificate before obtaining NOC from the Ministry of Environment and Forest. It is submitted that such NOC from Ministry of Environment and Forest is required because the total built up area of the project submitted by the petitioner is 46,200 sq. meters and as per the notification dated 14 September 2006 issued by the Ministry of Environment and Forest, prior environmental clearance is required from the Ministry of Environment and Forest, where the built-up area exceeds 20,000 sq.meters. The State Environmental Impact Assessment Authority, which is appointed for considering such proposal for environmental clearance has a large number of pending applications. The petitioner's application for prior environmental clearance was submitted to the said authority on 15 June 2012. However, the application is still at serial No.296 of the list of applications, from which so far only first ten applications have been considered by respondent No.3-the State



Environmental Impact Assessment Authority. It is, therefore, submitted that the petitioner does not expect its application to be considered for another 6 to 12 months, which would unnecessarily delay implementation of the project, which would include construction of a municipal school free of costs, and construction of municipal employees quarters, free of costs, to be provided by the petitioner to the Municipal Corporation, and also construction of rehabilitation buildings for 54 municipal tenants and 29 eligible slum dwellers, free of costs. It is submitted that the total built-up area of this part of the project will be hardly about 11,000 sq.meters, which is well below the stipulated limit of 20,000 sq.meters, beyond which the developer cannot construct without obtaining prior environmental clearance.

7. Mr.Sathe, learned Senior Counsel for the petitioner relies upon the order dated 29 March 2012 passed by this Court in Writ Petition No.504 of 2012 and submits that in the said case this Court had permitted the concerned developer to take up construction of area up to 18,031.78 sq.meters, for which the concerned developer had obtained approval from the Municipal Corporation and had observed that having regard to the fact that a large number of environmental clearance applications are pending with the Government and that environmental clearance is required only when the built up area exceeds 20,000 sq.meters and an undertaking being given by the developer not to exceed construction of more than 20,000 sq.meters before getting environmental clearance, can be acted upon so that project for rehabilitation of slum dwellers is not delayed.



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8. The writ petition is opposed by Mr.Mattos, learned AGP appearing for respondent No.2-State of Maharashtra and respondent No.3-State Environmental Impact Assessment Authority. The learned counsel for Municipal Corporation, Gr.Mumbai also submits that since clause 29 of the IOD requires the petitioner to obtain NOC from the State Environment Impact Assessment Authority before applying for commencement certificate, prayer made by the petitioner may not be granted. Mr.Mattos further states the petitioner's grievance about delay in disposal of applications for environmental clearance is not justified, because it was on account of pendency of a large number of applications that the State Government has appointed another committee to expedite consideration of applications for environmental clearance for projects in Mumbai Metropolitan Region. The learned counsel for the Union of India states that she has no instructions in the matter.

9. Before proceeding further, we note that while issuing notice on this petition on 11 September 2012, we had indicated the petitioner's grievance and suggestion that prima facie no prejudice will be caused to any party if the petitioner is permitted to put up construction not exceeding 20,000 sq.meters, because environmental clearance is required only if the project involves construction of built up area exceeding 20,000 sq.meters.

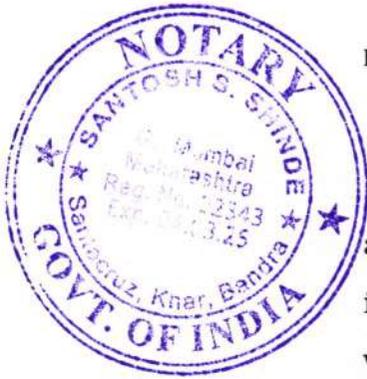
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10. The learned counsel for the respondents have not addressed us on this particular issue of prejudice. As already indicated above, out of 46,200 sq.meters of built-up area for which the petitioner has been granted IOD by the Municipal Corporation about 11,000 sq.meters of the construction is going to be for the benefit of the municipal tenants, eligible slum dwellers and also the Municipal Corporation itself, because the petitioner is required to construct municipal staff quarters as well as municipal school, all free of costs. The learned counsel for the petitioner further states that since these buildings for the municipal school, municipal staff quarters and rehabilitation buildings for 84 families are going to have a separate foundation from the foundation for the free sale component buildings, the foundation for buildings with built up area of 11,000 sq.meters will not have the same impact which will be caused by laying foundation for construction of free sale component buildings for more than 30,000 sq.meters. The learned counsel further states that the petitioner undertakes not to construct built-up area in excess of the built-up area for municipal school, municipal staff quarters and the rehabilitation buildings for 84 families or any further construction on the basis of free FSI available to the developer on account of development of above buildings.

11. The learned counsel further states that the Director of the petitioner-company with an authority of the resolution of the Board of Directors will file an undertaking on the above lines within two weeks from today.

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12. Having heard the learned counsel for parties, we are of the view that since what the petitioner proposes to construct in the first phase is only about 11,000 sq.meters of built-up area and that too only construction of a municipal school buildings, to be provided free of costs to the Municipal Corporation, construction of municipal staff quarters, to be provided free of costs to the Municipal Corporation and rehabilitation building for municipal tenants and eligible slum dwellers, all aggregating to about 84, free of costs, and also payment of pro-rata amount to the Municipal Corporation out of Rs.51.33 crores, no prejudice will be caused to any of the respondent-authorities or to any public interest if the petitioner is permitted to put up above construction of about 11,000 sq.meters in the first phase, before the petitioner's application for prior environmental clearance is considered by respondent No.3-authority. As already indicated above, prior environmental clearance is required only where the proposed construction exceeds 20,000 sq.meters.

13. For the reasons aforesaid, the petition is partly allowed. Respondent No.4 is directed to consider the petitioner's application for grant of commencement certificate only for the construction of municipal school, municipal staff quarters and rehabilitation building for 84 families of municipal tenants/eligible slum dwellers, after the petitioner files an undertaking in terms of the contents of para 10 hereinabove.

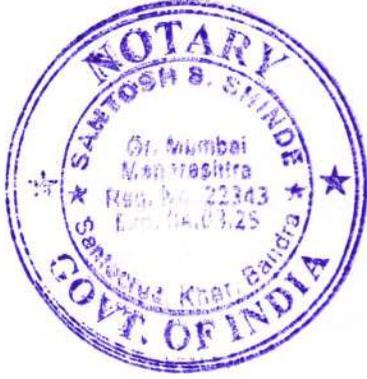
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14. It is clarified that this order shall not create any equity in favour of the petitioner when its application for environmental clearance is considered by respondent No.3-Authority. It is also clarified that respondent No.3-Authority shall consider such proposal for environmental clearance on its own merits without being influenced by this order, but as expeditiously as possible.

15. Rule is made absolute to the above extent only.

**CHIEF JUSTICE**

**(N.M. JAMDAR, J.)**

8 Of 8

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO.852 OF 2013

M/s.Vision Developers ... ..Petitioner  
v/s.  
Union of India & Ors. ...Respondents

Dr.Milind Sathe, Sr.Advocate with Mr.Rampal Kohli for the  
petitioner.

Mr.G.W.Mattos, AGP for State.

Ms.D.B.Mistry for Union of India.

...  
CORAM: MOHIT S. SHAH, C.J. &  
R.V. GHUGE, J.

DATE : 21 June 2013

P.C.

Rule.

2. Mr.Mattos, AGP waives service on rule on behalf of  
respondents Nos. 2 & 3. Ms.Mistry, learned counsel waives service  
on rule on behalf of respondent No.1.

3. The Petitioner is in the process of developing the  
property on plot of land bearing CTS No.68A/1 and 68A/2,  
situated at Jogeshwari, Mumbai. The petitioner is the owner of  
land admeasuring 17,366.04 sq.mtrs. on the said plot of land.  
The petitioner proposes to construct six buildings viz.A, B, C, D, E  
and F; out of which Building A, Building C and Building D were  
already constructed and completed way back in the year 2000,  
and in the present petition the petitioner is seeking relief in  
respect of construction of Building B upto 10<sup>th</sup> floor and total

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construction upto 10<sup>th</sup> floor is going to be 19000 sq.mtrs. The Municipal Corporation has granted IOD for entire Building B for 20 floors and the commencement certificate is presently granted upto 6<sup>th</sup> floor for Wing No.1, 2 and 3 and upto 7<sup>th</sup> floor (part) and 8<sup>th</sup> floor(part) for Wing No.4.

4. On 7 September 2012 the petitioner applied for environmental clearance under Government of India Notification dated 14 September 2006 to the Member Secretary of SEAC (Exh.H to the petition).

5. The grievance of the present petitioner is that although the application was made on 7 September 2012 and the SEAC was required to decide the said application within 60 days and the next authority the State Level Environmental Impact Assessment Authority (SEIAA) was required to consider the application within next 45 days, authorities have not considered this application, and consequent delay is causing tremendous prejudice to the petitioner.

6. It is submitted by Dr.Sathe, learned counsel for the petitioner that in view of efflux of above time, the petitioner is deemed to have been granted an environmental clearance, but at this stage the petitioner is not required to press that contention as the petitioner submits that environmental clearance is required only where the project exceeds construction of built-up area of 20,000 sq.mtrs. For the present the petitioner is interested in constructing 19,000 sq.mtrs of built-up area in Building B.

2 of 5

7. Learned counsel has placed reliance on various orders of this Court including the last order dated 9 May 2013 in Writ Petition No.654 of 2013.

8. Mr.Mattos, learned AGP appearing for respondents Nos. 2 & 3 as well as Ms.Mestry, learned counsel for respondent No.1 have opposed the grant of any interim relief on the ground that no construction can be put up even upto 20,000 sq.mtrs. without obtaining environmental clearance under the above Notification dated 14 September 2006.

9. Same contention , which is now being raised on behalf of respondents Nos. 1 to 3, was also raised by the learned Advocate General in the case of Tridhaatu Ventures LLP (Writ Petition No.654 of 2013) and by order dated 9 May 2013 this Court overruled that objection, as will be clear from submissions noted in paragraph 13 of that order and observations made in paragraph 16 of that order quoting our judgment dated 6 March 2013 in Writ Petition (L) No. 470 of 2013. The said observations are reiterated:

16. In judgment dated 6 March 2013 in Writ Petition (L) No. 470 of 2013, this Court has dealt with a similar controversy and held as under:-

“17. We do, however, find some substance in the last submission made by the learned counsel for the petitioner that even if the petitioner is required to obtain CRZ clearance from MCZMA again on the basis that the built up area of the

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project will exceed 20,000 sq. meters, the petitioner is entitled to get the same reliefs which this Court has been granting in case of many other parties where similar prayer was made. In Writ Petition No.1916 of 2012 (Vardhman Developers Limited vs. Union of India & Ors.) and Writ Petition No.2809 of 2012 (Nahur Vivekanand Cooperative Housing Society Ltd. & Anr. vs. Union of India & Ors). We have rejected a similar contention urged on behalf of the respondent authorities that when the project proponent cannot undertake construction project for more than 20,000 sq. meters of built up area without obtaining prior environmental clearance, the project proponent cannot be allowed to commence the construction within the limits of 20,000 sq. meters, without obtaining prior environmental clearance. This Court has held that when clearances are required only for projects with built up area exceeding 20,000 sq.meters, redevelopment projects for residential buildings should not be unnecessarily delayed even to the extent of construction upto 20,000 sq. meters when the developer is ready to give undertaking not to exceed the construction beyond 20,000 sq. meters without first obtaining environmental clearance. This Court has noted that the Authorities take considerable time for taking a decision on the application for environmental clearance or for CRZ clearance. In the meantime the redevelopment projects are being delayed. This Court has been granting relief in such cases on the basis that even if ultimately the authorities were to reject the applications for clearance, there will be no illegality in so far as the developer has made construction upto 20,000 sq. meters.”  
(emphasis supplied)



10. Following above orders in Writ Petition (L) No.470 of 2013 and Writ Petition No.654 of 2013, we direct the Municipal Corporation to consider the petitioner's application for further commencement certificate for Building B upto 19,000 sq.mtrs. on the petitioner filing an undertaking to this Court stating that the petitioner shall not put up any construction exceeding 19,000 sq.mtrs on the land bearing CTS No.68A/1 and 68A/2. The petitioner shall file such undertaking within one week from today before this Court and before commencement of any construction. Copy of undertaking be served upon learned counsel for respondents Nos. 1 to 3 and also upon the Municipal Corporation.

11. Rule is made absolute accordingly.

**CHIEF JUSTICE**

**(R.V. GHUGE, J.)**

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Government of Maharashtra

ANNEXURE-C

Tel. No. 22793132  
Fax No. 22813947

No. ENV 2013/CR 39/TC-1  
Environment Department,  
Mantralaya, Mumbai - 400 032.  
Dated: 21 April, 2015.

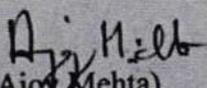
CIRCULAR

**Sub:** Requirement of Environmental Clearance for building projects modification regarding.

This Department, vide circular no. ENV 2013/CR 39/TC-1 dated 17/04/2014 had issued guidelines indicating procedure for consideration of violations of EIA Notification. Vide this circular it was decided that in view of orders of Hon'ble High Court in the matters of redevelopment projects wherein rehabilitation of tenants in SRA/Dilapidated/CESS buildings was involved, construction of rehab component below 20,000 m<sup>2</sup> was not to be considered as a violation of EIA Notification read with OM of MoEF dated 12/12/2012 and 27/06/2013.

Now, Hon'ble High Court in the matter of Glomore Construction and others Vs. Union of India (W.P. No. 655 of 2014) vide order dated 24/03/2014 & 18/12/2014 allowed construction up to 20,000 m<sup>2</sup> of free sell component, even in residential and commercial projects, indicating no violation of EIA Notification of 2006. Further, AGP, High Court, Original Side, Mumbai, vide his letter no. NPP/18087 dated 3/12/2014 informed State Government to take note of High Court orders and comply them accordingly to avoid issuance of contempt notice against the officers of Government of Maharashtra for continuing to disregard the orders of High Court.

In view of the above orders of Hon'ble High Court, Mumbai, proposed construction projects wherein project proponent has undertaken total construction below 20,000 m<sup>2</sup> may not be considered as a violation of EIA Notification of 2006 (Amended time to time) and read with OM of MoEF dated 12/12/2012 and 27/06/2013. However, it is to be noted that by this way indemnity is not given to the construction under taken by project proponent. If, at the time of appraisal of the project, it is found that the construction undertaken is not fulfilling the environmental considerations, project proponent will have to comply with the direction of concern committee to accommodate environmental concerns. Therefore, it is desirable that in such cases all environmental concerns are addressed at the planning stage only. The State Environmental Appraisal Committees (SEACs) should ensure the compliance of above order of Hon'ble High Court to avoid contempt of its orders. This is subject to further orders of the Hon'ble High Court.

  
(Ajay Mehta)  
Principal Secretary

Copy to,

1. Director (IA), MoEF CC, New Delhi, is kindly requested to convey his say, if any, in the above said matter within 8 days.



Government of India  
Ministry of Environment, Forest and Climate Change  
(Issued by the State Environment Impact Assessment  
Authority(SEIAA), Maharashtra)

ENVIRONMENTAL  
CLEARANCE

To,

The Director  
M/S. SUPREME URBAN REALITIES PVT. LTD.  
Khasra No. 174/2, P.H. No.12A, Mouza - Bhokara,  
Tah.-Nagpur (Urban) , Dist. - Nagpur  
Maharashtra. -441111

**Subject:** Grant of Environmental Clearance (EC) to the proposed Project Activity under the provision of EIA Notification 2006-regarding

Sir/Madam,

This is in reference to your application for Environmental Clearance (EC) in respect of project submitted to the SEIAA vide proposal number SIA/MH/MIS/231705/2021 dated 28 Sep 2021. The particulars of the environmental clearance granted to the project are as below.

- |  |   |
|--|---|
| 1. EC Identification No.                   | EC22B038MH159788  |
| 2. File No.                                | SIA/MH/MIS/231705/2021  |
| 3. Project Type                            | New   |
| 4. Category                                | B2  |
| 5. Project/Activity including Schedule No. | 8(a) Building and Construction projects   |
| 6. Name of Project                         | Project Name "Supreme Blossoms"<br>Proposed Multifamily Residential Building for Group Housing Scheme at Khasra No.174/2, Plot No. 12A, Mouza - Bhokara , Tah.-Nagpur(Rural) , Dist. - Nagpur, Maharashtra by Supreme Urban Realities Pvt. Ltd. |
| 7. Name of Company/Organization            | M/S. SUPREME URBAN REALITIES PVT. LTD.  |
| 8. Location of Project                     | Maharashtra   |
| 9. TOR Date                                | N/A   |

The project details along with terms and conditions are appended herewith from page no 2 onwards.

Date: 30/09/2022

(e-signed)  
Manisha Patankar Mhaiskar  
Member Secretary  
SEIAA - (Maharashtra)

*Note: A valid environmental clearance shall be one that has EC identification number & E-Sign generated from PARIVESH. Please quote identification number in all future correspondence.*

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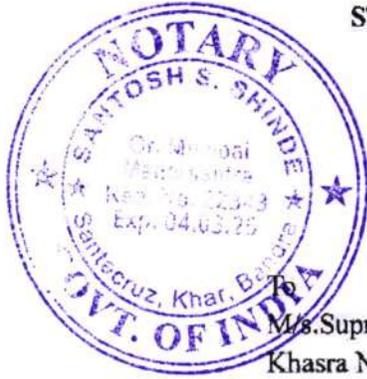
PARIVESH

(Pro-Active and Responsive Facilitation by Interactive,  
and Virtuous Environmental Single-Window Hub)



1971

## STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY



No. SIA/MH/MIS/231705/2021  
Environment & Climate  
Change Department  
Room No. 217, 2<sup>nd</sup> Floor,  
Mantralaya, Mumbai- 400032.

To  
M/s. Supreme Urban Realities Pvt. Ltd.,  
Khasra No.174/2, Plot No. 12A, Mouza - Bhokara,  
Tah.-Nagpur(Rural) , Dist. Nagpur

Subject : Environmental Clearance for Supreme Blossoms Proposed Multifamily Residential Building for Group Housing Scheme at Khasra No.174/2, Plot No. 12A, Mouza - Bhokara, Tah.-Nagpur(Rural) , Dist. Nagpur, Maharashtra by M/s. Supreme Urban Realities Pvt. Ltd.

Reference : Application no. SIA/MH/MIS/231705/2021

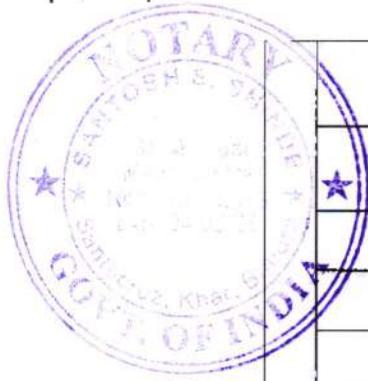
This has reference to your communication on the above-mentioned subject. The proposal was considered by the SEAC-3 in its 150<sup>th</sup> meeting under screening category 8 (a) B2 as per EIA Notification, 2006 and recommend to SEIAA. Proposal then considered in 251<sup>st</sup> (Day-2) & 252<sup>nd</sup> (Day-1) meeting of State Level Environment Impact Assessment Authority (SEIAA).

2. Brief Information of the project submitted by you is as below:-

1.	Proposal Number	SIA/MH/MIS/231705/2021	
2.	Name of Project	Proposed Multifamily Residential Building for Group Housing Scheme "Supreme Blossom" by M/s. Supreme Urban Realities Pvt. Ltd.	
3.	Project category	Category B2 Schedule 8(a)	
4.	Type of Institution	Private	
5.	Project Proponent	Name	Shri. Murtaza Hamza Kothwala
		Regd. Office address	M/S. Supreme Urban Realities Pvt. Ltd. Real Estate Builders & Construction Company, Supreme Forest Avenue Tower, 6 <sup>th</sup> Floor, Katol Road, Nagpur
		Contact number	741000000
		e-mail	Supreme8707@gmail.com
6.	Consultant	Pollution & Ecology Control Services	

7.	Applied for	New Greenfield Project				
8.	Details of previous EC	Not Applicable				
9.	Location of the project	P.H NO.: 12A, Khasra No. 174/2, Mouza - Bhokara, Nagpur (Ruler), District - Nagpur.				
10.	Latitude and Longitude	21.222730° N, 79.079868° E				
11.	Total Plot Area (m2)	19733.315				
12.	Deductions (m2)	Nil				
13.	Net Plot area (m2)	19733.315				
14.	Proposed FSI area (m2)	65000.148				
15.	Proposed non-FSI area (m2)	13376.862				
16.	Proposed TBUA (m2)	78377.010				
17.	TBUA (m2) approved by	78377.010 Sq.mt., NMRDA No.5991 dated 28/09/2021				
	Planning Authority till date	Nagpur Metropolitan Region Development Authority, Nagpur.				
18.	Ground coverage (m2) & %	(7935.446 Sq.mt. ) 40.2134 %				
19.	Total Project Cost (Rs.)	Rs.79.6421 Crores				
20.	CER as per MoEF& CC circular dated 01/05/2018	Activity	Location	Cost (Rs.)	Duratio	
		Plantation in villages.	Bhokara&Lonare Village	5,00,000/-	During 5 Years	
		Community Hall Building for skills training and Education Facility	BhokaraGrampanchayat	8,00,0000/-	Within 2 Years	
		Demand Of GrampanchayatBhokara	BhokaraGrampanchayat	2,92,800/-	Within 5 years	
21.	Details of Building Configuration : <Please use following legends: Floor = F , Parking = Pk, Podium = Po, Stilt =St, Lower Ground = LG, Upper Ground = UG, Basement = B, Shops = Sh>				Reason for Modification / Change	
	Previous EC / Existing Building			Proposed Configuration		
	Building Name	Configuration	Height (m)	Building Name	Configu ration	Height (m)
				Type I (Wing -A)	St+10	31.95
				Type I (Wing -B)	St+10	31.95

1973



			Type II (Wing -A)	St+Po+13	44.95
			Type II (Wing -A)	St+Po+13	44.95
			Type III	St+Po+13	44.95
			Type IV	St+Po+13	44.95
			Type V	St+10	33.45
			Type VI	St+10	33.45
			Club house	B+G+4	18.3
22.	Total number of tenements			604	
23.	Water Budget	Dry Season (CMD)		Wet Season (CMD)	
		Fresh Water	275	Fresh Water	275
		Recycled	162	Recycled	138
		Swimming Pool	5	Swimming Pool	5
		Flushing	138	Flushing	138
		Total	442	Total	418
		Waste water generation	358	Waste water generation	358
24.	Water Storage Capacity for Firefighting / UGT (m3)			Fire and other miscellaneous – 150 m <sup>3</sup> Domestic Water Tank- 420 m <sup>3</sup> Reclaim Water Tank Near STP – 250 m <sup>3</sup>	
25.	Source of water			Maharashtra JeevanPradhikaran	
26.	Rainwater Harvesting (RWH)	Level of the Ground water table:		Pre-Monsoon: 10 m below ground level. Post Monsoon: 6 m below ground level.	
		Size and no of RWH tank(s) and Quantity:		None	
		Quantity and size of recharge pits:		15 Nos. (7.85 Cum.)	
		Details of UGT tanks if any:		None	
27.	Sewage and Wastewater	Sewage generation in CMD:		358	
		STP technology:		MBBR Technology	
		Capacity of STP (CMD):		370	
28.	Solid Waste	Type	Quantity (kg/d)	Treatment / disposal	





