

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE BENCH AT PUNE  
APPEAL NO. 23/2023 (WZ)**

**IN THE MATTER OF**

Protection of Environment and Public Service Committee

... Appellants

Versus

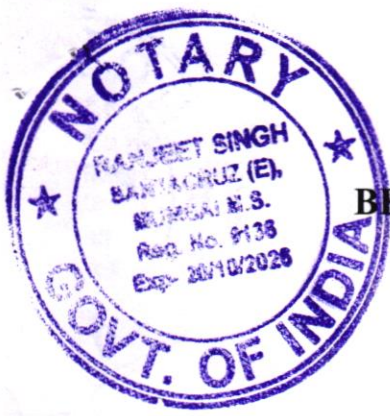
Union of India & Ors.

... Respondents

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**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE BENCH AT PUNE  
APPEAL NO. 23/2023 (WZ)**

**IN THE MATTER OF:**

Protection of Environment and Public  
Service Committee

... Appellant

Versus

Union of India & Ors.

... Respondents

**AFFIDAVIT IN REPLY ON BEHALF OF THE  
RESPONDENT NO. 11 TO THE APPEAL :**

I, Vinit Barde, aged 41 years, the Authorised Signatory of the Respondent No.11, having office address at 75, Old Block factory, Sector-1, Shristi Housing Complex, Village Penkarpada, Mira Road, District Thane, Maharashtra-401 104 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 Affidavit. I have perused and made myself conversant with the contents and record pertaining to the present Appeal and I am otherwise aware of the facts and circumstances of the present case from personal knowledge as also office records and thus, competent to depose the same. I say that I am filing the present Affidavit

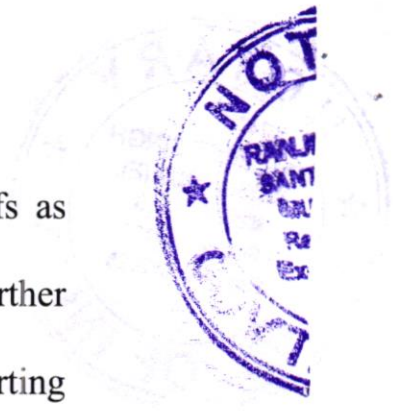
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in Reply for the limited purpose of opposing the reliefs as sought for by the Appellant. I crave leave to file a further detailed affidavit/additional affidavit along with supporting documents if the circumstances so warrant.

2. At the outset, I dispute and deny each and every averment made in the present Appeal which is contrary to and/or inconsistent with that which is stated in the present Affidavit and humbly submit that nothing contained in the Appeal shall be deemed to have been admitted by or on behalf of the Respondent No.11, merely for want of specific traverse. I clarify and submit that the averments made herein are in the alternative and without prejudice to one another.

**BRIEF DESCRIPTION OF THE RESPONDENT NO. 11**

3. Respondent No.11 herein a leading real estate company indulged in the construction and development of the real estate. As a part of their business, the Respondent No. 11 took up developing a residential project on land bearing Old Survey No. 233 (P), 235 (P), 256 (P) and New Survey Nos. 66 (P), 68 (P), 69 (P) at Village Penkarpada, District: Thane, Maharashtra 401104 under the name and style of "Srishti Namaah" ("**said project**").





4. The Appellant has filed the captioned Appeal *inter alia* challenging the alleged *Ex-post Facto* Environment Clearance dated 12.04.2023 granted by Respondent No. 3 – SEIAA for the said project.

#### PRELIMINARY OBJECTIONS

5. Before dealing with the Appeal on merits, I submit that the present Appeal ought to be rejected at the threshold by this Hon'ble Tribunal on the following preliminary objections:

#### *No locus-standi to file the captioned Appeal.*

6. Respondent No. 11 submits that this Hon'ble Tribunal ought not to entertain the captioned Appeal as it is devoid of *locus standi* necessary to invoke the jurisdiction of this Hon'ble Tribunal. The Appellant is a Public Charitable Trust registered in Somnath, Gujarat and the head office of the same is situated at Sutrapada. The Appellant has stated that it has an alleged office at Belasis Road, Mumbai Central, only with the intention to try to draw some nexus to the project of the Respondent No. 11. However, without prejudice to the above and even if the same is considered to be true, the said office is 38 km away from the location of the said project, which is situated at Mira



Road, District Thane. Therefore, the Appellant is in no way affected by the Respondent No. 11's project.

7. It is a well settled principle of law that a stranger cannot be permitted to interfere in any proceedings unless he satisfies the Court/Tribunal that he is