	Management during Construction Phase	Dry waste:	5.4	Dust Bins are provided
		Wet waste:	3.6	Dust Bins are provided
		Construction waste	200 kg/day	Will be reused in project site for back filling and hardening.
29.	Solid Waste Management during Operation Phase	Type	Quantity (kg/d)	Treatment / disposal
		Dry waste:	368	Will be hand over to Grampanchayat for further disposal and recycle.
		Wet waste:	553	Organic Waste Converter will be provided
		Hazardous waste:	NA	-
		Biomedical waste	2.5	Will be disposed off in dedicated Bins
		E-Waste		
		STP Sludge (dry)	62	Used as manure
30.	Green Belt Development	Total RG area (m2):		3975.540 m <sup>2</sup>
		Existing trees on plot:		None
		Number of trees to be planted:		400 Nos.
		Number of trees to be cut:		None
		Number of trees to be transplanted:		NA
31.	Power requirement:	Source of power supply:		MSEDCL
		During Construction Phase (Demand Load):		60 KW
		During Operation phase (Connected load):		3902.45 KW
		During Operation phase (Demand load):		1914.82 KW
		Transformer:		630 KVA- 4 Nos.
		DG set:		630 KVA X 1
		Fuel used:		Diesel
32.	Details of Energy saving	Net Energy savings with demand load 14.71 %		
33.	Environmental Management plan	Type	Details	Cost

1975

	budget during Construction phase	Capital	Barricades , Dust Suppression	Rs.15.0 Lacs	
		O&M	Spraying of water	Rs.3.0 Lacs/Year	
			Provision of toilet and Temporary Septic Tank & Soak Pit for labours Environment and other related study	Rs.3.0 Lacs/Year Rs.4.0 Lacs/Year	
34.	Environmental Management plan Budget during Operation phase	Component	Details	Capital (Rs.)	O&M (Rs./Y)
		Storm Water	Storm Water Drainage System	15,00,000/-	25,000/-
		Sewage treatment	MBBR technology based STP	50,00,000/-	5,00,000/-
		Water treatment	NA	--	--
		RWH	15 Nos. of RWH Pits	30,00,000/-	50,000/-
		Swimming Pool	1 No.		
		Solid Waste	1 No. Organic Waste Convertor	15,00,000/-	2,00,000/-
		Hazardous waste	None	--	--
		e-waste	None	--	--
		Green belt development	Plantation and Landscape development	25,00,000/-	1,50,000/-
		Energy saving	Solar water heaters & Solar Light.	1,00,00,000/-	1,00,000/-
		Environmental Monitoring	Environmental Monitoring Programme	--	2,00,000/-
	Disaster Management	Fire Fighting Arrangement & Equipments	1,50,00,000/-	3,00,000/-	
35.	Traffic Management	Type	Required as per DCR	Actual Provided	Area per parking (m2)
		4-Wheeler	268	279	12.5
		2-Wheeler	1163	1220	2.5
		Bicycles	--	--	--

36.	Details of Court cases / litigations w.r.t. the project and project location if any.	None
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3. Proposal is a new construction project. Proposal has been considered by SEIAA in its 251<sup>st</sup> (Day-2) and again as a discussion item in 252<sup>nd</sup> SEIAA meeting and decided to accord Environment Clearance to the said project under the provisions of Environment Impact Assessment Notification, 2006 subject to implantation of following terms and conditions-

**Specific Conditions:**

**A. SEAC Conditions-**

1. It is noted that, there is no functional STP of local planning authority i.e NMRDA, PP to submit the undertaking regarding they will not give the occupancy till the STP of NMRDA is commissioned. Local body to ensure that, Occupation Certificate should not be issued unless project is connected to local body's final disposal system.
2. PP to abide the all conditions laid in fire NoC.
2. PP to provide minimum 30% of total parking arrangement with electric charging facility by providing charging points at suitable places.
3. PP to ensure that, the water proposed to be used for construction phase should not be drinking water. They can use recycled water or tanker water for proposed construction.

**B. SEIAA Conditions-**

1. SEAC specific condition no 1 is modified as - PP to mandatorily reuse 100 % of the treated water as submitted to SEIAA till such time as functional STP is completed and commissioned by the local planning authority i.e. NMRDA. PP to also ensure that, discharge standard of treated water is maintained at all times as per CPCB guidelines. This condition shall be a mandatory condition of EC.
2. PP to keep open space unpaved so as to ensure permeability of water. However, whenever paving is deemed necessary, PP to provide grass pavers of suitable types & strength to increase the water permeable area as well as to allow effective fire tender movement.
3. PP to achieve at least 5% of total energy requirement from solar/other renewable sources.
4. PP Shall comply with Standard EC conditions mentioned in the Office Memorandum issued by MoEF& CC vide F.No.22-34/2018-IA.III dt.04.01.2019.
5. SEIAA after deliberation decided to grant EC for - FSI -60991.532 m<sup>2</sup>, Non FSI-13190.646m<sup>2</sup>, Total BUA-74182.178m<sup>2</sup>. (Plan approval No.BE/ (NMRDA) /South/Nagpur(R)/NO-MB-NG-58699/2019051352/1788, dated-18.09.2019, 5991, dated-28.09.2021).

**General Conditions:**

**a) Construction Phase :-**

1. The solid waste generated should be properly collected and segregated. Dry/inert solid waste should be disposed of to the approved sites for land filling after

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- recovering recyclable material.
- II. Disposal of muck, Construction spoils, including bituminous material during construction phase should not create any adverse effect on the neighbouring communities and be disposed taking the necessary precautions for general safety and health aspects of people, only in the approved sites with the approval of competent authority.
- III. Any hazardous waste generated during construction phase should be disposed of as per applicable rules and norms with necessary approvals of the Maharashtra Pollution Control Board.
- IV. Adequate drinking water and sanitary facilities should be provided for construction workers at the site. Provision should be made for mobile toilets. The safe disposal of wastewater and solid wastes generated during the construction phase should be ensured.
- V. Arrangement shall be made that waste water and storm water do not get mixed.
- VI. Water demand during construction should be reduced by use of pre-mixed concrete, curing agents and other best practices.
- VII. The ground water level and its quality should be monitored regularly in consultation with Ground Water Authority.
- VIII. Permission to draw ground water for construction of basement if any shall be obtained from the competent Authority prior to construction/operation of the project.
- IX. Fixtures for showers, toilet flushing and drinking should be of low flow either by use of aerators or pressure reducing devices or sensor based control.
- X. The Energy Conservation Building code shall be strictly adhered to.
- XI. All the topsoil excavated during construction activities should be stored for use in horticulture / landscape development within the project site.
- XII. Additional soil for levelling of the proposed site shall be generated within the sites (to the extent possible) so that natural drainage system of the area is protected and improved.
- XIII. Soil and ground water samples will be tested to ascertain that there is no threat to ground water quality by leaching of heavy metals and other toxic contaminants.
- XIV. PP to strictly adhere to all the conditions mentioned in Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 as amended during the validity of Environment Clearance.
- XV. The diesel generator sets to be used during construction phase should be low sulphur diesel type and should conform to Environments (Protection) Rules prescribed for air and noise emission standards.
- XVI. PP to strictly adhere to all the conditions mentioned in Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 as amended during the validity of Environment Clearance.
- XVII. Vehicles hired for transportation of Raw material shall strictly comply the emission norms prescribed by Ministry of Road Transport & Highways Department. The vehicle shall be adequately covered to avoid spillage/leakages.
- XVIII. Ambient noise levels should conform to residential standards both during day and night. Incremental pollution loads on the ambient air and noise quality should be closely monitored during construction phase. Adequate measures should be made to

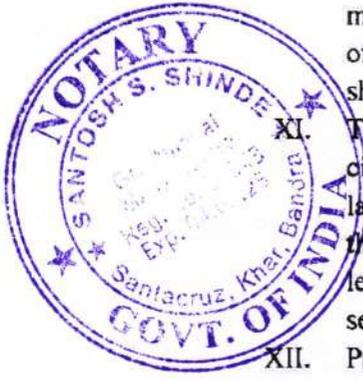
reduce ambient air and noise level during construction phase, so as to conform to the stipulated standards by CPCB/MPCB.

- XIX. Diesel power generating sets proposed as source of backup power for elevators and common area illumination during construction phase should be of enclosed type and conform to rules made under the Environment (Protection) Act, 1986. The height of stack of DG sets should be equal to the height needed for the combined capacity of all proposed DG sets. Use low sulphur diesel is preferred. The location of the DG sets may be decided with in consultation with Maharashtra Pollution Control Board.
- XX. Regular supervision of the above and other measures for monitoring should be in place all through the construction phase, so as to avoid disturbance to the surroundings by a separate environment cell /designated person.

**B) Operation phase:-**

- I. a) The solid waste generated should be properly collected and segregated. b) Wet waste should be treated by Organic Waste Converter and treated waste (manure) should be utilized in the existing premises for gardening. And, no wet garbage will be disposed outside the premises. c) Dry/inert solid waste should be disposed of to the approved sites for land filling after recovering recyclable material.
- II. E-waste shall be disposed through Authorized vendor as per E-waste (Management and Handling) Rules, 2016.
- III. a) The installation of the Sewage Treatment Plant (STP) should be certified by an independent expert and a report in this regard should be submitted to the MPCB and Environment department before the project is commissioned for operation. Treated effluent emanating from STP shall be recycled/ reused to the maximum extent possible. Treatment of 100% grey water by decentralized treatment should be done. Necessary measures should be made to mitigate the odour problem from STP. b) PP to give 100 % treatment to sewage /Liquid waste and explore the possibility to recycle at least 50 % of water, Local authority should ensure this.
- IV. Project proponent shall ensure completion of STP, MSW disposal facility, green belt development prior to occupation of the buildings. As agreed during the SEIAA meeting, PP to explore possibility of utilizing excess treated water in the adjacent area for gardening before discharging it into sewer line No physical occupation or allotment will be given unless all above said environmental infrastructure is installed and made functional including water requirement.
- V. The Occupancy Certificate shall be issued by the Local Planning Authority to the project only after ensuring sustained availability of drinking water, connectivity of sewer line to the project site and proper disposal of treated water as per environmental norms.
- VI. Traffic congestion near the entry and exit points from the roads adjoining the proposed project site must be avoided. Parking should be fully internalized and no public space should be utilized.
- VII. PP to provide adequate electric charging points for electric vehicles (EVs).
- VIII. Green Belt Development shall be carried out considering CPCB guidelines including selection of plant species and in consultation with the local DFO/ Agriculture Dept.
- IX. A separate environment management cell with qualified staff shall be set up for implementation of the stipulated environmental safeguards.
- X. Separate funds shall be allocated for implementation of environmental protection

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measures/EMP along with item-wise breaks-up. These cost shall be included as part of the project cost. The funds earmarked for the environment protection measures shall not be diverted for other purposes.

- XI. The project management shall advertise at least in two local newspapers widely circulated in the region around the project, one of which shall be in the Marathi language of the local concerned within seven days of issue of this letter, informing that the project has been accorded environmental clearance and copies of clearance letter are available with the Maharashtra Pollution Control Board and may also be seen at Website at parivesh.nic.in
- XII. Project management should submit half yearly compliance reports in respect of the stipulated prior environment clearance terms and conditions in hard & soft copies to the MPCB & this department, on 1st June & 1st December of each calendar year.
- XIII. A copy of the clearance letter shall be sent by proponent to the concerned Municipal Corporation and the local NGO, if any, from whom suggestions/representations, if any, were received while processing the proposal. The clearance letter shall also be put on the website of the Company by the proponent.
- XIV. The proponent shall upload the status of compliance of the stipulated EC conditions, including results of monitored data on their website and shall update the same periodically. It shall simultaneously be sent to the Regional Office of MoEF, the respective Zonal Office of CPCB and the SPCB. The criteria pollutant levels namely; SPM, RSPM, SO<sub>2</sub>, NO<sub>x</sub> (ambient levels as well as stack emissions) or critical sector parameters, indicated for the project shall be monitored and displayed at a convenient location near the main gate of the company in the public domain.

**C) General EC Conditions:-**

- I. PP has to strictly abide by the conditions stipulated by SEAC & SEIAA.
- II. If applicable Consent for Establishment" shall be obtained from Maharashtra Pollution Control Board under Air and Water Act and a copy shall be submitted to the Environment department before start of any construction work at the site.
- III. Under the provisions of Environment (Protection) Act, 1986, legal action shall be initiated against the project proponent if it was found that construction of the project has been started without obtaining environmental clearance.
- IV. The project proponent shall also submit six monthly reports on the status of compliance of the stipulated EC conditions including results of monitored data (both in hard copies as well as by e-mail) to the respective Regional Office of MoEF, the respective Zonal Office of CPCB and the SPCB.
- V. The environmental statement for each financial year ending 31st March in Form-V as is mandated to be submitted by the project proponent to the concerned State Pollution Control Board as prescribed under the Environment (Protection) Rules, 1986, as amended subsequently, shall also be put on the website of the company along with the status of compliance of EC conditions and shall also be sent to the respective Regional Offices of MoEF by e-mail.
- VI. No further Expansion or modifications, other than mentioned in the EIA Notification, 2006 and its amendments, shall be carried out without prior approval of the SEIAA. In case of deviations or alterations in the project proposal from those submitted to SEIAA for clearance, a fresh reference shall be made to the SEIAA as applicable to assess the adequacy of conditions imposed and to add additional environmental



protection measures required, if any.

VII. This environmental clearance is issued subject to obtaining NOC from Forestry & Wild life angle including clearance from the standing committee of the National Board for Wild life as if applicable & this environment clearance does not necessarily implies that Forestry & Wild life clearance granted to the project which will be considered separately on merit.

4. The environmental clearance is being issued without prejudice to the action initiated under EP Act or any court case pending in the court of law and it does not mean that project proponent has not violated any environmental laws in the past and whatever decision under EP Act or of the Hon'ble court will be binding on the project proponent. Hence this clearance does not give immunity to the project proponent in the case filed against him, if any or action initiated under EP Act.

5. This Environment Clearance is issued purely from an environment point of view without prejudice to any court cases and all other applicable permissions/ NOCs shall be obtained before starting proposed work at site.

6. In case of submission of false document and non-compliance of stipulated conditions, Authority/ Environment Department will revoke or suspend the Environment clearance without any intimation and initiate appropriate legal action under Environmental Protection Act, 1986.

7. Validity of Environment Clearance: The environmental clearance accorded shall be valid as per EIA Notification, 2006, amended from time to time.

8. The above stipulations would be enforced among others under the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986 and rules there under, Hazardous Wastes (Management and Handling) Rules, 1989 and its amendments, the public Liability Insurance Act, 1991 and its amendments.

9. Any appeal against this Environment clearance shall lie with the National Green Tribunal (Western Zone Bench, Pune), New Administrative Building, 1<sup>st</sup> Floor, D-Wing, Opposite Council Hall, Pune, if preferred, within 30 days as prescribed under Section 16 of the National Green Tribunal Act, 2010.

  
Manisha Patankar-Mhankar  
(Member Secretary, SEIAA)  
30/09/2022

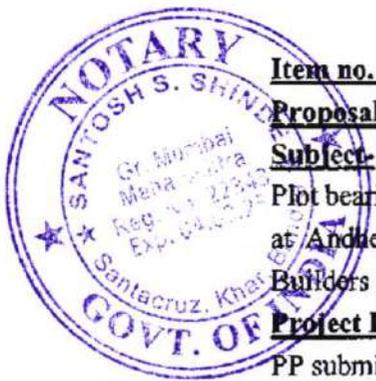
Copy to:

1. Chairman, SEIAA, Mumbai.
2. Secretary, MoEF & CC, IA- Division MOEF & CC
3. Member Secretary, Maharashtra Pollution Control Board, Mumbai.
4. Regional Office MoEF & CC, Nagpur
5. District Collector, Nagpur .
6. Commissioner, Nagpur Municipal Corporation /NMRDA
7. Regional Officer, Maharashtra Pollution Control Board, Nagpur.

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ANNEXURE-D

Minutes of meeting 236<sup>th</sup> of SEIAA (Day-4) held on 3<sup>rd</sup> February, 2022



**Item no. 13**

**Proposal No.:-** SIA/MH/MIS/132870/2019

**Type of Project: EC**

**Subject-** Environment Clearance for Commercial Development construction project located on Plot bearing C.T.S. 432-A, 433-A, 449 453-B/1, 453-B/2, 453-B/3, 453- B/4 of village Chakala at Andheri Ghatkopar link road, Andheri (E), Mumbai by M/s. Abode Builders & Asian Builders & Contractors.

**Project Details-**

PP submitted the application for Proposed Commercial Development project for total plot area of 9773.40 Sq. Mtrs., BUA of 29020.38 Sq. Mtrs. and FSI area of 21036.80 Sq. Mtrs. PP has already constructed existing wing-2 which is occupied. In addition to this PP also proposes to construct another wing-1 as mentioned in Sr.no.5 of the project detail.

Representative of PP was present during the meeting along with Environmental Consultant M/s UltraTech. The details of project are as mentioned below:

1.	Plot Area (Sq.mt.)	9773.40 Sq. mt.
2.	FSI Area (Sq.mt.)	21036.80 Sq. mt.
3.	Non FSI Area (Sq.mt.)	7983.58 Sq. mt.
4.	Proposed built-up area (FSI + Non FSI) (sq.m.)	29020.38 Sq. mt.
5.	Building Configuration	<b>Existing occupied Wing:</b> 2 Basements + Ground/ Stilt (Pt) + 7 floors <b>Proposed Wing:</b> 2 Basements + Ground/Stilt (Pt) + 8 floors
6.	No. of Tenements & Shops	Offices
7.	Total Population	2315 Nos.
8.	Total Water Requirements (CMD)	114 KLD
9.	Sewage generation (CMD)	95 KLD
10.	STP capacity and Technology	One STP of Capacity 100 KL; MBBR (Moving Bed Bio Reactor) Technology
11.	STP location	Basement level
12.	Total Solid Waste Quantities	232 kg/day
13.	R.G. Area in sq.mt.	RG required: 1847.08 Sq.mt. (20%) RG Provided on Ground: 1903.05 sq.mt. (20.6%)
14.	Power requirement	During Operation Phase - Connected load: 3419 KW Maximum demand: 2151 KW
15.	Energy Efficiency	Overall energy saving – 23.9%, Energy saving by Solar – 6.9 %



*M. Das*  
Member Secretary

*[Signature]*  
Chairman

Minutes of meeting 236<sup>th</sup> of SEIAA (Day-4) held on 3<sup>rd</sup> February, 2022

16.	D.G. set capacity	1 No. of D.G. Set of capacity 500 kVA
17.	Parking 4W & 2W	4-Wheeler: 250 Nos. 2-Wheeler: 50 Nos. Transport vehicle: 6 Nos.
18.	Rain water Harvesting scheme	Provision of 2 RWH tanks of total capacity 230 KL
19.	Project Cost in (Cr.)	Rs. 223.16 Cr.
20.	EMP Cost	<b>Construction Phase:</b> Rs. 32.46 Lacs <b>Operation Phase:</b> Capital cost: Rs. 206.42 Lacs Operational and Maintenance cost: 16.55 Rs. Lacs/ annum
21.	CER details with justification if any.	--

**SEAC Deliberation –**

PP informed that proposal was earlier considered in 128th SEAC-2 meeting & wherein same was referred to SEIAA as committee noticed violation of EIA Notification, 2006 & its amendment time to time as PP had completed construction of 18327.63 Sq.Mtrs. without prior environment clearance. PP also informed that the proposal was considered by SEIAA in its 191st meeting held on 09/03/2020 wherein proposal referred back to SEAC-2 mentioning that PP has constructed 18327.63 Sq.Mtrs. which is well below 20,000 Sq.Mtrs. and as per the GOM circular dated 21/04/2015, this may not be considered as the violation of EIA Notification, 2006. As per the directions received from SEIAA, Committee decided to appraise the proposal & considered the proposal in its 136th meeting held on 14th & 15th July, 2020, wherein proposal is deferred.

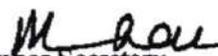
The proposal is considered in 147th SEAC-2 meeting held on 07th & 08th June, 2021, wherein proposal was deferred with some compliance raised. Now, PP submitted reply of these compliance.

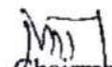
The proposal was discussed on the basis of the compliance report submitted and presentation made by the Proponent along with their accredited consultant M/s. Ultratech. All issues related to environment, including air, water, land, soil, ecology and biodiversity and social aspects were discussed. Committee noted that the project is under 8a (B2) category of EIA Notification, 2006. Form 1, 1A, presentation, synopsis of compliances & plans submitted are taken on the record.

**During discussion following points emerged:**

1. PP to submit IOD/IOA/Concession Document/Plan Approval or any other form of documents as applicable clarifying its conformity with local planning rules and provisions thereunder as per the circular dated 30.01.2014 issued by the Environment Department, Govt. of Maharashtra.
2. PP to obtain Sewer connection NOC & remarks for proposed building.

**Recommendations of SEAC-**

  
Member Secretary

  
Chairman

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Minutes of meeting 236<sup>th</sup> of SEIAA (Day-4) held on 3<sup>rd</sup> February, 2022

In view of above discussion and subject to compliance of above points, the proposal is recommended to SEIAA for grant of Environmental Clearance.

**Deliberation in SEIAA-**

Proposal is a new construction project. Proposal is recommended by SEAC2 in its meeting for grant of Environment Clearance for total plot area of 9773.40 Sq. Mtrs., BUA of 29020.38 Sq. Mtrs. and FSI area of 21036.80 Sq. Mtrs.

SEIAA asked PP to submit architect certificate regarding construction initiated on site. PP submitted architect certificate dated 04.02.2022 stating that they have initiated total BUA 18327.63 m<sup>2</sup> on site.

SEIAA after deliberation decided to grant EC for – FSI-21036.80 m<sup>2</sup>, Non-FSI-7983.58 m<sup>2</sup>, Total BUA-29020.38 m<sup>2</sup>. (Plan approval-CE/9034/WS/AK, dated-23.07.2020).

SEIAA after deliberation decided to grant Environment Clearance subject to compliance of following conditions-

1. PP to keep open space unpaved so as to ensure permeability of water. However, whenever paving is deemed necessary, PP to provide grass pavers of suitable types & strength to increase the water permeable area as well as to allow effective fire tender movement.
2. PP to achieve at least 5% of total energy requirement from solar/other renewable sources.
3. PP Shall comply with Standard EC conditions mentioned in the Office Memorandum issued by MoEF& CC vide F.No.22-34/2018-IA.III dt.04.01.2019.
4. SEIAA after deliberation decided to grant EC for – FSI-21036.80 m<sup>2</sup>, Non-FSI-7983.58 m<sup>2</sup>, Total BUA-29020.38 m<sup>2</sup>. (Plan approval-CE/9034/WS/AK, dated-23.07.2020).

**SEIAA Decision-**

SEIAA after deliberation decided to grant Environment Clearance.

  
Member Secretary

  
Chairman

## EVERSMILE PROPERTIES PRIVATE LIMITED

Dated: 12<sup>th</sup> April 2023

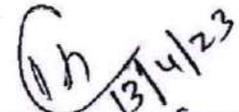
To,  
Regional Officer,  
Maharashtra Pollution Control Board,  
5<sup>th</sup> Floor, Office Complex Building,  
Near Mulund Check Naka,  
Wagle Estate, Thane – 400604.

**Reference:**

1. Proposed Directions bearing reference no. MPCB/ ROT/ PD/ MPCB/ PD/ 2303130002 dated 13th March 2023 issued u/s 33A of Water (Prevention & Control of Pollution) Act 1974 and / or u/s 31A of the Air (Prevention & Control of Pollution) Act 1981 vide your letter dated 13th March 2023 (“said Proposed Directions”)
2. Reply to the said Notice dated 20<sup>th</sup> March 2023 addressed by us to you
3. SEIAA 257 Minutes of Meeting dated 10 March 2023 granting Environment Clearance to Srishti Namaah Project situated at Mira Road (“said Project”).
4. Environment Clearance dated 12<sup>th</sup> April 2023 (“EC”)

Respected Sir,

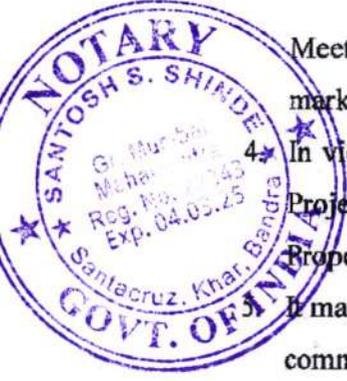
1. This is in reference to the Proposed Directions dated 13<sup>th</sup> March 2023 issued (Reference no. 1) and our reply thereon dated 20<sup>th</sup> March 2023 (Reference No. 2).
2. We, M/s. Eversmile Properties Pvt. Ltd., the Project Proponent of the said Project are addressing this letter to apprise you of the subsequent development in the matter. At the outset, we repeat and reiterate the contents of the Reply dated 20<sup>th</sup> March 2023 to the said Proposed Directions.
3. As stated in the said Reply, the application for grant of Environment Clearance after being recommended by SEAC-II in their 178<sup>th</sup> meeting held on 30<sup>th</sup> June & 1<sup>st</sup> July 2022 for the said Project was pending consideration before SEIAA, which has recently been approved by SEIAA vide their Minutes of 257 Meeting dated 10<sup>th</sup> March 2023. The copy of the EC having Identification Number EC23B039MH162099 dated 12<sup>th</sup> April 2023 and the Minutes of 257<sup>th</sup>

  
 प्रादेशिक कार्यालय  
 म.प्र.नि.मं.ठाणे  
 कार्यालयीन संकुल इमारत,  
 ववा मजला, मुलुंड चेकनाका जवळ,  
 वगळे इस्टेट, ठाणे (प)-४००६०४

CIN No.: U70100MH1979PTC021291

Plot No. 75, Old Block Factory, Sector - I, Srishti Housing Complex,  
Penkarpada, Mira Road, Dist. Thane - 401 104.

1985



Meeting dated 10<sup>th</sup> March 2023 are annexed herewith for your reference and records and marked as "Annexure A"& "Annexure B" respectively.

In view of the above it is admittedly established that there is no violation committed by the Project Proponent in respect of EC. Hence, we humbly request you to kindly withdraw the said Proposed Directions forthwith and to close the matter.

It may also be noted that in view of the grant of EC, further construction work at site shall be commenced by the Project Proponent by 14<sup>th</sup> April 2023.

Yours Faithfully,  
For Eversmile Properties Pvt. Ltd.

Authorized signatory





Exhibit G

1986

**EVERSMILE PROPERTIES  
PRIVATE LIMITED**

1

21<sup>st</sup> April 2023

To,

Assistant Secretary (Technical)

Maharashtra Pollution Control Board

Head office, 3<sup>rd</sup> floor, Kalpataru Point

Opp. PVR Cinema, Sion Circle

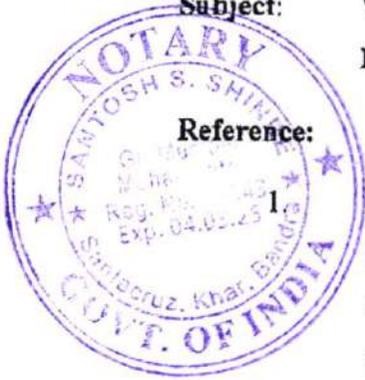
Mumbai - 400022

**Subject:** Written Submission on behalf of the Project Proponent i.e. Eversmile Properties Pvt. Ltd. to the Maharashtra Pollution Control Board (MPCB)

**Reference:**

1. Proposed Directions bearing reference no. MPCB/ ROT/ PD/ MPCB/ PD/ 2303130002 dated 13th March 2023 issued u/s 33A of Water (Prevention & Control of Pollution) Act 1974 and / or u/s 31A of the Air (Prevention & Control of Pollution) Act 1981 vide your letter dated 13th March 2023 ("said Notice")

2. Reply to the said Notice dated 20th March 2023 addressed by us to you
3. Minutes of 165<sup>th</sup> meeting of the MCZMA held on 8<sup>th</sup> March 2023
4. SELAA 257 Minutes of Meeting dated 10 March 2023 granting Environment Clearance to Srishti Namaah Project situated at Mira Road ("said Project").
5. Environment Clearance dated 12<sup>th</sup> April 2023 granted to the Project Proponent ("EC")
6. Letter dated 12<sup>th</sup> April 2023 addressed to Regional Officer, Thane of MPCB informing about the receipt of EC.



*[Handwritten Signature]*  
24/04/23

महाराष्ट्र प्रदूषण नियंत्रण मंडळ  
कल्पतरु पॉइंट, २ स मजला, सायन सर्कल,  
सिनेपॅव्हेंट समोर, सायन (पूर्व),  
मुंबई - ४०० ०२२.

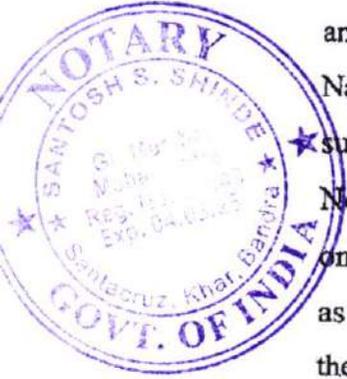
फोन :- २४०१०४३७ / २४०२०७८१  
Website www.mpcb.gov.in

CIN No.: U70100MH1979PTC021291

Plot No. 75, Old Block Factory, Sector - 1, Srishti Housing Complex,  
Penkarpada, Mira Road, Dist. Thane - 401 104.

MOST RESPECTFULLY SHOW WITH:

1. Eversmile Properties Private Limited, the Project Proponent ("PP") humbly submits that an Original Application bearing No. 107 of 2022 came to be filed by Irba Kanapure before National Green Tribunal, Western Zone, Pune in respect of the land parcel bearing survey No. 233 (Pt.) (new survey No. 66 (Pt.)) Survey No.235 (Pt.) (new survey No.68 (Pt.)), and survey No.256 (Pt.) (new survey No.69 (Pt.)) as a Township Project on land admeasuring approximately 37,880.43 square meters with a project named as "Srishti Namaah" ("said Project") wherein vide Order dated 29th November 2022, the Hon'ble NGT formed a Three Members Joint Committee comprising of representatives of SEIAA, MPCB and MCZMA ("Joint Committee"), and the MPCB has been designated as the nodal agency and directed to submit a factual and action taken report with regard to the violation, if any, within one month. In compliance of the said direction, the Joint Committee visited the Project site on 20th January 2023 and accordingly filed a conclusive Report before the Hon'ble NGT. It is pertinent to note that in the said Report, admittedly there has been no observation and/or any remark from the Joint Committee in respect of any violation by the Project Proponent including any violation of the conditions of the Consent to Establish dated 02.02.2022.
2. Despite the aforesaid Report, the said Notice was issued by your good office which was duly replied by the Project Proponent on 20<sup>th</sup> March 2023. In the said reply, the Project Proponent replied to all the Proposed Directions in detail and all the documents pertaining to the same were duly provided to MPCB. PP in the said reply also requested MPCB for an opportunity of being heard, which was granted by MPCB on 20<sup>th</sup> April 2023 wherein PP has reiterated its stand. Thereafter, PP was further directed to submit written submissions and is accordingly filing this limited written submissions and reserves its right to file further written submissions and additional documents, if required or so advised.



3. In addition to the present written submissions, the PP refers and relies upon the submissions made by it before the Hon'ble Joint Committee, Affidavit in Reply dated 21<sup>st</sup> January 2023 filed by the PP to the Original Application bearing No. 107 of 2022, Reply dated 20<sup>th</sup> March 2023 to the said Notice and EC.
4. The present submissions are limited to the specific queries raised during the hearing held on 20<sup>th</sup> April 2023:

A. **ENVIROMENAL CLEARANCE IS NOT REQUIRED FOR CONSTRUCTION BEING CARRIED OUT BELOW 20,000 SQ.MTS.**

- a. As per the settled legal position, PP has undertaken construction work of 16,733 sq.mt. which is within the permissible scope of the permissions received by the PP. The same is also certified by the Project Architect vide certificate dated 20th January 2023. (Exhibit A). The PP submits that the existing construction at site has been carried out as per the applicable/environmental laws.
- b. It is submitted that the said Project has been constructed as per the relevant revised CC dated 31<sup>st</sup> March 2022 issued by MBMC, which allows construction upto 20,000 sq. mtrs by categorically directing *that further construction permissions [beyond 20,000 sq.mtrs] shall be granted only after submission of NOC from Environmental Department i.e. EC to MBMC.* The PP submits that the actual work undertaken at site is below 20,000 sq. mtrs. It is well settled position of law that construction upto 20,000 sq. mtrs without EC is considered to be legally valid and permissible as held by the Hon'ble Bombay High Court in its several orders specifically holding that EC for constructions less than 20,000 sq. mtrs. is not required. Herewith are the orders of the Hon'ble Bombay High Court passed in the Writ Petition holding that construction upto 20,000 sq. mtrs, prior EC is not required. (Exhibit B).
- c. Also, the Environment Department of State of Maharashtra issued a Circular No. ENV/2013/CR39/TC-1 dated 21<sup>st</sup> April 2015 *inter alia* holding that proposed

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construction below 20,000 sq. mtrs. may not be considered as violation of EIA notification 2006. Even SEIAA has considered the circular while deliberating the proposal No. SIA/MH/MIS/132870/2019 submitted by another developer in its project have accepted the Circular dated 21<sup>st</sup> April 2015 and observed that construction upto 20,000 sq. mtrs. cannot be considered as violation of EIA 2006 and accordingly granted EC. Hereto is copy of the Circular dated 21<sup>st</sup> April 2015 (Exhibit C). SEIAA in its 222<sup>nd</sup> Meeting have accordingly deliberated in one of the proposals on the basis of the circular dated 21<sup>st</sup> April 2015 and granted the Environmental Clearance accordingly. Herewith is the 236<sup>th</sup> Minutes of Meeting of SEIAA (Exhibit D).

- d. PP's application for grant of EC was made on 6<sup>th</sup> April 2022. The same has been considered and recommended by SEAC II for grant of EC to SEIAA during their 178<sup>th</sup> meeting held on 29<sup>th</sup> June – 1<sup>st</sup> July 2022. SEIAA vide their Minutes of 257 Meeting dated 10<sup>th</sup> March 2023 granted the EC. The copy of the EC having Identification Number EC23B039MH162099 dated 12<sup>th</sup> April 2023 and the Minutes of 257<sup>th</sup> Meeting dated 10<sup>th</sup> March 2023 are annexed herewith as (Exhibit E colly). SEIAA while granting the EC has taken due cognizance of the fact that construction upto 16,733 sq.mtrs has been undertaken by PP and did not find any violation in this regard.
- e. The receipt of the EC and the Minutes of 257<sup>th</sup> Meeting dated 10<sup>th</sup> March 2023 were submitted to the office of MPCB vide letter dated 12<sup>th</sup> April 2023. (Exhibit F)
- f. On a bare perusal of the MOM and the EC, the PP humbly submits that there is no case of violation made out against the PP and that SEIAA only after considering all the facts and circumstances has granted the EC.

**B. CONSTRUCTION CARRIED OUT IN VIOLATION OF CONSENT TO ESTABLISH ("CTE")**



- g. The Project Proponent submitted a proposal before Maharashtra Pollution Control Board ("MPCB") for grant of Consent to Establish in respect of said project. The proposal of Project Proponent was considered by the Consent Appraisal Committee on 20.12.2021 and accordingly MPCB granted Consent to Establish dated 02.02.2022 subject to certain terms and conditions as mentioned therein. Hereto attached is the copy of the Consent to Establish dated 02.02.2022 (**Exhibit G**).
- h. As regards the condition No. 10 of the Consent to Establish dated 02.02.2022, the PP submits that the same is required to be read harmoniously and with the law of the land governing EC and not in absolute term. The PP further submits that the construction carried out at the Project site upto 20,000 sq. mtrs. is permissible as per the governing law for EC, particularly the aforesaid Circular and Orders of Hon'ble Bombay High Court. Hence, there is no violation of any terms of the CTE particularly condition no. 10.

**C. CONSTRUCTION BEING CARRIED IN VIOLATION OF CRZ NOTIFICATION, 1991 AND TERMS AND CONDITIONS OF CRZ CLEARANCE**

- i. The Project Proponent earlier proposed to develop a portion of the old survey No.235 (new survey no.68) and old survey No.256 (new survey No.69) admeasuring 4,730.48 sq. mtrs. and accordingly submitted the building plans to planning authority i.e., MBMC on 01.02.2018. Since the aforesaid two survey nos. were partially falling in CRZ – II, Project Proponent submitted the proposal to MCZMA, seeking a NOC for development as per the CRZ Notification 2011. The said proposal was deliberated in 132<sup>nd</sup> meeting of MCZMA on 24<sup>th</sup> April 2019 wherein MCZMA duly granted NOC dated 7<sup>th</sup> June 2019 on terms and conditions as mentioned therein (**Exhibit H**). Subsequently, PP proposed to include S.No. 233 (Pt.) New S.No. 66 (Pt.) in the proposed development. As regards Survey No. 233 (New Survey No. 66), the same neither falls in CRZ nor is impacted under CRZ-II and thus NOC of MCZMA is not required and the said fact was apprised to SEIAA by Project Proponent. The Project Proponent submits that they had submitted an

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application to MCZMA for confirmation of status of Survey No. 233 (Pt.) being new S.No. 66 (Pt.) of village Penkapada vide application submitted on 16<sup>th</sup> July 2022. Despite the aforesaid NOC, as of now, no construction work is undertaken in CRZ - II area, the same has been noted by the Joint Committee in its report dated 20<sup>th</sup> January 2023.

- j. In any event, the Project Proponent submits that the MCZMA vide its 165<sup>th</sup> Minutes of Meeting dated 8<sup>th</sup> March 2023 has held that "After deliberation, considering the CZMP in force and CRZ map of the IRS, Chennai, the Authority decided that the plot bearing S. no. 233 (New S.No. 66) of village Penkarpada a Mira Road, Dist. Thane is situated outside CRZ area as per approved CZMP under CRZ Notification, 2011". Attaching herewith the extract of the 165<sup>th</sup> Minutes of Meeting dated 8<sup>th</sup> March 2023 as (Exhibit I).
- k. In addition to the above, SEIAA while granting the EC has considered the recommendation of 178<sup>th</sup> meeting of SEAC II including the CRZ issue and accepted the aforesaid position.
- l. In view of the above, it is apparent that there is no violation with respect to the CRZ area and that the S.No. 233 is outside the CRZ area.

In view of the aforesaid facts and circumstances, we humbly submit that PP is not in violation of any of the environmental laws and hence it is requested to kindly forthwith withdraw the Proposed Directions and close the matter.

For Eversmile Properties Pvt. Ltd.

*V.D. Barde*

Vinit Barde

Authorised Signatory



1992

# Tej's CONSULTANTS

BASAVARAJ S. GADEKAR  
BE (Civil)  
VIJAYALAXMI B. GADEKAR  
DArch.  
Consulting Civil Engineers  
& Asst. Architects

Mob : 9820195711  
Off : 9619905711  
E-mail : consultingarchitect9@gmail.com

Date : 20/1/2023

Ref. No.: AR-58/2023

## AREA CERTIFICATE

To,  
The Member Secretary, SEAC -II, Maharashtra,  
Environment Department,  
15<sup>th</sup> Floor, New Administrative Building,  
Mumbai-400032.

Sub- Proposed Residential /Commercial Development On Land Bearing Old Survey Nos. 233 (Pt.) ,235(Pt.) & 256 (Pt.) (New Survey Nos. 66 (Pt.),68 (Pt.) &69 (Pt.)) At Village Penkarpada, District :Thane

Ref: 1. EC application no. SIA/MH/MIS/238569/2021  
2. CC issued by MBMC in the name of M/s. Eversmile properties pvt. Ltd. under No जा. क्र : मनपा/नर/४६२२/२०२१-२२ dated. 31/03/2022.

Sir,

With reference to the above it is to state hereby that the onsite construction area for the project is 16733 sq.m.

The details of construction area as per Proposed EC ,CC & construction done are given in additional sheet.

Thanking you  
Yours faithfully

For TEJ'S CONSULTANTS

AR. MEHSANIYA MOHAMMED K.  
(CA/2916/80464)



1993



Area as per Approved EC				Area as per Approved CC				Constructed on site			Proposed area				
Configuration per	FSI Area	Non-FSI Area	Total Construction area	Configuration as per CC	PSI Area As per S.G	Non-FSI Area As per C.C.	Total Construction area as per CC	Configuration Constructed on site	FSI area Constructed on site	Non-FSI area Constructed on site	Total Construction area on site	Configuration Proposed	FSI Area	Non-FSI area	Total Construction area
NIL	NIL	NIL	NIL	Tower - A, B 2B + Ground + 1st Podium (pt) + 2nd Podium (pt) + 1st to 5th floor	4391.050 sq. m	11382.19 sq. m	19772.24 sq. m	Tower - A 2B + Ground + 1st Podium (pt) + 2nd Podium (pt) + 1st to 5th Slab above 2nd Podium	6563 sq. m	10170.05	16733 sq. m	Tower - A, B & C 2B + Ground + 1st Podium + 2nd Podium + 1st to 33rd floor Tower - C 2B + Ground/Shopping + 1st Podium/Shopping + 2nd Podium + 1st to 33rd floor Tower - D 3B + Ground/Shopping + 1st Podium/Shopping + 2nd Podium + 1st to 33rd floor Tower - E & F 3B + Ground + 1st Podium + 2nd Podium + 1st to 31st floor Tower - G & H 2B + Ground + 1st Podium + 2nd Podium + 1st to 31st floor Tower - I 2B + Ground + 1st Podium + 2nd Podium + 1st to 2nd floor Tower - J 2B + Ground + 1st to 4th floor Tower - K 2B + Ground + 1st Podium + 2nd Podium + 1st to 3rd floor	1,81,303.99 sq. m	1,38,352.19 sq. m	3,23,656.18 sq. m

Thanking you,  
Yours faithfully,  
For **TEL'S CONSULTANTS**  
**AR. MEHSANIYA MOHAMMED K.**  
(CA/20168864)





**EXHIBIT-B**  
**ANNEXURE B**

MSC.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
WRIT PETITION NO.1352 OF 2014**

Glomore Constructions and Ors. ... Petitioners

Vs

The Union of India and Ors. ... Respondents

*Mr. Arnav N. i/b Wadia Ghandy & Co., for the Petitioners.*

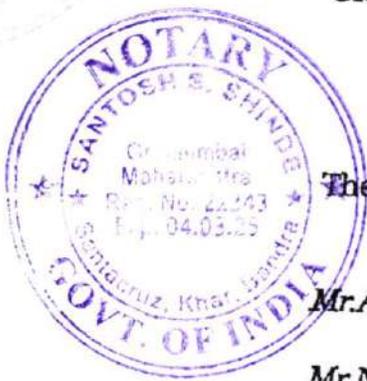
*Mr. Niranjana Pandit, AGP for Respondent No.2.*

**CORAM : V.M.KANADE &  
REVATI MOHITE DERE, JJ.**

**DATE : 18<sup>th</sup> DECEMBER, 2014**

**P.C. :**

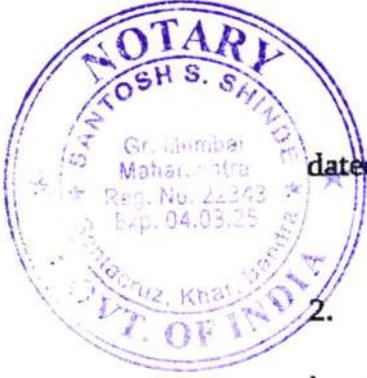
1. We are informed that Environment clearance has been granted. Learned Counsel for the petitioners have placed before us the Minutes of the meeting of SEIAA held on 28<sup>th</sup> and 29<sup>th</sup> October, 2014, which shows that Environment clearance has been granted to the petitioners. The said order has been communicated to the petitioners by a letter



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dated 11<sup>th</sup> December, 2014.

2. That being the position, the petition has become infructuous and is accordingly disposed of reserving the rights of the petitioners to apply for restoration in the event according to the petitioners counsel some reliefs still survive in the petition.

**REVATI MOHITE DERE, J.**

**V.M.KANADE, J.**





ANNEXURE-B

- 1 -

(WP L 655 of 2014)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION**

**WRIT PETITION (L) No.655 OF 2014**

Glomore Constructions and Ors. ...Petitioners  
Vs.  
The Union of India and Ors. ...Respondents

\*\*\*\*\*

Mr.Virag Tulzapurkar, Senior Counsel with Mr. Rafi Patni with Ms.  
Anjali S. Mohan i/b. Wadia Ghandy & Co. for Petitioners  
None for Respondents

\*\*\*\*\*

**CORAM : V. M. KANADE &  
A.K. MENON, JJ.**

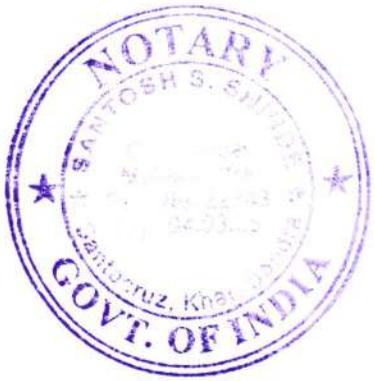
ANNEXURE-B **MARCH 24, 2014**

P.C.

1. Heard the learned counsel appearing on behalf of the Petitioners. None appears on behalf of the Respondents, though they were served. Two affidavit of services are taken on record.
2. The grievance of the Petitioners is that though the Petitioners propose to construct the buildings, which are less than 20000 sq.mtrs. and though this Court, in number of cases, has held that for construction of buildings, which are below 20000 sq.mtrs., environmental clearance is not required, even then, Respondents State have issued a stop work notice, directing the Petitioners to stop the construction work of the buildings which are in project and are admittedly below 20000 sq.mtrs. It is submitted that the



VAT



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- 2 -

(WPL 655 of 2014)



Petitioners have given an undertaking that they shall not carry out construction work of the buildings beyond 20000 sq.mtrs. It is submitted that in view of this, the impugned notice which has been issued by Respondent No.3 may be stayed.

3. This Court in several petitions, has already held that environmental clearance for the purpose of construction of buildings below 20000 sq. mtrs. is not required and the said orders have not been challenged by the Government in the Apex Court. A Notification, accordingly, has been issued by the State Government recently, taking into consideration, the law laid down by this Court. In spite of that, the impugned notice has been issued by Respondent No. 2. Prima facie, therefore, case is made out for grant of ad-interim relief.

4. Ad-interim relief is granted in terms of prayer clauses (j) and (k). Undertaking given by the Petitioners in Ground (M) is accepted. The Petitioners, however, shall file a further undertaking that they shall not carry out any construction beyond 20000 sq.mtrs., within one week. It is clarified that the Petitioners may be permitted to carry out construction of the free sell component of the buildings in the said project.

5. Issue notice to Respondent Nos.1 to 7, returnable on 28.4.2014. Humdust permitted.

[A.K. MENON, J.]

[V. M. KANADE, J.]



ANNEXURE-B

- 1 -

(WP L 655 of 2014)



VAT

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION**

**WRIT PETITION (L) No.655 OF 2014**

Glomore Constructions and Ors. ...Petitioners  
Vs.  
The Union of India and Ors. ...Respondents

\*\*\*\*\*

Mr.Virag Tulzapurkar, Senior Counsel with Mr. Rafi Patni with Ms. Anjali S. Mohan I/b. Wadia Ghandy & Co. for Petitioners  
None for Respondents

\*\*\*\*\*

**CORAM : V. M. KANADE &  
A.K. MENON, JJ.**

ANNEXURE-B

**MARCH 24, 2014**

P.C.

1. Heard the learned counsel appearing on behalf of the Petitioners. None appears on behalf of the Respondents, though they were served. Two affidavit of services are taken on record.
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- 2 -

(WP L 655 of 2014)



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[A.K. MENON, J.]

[V. M. KANADE, J.]

VAISHALI TRIM

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ANNEXURE-B

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wp(L\_852-13)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO.852 OF 2013

M/s.Vision Developers  
v/s.

...Petitioner

Union of India &amp; Ors.

...Respondents

Dr.Milind Sathe, Sr.Advocate with Mr.Rampal Kohli for the  
petitioner.

Mr.G.W.Mattos, AGP for State.

Ms.D.B.Mistry for Union of India.

CORAM: MOHIT S. SHAH, C.J. &  
R.V. GHUGE, J.

DATE : 21 June 2013

P.C.

Rule.

2. Mr.Mattos, AGP waives service on rule on behalf of respondents Nos. 2 & 3. Ms.Mistry, learned counsel waives service on rule on behalf of respondent No.1.

3. The Petitioner is in the process of developing the property on plot of land bearing CTS No.68A/1 and 68A/2, situated at Jogeshwari, Mumbai. The petitioner is the owner of land admeasuring 17,366.04 sq.mtrs. on the said plot of land. The petitioner proposes to construct six buildings viz.A, B, C, D, E and F, out of which Building A, Building C and Building D were already constructed and completed way back in the year 2000, and in the present petition the petitioner is seeking relief in respect of construction of Building B upto 10<sup>th</sup> floor and total

1 of 5

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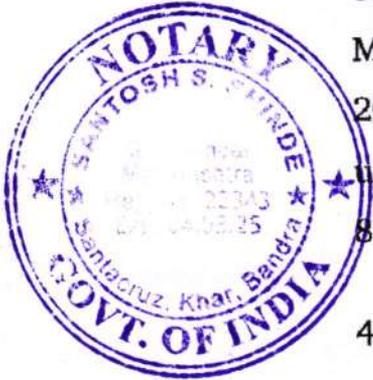
construction upto 10<sup>th</sup> floor is going to be 19000 sq.mtrs. The Municipal Corporation has granted IOD for entire Building B for 20 floors and the commencement certificate is presently granted upto 6<sup>th</sup> floor for Wing No.1, 2 and 3 and upto 7<sup>th</sup> floor (part) and 8<sup>th</sup> floor(part) for Wing No.4.

4. On 7 September 2012 the petitioner applied for environmental clearance under Government of India Notification dated 14 September 2006 to the Member Secretary of SEAC (Exh.H to the petition).

5. The grievance of the present petitioner is that although the application was made on 7 September 2012 and the SEAC was required to decide the said application within 60 days and the next authority the State Level Environmental Impact Assessment Authority (SEIAA) was required to consider the application within next 45 days, authorities have not considered this application, and consequent delay is causing tremendous prejudice to the petitioner.

6. It is submitted by Dr.Sathe, learned counsel for the petitioner that in view of efflux of above time, the petitioner is deemed to have been granted an environmental clearance, but at this stage the petitioner is not required to press that contention as the petitioner submits that environmental clearance is required only where the project exceeds construction of built-up area of 20,000 sq.mtrs. For the present the petitioner is interested in constructing 19,000 sq.mtrs of built-up area in Building B.

2 of 5





7. Learned counsel has placed reliance on various orders of this Court including the last order dated 9 May 2013 in Writ Petition No.654 of 2013.

8. Mr.Mattos, learned AGP appearing for respondents Nos. 2 & 3 as well as Ms.Mestry, learned counsel for respondent No.1 have opposed the grant of any interim relief on the ground that no construction can be put up even upto 20,000 sq.mtrs. without obtaining environmental clearance under the above Notification dated 14 September 2006.

9. Same contention , which is now being raised on behalf of respondents Nos. 1 to 3, was also raised by the learned Advocate General in the case of Tridhaatu Ventures LLP (Writ Petition No.654 of 2013) and by order dated 9 May 2013 this Court overruled that objection, as will be clear from submissions noted in paragraph 13 of that order and observations made in paragraph 16 of that order quoting our judgment dated 6 March 2013 in Writ Petition (L) No. 470 of 2013. The said observations are reiterated:

16. In judgment dated 6 March 2013 in Writ Petition (L) No. 470 of 2013, this Court has dealt with a similar controversy and held as under:-

“17. We do, however, find some substance in the last submission made by the learned counsel for the petitioner that even if the petitioner is required to obtain CRZ clearance from MCZMA again on the basis that the built up area of the



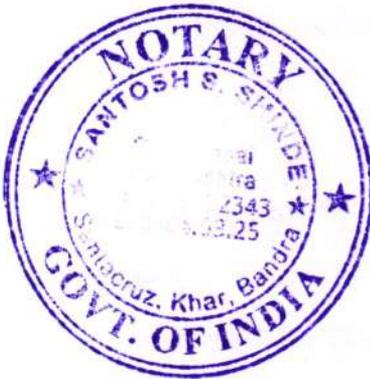
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project will exceed 20,000 sq. meters, the petitioner is entitled to get the same reliefs which this Court has been granting in case of many other parties where similar prayer was made. In Writ Petition No.1916 of 2012 (Vardhman Developers Limited vs. Union of India & Ors.) and Writ Petition No.2809 of 2012 (Nahur Vivekanand Cooperative Housing Society Ltd. & Anr. vs. Union of India & Ors). We have rejected a similar contention urged on behalf of the respondent authorities that when the project proponent cannot undertake construction project for more than 20,000 sq. meters of built up area without obtaining prior environmental clearance, the project proponent cannot be allowed to commence the construction within the limits of 20,000 sq. meters, without obtaining prior environmental clearance. This Court has held that when clearances are required only for projects with built up area exceeding 20,000 sq.meters, redevelopment projects for residential buildings should not be unnecessarily delayed even to the extent of construction upto 20,000 sq. meters when the developer is ready to give undertaking not to exceed the construction beyond 20,000 sq. meters without first obtaining environmental clearance. This Court has noted that the Authorities take considerable time for taking a decision on the application for environmental clearance or for CRZ clearance. In the meantime the redevelopment projects are being delayed. This Court has been granting relief in such cases on the basis that even if ultimately the authorities were to reject the applications for clearance, there will be no illegality in so far as the developer has made construction upto 20,000 sq. meters."  
(emphasis supplied)

4 of 5

10. Following above orders in Writ Petition (L) No.470 of 2013 and Writ Petition No.654 of 2013, we direct the Municipal Corporation to consider the petitioner's application for further commencement certificate for Building B upto 19,000 sq.mtrs. on the petitioner filing an undertaking to this Court stating that the petitioner shall not put up any construction exceeding 19,000 sq.mtrs on the land bearing CTS No.68A/1 and 68A/2. The petitioner shall file such undertaking within one week from today before this Court and before commencement of any construction. Copy of undertaking be served upon learned counsel for respondents Nos. 1 to 3 and also upon the Municipal Corporation.

11. Rule is made absolute accordingly.

CHIEF JUSTICE

(R.V. GHUGE, J.)

## IN THE HIGH COURT OF JUDICATURE AT BOMBAY

## ORDINARY ORIGINAL CIVIL JURISDICTION

## WRIT PETITION NO. 654 OF 2013

Tridhaatu Ventures LLP

Versus

State of Maharashtra &amp; Ors.

... Petitioner

... Respondents

Dr. Milind Sathe, Senior Advocate with Mr. Saket Mane i/b. Vidhii Partners for the petitioner.

Mr. D.J. Khambata, Advocate General with Ms. Geeta Shastri, AGP for respondent State.

Ms. Sharmila Modle for respondent-BMC.

CORAM: MOHIT S. SHAH, C.J. &  
M.S. SANKLECHA, J.

DATE : 9 May 2013

P.C.

Rule.

Heard learned counsel for the parties on the question of interim relief.

2. Under Environment Impact Assessment Notification dated 14 September 2006 a person proposing construction exceeding 20,000 sq. mtrs is required to take environmental clearance from the Ministry of Environment & Forest (MoEF) through the State Environment Impact

Assessment Authority (SEIAA). The relevant clause in the said Notification reads as under:-

*“ Requirement of prior Environmental Clearance (EC):- The following projects or activities shall require prior environmental clearance from the concerned regulatory authority, which shall hereinafter referred to be as the Central government in the Ministry of Environment and Forests for matters falling under Category 'A' in the Schedule and at State level the State Environment Impact Assessment Authority (SEIAA) for matters falling under Category 'B' in the said Schedule, before any construction work, or preparation of land by the project management except for securing the land, is started on the project or activity:*

*(i) All new projects or activities listed in the Schedule to this notification.*

*(ii) Expansion and modernization of existing projects or activities listed in the Schedule to this notification with addition of capacity beyond the limits specified for the concerned sector, that is, projects or activities which cross the threshold limits given in the Schedule, after expansion or modernization.*

*(iii) Any change in product, mix in an existing manufacturing unit included in Schedule beyond the specified range.”*

*(emphasis supplied)*

3. Relevant portion of the Schedule in Clause (2) of the Notification reads as under:-



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Project or activity	Category with threshold limit		Condition if any	
	A	B		
8	Building/Construction projects/Area Development projects and Townships			
1	2	3	4	
8(a)	Building and Construction projects		>20000 sq.mtrs and < 1,50,000 sq.mtrs. of built-up area	The built up area for the purpose of this Notification is defined as "the built up or covered area on all the floors put together including basement(s) and other service area, which are proposed in the building/construction projects.
8(b)	Township and Area Development projects.		Covering an area >50 ha and or built up area >1,50,000 sq.mtrs.++	All projects under item 8(b) shall be appraised as Category B1

4. The petitioner herein submits that it had applied for environmental clearance for a project of 40,000 & odd sq. mtrs., but the petitioner's application has been rejected by the State Expert Appraisal Committee on the ground that there will be violation of the Office Memorandum dated 7 February 2012 of the Ministry of Environment and Forests, which prescribes the minimum width of the road abutting which the proposed building is to be constructed. As per the said Office Memorandum for a building with height of 69 meters i.e. above 60 meters, the width of the road should be minimum 30 meters and desirable 45 meters.

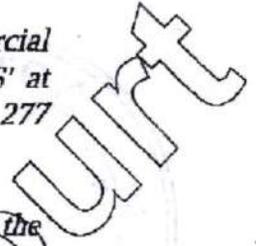
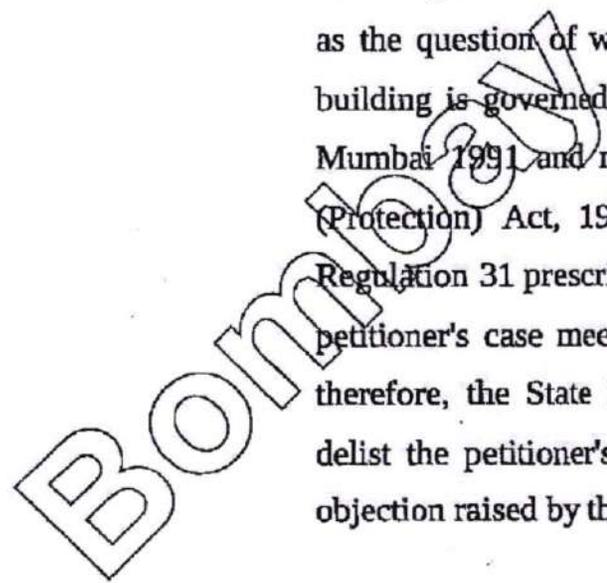
5. The impugned decision dated 1 to 3 January 2013 of SEAC reads as under:-

*Item No.21: Proposed residential cum commercial development project 'Sri Swati CHS' at CTS No.275, 27/1 to 276/1 to 16 & 277 village of Borla, Govandi.*

*The project proposal was discussed on the basis of the presentation made and documents submitted by the proponent, PP claimed that access to the project site is through a road junction having a width above 36 m. Hence, his case will not be affected by OM dated 7 February 2012. However, the Committee observed that the plot actually abuts on to 9.15 m wide road, and PP's contention is not acceptable. The project in its present form is not in accordance with the OM dated 7 February 2012. The PP may recast the project as per the above OM, if he so desires. In view of the above, the proposal is delisted."*

6. Dr. Sathar, learned senior counsel for the petitioner submits that the petitioner has challenged the above OM dated 7 February 2012 as the question of width of the road for proposed construction of the building is governed by Development Control Regulations for Greater Mumbai 1991 and not by any of the provisions of the Environment (Protection) Act, 1986 and Rules made thereunder. Relying upon Regulation 31 prescribing the height of building, it is submitted that the petitioner's case meets with the requirements of Regulation 31(1) and therefore, the State Expert Appraisal Committee had no authority to delist the petitioner's proposal. It is submitted that there is no other objection raised by the Committee except the above objection.

7. Learned counsel for the petitioner further relies upon the order dated 10 April 2013, wherein another Division Bench of this Court had an occasion to examine the challenge to the said OM and the Court made the following observations in the said order dated 10 April 2013:



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"5. In both the petitions, the challenge is to the same Office Memorandum dated 7th February, 2012 which purports to incorporate the guidelines regarding height of the buildings. The contention of the petitioners is that apart from the fact that the challenge is to the very authority of the Union of India to issue the Memorandum, in a City like Mumbai, several building projects will be stalled. The learned Senior Counsel appearing for the petitioner in Writ Petition No.1180 of 2012 invited our attention to the minutes of the 111th Meeting of Infrastructure and Miscellaneous Projects and CRZ held on 16/17<sup>th</sup> April, 2012 of the Ministry of Environment and Forest. In the meeting Item No.4.19 was as regard the impugned memorandum dated 7<sup>th</sup> February, 2012. After discussion, the Committee members were of the view that guidelines are advisory in nature and may not be considered as mandatory. "

(emphasis supplied)

In the said order the Division Bench also referred to the letter dated 27 April 2012 of the Chief Minister of the State of Maharashtra to the Minister of State for Environment and Forests of Union of India in the following terms:-

"6. The learned Government Pleader has placed on record a photocopy of letter dated 27th April, 2012 addressed by the Hon'ble Chief Minister to the Hon'ble Minister of State for Environment and Forests of Union of India, requesting that the Office Memorandum dated 7th February, 2012 should be kept in abeyance. In the said letter, he has stated that in the State like Mumbai most of the construction projects are those of redevelopment of old, cessed, dilapidated buildings. It is also pointed out that there are schemes of Slum Rehabilitation (SRA) in the City of Mumbai. It is pointed out that the restrictions in the guidelines incorporated in Memorandum dated 7<sup>th</sup> February, 2012 will hamper the progress of the said projects and the construction activities would be

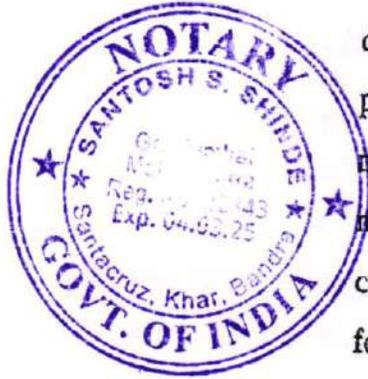


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delisted of non-compliance of OM dated 7 February 2011, which the petitioner has already challenged in the present petition. However, merely because those contentions will be dealt with later on, that should not be treated as ground for not permitting the petitioner to put up construction of 19,833.41 sq. mtrs. built up areas, which is necessary for accommodating 75 members of 'Sri Swati Co-operative Housing Society.'

11. Learned counsel has placed reliance on judgment dated 6 March 2013 in Writ Petition (1) No.478 of 2013 and orders passed in several other matters being orders dated 16 January 2013 and 24 September 2012.

12. On the other hand, learned Advocate General has opposed the grant of any interim relief and has submitted that granting any such permission would amount to violation of Notification dated 14 September 2006, which provides that expansion and modernization of existing project or activities scheduled in the Notification which crosses the threshold limits given in the schedule will require prior environmental clearances. It is submitted that the project of the construction of more than 20,000 sq. mtrs. cannot be divided into two phases and the petitioner cannot be allowed to contend that since the first phase of the project is less than 20,000 sq. mtrs. no prior environmental clearance will be required. Reliance is also placed on the OM dated 19 August 2010 issued by the Government of India in Ministry of Environment & Forests, which provides that no activities relating to any project can be undertaken at site without obtaining prior environmental clearance as is mandated under the EIA Notification,

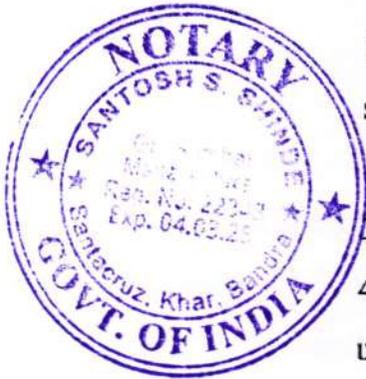
2006 except fencing of the site to protect it from getting encroached and construction of temporary sheds for the guards.

13. Learned Advocate General further submitted that environment clearance is required to monitor, control the local construction activities, water/air/noise pollution, traffic congestion and other construction activities affecting human health by various standards, code and rules laid down under the Environment (Protection) Act and Rules which other departments like Municipal Corporation for Greater Mumbai, Maharashtra Pollution Control Board will not be able to monitor. It is submitted that proper infrastructure facilities are required to be provided from inception of the construction activity from the environment point of view.

14. It is brought to our notice that on the basis of IOD and Commencement Certificate granted by the Municipal Corporation, the petitioner has already constructed 4,935 & odd sq. mtrs. of built-up area and photograph indicating the present construction is placed on record.

Learned counsel for the petitioner submitted that further construction upto to 19,000 sq. mtrs. including 4,935 & odd sq. mtrs. built up area will not require any further digging in the earth or laying any further foundation structure. It is, therefore, submitted that apprehension of the respondent-authority that even if the proposed construction in the first phase will be less than 20,000 sq. mtrs, but the foundation structure and other facilities and amenities for bigger project may cause serious damage to the environment will not arise in the facts of the present case.

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15. We have given anxious consideration to the submissions on the question of interim relief.

16. In judgment dated 6 March 2013 in Writ Petition (L) No. 470 of 2013, this Court has dealt with a similar controversy and held as under:-

*"17. We do, however, find some substance in the last submission made by the learned counsel for the petitioner that even if the petitioner is required to obtain CRZ clearance from MCZMA again on the basis that the built up area of the project will exceed 20,000 sq. meters, the petitioner is entitled to get the same reliefs which this Court has been granting in case of many other parties where similar prayer was made. In Writ Petition No.1916 of 2012 (Vardhman Developers Limited vs. Union of India & Ors.) and Writ Petition No.2809 of 2012 (Nahur Vivekanand Cooperative Housing Society Ltd. & Anr. vs. Union of India & Ors). We have rejected a similar contention urged on behalf of the respondent authorities that when the project proponent cannot undertake construction project for more than 20,000 sq. meters of built up area without obtaining prior environmental clearance, the project proponent cannot be allowed to commence the construction within the limits of 20,000 sq. meters, without obtaining prior environmental clearance. This Court has held that when clearances are required only for projects with built up area exceeding 20,000 sq. meters, redevelopment projects for residential buildings should not be unnecessarily delayed even to the extent of construction upto 20,000 sq. meters when the developer is ready to give undertaking not to exceed the construction beyond 20,000 sq. meters without first obtaining environmental clearance. This Court has noted that the Authorities take considerable time for taking a decision on the application for environmental clearance or for CRZ clearance. In the meantime the redevelopment projects are being*

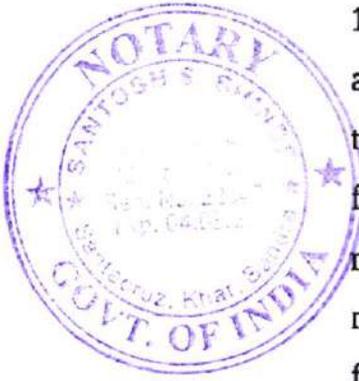
delayed. This Court has been granting relief in such cases on the basis that even if ultimately the authorities were to reject the applications for clearance, there will be no illegality in so far as the developer has made construction upto 20,000 sq. meters."

(emphasis supplied)

17. Having heard learned counsel for parties, and in the facts and circumstances of the case and particularly in view of the fact that the width of the road is sufficient as required by the DCR 1991 and as far as OM is concerned, the same is treated as advisory and not mandatory and in the facts of the present case where the petitioner does not propose to make any further digging in the earth or laying any further foundation structure for the purpose of putting up construction upto to 19,000 sq. mtrs. of built-up area including 4935 sq. mtrs already put up by the petitioner, we are inclined to direct the respondent-Municipal Corporation to permit the petitioner to put up construction upto to 19,000 sq. mtrs. including 4935 sq. mtrs. already put up, subject to following conditions:-

(i) that the petitioner as well as the Chairman of 'Sri Swati Co-operative Housing Society' shall file undertakings stating that the petitioner and the society shall not put up any construction exceeding 20,000 sq. mtrs including the existing construction on the site being land CTS No.275, 275/1 to 276/1 to 16 & 277 village of Borla, Govandi.

(ii) that the petitioner will be putting up construction of 19,000 sq. mtrs for the purpose of accommodating 75 or maximum 78 members of 'Sri Swati Co-operative Housing Society',



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whose flats have already been demolished in 2010 for the purpose of redevelopment and not for any other purpose.

- (iii) that the petitioner shall not do any further digging on the ground for laying foundation and shall only continue with the construction on the existing construction by raising height of the building within the limits permissible as per the DCR 1991 and in accordance with plans which may be sanctioned by the Municipal Corporation.
- (iv) that the petitioner will not claim equity on the basis of this order.

17. It is directed accordingly.

**CHIEF JUSTICE**

**M.S. SANKLECHA, J.**



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ANNEXURE-B

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY.

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1916 OF 2012

Vardhman Developers Limited ...  
...Petitioner

v/s.

Union of India & Ors. ...  
...Respondents

Mr.Milind Sathe, Senior Advocate with Mr.D.H.Mehta i/b  
Mr.Jitendra J. Shah for petitioner.  
Ms.Navina Kumai for respondent no.1.  
Mr.G.W.Mattos, AGP for State.  
Ms.Sharmila Modle for respondent No.4-(BMC).  
Mr.Parag Shah with Mr.Mahesh Shah for respondent No.5.

CORAM: MOHIT S. SHAH, C.J. &  
N.M. JAMDAR, J.

DATE : 24 September 2012.

**P.C.**

Rule. Respective counsel waive service of rule.

2. In the facts and circumstances of the case, the matter is taken up for final hearing.

3. The petitioner-company is a developer, which has acquired development rights from respondent No.5-Mazgaon Dholkawala Co.operative Housing Society (proposed) having premises on City Survey No.366(part) and City Survey No.1/367 of Mazgaon Division, 'E' Ward in Mumbai. The land admeasures about 13,098.96 sq.meters.



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4. It is the petitioner's case that part of the above land is reserved for municipal primary school as per the Development Plan. However, some portion of the land was encroached upon by slum dwellers. The other land is occupied by 54 municipal tenants. In view of the above situation, the development agreement has been entered into between respondent No.5-society and the petitioner-developer, and the Municipal Corporation has also agreed to the arrangement under which-

(i) the petitioner will construct municipal school on the land admeasuring 1045 sq.meters and hand over the same to the Municipal Corporation free of costs.

(ii) the petitioner will also construct, free of costs, municipal employees quarters on the land of 1,952.84 sq.meters.

(iii) the Municipal Corporation will also get Rs.51,33,11,059/- over and above the above constructed properties.

(iv) all the municipal tenants/ and eligible slum dwellers will be rehabilitated and will be allotted permanent accommodation free of costs and they will also receive corpus fund each of the commercial occupants Rs.37,500 and each of the residential tenants/eligible slum dwellers Rs.18,750/-.

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5. According to the petitioner, the Municipal Corporation has already sanctioned the above proposal and the Municipal Corporation has also issued Intimation of Disapproval (IOD) under section 346 of the Mumbai Municipal Corporation Act on 25 April 2012. In accordance with the said redevelopment agreement, the petitioner has already demolished the existing structures on the land and is also paying compensation in lieu of transit accommodation to tenants and eligible slum dwellers, who are going to be allotted permanent accommodation free of costs.

6. The grievance of the petitioner in this petition is that clause 29 of the IOD provides that the petitioner cannot obtain commencement certificate before obtaining NOC from the Ministry of Environment and Forest. It is submitted that such NOC from Ministry of Environment and Forest is required because the total built up area of the project submitted by the petitioner is 46,200 sq. meters and as per the notification dated 14 September 2006 issued by the Ministry of Environment and Forest, prior environmental clearance is required from the Ministry of Environment and Forest, where the built-up area exceeds 20,000 sq.meters. The State Environmental Impact Assessment Authority, which is appointed for considering such proposal for environmental clearance has a large number of pending applications. The petitioner's application for prior environmental clearance was submitted to the said authority on 15 June 2012. However, the application is still at serial No.296 of the list of applications, from which so far only first ten applications have been considered by respondent No.3-the State

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Environmental Impact Assessment Authority. It is, therefore, submitted that the petitioner does not expect its application to be considered for another 6 to 12 months, which would unnecessarily delay implementation of the project, which would include construction of a municipal school free of costs, and construction of municipal employees quarters, free of costs, to be provided by the petitioner to the Municipal Corporation, and also construction of rehabilitation buildings for 54 municipal tenants and 29 eligible slum dwellers, free of costs. It is submitted that the total built-up area of this part of the project will be hardly about 11,000 sq.meters, which is well below the stipulated limit of 20,000 sq.meters, beyond which the developer cannot construct without obtaining prior environmental clearance.

7. Mr.Sathe, learned Senior Counsel for the petitioner relies upon the order dated 29 March 2012 passed by this Court in Writ Petition No.504 of 2012 and submits that in the said case this Court had permitted the concerned developer to take up construction of area up to 18,031.78 sq.meters, for which the concerned developer had obtained approval from the Municipal Corporation and had observed that having regard to the fact that a large number of environmental clearance applications are pending with the Government and that environmental clearance is required only when the built up area exceeds 20,000 sq.meters and an undertaking being given by the developer not to exceed construction of more than 20,000 sq.meters before getting environmental clearance, can be acted upon so that project for rehabilitation of slum dwellers is not delayed.

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8. The writ petition is opposed by Mr. Mattos, learned AGP appearing for respondent No.2-State of Maharashtra and respondent No.3-State Environmental Impact Assessment Authority. The learned counsel for Municipal Corporation Gr.Mumbai also submits that since clause 29 of the IOD requires the petitioner to obtain NOC from the State Environment Impact Assessment Authority before applying for commencement certificate, prayer made by the petitioner may not be granted. Mr. Mattos further states the petitioner's grievance about delay in disposal of applications for environmental clearance is not justified, because it was on account of pendency of a large number of applications that the State Government has appointed another committee to expedite consideration of applications for environmental clearance for projects in Mumbai Metropolitan Region. The learned counsel for the Union of India states that she has no instructions in the matter.

9. Before proceeding further, we note that while issuing notice on this petition on 11 September 2012, we had indicated the petitioner's grievance and suggestion that prima facie no prejudice will be caused to any party if the petitioner is permitted to put up construction not exceeding 20,000 sq.meters, because environmental clearance is required only if the project involves construction of built up area exceeding 20,000 sq.meters.

10. The learned counsel for the respondents have not addressed us on this particular issue of prejudice. As already indicated above, out of 46,200 sq.meters of built-up area for which the petitioner has been granted IOD by the Municipal Corporation about 11,000 sq.meters of the construction is going to be for the benefit of the municipal tenants, eligible slum dwellers and also the Municipal Corporation itself, because the petitioner is required to construct municipal staff quarters as well as municipal school, all free of costs. The learned counsel for the petitioner further states that since these buildings for the municipal school, municipal staff quarters and rehabilitation buildings for 84 families are going to have a separate foundation from the foundation for the free sale component buildings, the foundation for buildings with built up area of 11,000 sq.meters will not have the same impact which will be caused by laying foundation for construction of free sale component buildings for more than 30,000 sq.meters. The learned counsel further states that the petitioner undertakes not to construct built-up area in excess of the built-up area for municipal school, municipal staff quarters and the rehabilitation buildings for 84 families or any further construction on the basis of free FSI available to the developer on account of development of above buildings.

11. The learned counsel further states that the Director of the petitioner-company with an authority of the resolution of the Board of Directors will file an undertaking on the above lines within two weeks from today.

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12. Having heard the learned counsel for parties, we are of the view that since what the petitioner proposes to construct in the first phase is only about 11,000 sq.meters of built-up area and that too only construction of a municipal school buildings, to be provided free of costs to the Municipal Corporation, construction of municipal staff quarters, to be provided free of costs to the Municipal Corporation and rehabilitation building for municipal tenants and eligible slum dwellers, all aggregating to about 84, free of costs, and also payment of pro-rata amount to the Municipal Corporation out of Rs.51.33 crores, no prejudice will be caused to any of the respondent-authorities or to any public interest if the petitioner is permitted to put up above construction of about 11,000 sq.meters in the first phase, before the petitioner's application for prior environmental clearance is considered by respondent No.3-authority. As already indicated above, prior environmental clearance is required only where the proposed construction exceeds 20,000 sq.meters.

13. For the reasons aforesaid, the petition is partly allowed. Respondent No.4 is directed to consider the petitioner's application for grant of commencement certificate only for the construction of municipal school, municipal staff quarters and rehabilitation building for 84 families of municipal tenants/eligible slum dwellers, after the petitioner files an undertaking in terms of the contents of para 10 hereinabove.



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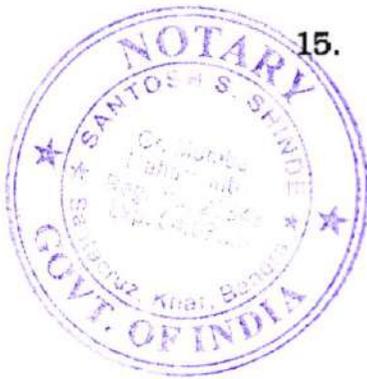
14. It is clarified that this order shall not create any equity in favour of the petitioner when its application for environmental clearance is considered by respondent No.3-Authority. It is also clarified that respondent No.3-Authority shall consider such proposal for environmental clearance on its own merits without being influenced by this order, but as expeditiously as possible.

15.

Rule is made absolute to the above extent only.

**CHIEF JUSTICE**

**(N.M. JAMDAR, J.)**



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ANNEXURE-B

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wp-504-12



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION**

**WRIT PETITION NO.504 OF 2012**

**Naresh Janardhan Mali** ... Petitioner  
**Versus**  
**The State of Maharashtra and others** ... Respondents

Mr. Niranjan pandit, Assistant Government Pleader for respondent No.1.  
Mr. Mukul Taly with Ms. Mallika Taly, Mr. Yusuf Shaikh, Mr. Rakesh Misar  
i/by M/s. S. Mahomedbhai & Co. for respondent Nos.3 and 4.

**CORAM : MOHIT S. SHAH, C.J. &  
RANJIT MORE, J.**

**Thursday, March 29, 2012**

**P.C.**

In this petition purporting to be PIL, the petitioner has challenged the letter dated 3 January 2012 (Exhibit 'K' at page 49 of the petition) by which the Slum Rehabilitation Authority has withdrawn the stop-work notice dated 3 September 2011.

2. It is the petitioner's contention that respondent Nos.3 and 4 are carrying on the construction of more than 20,000 sq. meters. without getting environmental clearance from the State Government and, therefore, the Slum Rehabilitation Authority which had initially issued stop-work notice dated 3 January 2011 is not justified in withdrawing the same.

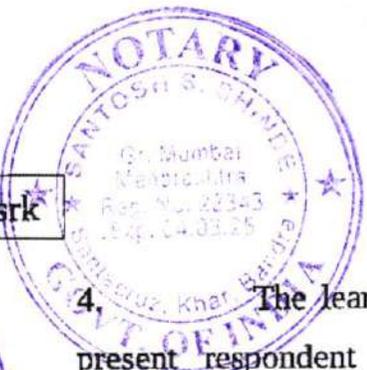
3. Our attention is invited to the applications made by respondent Nos.3 and 4 for construction of 28,000 sq.mtrs of built up area.

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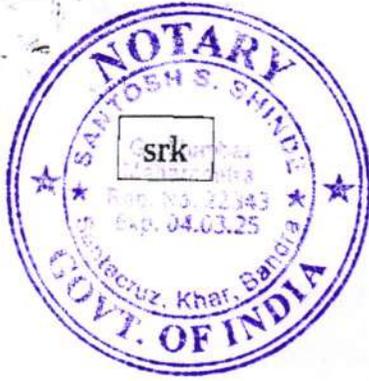


4. The learned counsel for respondent Nos.3 and 4 submits that at present respondent Nos.3 and 4 are only proposing to construct the rehabilitation tenements for resettling 370 slum dwellers out of whom 160 slum dwellers have already been shifted to the transit accommodation and, therefore, respondent Nos.3 and 4 cannot be restrained from proceeding with the project of constructing rehabilitation tenements. The learned counsel for respondent Nos.3 and 4 submits that when about 650 applications for environmental clearance are pending with the State Government, the applicant does not expect to get environmental clearance immediately and that since the CRZ notification requires environmental clearance from the State Government only when the construction is in excess of 20,000 sq.meters, no useful purpose will be served by requiring respondent Nos.3 and 4 not to proceed with the construction of rehabilitation tenements which will be only for construction of about 14,000 sq.mtrs and which would come to about 18,000 sq.mtrs if construction of closed area and area open to the the sky is taken into consideration.

5. Mr. Niranjn Pandit, learned Assistant Government Pleader has submitted that when the project proponent cannot undertake construction project for more than 20,000 sq.meters of built up area without obtaining prior environmental clearance, the project proponent cannot be allowed to commence the construction within the limits of 20,000 sq.meters also without obtaining prior environmental clearance.

6. In order to assure the Court that respondent Nos.3 and 4 will not undertake any construction activity equal to or exceeding the limit of 20,000 sq.meters as prescribed by notification dated 14 September 2006, Mr. Percy S. Chowdhry, Director of respondent No.3 company-developer has filed affidavit dated 29 March 2012 giving the following undertaking:-

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wp-504-12



“8. I undertake to this Hon'ble Court that I as the Developer will not carry out any construction exceeding the limit i.e. equal to or beyond 20,000 sq.meters, as prescribed by the provisions of Notification No.S.O. 1533 dated September 14, 2006 on the land bearing CTS No.G/626 and G/164 A (Part) of Village Bandra under the Slum Rehabilitation Scheme for Narli Agripada (SRA) Co-operative Housing Society (Prop.) at Ram Krishna Mission Road, Khar (West), Mumbai, without obtaining prior environmental clearance from the State Environment Impact Assessment Authority (SEIAA).”

7. Having heard the learned counsel for the parties and also having regard to the fact that the project in question is for rehabilitation of 370 slum dwellers out of whom 160 slum dwellers have already shifted to the transit accommodation, and also having regard to the fact that a large number of environmental clearance applications are pending with the Government and that environmental clearance is required only when the built up area exceeds 20,000 sq.meters and having regard to the aforesaid undertaking given on behalf of respondent No.3, we are inclined to accept the submissions made on behalf of respondent Nos.3 and 4.

8. We accordingly accept the above undertaking and direct that while calculating the area, respondent Nos.3 and 4 shall take into account notification No. S.O.1533 dated September 14, 2006 under which built up area is to include covered construction and in the case of facilities open to the sky continue to be activity area. As per the current approvals, respondent Nos.3 and 4 have approval for built up area of 18,031.78 sq meters.

2027



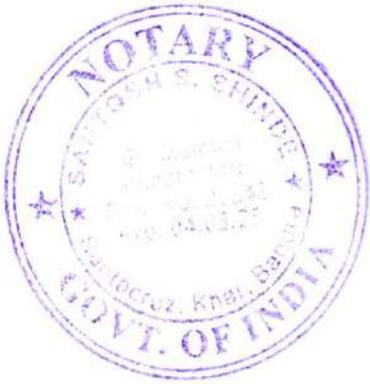
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wp-504-12

9. Accordingly, subject to the direction that respondent Nos.3 and 4 shall act in accordance with the aforesaid undertaking and shall not undertake any construction in excess of 20,000 sq.meters without obtaining prior environmental clearance from the Competent Authority of the State Government, the petition is disposed of.

**CHIEF JUSTICE**

**RANJIT MORE, J.**



2018

Government of Maharashtra

EXHIBIT-C  
ANNEXURE C

Tel. No. 22793132

Fax No. 22813947

No. ENV 2013/CR 39/TC-1

Environment Department,

Mantralaya, Mumbai - 400 032.

Dated: 21 April, 2015.

CIRCULAR

Sub: Requirement of Environmental Clearance for building projects modification regarding.



This department, vide circular no. ENV 2013/CR 39/TC-1 dated 17/04/2014 had issued guidelines indicating procedure for consideration of violations of EIA Notification. Vide this circular it was decided that in view of orders of Hon'ble High Court in the matters of redevelopment projects wherein rehabilitation of tenants in SRA/Dilapidated/CESS buildings was involved, construction of rehab component below 20,000 m2 was not to be considered as a violation of EIA Notification read with OM of MoEF dated 12/12/2012 and 27/06/2013.

Now, Hon'ble High Court in the matter of Glomore Construction and others Vs. Union of India (W.P. No. 655 of 2014) vide order dated 24/03/2014 & 18/12/2014 allowed construction up to 20,000 m2 of free sell component, even in residential and commercial projects, indicating no violation of EIA Notification of 2006. Further, AGP, High Court, Original Side, Mumbai, vide his letter no. NPP/18087 dated 3/12/2014 informed State Government to take note of High Court orders and comply them accordingly to avoid issuance of contempt notice against the officers of Government of Maharashtra for continuing to disregard the orders of High Court.

In view of the above orders of Hon'ble High Court, Mumbai, proposed construction projects where in project proponent has undertaken total construction below 20,000 m2 may not be considered as a violation of EIA Notification of 2006 (Amended time to time) and read with OM of MoEF dated 12/12/2012 and 27/06/2013. However, it is to be noted that by this way immunity is not given to the construction undertaken by project proponent. If at the time of appraisal of the project, it is found that the construction undertaken is not fulfilling the environmental considerations, project proponent will have to comply with the direction of concerned committee to accommodate environmental concerns. Therefore, it is desirable that in such cases all environmental concerns are addressed at the planning stage only. The State Environmental Appraisal Committee (SEACs) should ensure the compliance of above order of Hon'ble High Court to avoid contempt of its orders. This is subject to further orders of the Hon'ble High Court.

*(Signature)*  
Principal Secretary

Minutes of meeting 236<sup>th</sup> of SEIAA (Day-4) held on 3<sup>rd</sup> February, 2022**Item no. 13****Proposal No.:-** SLA/MH/MIS/132870/2019**Type of Project: EC****Subject-** Environment Clearance for Commercial Development construction project located on Plot bearing C.T.S. 432-A, 433-A, 449 453-B/1, 453-B/2, 453-B/3, 453- B/4 of village Chakala at Andheri Ghatkopar link road, Andheri (E), Mumbai by M/s. Abode Builders & Asian Builders & Contractors.**Project Details-**

PP submitted the application for Proposed Commercial Development project for total plot area of 9773.40 Sq. Mtrs., BUA of 29020.38 Sq. Mtrs. and FSI area of 21036.80 Sq. Mtrs. PP has already constructed existing wing-2 which is occupied. In addition to this PP also proposes to construct another wing-1 as mentioned in Sr.no.5 of the project detail.

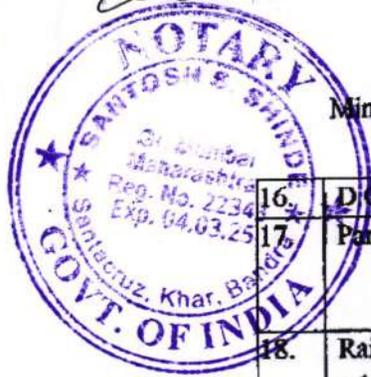
Representative of PP was present during the meeting along with Environmental Consultant M/s UltraTech. The details of project are as mentioned below:

1.	Plot Area (Sq.mt.)	9773.40 Sq. mt.
2.	FSI Area (Sq.mt.)	21036.80 Sq. mt.
3.	Non FSI Area (Sq.mt.)	7983.58 Sq. mt.
4.	Proposed built-up area (FSI + Non FSI) (sq.m.)	29020.38 Sq. mt.
5.	Building Configuration	Existing occupied Wing: 2 Basements + Ground/ Stilt (Pt) + 7 floors Proposed Wing: 2 Basements + Ground/Stilt (Pt) + 8 floors
6.	No. of Tenements & Shops	Offices
7.	Total Population	2315 Nos.
8.	Total Water Requirements (CMD)	114 KLD
9.	Sewage generation (CMD)	95 KLD
10.	STP capacity and Technology	One STP of Capacity 100 KL; MBBR (Moving Bed Bio Reactor) Technology
11.	STP location	Basement level
12.	Total Solid Waste Quantities	232 kg/day
13.	R.G. Area in sq.mt.	RG required: 1847.08 Sq.mt. (20%) RG Provided on Ground: 1903.05 sq.mt. (20.6%)
14.	Power requirement	During Operation Phase - Connected load: 3419 KW Maximum demand: 2151 KW
15.	Energy Efficiency	Overall energy saving - 23.9%, Energy saving by Solar - 6.9 %

*M. Das*  
Member Secretary

*[Signature]*  
Chairman

2030



Minutes of meeting 236<sup>th</sup> of SEIAA (Day-4) held on 3<sup>rd</sup> February, 2022

16.	D.G. set capacity	1 No. of D.G. Set of capacity 500 kVA
17.	Parking 4W & 2W	4-Wheeler: 250 Nos. 2-Wheeler: 50 Nos. Transport vehicle: 6 Nos.
18.	Rain water Harvesting scheme	Provision of 2 RWH tanks of total capacity 230 KL
19.	Project Cost in (Cr.)	Rs. 223.16 Cr.
20.	EMP Cost	<b>Construction Phase:</b> Rs. 32.46 Lacs <b>Operation Phase:</b> Capital cost: Rs. 206.42 Lacs Operational and Maintenance cost: 16.55 Rs. Lacs/ annum
21.	CER details with justification if any.	--

#### SEAC Deliberation -

PP informed that proposal was earlier considered in 128th SEAC-2 meeting & wherein same was referred to SEIAA as committee noticed violation of EIA Notification, 2006 & its amendment time to time as PP had completed construction of 18327.63 Sq.Mtrs. without prior environment clearance. PP also informed that the proposal was considered by SEIAA in its 191st meeting held on 09/03/2020 wherein proposal referred back to SEAC-2 mentioning that PP has constructed 18327.63 Sq.Mtrs. which is well below 20,000 Sq.Mtrs. and as per the GOM circular dated 21/04/2015, this may not be considered as the violation of EIA Notification, 2006. As per the directions received from SEIAA, Committee decided to appraise the proposal & considered the proposal in its 136th meeting held on 14th & 15th July, 2020, wherein proposal is deferred.

The proposal is considered in 147th SEAC-2 meeting held on 07th & 08th June, 2021, wherein proposal was deferred with some compliance raised. Now, PP submitted reply of these compliance.

The proposal was discussed on the basis of the compliance report submitted and presentation made by the Proponent along with their accredited consultant M/s. Ultratech. All issues related to environment, including air, water, land, soil, ecology and biodiversity and social aspects were discussed. Committee noted that the project is under 8a (B2) category of EIA Notification, 2006. Form 1, 1A, presentation, synopsis of compliances & plans submitted are taken on the record.

#### During discussion following points emerged:

1. PP to submit IOD/IOA/Concession Document/Plan Approval or any other form of documents as applicable clarifying its conformity with local planning rules and provisions thereunder as per the circular dated 30.01.2014 issued by the Environment Department, Govt. of Maharashtra.
2. PP to obtain Sewer connection NOC & remarks for proposed building.

#### Recommendations of SEAC-

  
Member Secretary

  
Chairman

Minutes of meeting 236<sup>th</sup> of SEIAA (Day-4) held on 3<sup>rd</sup> February, 2022

In view of above discussion and subject to compliance of above points, the proposal is recommended to SEIAA for grant of Environmental Clearance.

**Deliberation in SEIAA-**

Proposal is a new construction project. Proposal is recommended by SEAC2 in its meeting for grant of Environment Clearance for total plot area of 9773.40 Sq. Mtrs., BUA of 29020.38 Sq. Mtrs. and FSI area of 21036.80 Sq. Mtrs.

SEIAA asked PP to submit architect certificate regarding construction initiated on site. PP submitted architect certificate dated 04.02.2022 stating that they have initiated total BUA 18327.63 m2 on site.

SEIAA after deliberation decided to grant EC for – FSI-21036.80 m2, Non-FSI-7983.58 m2, Total BUA-29020.38 m2. (Plan approval-CE/9034/WS/AK, dated-23.07.2020).

SEIAA after deliberation decided to grant Environment Clearance subject to compliance of following conditions-

1. PP to keep open space unpaved so as to ensure permeability of water. However, whenever paving is deemed necessary, PP to provide grass pavers of suitable types & strength to increase the water permeable area as well as to allow effective fire tender movement.
2. PP to achieve at least 5% of total energy requirement from solar/other renewable sources.
3. PP Shall comply with Standard EC conditions mentioned in the Office Memorandum issued by MoEF& CC vide F.No.22-34/2018-IA.III dt.04.01.2019.
4. SEIAA after deliberation decided to grant EC for – FSI-21036.80 m2, Non-FSI-7983.58 m2, Total BUA-29020.38 m2. (Plan approval-CE/9034/WS/AK, dated-23.07.2020).

**SEIAA Decision-**

SEIAA after deliberation decided to grant Environment Clearance.



*M. S. S.*  
Member Secretary

*M. S.*  
Chairman

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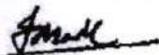
EXHIBIT - 2 - 1

Minutes of 257<sup>th</sup> Day - 4 (Part B) meeting of SEIAA held on 10<sup>th</sup> March, 2023**Item no. 28****Proposal No.:-** SIA/MH/MIS/238569/2021**Type of Project:** EC**Subject-** Environmental Clearance for proposed residential development at old Survey No. 233 (Pt.), 235 (Pt.), and 256 (Pt.), {new survey no. 66 (Pt.), 68 (Pt.), and 69 (Pt.)} at Village: Penkapada, Mira road, Thane by Eversmile Properties Pvt Ltd.**Project Details-**

PP submitted the application for environment clearance to their proposed Residential Development project having total plot area of 37,880.43 Sq. Mtrs, Total construction area of 3,23,656.18 Sq. Mtrs and FSI area of 1,85,303.99 Sq. Mtrs. PP proposes to construct 12 Nos. of Residential buildings with shops as mentioned at Sr. no-20 of the project details.

Representative of PP was present during the meeting along with environmental consultant Enviro Analysts & Engineers Pvt Ltd. The details of project are as mentioned below:

Sr	Description	Details	
1	Proposal Number	SIA/MH/MIS/238569/2021	
2	Name of Project	Proposed residential development at old Survey No. 233 (Pt.), 235(Pt.) and 256(Pt.) (new survey no. 66(Pt.), 68(Pt.) and 69(Pt.) at Village: Penkapada, Mira road, Thane by M/s Eversmile Properties Pvt Ltd.	
3	Project category	8(b) B1	
4	Type of Institution	Private	
5	Project Proponent	Name	Mr. Parag Saraiya
		Regd. Office address	101, Kalpataru Synergy, Opp. Grand Hyatt, Santacruz (E), Mumbai 400 055.
		Contact number	022 30645000
		e-mail	eversmile@kalpataru.com
6	Consultant	Name: M/s. Enviro Analysts & Engineers Pvt. Ltd. NABET Accreditation No: NABET/EIA/2023/RA0206 Validity: 13.05.2023	
7	Applied for	New	
8	Location of the project	Old Survey No. 233 (Pt.), 235(Pt.) and 256(Pt.) (new survey no. 66(Pt.), 68(Pt.) and 69(Pt.) at Village: Penkapada, Mira road, Thane.	
9	Latitude and Longitude	Latitude: 19°16'19.39"N Longitude: 72°52'10.49"E	
10	Plot Area (sq.m.)	37,880.43 sq. mt.	
11	Deductions (sq.m.)	0.00 sq. mt.	
12	Net Plot area (sq.m.)	37,880.43 sq. mt.	
13	Ground coverage (m <sup>2</sup> ) & %	22869.166 sq .mt. (60.371 %)	
14	FSI Area (sq.m.)	1,85,303.99 sq. mt.	

  
Member Secretary

  
Chairman

Minutes of 257<sup>th</sup> Day - 4 (Part B) meeting of SEIAA held on 10<sup>th</sup> March, 2023

15	Non-FSI (sq.m.)	138352.19 sq. mt.							
16	Proposed built-up area (FSI + Non FSI) (sq.m.)	323656.18 sq. mt.							
17	TBUA (m <sup>2</sup> ) approved by Planning Authority till date	CC has been received dated -31//3/2022 from MBMC. Approved FSI area- 1,93,657. 72sq.m							
18	Earlier EC details with Total Construction area, if any.	NA. This is fresh project.							
19	Construction completed (FSI + Non FSI) (sq.m.)								
20	Previous EC / Existing Building	Proposed Configuration				Reason for Modification / Change			
		Buildi ng Name	Configura tion	Heig ht (m)	Building Name		Configuration	Height (m)	
			NA	NA	A		2B + Ground + 1 <sup>st</sup> Podium + 2 <sup>nd</sup> Podium+ 1st to 33th floor	108.60	NA
					B		2B + Ground + 1 <sup>st</sup> Podium + 2 <sup>nd</sup> Podium+ 1st to 33th floor	108.60	
					C		2B + Ground/Shopping + 1 <sup>st</sup> Podium/Shop ping + 2 <sup>nd</sup> Podium + 1st to 33th floor	108.60	
					D		3B + Ground/Shopping + 1 <sup>st</sup> Podium/Shoppin g + 2 <sup>nd</sup> Podium + 1st to 33th floor	108.60	
					E		3B + Ground + 1st Podium + 2 <sup>nd</sup> Podium + 1st to 31 <sup>st</sup> floor	102.70	
					F		3B + Ground + 1st Podium + 2nd Podium + 1st to 31st floor	102.70	
			G	2B + Ground + 1st Podium + 2nd	102.70				

*[Signature]*  
Member Secretary

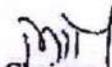
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Chairman

2034

Minutes of 257<sup>th</sup> Day - 4 (Part B) meeting of SEIAA held on 10<sup>th</sup> March, 2023

				Podium + 1st to 31st floor	
			H	2B + Ground + 1st Podium + 2nd Podium + 1st to 31st floor	102.70
			I	2B + Ground + 1st Podium + 2nd Podium + 1st to 2nd floor	16.00
			J	2B + Ground + 1st to 4th floor	14.95
			K	2B + Ground + 1st Podium + 2nd Podium + 1st to 3rd floor	18.95
			L	2B + Ground + 1st Podium + 2nd Podium + 1st to 33th floor	108.60
21	No. of Tenements & Shops	Flats-2521 Nos. Shops-21 nos			
22	Total Population	11602 Nos.			
23	Total Water Requirements CMD	Total Water Requirement: 1705 Domestic: 1103 Flushing: 572 Landscape: 30			
24	Under Ground Tank (UGT) location	Below ground			
25	Source of water	MBMC			
26	STP Capacity & Technology	1624 KLD MBBR technology			
27	STP Location	Ground			
28	Sewage Generation CMD & % of sewage discharge in sewer line	Sewage Generation is 1455 CMD & 634 CMD (35% of sewage discharge in the sewer line.)			
29	Solid Waste Management during Construction Phase	Type	Quantity (Kg/d)	Treatment / disposal	
		Dry waste	20	Will be handed over to a recycler	
		Wet waste	30	Will be handed over to municipal	

  
Member Secretary

  
Chairman

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Minutes of 257<sup>th</sup> Day - 4 (Part B) meeting of SEIAA held on 10<sup>th</sup> March, 2023

30	Total	Solid	Waste	Type	Quantity (Kg/d)	Treatme
				Constructi on waste		waste collector
				Top Soil	6805 7 cum	To be preserved for landscapi ng.
				Demoliti on waste	Nil	NA
				Excavate d material	1375 50 cum	The excavated soil shall be reused for backfillin g to the extent possible. The excess shall be disposed off
				Cement Bags	9133 8	The empty bags shall be recycled and reused.
				Paint container (@20L)	2316 8 Cans	To be sold to recyclers
				Scrap metal generate d	706 Mt	The steel shall be sent for recycling
				Tiles	1997 87 Sq ft	The excess shall be disposed of through authorize d vendors.

*Smale*  
Member Secretary

*Chairman*  
Chairman

2036

Minutes of 257<sup>th</sup> Day - 4 (Part B) meeting of SEIAA held on 10<sup>th</sup> March, 2023

	Quantities with type during Operation Phase & Capacity of OWC to be installed	Dry waste	3543 kg/day	nt / disposal Will be handed over to a recycler.						
		Wet waste	2362 kg/day	Will be treated on OWC. Manure obtained shall be used as manure for landscaping.						
		E-Waste	8535 kg/year	Will be collected and sent to MPCB authorized recyclers.						
		STP Sludge (dry)	73 kg/day	Sewage sludge is used as manure for gardening.						
		31	R.G. Area in sq. m.	<p>RG required – 3788.04 sq.m.                      RG provided on Mother earth- 1.5 strip proposed                      RG provided on Podium - 3788.04 sq.m.                      Total – 3788.04 sq.m.</p> <p>Existing trees on the plot: 197nos</p> <p>Number of trees to be planted: 1298 nos.                      a) In RG area: 625 nos.                      b) In Miyawaki Plantation; 1000 nos.</p> <p>Number of trees to be cut: 167 nos.                      Number of trees to be transplanted: 30 nos.</p>						
32	Power requirement	<p>During Operation Phase:</p> <table border="1"> <thead> <tr> <th colspan="2">Details</th> </tr> </thead> <tbody> <tr> <td>Connected load (kW)</td> <td>37788</td> </tr> <tr> <td>Demand load (kW)</td> <td>10674</td> </tr> </tbody> </table>			Details		Connected load (kW)	37788	Demand load (kW)	10674
Details										
Connected load (kW)	37788									
Demand load (kW)	10674									
33	Energy Efficiency	a) Total Energy saving (%): 20%								



*Santosh Kumar*  
Member Secretary

*[Signature]*  
Chairman

Minutes of 257<sup>th</sup> Day - 4 (Part B) meeting of SEIAA held on 10<sup>th</sup> March, 2023

		b) Solar energy (%): 5%
34	D.G. set capacity	3 x 910 KVA
35	No. of 4-W & 2-W Parking with 25% EV	4W - 2917 No's 2W - 3036 No's 25% EV Charging Points provided
36	No. & capacity of Rain water harvesting tanks /Pits	11 Recharge Pits
37	Project Cost in (Cr.)	Rs 1084.26crores
38	EMP Cost	Capital Cost: Rs. 366.25 lakhs O & M Cost: Rs. 47.34 lakhs/annum
39	CER Details with justification if any....as per MoEF&CC circular dated 01/05/2018	OM dated 30.9.2020 U/n F.No- 22-65/2017.IA.III supersedes earlier OM under even number dated 1st May, 2018 regarding guidelines in respect to CER
40	Details of Court Cases/litigations w.r.t the project and project location, if any.	Nil

**SEAC Deliberation -**

PP informed that the project comes in the jurisdiction of Mira Bhayandar Municipal Corporation (MBMC). PP also informed that the project site is accessible by 30.0 Mtr wide existing DP road. PP further informed that the project is proposed for IGBC Green homes certification.

PP submitted that the project has received Terms of Reference (ToR) vide letter No-SIA/MH/MIS/238569/2021, dated: 23.03.2022 for total plot area of 37,880.34 Sq. Mtrs, Total construction area of 3,85,708.276 Sq. Mtrs. and FSI area of 2,44,659.300 Sq. Mtrs. Accordingly, PP has submitted EIA report on Parivesh portal for appraisal. However, Committee noted that the proposed total construction area of the project is 3,23,656.18 Sq. Mtrs which is well within the total construction area of 3,85,708.276 Sq. Mtrs. approved in ToR dated: 23.03.2022.

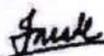
The project proposal was discussed on the basis of presentation made and documents submitted by the proponent along with environmental consultant Enviro Analysts & Engineers Pvt Ltd. All issues related to environment, including air, water, land, soil, ecology and biodiversity and social aspects were discussed. Committee noted that the project is under 8(b) B1 category of EIA Notification, 2006. Consolidated Statements, Form- 2/1A, presentation & plans submitted are taken on the record.

**During discussion following points emerged:**

1. PP to submit IOD/IOA/Concession Document/Plan Approval or any other form of documents as applicable clarifying its conformity with local planning rules and provisions as per the Circular dated 30.01.2014 issued by the Environment Department, Govt. of Maharashtra.

2. PP to submit revised CRZ NOC from MCZMA as per latest revised planning of the project.

3. PP to submit details energy calculation with terrace floor plan in accordance with shadow analysis & ensure that the energy savings from renewable sources shall be minimum 5 % & over all energy saving of the project is minimum 20%.

  
Member Secretary

  
Chairman

2038

Minutes of 257<sup>th</sup> Day - 4 (Part B) meeting of SEIAA held on 10<sup>th</sup> March, 2023

4. PP to reduce discharge of treated water up to 35%. PP to submit undertaking from concerned authority/agency/third party regarding use of excess treated water.

5. PP to revise biodiversity chapter in EIA including details of trees to be cut & compensatory plantation details.

6. PP to provide adequate mechanical ventilation in the STP-2 & include cost of it in EMP.

7. PP to provide two row plantations all along the project boundary to mitigate noise and air pollution due to vehicular movements on roads.

8. Planning authority to ensure that water supply, sewer and storm water networks are made available in the vicinity of the project before issuing occupation certificate to the project.

#### Recommendations of SEAC-

In view of above discussion and subject to compliance of above points the proposal is recommended to SEIAA for grant of Environmental Clearance.

#### Deliberation in SEIAA-

Proposal is a new construction project. Proposal is recommended by SEAC-2 in its 178<sup>th</sup> meeting for grant of Environment Clearance for total plot area of 37,880.43 m<sup>2</sup>, FSI area of 1,85,303.99 m<sup>2</sup>, Non FSI area of 1,38,352.19 m<sup>2</sup> and total BUA of 3,23,656.18 m<sup>2</sup>.

The proposal was deferred in 247<sup>th</sup> & 252<sup>nd</sup> meeting of SEIAA as PP was absent for the meeting.

SEIAA asked PP to submit undertaking regarding the no construction has been carried out on portion of land falls in CRZ-II area. PP submitted the same vide email dated 13.03.2023.

PP submitted that OA No. 107 /2022 filed before Hon. NGT pertain to the project. The matter listed on 29.11.2022, 23.01.2023 & 15.03.2023 and Hon. NGT has not passed any adverse orders in respect of said project.

SEIAA observed from the google satellite image that the construction initiated by PP on site.

SEIAA asked clarification on the same. PP submitted that the construction work commenced and completed up to 16,733 m<sup>2</sup> at site as per commencement certificate by MBMC and as per Environment Dept. Circular dated 21.04.2015. SEIAA asked PP to submit Joint Statement under the signature of PP, Registered Architect & Environment Consultant to that effect. Accordingly, PP submitted the same dated 10.03.2023.

During the meeting, SEIAA observed that PP has obtained CFO NOC dated 29.12.2021 for height up to 107.25 for Building Wing-A to D, I, K & L, for height up to 101.35 m for Wing -E to H & for height up to 106.40 m for Wing -J. SEIAA decided to restrict building height as per CFO NOC.

SEIAA also asked PP to submit undertaking regarding the complying the SEAC conditions. PP submitted the same dated 25.02.2023.

SEIAA after deliberation decided to grant EC for - FSI area -1,85,303.99 m<sup>2</sup>, Non FSI area - 1,38,352.19 m<sup>2</sup> and total BUA - 3,23,656.18 m<sup>2</sup>. (Plan approval No. MBMC/TP/46/2021-22, dated- 31.03.2022) (Restricted as per appraisal)

SEIAA after deliberation decided to grant Environment Clearance subject to compliance of following conditions-

1. This EC is restricted for height up to 107.25 for Building Wing-A to D, I, K & L, for height up to 101.35 m for Wing -E to H & for height up to 106.40 m for Wing -J. SEIAA decided to restrict building height as per CFO NOC.
2. PP to keep open space unpaved so as to ensure permeability of water. However, whenever paving is deemed necessary, PP to provide grass pavers of suitable types & strength to increase the water permeable area as well as to allow effective fire tender movement.
3. PP to achieve at least 5% of total energy requirement from solar/other renewable sources.



Member Secretary



Chairman

2039

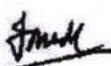
Minutes of 257<sup>th</sup> Day -4 (Part B) meeting of SEIAA held on 10<sup>th</sup> March, 2023

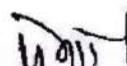
4. PP Shall comply with Standard EC conditions mentioned in the Office Memorandum issued by MoEF& CC vide F.No.22-34/2018-IA.III dt.04.01.2019.
5. SEIAA after deliberation decided to grant EC for – FSI area -1,85,303.99 m2, Non FSI area - 1,38,352.19 m2 and total BUA - 3,23,656.18 m2. (Plan approval No. MBMC/TP/46/2021-22, dated- 31.03.2022) (Restricted as per appraisal)

**SEIAA Decision-**

SEIAA after deliberation decided to grant Environment Clearance.



  
Member Secretary

  
Chairman

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EXHIBIT E COLLY

ENVIRONMENTAL  
CLEARANCE

PARIVESH

(Pro-Active and Responsive Facilitation by Interactive,  
and Virtuous Environmental Single-Window Hub)



Government of India  
Ministry of Environment, Forest and Climate Change  
(Issued by the State Environment Impact Assessment  
Authority(SEIAA), Maharashtra)

To,

The Director  
EVERSMILE PROPERTIES PVT LTD.  
101, Kalpataru Synergy, Opp Grand Hyatt, Santacruz East - 400055



**Subject:** Grant of Environmental Clearance (EC) to the proposed Project Activity under the provision of EIA Notification 2006-regarding

Sir/Madam,

This is in reference to your application for Environmental Clearance (EC) in respect of project submitted to the SEIAA vide proposal number SIA/MH/MIS/238569/2021 dated 06 April 2022. The particulars of the environmental clearance granted to the project are as below:

- |  |   |
|--|---|
| 1. EC Identification No.                   | EC23B039MH162099  |
| 2. File No.                                | SIA/MH/MIS/238569/2021  |
| 3. Project Type                            | New   |
| 4. Category                                | B1  |
| 5. Project/Activity including Schedule No. | a(b) Townships and Area Development projects  |
| 6. Name of Project                         | PROPOSED RESIDENTIAL DEVELOPMENT AT Old SurveyNos 233 (pt) 285(pt) & 256(pt) New Survey Nos 66(pt) 68(pt) and 69(pt) AT VILLAGE PENKARPADA, MIRA ROAD, THANE by EVERSMILE PROPERTIES PVT LTD. |
| 7. Name of Company/Organization            | EVERSMILE PROPERTIES PVT LTD.   |
| 8. Location of Project                     | Maharashtra   |
| 9. TOR Date                                | N/A   |



The project details along with terms and conditions are appended herewith from page no 2 onwards.

Date: 12/04/2023

(e-signed)  
Pravin C. Darade, I.A.S.  
Member Secretary  
SEIAA - (Maharashtra)

*Note: A valid environmental clearance shall be one that has EC identification number & E-Sign generated from PARIVESH. Please quote identification number in all future correspondence.*

*This is a computer generated cover page.*

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STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY

No. SIA/MH/MIS/238569/2021  
Environment & Climate Change Department  
Room No. 217, 2<sup>nd</sup> Floor,  
Mantralaya, Mumbai- 400032.

To  
M/s. Eversmile Properties Pvt Ltd.  
Village: Penkarpada, Mira road, Thane

Subject: Environmental Clearance for proposed residential development at old Survey No. 233 (Pt.), 235 (Pt.), and 256 (Pt.) (new survey no. 66 (Pt.), 68 (Pt.), and 69 (Pt.)) at Village: Penkarpada, Mira road, Thane by M/s. Eversmile Properties Pvt Ltd.

Reference: Application no. SIA/MH/MIS/238569/2021

This has reference to your communication on the above-mentioned subject. The proposal was considered by the SEAC-2 in its 178<sup>th</sup> meeting under screening category 8 (b) B1 as per EIA Notification, 2006 and recommend to SEIAA. Proposal then considered in 257<sup>th</sup> meeting (Day-4) of State Level Environment Impact Assessment Authority (SEIAA) held on 10.03.2023.

2. Brief Information of the project submitted by you is as below:-

Sr No.	Description	Details	
1	Proposal Number	SIA/MH/MIS/238569/2021	
2	Name of Project	Proposed residential development at old Survey No. 233 (Pt.), 235(Pt.) and 256(Pt.) (new survey no. 66(Pt.), 68(Pt.) and 69(Pt.) at Village: Penkarpada, Mira road, Thane by M/s Eversmile Properties Pvt Ltd.	
3	Project category	8(b) B1	
4	Type of Institution	Private	
5	Project Proponent	Name	Mr. Parag Saraiya
		Regd. Office address	101, Kalpataru Synergy, Opp. Grand Hyatt, Santacruz (E), Mumbai 400 055.
		Contact number	022 30645000
		e-mail	<a href="mailto:eversmile@kalpataru.com">eversmile@kalpataru.com</a>



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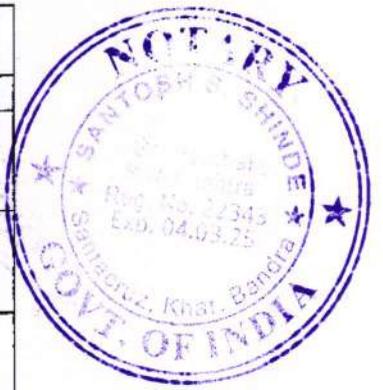
6	Consultant	Name: M/s. Enviro Analysts & Engineers Pvt. Ltd. NABET Accreditation No: NABET/EIA/2023/RA0206 Validity: 13.05.2023						
7	Applied for	New						
8	Location of the project	Old Survey No. 233 (Pt.), 235(Pt.) and 256(Pt.) (new survey no. 66(Pt.), 68(Pt.) and 69(Pt.) at Village: Penkarpada, Mira road, Thane.						
9	Latitude and Longitude	Latitude: 19°16'19.39"N Longitude: 72°52'10.49"E						
10	Plot Area (sq.m.)	37,880.43 sq. mt.						
11	Deductions (sq.m.)	0.00 sq. mt.						
12	Net Plot area (sq.m.)	37,880.43 sq. mt.						
13	Ground coverage (m <sup>2</sup> ) & %	22869.166 sq. mt. (60.371%)						
14	FSI Area (sq.m.)	1,85,303.99 sq. mt.						
15	Non-FSI (sq.m.)	138352.19 sq. mt.						
16	Proposed built-up area (FSI + Non FSI) (sq.m.)	323656.18 sq. mt.						
17	TBUA (m <sup>2</sup> ) approved by Planning Authority till date	CC has been received dated -31/3/2022 from MBMC. Approved FSI area- 1,93,657.72sq.m						
18	Earlier EC details with Total Construction area, if any.	NA: This is fresh project.						
19	Construction completed (FSI + Non FSI) (sq.m.)							
20	Previous EC / Existing Building		Proposed Configuration		Reason for Modification / Change			
	Buildi ng Name	Configura tion	Height (m)	Building Name		Configuration	Height (m)	
		NA	NA	A		2B + Ground + 1 <sup>st</sup> Podium + 2 <sup>nd</sup> Podium + 1st to 33th floor	108.60	NA
				B		2B + Ground + 1 <sup>st</sup> Podium + 2 <sup>nd</sup> Podium + 1st to 33th floor	108.60	
			C	2B + Ground/Shopping + 1 <sup>st</sup> Podium/Shopping + 2 <sup>nd</sup> Podium + 1st	108.60			

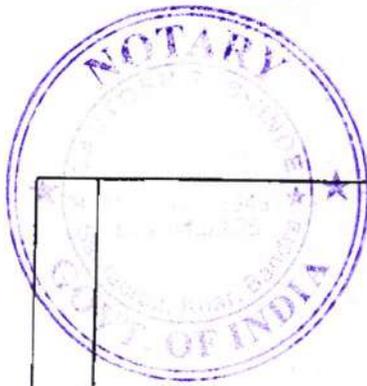


				to 33th floor	
		D	3B + Ground/Shopping + 1 <sup>st</sup> Podium/Shopping + 2 <sup>nd</sup> Podium + 1st to 33th floor	108.60	
		E	3B + Ground + 1st Podium + 2 <sup>nd</sup> Podium + 1st to 31 <sup>st</sup> floor	102.70	
		F	3B + Ground + 1st Podium + 2nd Podium + 1st to 31st floor	102.70	
		G	2B + Ground + 1st Podium + 2nd Podium + 1st to 31st floor	102.70	
		H	2B + Ground + 1st Podium + 2nd Podium + 1st to 31st floor	102.70	
		I	2B + Ground + 1st Podium + 2nd Podium + 1st to 2nd floor	16.00	
		J	2B + Ground + 1st to 4th floor	14.95	
		K	2B + Ground + 1st Podium + 2nd Podium + 1st to 3rd floor	18.95	
		L	2B + Ground + 1st Podium + 2nd Podium + 1st to 33th floor	108.60	
21	No. of Tenements & Shops	Flats-2521 Nos. Shops-21 nos			
22	Total Population	11602 Nos.			
23	Total Water Requirements CMD	Total Water Requirement: 1705 Domestic: 1103 Flushing: 572 Landscape: 30			
24	Under Ground Tank (UGT) location	Below ground			
25	Source of water	MBMC			

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26	STP Capacity & Technology	1624 KLD MBBR technology		
27	STP Location	Ground		
28	Sewage Generation CMD & % of sewage discharge in sewer line	Sewage Generation is 1455 CMD & 634 CMD (35% of sewage discharge in the sewer line.)		
29	Solid Waste Management during Construction Phase	Type	Quantity (Kg/d)	Treatment / disposal
		Dry waste	20	Will be handed over to a recycler
		Wet waste	30	Will be handed over to municipal waste collector
		Construction waste	6805	To be preserved for landscaping
		Top Soil	7 cum	
		Demolition waste	Nil	NA
		Excavated material	1375.50 cum	The excavated soil shall be reused for backfilling to the extent possible. The excess shall be disposed off
Cement Bags	91338	The empty bags shall be recycled and reused.		
Paint container	23168	To be sold to		





			(@20L)	Cans	recyclers
			Scrap metal generated	706 Mt	The steel shall be sent for recycling
			Tiles	1997 87 Sq ft	The excess shall be disposed of through authorized vendors.
30	Total Solid Waste Quantities with type during Operation Phase & Capacity of OWC to be installed	Type	Quantity (Kg/d)	Treatment / disposal	
		Dry waste	3543 kg/day	Will be handed over to a recycler.	
		Wet waste	2362 kg/day	Will be treated on OWC. Manure obtained shall be used as manure for landscaping.	
		E-Waste	8535 kg/year	Will be collected and sent to MPCB authorized recyclers.	
		STP Sludge (dry)	73 kg/day	Sewage sludge is used as manure for gardening	
31	R.G. Area in sq. m.	RG required – 3788.04 sq.m. RG provided on Mother earth- 1.5 strip proposed			



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		RG provided on Podium - 3788.04 sq.m. Total - 3788.04 sq.m.						
		Existing trees on the plot: 197nos						
		Number of trees to be planted: 1298 nos.						
		a) In RG area: 625 nos.						
		b) In Miyawaki Plantation; 1000 nos.						
		Number of trees to be cut: 167 nos.						
		Number of trees to be transplanted: 30 nos.						
32	Power requirement	During Operation Phase: <table border="1"> <tr> <th colspan="2">Details</th> </tr> <tr> <td>Connected load (kW)</td> <td>37788</td> </tr> <tr> <td>Demand load (kW)</td> <td>10674</td> </tr> </table>	Details		Connected load (kW)	37788	Demand load (kW)	10674
Details								
Connected load (kW)	37788							
Demand load (kW)	10674							
33	Energy Efficiency	a) Total Energy saving (%): 20% b) Solar energy (%): 5%						
34	D.G. set capacity	3 x 910 KVA						
35	No. of 4-W & 2-W Parking with 25% EV	4W - 2917 No's 2W - 3036 No's 25% EV Charging Points provided						
36	No. & capacity of Rain water harvesting tanks /Pits	11 Recharge Pits						
37	Project Cost in (Cr.)	Rs 1084.26crores						
38	EMP Cost	Capital Cost: Rs. 366.25 lakhs O & M Cost: Rs. 47.34 lakhs/annum						
39	CER Details with justification if any ...as per MoEF&CC circular dated 01/05/2018	OM dated 30.9.2020 U/n F.No- 22-65/2017.IA.III supersedes earlier OM under even number dated 1st May, 2018 regarding guidelines in respect to CER						
40	Details of Court Cases/litigations w.r.t the project and project location, if any.	Nil						

3. Proposal is a new construction project. Proposal has been considered by SEIAA in its 257<sup>th</sup> meeting (Day-4) and decided to accord Environment Clearance to the said project under the provisions of Environment Impact Assessment Notification, 2006 subject to implantation of following terms and conditions-

**Specific Conditions:**

**A. SEAC Conditions-**

- 1.PP to submit IOD/IOA/Concession Document/Plan Approval or any other form of documents as applicable clarifying its conformity with local planning rules and provisions as per the Circular dated 30.01.2014 issued by the Environment Department, Govt. of Maharashtra.
- 2.PP to submit revised CRZ NOC from MCZMA as per latest revised planning of the project.
- 3.PP to submit details energy calculation with terrace floor plan in accordance with shadow

analysis & ensure that the energy savings from renewable sources shall be minimum 5 % & over all energy saving of the project is minimum 20%.

4. PP to reduce discharge of treated water up to 35%. PP to submit undertaking from concerned authority/agency/third party regarding use of excess treated water.

5. PP to revise biodiversity chapter in EIA including details of trees to be cut & compensatory plantation details.

6. PP to provide adequate mechanical ventilation in the STP-2 & include cost of it in EMP.

7. PP to provide two row plantations all along the project boundary to mitigate noise and air pollution due to vehicular movements on roads.

8. Planning authority to ensure that water supply, sewer and storm water networks are made available in the vicinity of the project before issuing occupation certificate to the project.

#### B. SEIAA Conditions

1. This EC is restricted for height up to 107.25 for Building Wing-A to B, for height up to 101.35 m for Wing -E to H & for height up to 107.25 m for Wing -L. SEIAA decided to restrict building height as per CFO NOC.

2. PP to keep open space unpaved so as to ensure permeability of water. However, whenever paving is deemed necessary, PP to provide grass pavers of suitable types & strength to increase the water permeable area as well as to allow effective fire tender movement.

3. PP to achieve at least 5% of total energy requirement from solar/other renewable sources.

4. PP Shall comply with Standard EC conditions mentioned in the Office Memorandum issued by MoEF & CC vide E No. 22-54/2018-IA III dt. 04.01.2019.

5. SEIAA after deliberation decided to grant EC for - FSI area - 35,303.99 m<sup>2</sup>, Non FSI area - 1,38,352.19 m<sup>2</sup> and total BUA - 3,23,656.18 m<sup>2</sup>. (Plan approval No. MBM/ATP/46/2021-22, dated- 31.03.2022). (Restricted as per appraisal)

#### General Conditions:

##### a) Construction Phase :-

I. The solid waste generated should be properly collected and segregated. Dry/inert solid waste should be disposed of to the approved sites for land filling after recovering recyclable material.

II. Disposal of muck, construction spoils, including bituminous material during construction phase should not create any adverse effect on the neighbouring communities and be disposed taking the necessary precautions for general safety and health aspects of people, only in the approved sites with the approval of competent authority.

III. Any hazardous waste generated during construction phase should be disposed of as per applicable rules and norms with necessary approvals of the Maharashtra Pollution Control Board.

IV. Adequate drinking water and sanitary facilities should be provided for construction workers at the site. Provision should be made for mobile toilets. The safe disposal of wastewater and solid wastes generated during the construction phase should be ensured.

V. Arrangement shall be made that waste water and storm water do not get mixed.

VI. Water demand during construction should be reduced by use of pre-mixed concrete, curing agents and other best practices.

VII. The ground water level and its quality should be monitored regularly in

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consultation with Ground Water Authority.

VIII. Permission to draw ground water for construction of basement if any shall be obtained from the competent Authority prior to construction/operation of the project.

IX. Fixtures for showers, toilet flushing and drinking should be of low flow either by use of aerators or pressure reducing devices or sensor based control.

X. The Energy Conservation Building code shall be strictly adhered to.

XI. All the topsoil excavated during construction activities should be stored for use in horticulture / landscape development within the project site.

XII. Additional soil for levelling of the proposed site shall be generated within the sites (to the extent possible) so that natural drainage system of the area is protected and improved.

XIII. Soil and ground water samples will be tested to ascertain that there is no threat to ground water quality by leaching of heavy metals and other toxic contaminants.

XIV. OP to strictly adhere to all the conditions mentioned in Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975 as amended during the validity of Environment Clearance.

XV. The diesel generator sets to be used during construction phase should be low sulphur diesel type and should conform to Environment (Protection) Rules prescribed for air and noise emission standards.

XVI. Vehicles hired for transportation of Raw material shall strictly comply the emission norms prescribed by Ministry of Road Transport & Highways Department. The vehicle shall be adequately covered to avoid spillage/leakages.

XVII. Ambient noise levels should conform to residential standards both during day and night. Incremental pollution loads on the ambient air and noise quantity should be closely monitored during construction phase. Adequate measures should be made to reduce ambient air and noise level during construction phase so as to conform to the stipulated standards by CPCBA/PCB.

XVIII. Diesel power generating sets proposed as source of backup power for elevators and common area illumination during construction phase should be of enclosed type and conform to rules made under the Environment (Protection) Act, 1986. The height of stack of DG sets should be equal to the height needed for the combined capacity of all proposed DG sets. Use low sulphur diesel is preferred. The location of the DG sets may be decided with in consultation with Maharashtra Pollution Control Board.

XIX. Regular supervision of the above and other measures for monitoring should be in place all through the construction phase, so as to avoid disturbance to the surroundings by a separate environment cell / designated person.

#### B) Operation phase:-

I. a) The solid waste generated should be properly collected and segregated. b) Wet waste should be treated by Organic Waste Converter and treated waste (manure) should be utilized in the existing premises for gardening. And, no wet garbage will be disposed outside the premises. c) Dry/inert solid waste should be disposed of to the approved sites for land filling after recovering recyclable material.

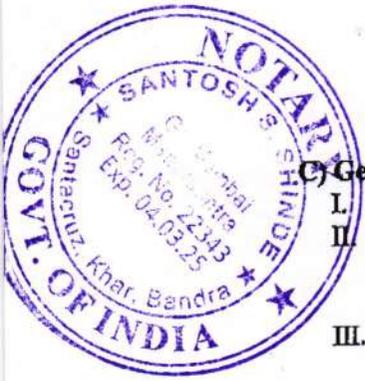
II. E-waste shall be disposed through Authorized vendor as per E-waste (Management and Handling) Rules, 2016.





- III. a) The installation of the Sewage Treatment Plant (STP) should be certified by an independent expert and a report in this regard should be submitted to the MPCB and Environment department before the project is commissioned for operation. Treated effluent emanating from STP shall be recycled/ reused to the maximum extent possible. Treatment of 100% grey water by decentralized treatment should be done. Necessary measures should be made to mitigate the odour problem from STP. b) PP to give 100 % treatment to sewage /Liquid waste and explore the possibility to recycle at least 50 % of water, Local authority should ensure this.
- IV. Project proponent shall ensure completion of STP, MSW disposal facility, green belt development prior to occupation of the buildings. As agreed during the SEIAA meeting, PP to explore possibility of utilizing excess treated water in the adjacent area for gardening before discharging it into sewer line No physical occupation or allotment will be given unless all above said environmental infrastructure is installed and made functional including water requirement.
- V. The Occupancy Certificate shall be issued by the Local Planning Authority to the project only after ensuring sustained availability of drinking water, connectivity of sewer line to the project site and proper disposal of treated water as per environmental norms.
- VI. Traffic congestion near the entry and exit points from the roads adjoining the proposed project site must be avoided. Parking should be fully internalized and no public space should be utilized.
- VII. PP to provide adequate electric charging points for electric vehicles (EVs).
- VIII. Green Belt Development shall be carried out considering CPCB guidelines including selection of plant species and in consultation with the local DFO/ Agriculture Dept.
- IX. A separate environment management cell with qualified staff shall be set up for implementation of the stipulated environmental safeguards.
- X. Separate funds shall be allocated for implementation of environmental protection measures/EMP along with item-wise breaks-up. These cost shall be included as part of the project cost. The funds earmarked for the environment protection measures shall not be diverted for other purposes.
- XI. The project management shall advertise at least in two local newspapers widely circulated in the region around the project, one of which shall be in the Marathi language of the local concerned within seven days of issue of this letter, informing that the project has been accorded environmental clearance and copies of clearance letter are available with the Maharashtra Pollution Control Board and may also be seen at Website at [parivesh.nic.in](http://parivesh.nic.in)
- XII. A copy of the clearance letter shall be sent by proponent to the concerned Municipal Corporation and the local NGO, if any, from whom suggestions/representations, if any, were received while processing the proposal. The clearance letter shall also be put on the website of the Company by the proponent.
- XIII. The proponent shall upload the status of compliance of the stipulated EC conditions, including results of monitored data on their website and shall update the same periodically. It shall simultaneously be sent to the Regional Office of MoEF, the respective Zonal Office of CPCB and the SPCB. The criteria pollutant levels namely; SPM, RSPM, SO<sub>2</sub>, NO<sub>x</sub> (ambient levels as well as stack emissions) or critical sector parameters, indicated for the project shall be monitored and displayed at a convenient location near the main gate of the

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company in the public domain.

**C) General EC Conditions:-**

- I. PP has to strictly abide by the conditions stipulated by SEAC & SEIAA.
  - II. If applicable "Consent for Establishment" shall be obtained from Maharashtra Pollution Control Board under Air and Water Act and a copy shall be submitted to the Environment department before start of any construction work at the site.
  - III. Under the provisions of Environment (Protection) Act, 1986, legal action shall be initiated against the project proponent if it was found that construction of the project has been started without obtaining environmental clearance.
  - IV. The project proponent shall also submit six monthly reports on the status of compliance of the stipulated EC conditions including results of monitored data (both in hard copies as well as by e-mail) to the respective Regional Office of MoEF, the respective Zonal Office of CPCB and the SPCB.
  - V. The environmental statement for each financial year ending 31st March in Form-V as is mandated to be submitted by the project proponent to the concerned State Pollution Control Board as prescribed under the Environment (Protection) Rules, 1986, as amended subsequently, shall also be put on the website of the company along with the status of compliance of EC conditions and shall also be sent to the respective Regional Offices of MoEF by e-mail.
  - VI. No further Expansion or modifications, other than mentioned in the EIA Notification, 2006 and its amendments, shall be carried out without prior approval of the SEIAA. In case of deviations or alterations in the project proposal from those submitted to SEIAA for clearance, a fresh reference shall be made to the SEIAA as applicable to assess the adequacy of conditions imposed and to add additional environmental protection measures required, if any.
  - VII. This environmental clearance is issued subject to obtaining NOC from Forestry & Wild life angle including clearance from the standing committee of the National Board for Wild life as if applicable & this environment clearance does not necessarily implies that Forestry & Wild life clearance granted to the project which will be considered separately on merit.
4. The environmental clearance is being issued without prejudice to the action initiated under EP Act or any court case pending in the court of law and it does not mean that project proponent has not violated any environmental laws in the past and whatever decision under EP Act or of the Hon'ble court will be binding on the project proponent. Hence this clearance does not give immunity to the project proponent in the case filed against him, if any or action initiated under EP Act.
  5. This Environment Clearance is issued purely from an environment point of view without prejudice to any court cases and all other applicable permissions/ NOCs shall be obtained before starting proposed work at site.
  6. In case of submission of false document and non-compliance of stipulated conditions, Authority/ Environment Department will revoke or suspend the Environment clearance without any intimation and initiate appropriate legal action under Environmental Protection Act, 1986.
  7. Validity of Environment Clearance: The environmental clearance accorded shall be valid as per EIA Notification, 2006, amended from time to time.
  8. The above stipulations would be enforced among others under the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986 and rules there under, Hazardous Wastes



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(Management and Handling) Rules, 1989 and its amendments, the public Liability Insurance Act, 1991 and its amendments.

9. Any appeal against this Environment clearance shall lie with the National Green Tribunal (Western Zone Bench, Pune), New Administrative Building, 1<sup>st</sup> Floor, D-Wing, Opposite Council Hall, Pune, if preferred, within 30 days as prescribed under Section 16 of the National Green Tribunal Act, 2010.

*Pravin Darade*

Pravin Darade  
(Member Secretary, SEIAA)

Copy to:

1. Chairman, SEIAA, Mumbai.
2. Secretary, MoEF & CC, IA- Division MOEF & CC
3. Member Secretary, Maharashtra Pollution Control Board, Mumbai.
4. Regional Office MoEF & CC, Nagpur
5. District Collector, Thane
6. Commissioner, Mira Bhandar Municipal Corporation
7. Regional Officer, Maharashtra Pollution Control Board, Thane





**Signature Not Verified**  
Digitally signed by Shri Pravin C.  
Darade, I.A.S.  
Member Secretary  
Date: 4/12/2023 2:39:24 PM

## EVERSMILE PROPERTIES PRIVATE LIMITED

Dated: 12<sup>th</sup> April 2023

To,  
Regional Officer,  
Maharashtra Pollution Control Board,  
5<sup>th</sup> Floor, Office Complex Building,  
Near Mulund Check Naka,  
Wagle Estate, Thane - 400604.



### Reference:

1. Proposed Directions bearing reference no. MPCB/ROT/PD/MPCB/PD/2303130002 dated 13th March 2023 issued u/s 33A of Water (Prevention & Control of Pollution) Act 1974 and / or u/s 31A of the Air (Prevention & Control of Pollution) Act 1981 vide your letter dated 13th March 2023 ("said Proposed Directions")
2. Reply to the said Notice dated 20<sup>th</sup> March 2023 addressed by us to you
3. SEIAA 257 Minutes of Meeting dated 10 March 2023 granting Environment Clearance to Srishti Namaah Project situated at Mira Road ("said Project").
4. Environment Clearance dated 12<sup>th</sup> April 2023 ("EC")

Respected Sir,

1. This is in reference to the Proposed Directions dated 13<sup>th</sup> March 2023 issued (Reference no. 1) and our reply thereon dated 20<sup>th</sup> March 2023 (Reference No. 2).
2. We, M/s. Eversmile Properties Pvt. Ltd., the Project Proponent of the said Project are addressing this letter to apprise you of the subsequent development in the matter. At the outset, we repeat and reiterate the contents of the Reply dated 20<sup>th</sup> March 2023 to the said Proposed Directions.
3. As stated in the said Reply, the application for grant of Environment Clearance after being recommended by SEAC-II in their 178<sup>th</sup> meeting held on 30<sup>th</sup> June & 1<sup>st</sup> July 2022 for the said Project was pending consideration before SEIAA, which has recently been approved by SEIAA vide their Minutes of 257 Meeting dated 10<sup>th</sup> March 2023. The copy of the EC having Identification Number EC23B039MH162099 dated 12<sup>th</sup> April 2023 and the Minutes of 257<sup>th</sup>

13/4/23

प्रादेशिक कार्यालय  
म.प्र.नि.मं.ठाणे  
कार्यालयीन संकुल इमारत,

वा मजला, मुलुंड चेकनाका जवळ,  
इस्टेट, ठाणे (प) - ४००६०४

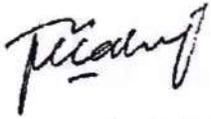
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Meeting dated 10<sup>th</sup> March 2023 are annexed herewith for your reference and records and marked as "Annexure A" & "Annexure B" respectively.

4. In view of the above it is admittedly established that there is no violation committed by the Project Proponent in respect of EC. Hence, we humbly request you to kindly withdraw the said Proposed Directions forthwith and to close the matter.
5. It may also be noted that in view of the grant of EC, further construction work at site shall be commenced by the Project Proponent by 14<sup>th</sup> April 2023.

Yours Faithfully,

For Eversmile Properties Pvt. Ltd.



Authorized signatory





**MAHARASHTRA POLLUTION CONTROL BOARD**

Tel: 24018706/24010437  
Fax: 24023516  
Website: <http://mpcb.gov.in>  
Email: [cac-call@mpcb.gov.in](mailto:cac-call@mpcb.gov.in)



Kalpataru Point, 2nd and  
4th floor, Opp. Cine Planet  
Cinema, Near Sion Circle,  
Sion (E), Mumbai-400022

Infrastructure/RED/  
Nos- Format 1.0/CC/UAN No.0000117063/CE - 2202000150

Date: 2/02/2022

To,  
M/s Eversmile Properties Pvt. Ltd., Old  
Survey Nos. 233 (Pt.), 235 (Pt.) & 256  
(Pt.), New Survey Nos. 66 (Pt.), 68 (Pt.) &  
69 (Pt.) At Village Penkarpada, Mira Road  
(East), Thane.



**Sub: Grant of Consent to Establish.**

**Ref: Minutes of Consent Appraisal Committee meeting held on 20.12.2021.**

Your application NO. MPCB-CONSENT-0000117063

For: grant of Consent to Establish under Section 25 of the Water (Prevention & Control of Pollution) Act, 1974 & under Section 21 of the Air (Prevention & Control of Pollution) Act, 1981 and Authorization / Renewal of Authorization under Rule 6 of the Hazardous & Other Wastes (Management & Transboundary Movement) Rules 2016 is considered and the consent is hereby granted subject to the following terms and conditions and as detailed in the schedule I, II, III & IV annexed to this order:

1. The Consent to Establish is granted for a period upto commissioning of project or upto 31-12-2026 whichever is earlier..
2. The capital investment of the project is Rs.1084.26 Cr. (As per undertaking submitted by pp).
3. The Consent to Establish is valid for Residential & Commercial Building construction project of M/s Eversmile Properties Pvt. Ltd. at plot bearing Old Survey Nos. 233 (Pt.), 235 (Pt.) & 256 (Pt.) & New Survey Nos. 66 (Pt.), 68 (Pt.) & 69 (Pt.), At Village Penkarpada, Mira Road (East), Thane on total plot area 37,880.24 sq. mtrs. for total construction BUA 3,04,576.76 sq. mtrs. as per Environmental Clearance and construction permission issued by Local Body including utilities and services.
4. Conditions under Water (P&CP), 1974 Act for discharge of effluent:

Sr No	Description	Permitted (in CMD)	Standards to	Disposal
1.	Trade effluent	NII	NA	NA
2.	Domestic effluent	1538	As per Schedule - I	60% recycle for secondary purposes such as toilet flushing, air-conditioning, cooling tower make up, firefighting etc. and remaining shall be utilized on land for gardening and/ or connected to local body sewer line with water metering system.



Maharashtra Pollution Control Board  
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5. Conditions under Air (P & CP) Act, 1981 for air emissions:

Stack No.	Description of stack / source	Number of Stack	Standards to be achieved
S-1 to S-3	DG Sets (3 x 910 KVA)	3	As per Schedule -II

6. Conditions under Solid Waste Rules, 2016:

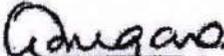
Sr No	Type Of Waste	Quantity & UoM	Treatment	Disposal
1	Bio-degradable waste	2616 Kg/Day	OWC followed by Composting	Used as a manure
2	Non-Biodegradable waste	3925 Kg/Day	Segregation	will be handed over to local authority
3	STP Sludge	150 Kg/Day	Drying	Used as a manure

7. Conditions under Hazardous & Other Wastes (M & T M) Rules 2016 for treatment and disposal of hazardous waste:

Sr No	Category No.	Quantity UoM	Treatment	Disposal
1	5.1 Used or spent oil	100 Ltr/A	Recycle	Sale to Auth. Party/ Recycler

- This Board reserves the right to review, amend, suspend, revoke etc. this consent and the same shall be binding on the industry.
- This consent should not be construed as exemption from obtaining necessary NOC/permission from any other Government agencies.
- PP shall not take effective steps towards construction unless Environment Clearance is obtained.
- PP shall provide STP of adequate capacity to achieve the treated domestic effluent standard for the parameter BOD-10 mg/lit including disinfection facility.
- The treated sewage shall be 60% recycled for secondary purposes such as toilet flushing, air-conditioning, cooling tower make up, firefighting etc. and remaining shall be utilized on land for gardening and/ or connected to local body sewer line with water metering system.
- PP shall provide organic waste digester along with composting facility/ bio-digester (biogas) for the treatment of wet garbage.
- PP shall make provision of charging ports for electric vehicles at least 30% of total available parking slots.
- PP shall submit Bank Guarantee of Rs. 25 Lakh towards compliance of Environment Clearance and Consent to Establish conditions.
- The project proponent shall take adequate measures to control dust emission and noise level during construction phase.
- This Consent is issued pursuant to the decision of 8th Consent Appraisal Committee meeting held on 20.12.2021.

For and on behalf of the  
Maharashtra Pollution Control Board.

  
(Ashok Shingare IAS).  
Member Secretary



Received Consent fee of -

Sr.No	Amount(Rs.)	Transaction/DR.No.	Date	Transaction Type
1	2168520.00	MPCB-DR-6998	18/07/2021	RTGS

Copy to:

1. Regional Officer, MPCB, Thane and Sub-Regional Officer, MPCB, Thane II  
- They are directed to ensure the compliance of the consent conditions.
2. Chief Accounts Officer, MPCB, Sion, Mumbai
3. CAC-Cell, M.P.C. Board, Sion, Mumbai.



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# Maharashtra Pollution Control Board

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### SCHEDULE-I

#### Terms & conditions for compliance of Water Pollution Control:

- 1) A) As per your application, you have proposed to provide Sewage Treatment Plants (STPs) of designed capacity 1540 CMD for the treatment of 1538 CMD domestic effluent.
- B) The Applicant shall operate the sewage treatment plant (STP) to treat the sewage so as to achieve the following standards prescribed by the Board or under EP Act, 1986 and Rules made there under from time to time, whichever is stringent.

Sr.No	Parameters	Limiting concentration not to exceed in mg/l, except for pH
1	pH	5.5-9.0
2	BOD	10
3	COD	50
4	TSS	20
5	NH4 N	5
6	N-total	10
7	Fecal Coliform	less than 100

C) The treated domestic effluent shall be 60% recycled for secondary purposes such as toilet flushing, air-conditioning, cooling tower make up, firefighting etc. and remaining shall be utilized on land for gardening and/ or connected to local body sewer line with water metering system.

- 2) The Board reserves its rights to review plans, specifications or other data relating to plant setup for the treatment of waterworks for the purification thereof & the system for the disposal of sewage or trade effluent or in connection with the grant of any consent conditions. The Applicant shall obtain prior consent of the Board to take steps to establish the unit or establish any treatment and disposal system or and extension or addition thereto.
- 3) The industry shall ensure replacement of pollution control system or its parts after expiry of its expected life as defined by manufacturer so as to ensure the compliance of standards and safety of the operation thereof.
- 4) The Applicant shall comply with the provisions of the Water (Prevention & Control of Pollution) Act, 1974 and as amended, and other provisions as contained in the said act.

Sr. No.	Purpose for water consumed	Water consumption quantity (CMD)
1.	Industrial Cooling, spraying in mine pits or boiler feed	0.00
2.	Domestic purpose	1733.00
3.	Processing whereby water gets polluted & pollutants are easily biodegradable	0.00
4.	Processing whereby water gets polluted & pollutants are not easily biodegradable and are toxic	0.00

- 5) The Applicant shall provide Specific Water Pollution control system as per the conditions of EP Act, 1986 and rule made there under from time to time.



**SCHEDULE-II**

**Terms & conditions for compliance of Air Pollution Control:**

- 1) As per your application, you have proposed to provide the Air pollution control (APC) system and also proposed to erect following stack (s) and to observe the following fuel pattern-

Stack No.	Stack Attached To	APC System	Height in Mtrs.	Type of Fuel	Quantity & UoM
S-1 to S-3	DG Set (3 x 910 KVA)	Acoustic Enclosure/ Stack	6	HSD	660 Kg/Hr

- 2) The applicant shall operate and maintain above mentioned air pollution control system, so as to achieve the level of pollutants to the following standards.

Total Particular matter	Not to exceed	150 mg/Nm <sup>3</sup>
-------------------------	---------------	------------------------

- 3) The Applicant shall obtain necessary prior permission for providing additional control equipment with necessary specifications and operation thereof or alteration or replacement/alteration well before its life come to an end or erection of new pollution control equipment.
- 4) The Board reserves its rights to vary all or any of the condition in the consent, if due to any technological improvement or otherwise such variation (including the change of any control equipment, other in whole or in part is necessary).
- 5) **Conditions for utilities like Kitchen, Eating Places, Canteens:-**
- The kitchen shall be provided with exhaust system chimney with oil catcher connected to chimney through ducting.
  - The toilet shall be provided with exhaust system connected to chimney through ducting.
  - The air conditioner shall be vibration proof and the noise shall not exceed 68 dB(A).
  - The exhaust hot air from A.C. shall be attached to Chimney at least 5 mtrs. higher than the nearest tallest building through ducting and shall discharge into open air in such a way that no nuisance is caused to neighbors.

**SCHEDULE-III**

**Details of Bank Guarantees:**

Sr. No.	Consent (C2E, C2O, C2R)	Amt of BG Imposed	Submission Period	Purpose of BG	Compliance Period	Validity Date
1	C2E	2500000	Within 15 days	Towards compliance of Environment Clearance & Consent to Establish conditions	31.12.2026	30.04.2027

\*\* The above Bank Guarantee(s) shall be submitted by the applicant in favour of Regional Officer at the respective Regional Office within 15 days of the date of issue of Consent.  
# Existing BG obtained for above purpose if any may be extended for period of validity as above.

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Maharashtra Pollution Control Board  
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**BG Forfeiture History**

Srno.	Consent (C2E/C2O/C2R)	Amount of BG Imposed	Submission Period	Purpose of BG	Amount of BG Forfeiture	Reason of BG Forfeiture
NA						

**BG Return details**

Srno.	Consent (C2E/C2O/C2R)	BG imposed	Purpose of BG	Amount of BG Returned
NA				

**SCHEDULE-IV**

**Conditions during construction phase**

A	During construction phase, applicant shall provide temporary sewage and MSW treatment and disposal facility for the staff and worker quarters.
B	During construction phase, the ambient air and noise quality shall be maintained and should be closely monitored through MoEF approved laboratory.
C	Noise should be controlled to ensure that it does not exceed the prescribed standards. During night time the noise levels measured at the boundary of the building shall be restricted to the permissible levels to comply with the prevalent regulations.

**General Conditions:**

- 1 The applicant shall provide facility for collection of samples of sewage effluents, air emissions and hazardous waste to the Board staff at the terminal or designated points and shall pay to the Board for the services rendered in this behalf.
- 2 The firm shall strictly comply with the Water (P&CP) Act, 1974, Air (P&CP) Act.1981 and Environmental Protection Act 1986 and Solid Waste Management Rule 2016, Noise (Pollution and Control) Rules, 2000 and E-Waste (Management & Handling Rule 2011.
- 3 Drainage system shall be provided for collection of sewage effluents. Terminal manholes shall be provided at the end of the collection system with arrangement for measuring the flow. No sewage shall be admitted in the pipes/sewers downstream of the terminal manholes. No sewage shall find its way other than in designed and provided collection system.
- 4 Vehicles hired for bringing construction material to the site should be in good condition and should conform to applicable air and noise emission standards and should be operated only during non-peak hours.
- 5 Conditions for D.G. Set
  - a) Noise from the D.G. Set should be controlled by providing an acoustic enclosure or by treating the room acoustically.
  - b) Industry should provide acoustic enclosure for control of noise. The acoustic enclosure/ acoustic treatment of the room should be designed for minimum 25 dB (A) insertion loss or for meeting the ambient noise standards, whichever is on higher side. A suitable exhaust muffler with insertion loss of 25 dB (A) shall also be provided. The measurement of insertion loss will be done at different points at 0.5 meters from acoustic enclosure/room and then average.
  - c) Industry should make efforts to bring down noise level due to DG set, outside industrial premises, within ambient noise requirements by proper siting and control measures.



- d) Installation of DG Set must be strictly in compliance with recommendations of DG Set manufacturer.
- e) A proper routine and preventive maintenance procedure for DG set should be set and followed in consultation with the DG manufacturer which would help to prevent noise levels of DG set from deteriorating with use.
- f) D.G. Set shall be operated only in case of power failure.
- g) The applicant should not cause any nuisance in the surrounding area due to operation of D.G. Set.
- h) The applicant shall comply with the notification of MoEFCC, India on Environment (Protection) second Amendment Rules vide GSR 371(E) dated 17.05.2002 and its amendments regarding noise limit for generator sets run with diesel.
- 6 Solid Waste - The applicant shall provide onsite municipal solid waste processing system & shall comply with Solid Waste Management Rule 2016 & E-Waste (M & H) Rule 2011.
- 7 Affidavit undertaking in respect of no change in the status of consent conditions and compliance of the consent conditions the draft can be downloaded from the official web site of the MPCB.
- 8 Applicant shall submit official e-mail address and any change will be duty informed to the MPCB.
- 9 The treated sewage shall be disinfected using suitable disinfection method.
- 10 The firm shall submit to this office, the 30th day of September every year, the environment statement report for the financial year ending 31st march in the prescribed Form-V as per the provision of rule 14 of the Environmental (Protection) Second Amended rule 1992.
- 11 The applicant shall obtain Consent to Operate from Maharashtra Pollution Control Board before commissioning of the project.



For and on behalf of the  
Maharashtra Pollution Control Board.

*Ashok Shingare*  
(Ashok Shingare IAS), -  
Member Secretary



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Maharashtra Pollution Control Board  
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Kindly verify Maharashtra Pollution Control Board's document on Blockchain by scanning the QR code.  
<https://blockchain.ecmpcb.in/docs/d1f1b3c9443e05de29a39bc5b498ea48bd54bc24ef40c196c3df3a88375f6837>

## MAHARASHTRA COASTAL ZONE MANAGEMENT AUTHORITY

Tel. No. : 22029388  
 E-mail : [dir1.mev-mh@nic.in](mailto:dir1.mev-mh@nic.in)  
 Website: <https://mczma.gov.in/>

No. CRZ - 2018 / CR - 273 / TC - 4  
 Office of the -  
 Maharashtra Coastal Zone Management Authority,  
 Environment Department, 15<sup>th</sup> floor,  
 New Administrative Building, Mantralaya,  
 Mumbai- 400 032.  
 Date: 07<sup>th</sup> June 2019

To,  
 M/s. Eversmile Properties Pvt. Ltd,  
 75, Old Block Factory, Sector-I,  
 Shrishti Housing Complex,  
 Penkar pada, Mira Road (East),  
 Thane - 401 104

**Subject:** Proposed development of residential building known as Srishti Sector II - A plot bearing S. No. 235(pt) & 256 (pt) (New S. No. 68 (pt) & 69 (pt), village Penkarpada, Mira Road (E), Dist. Thane by M/s Eversmile Properties Pvt. Ltd.

The proposal of development of residential building known as Srishti Sector II - A plot bearing S. No. 235(pt) & 256 (pt) (New S. No. 68 (pt) & 69 (pt), village Penkarpada, Mira Road (E), Dist. Thane by M/s Eversmile Properties Pvt. Ltd. was deliberated in the 132<sup>nd</sup> meeting of Maharashtra Coastal Zone Management Authority (MCZMA) held on 24<sup>th</sup> April, 2019.

2. The Authority noted that, the Mira Bhayandar Municipal Corporation vide letter dated 03.09.2018 (received on 14.09.2018) forwarded the proposal for development of residential building known as Srishti Sector II - A plot bearing S. No. 235(pt) & 256 (pt) (New S. No. 68 (pt) & 69 (pt), village Penkarpada, Mira Road (E), Dist. Thane. The proposal is for construction of residential building with shop line consist of 2 basement for parking + ground floor for shops, parking + 1<sup>st</sup> to 20<sup>th</sup> Upper floor for residential purpose. The plot is vacant. Total area of plot: 4,730.48sqm, Built up area: 8,016.90sqm and Total Construction area: 16,522.87sqm

3. The PP presented that the plot under reference falls partially in CRZ II and partially in Non CRZ. area and it is situated on the landward side of existing DP road prior to 1991. As per the Development Plan of MBMC, the site falls in residential zone. The PP has submitted the CRZ map in 1:4000 scale as per which, the plot under reference is partly in CRZ area and partly situated in Non CRZ area. The PP presented that FSI has been computed based on the FSI potential of the part of the plot in CRZ, as per DCR existing as on 19.2.1991. Current town & country planning regulations were considered for the FSI potential of the part of the plot which is Non CRZ. The Authority noted that the construction of the building is permissible in CRZ II areas and on landward side of the existing road or existing authorized structure subject to DCR existing as on 19.2.1991, in accordance with para 8.II. CRZ II of the CRZ Notification, 2011.

4. The Authority after discussion decided to recommend the proposal to concerned planning Authority from CRZ point of view under CRZ Notification, 2011 subject to compliance of following conditions:

**Specific conditions:**

- i. The proposed reconstruction should be carried out strictly as per the provisions of CRZ Notification, 2011 (as amended from time to time) and guidelines/ clarifications given by MoEF from time to time.

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- i. Buildings permitted on the landward side of the existing and proposed roads or existing authorized structures shall be subject to the existing local town and country planning regulations including the 'existing' norms of Floor Space Index or Floor Area Ratio. Provided that no permission for construction of buildings shall be given on landward side of any new roads which are constructed on the seaward side of an existing road.
  - ii. The concerned planning Authority should strictly ensure that the FSI of CRZ II portion of the plot should be restricted to permissible FSI as per DCR existing as on 19.2.1991.
  - iii. All other required permission from different statutory authorities should be obtained prior to commencement of work.

**General Conditions:**

- i. The MCZMA reserves the right to revoke this recommendation, if the conditions stipulated are not complied with to the satisfaction of the MCZMA or Environment Department.
  - ii. The MCZMA or any other competent authority, may stipulate any additional conditions subsequently, if deemed necessary, for environmental protection, which shall be complied with.
  - iii. A copy of the recommendation letter shall be marked to the concerned local body/ local NGO, if any, from whom any suggestion/ representation has been received while processing the proposal.
  - iv. The environmental safeguard measures should be implemented in letter and spirit.
  - v. The recommendation from CRZ point of view is being issued without prejudice to the action initiated under EP Act or any court case pending in the court of law and it does not mean that project proponent has not violated any environmental laws in the past and whatever decision under EP Act or of the Hon'ble court will be binding on the project proponent. Hence this recommendation does not give immunity to the project proponent in the case filed against him, if any or action initiated under EP Act.
5. The agenda item and minutes are also available on the website of MCZMA i.e. <http://mczma.gov.in>.

  
(S. K. Nikam)  
Director, Environment  
& Member Secretary, MCZMA

**Copy for information to:**

1. Principal Secretary, Environment & Chairman, MCZMA, Environment Dept, Room No. 217, Annexe Building, Mantralaya, Mumbai.
2. Director (IA-III), Coastal Zone Regulation, Government of India, Ministry of Environment, Forests & Climate Change, Indira Paryavaran Bhavan, Jor Bagh Road, New Delhi - 110 003.
3. Member Secretary, Maharashtra Pollution Control Board (MPCB), 3<sup>rd</sup> and 4<sup>th</sup> Floor, Kalpataru Point, Sion, Mumbai
4. Municipal Commissioner, Mira Bhayandar Municipal Corporation, Indira Gandhi Bhavan, Chhatrapati Shivaji Maharaj Marg, Bhaindar West, Mira Bhaindar, Thane - 401 101
5. District Collector Thane, Court Naka, Thane (West) - 400601
6. Select File- TC 4

Minutes of 165th meeting of the Maharashtra Coastal Zone Management  
Authority held on 8<sup>th</sup> March, 2023

**Item No. 25:** CRZ status for plot bearing S. no. 233 of village Penkarpada at Mira Road, Dist. Thane by M/s Eversmile Properties Pvt. Ltd.

**INTRODUCTION:**

The Project proponent presented the proposal before the Authority. The PP is seeking CRZ status for plot bearing S. no. 233 of village Penkarpada at Mira Road, Dist. Thane.

**DELIBERATIONS:**

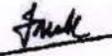
The PP during the meeting presented that the MCZMA vide letter dated 7<sup>th</sup> June, 2019 has granted the CRZ recommendation to proposed development of residential building known as Srishti Sector II- A plot bearing S. No. 235(pt) and 256(pt) (New S. No. 68(pt) & 69 (pt) village penkarpada, Mira Road (E), District Thane by M/s Evershire Properties Pvt Ltd.

Now, additional land comprised in S.N No. 233(pt), New S. No. 66(pt) of village Penkarda is attached to S. No. 235 (pt) & 256(pt) of village Penkarpada and development is proposed on entire land comprised in S. No. 233 (pt), 235 (pt) & 256 (pt) New S. No. 66 (pt), 68(pt) & 69(pt) respectively of village Penkarpada at Mira Road.

PP presented that at final CZMP under CRZ Notification, 2011, the land bearing S. No. 233 (pt), New S No. 66(pt) of village penkarpada does not fall under CRZ area. Further, the PP has submitted CRZ map in 1:4000 scale & report dated November, 2017 prepared by IRS Chennai, on which S. No, 233 is superimposed on the demarcated carried out by IRS, Chennai. From the said map also it is clear that the said survey no does not fall in CRZ area.

The Authority observed the location of the S. No. 233(new S. No. 66) on the approved CZMP under CRZ Notification, 2011 and noted that the said survey no is beyond CRZ area.

  
Member Secretary

  
Chairman

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*Minutes of 165th meeting of the Maharashtra Coastal Zone Management  
Authority held on 8<sup>th</sup> March, 2023*

**DECISION:**

After deliberation, considering the CZMP in force and CRZ map of the IRS, Chennai, the Authority decided that the plot bearing S. no. 233 ( New S. No. 66) of village Penkarpada at Mira Road, Dist. Thane is situated outside CRZ area as per approved CZMP under CRZ Notification, 2011.

-----Meeting ended with vote of thanks to chair-----

**Annexure I**

List of members/officials present in the online meeting:

1. Dr. Mahesh Shindikar, College of Engineering, Pune, Expert Member, MCZMA
2. Mr. Maruti Kudale, Ex Director, CWPRS, Expert Member, MCZM
3. Mr. Sunil Bhat, Dyche. MCGM, Member MCZMA
4. Mr. Abhay Pimparkar, Director, Environment & CC and Member Secretary, MCZMA



  
Member Secretary

  
Chairman

# Tej's

## CONSULTANTS

BASAVARAJ S. GADEKAR  
BE (Civil)

VIJAYALAXMI B. GADEKAR  
DArch.

Consulting Civil Engineers  
& Asst. Architects

Mob : 9820195711

Off : 9619905711

E-mail : consultingarchitect9@gmail.com

Ref No.: AR-323/2023

Date: 21.04.23

To,  
The Municipal Commissioner / A.D.T.P.,  
Mira Bhayandar Municipal Corporation,  
Kanakia, Mira Road (East),  
Dist. Thane.



**Sub:** CC for the buildings in Sector IIA situated on land bearing S. No: 63)231(, 65)232(, 66)233(, 67)234(, 68)235(, 64/2)240/2(, 39)207(, 49)217(, 50)218(, 51)219(, 52)220(, 60/1, 2)228/1,2(, 61)229(, 62/1,2)230/1,2(, 4)175(, 79)187(, 71)226(, 74)238(, 76)239(, 77)244(, 78)255(, 69)256(, 70)257(, 75)258), Village - Penkarpada, Srishti housing Complex, Mira Road (East), Dist. - Thane.

Ref: 1) C.C. No. MNP/NR/4622/2021-22 dated: 31 March 2022

2) Environment Clearance Identification No. EC23B039MH162099 dated: 12 April 2023

**Respected Sir,**

We write to you on behalf of our client, M/S. Eversmile Properties Pvt. Ltd.

We hereby inform you that SEIAA has awarded EC for the above-mentioned project on 12 April 2023. We request your kind attention to condition number 26 of the CC under reference, which mentions that after receiving the No Objection Certificate from the Environment Department of the Government and submitting it to the Municipal Corporation, the further construction permission would be allowed with the prior permission of the Municipal Corporation.

In view of the same, we are submitting the copy of Environmental Clearance dated: 12 April 2023 issued by the SEIAA Authorities for the proposed work and grant us further construction permission as per the approved plans dated: 31 March 22.

We bring your kind attention to the Minutes of 257 (Day 4) (Part B) meeting of SEIAA dated 10 March 2023, wherein it has been specifically stated, that NGT has not passed any adverse orders in respect of said project. The Minutes of Meeting are attached herewith.

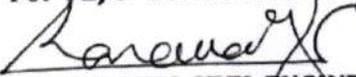
We also like to state that we shall restrict the construction upto areas mention in EC. As per Condition No. B-5 (SEIAA conditions) of EC, permission has been granted for FSI area -1,85,303.99 sq.mt., non FSI area 1,38,352.19 sq.mt. and total BUA - 3,23,656.18 sq.mt.

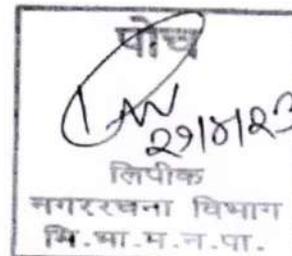
Considering the above and C.C. dated: 31 March 2022, please issue revised CC for the areas mentioned in the attached annexure A.

We would like to state that we shall abide by all the terms and conditions of the EC.

Kindly issue required letter at the earliest and oblige

For TEJ'S CONSULTANTS

  
CONSULTING CIVIL ENGINEER  
(BASAVARAJ GADEKAR)  
MNP/NR/2632/2020-2021



2067

# Tej's

## CONSULTANTS

BASAVARAJ S. GADEKAR  
BE (Civil)

VIJAYALAXMI B. GADEKAR  
DArch.

Consulting Civil Engineers  
& Asst. Architects

Mob : 9820195711

Off : 9619905711

E-mail : consultingarchitect9@gmail.com

Ref. No.: AR-324 | 2023

Date



### Annexure A

Building	Floors	FSI Area (Sq. mt.)	Non-FSI Area (Sq. mt.)
Wing 'A'	2 basement + Stilts + 2 part Podiums + 1 to 33 floors	20,622.96	2,529.40
Wing 'B'	2 basement + Stilts + 2 part Podiums + 1 to 33 floors	20,401.06	2,668.03
Wing 'C'	2 basement + Stilts + 2 part Podiums + 1 to 33 floors	19,683.21	2,534.46
Wing 'D'	2 basement + Stilts + 2 part Podiums + 1 to 33 floors	19,219.74	3,218.14
Wing 'E'	2 basement + Stilts + 2 part Podiums + 1 to 31 floors	20,155.07	3,265.92
Wing 'F'	2 basement + Stilts + 2 part Podiums + 1 to 31 floors	20,168.67	3,246.58
Wing 'G'	2 basement + Stilts + 2 part Podiums + 1 to 31 floors	20,161.19	2,754.09
Wing 'H'	2 basement + Stilts + 2 part Podiums + 1 to 31 floors	20,084.48	2,805.23
Wing 'K'	2 basement + Stilts + 1 part podium	2,888.31	2,124.27
Wing 'L'	2 basement + Stilts + 2 part Podiums + 1 to 31 floors	16,400.29	2,250.85
Club House	1 basement + Stilts + 1 part Podiums	683.54	672.91
-	2 basements + stilts + 2 podium beyond building line	--	1,10,282.31
<b>Total FSI Area</b>		<b>1,80,468.52</b>	<b>1,38,352.19</b>
<b>GROSS CONSTRUCTION AREA</b>		<b>3,18,820.71</b>	

For TEJ'S CONSULTANTS

CONSULTING CIVIL ENGINEER

(BASAVARAJ GADEKAR)

MNP/NR/2632/2020-2021

2068

**BEFORE THE HON'BLE NATIONAL  
GREEN TRIBUNAL  
WESTERN ZONE, BENCH PUNE  
MEMORANDUM OF APPLICATION  
UNDER SECTION 14, 15, 18, 20 & 23 OF NGT  
ACT, 2010  
r/w RULE NO. 24 OF NGT (P&P) RULES,  
2011  
ORIGINAL APPLICATION NO. 107/2022  
(WZ)**

**In the matter between:**

Mr. Irba Mashnaji Konapure & Anr. Applicants  
Versus

Union of India & Ors.

Respondents  
Kh  
F



**ADDITIONAL AFFIDAVIT ON BEHALF  
OF RESPONDENT NO.11**

Dated this            day of April 2023

**Advocate Saket Mone  
Advocate Abhishek Salian  
Advocate Shrey Shah  
Advocate Srushti Thorat  
Advocate Devansh Shah**  
Advocates for the Respondent No.11  
2<sup>nd</sup> Floor, Darabshaw House,  
Shoorji Vallabdas Marg, Ballard Estate,  
Mumbai 400 001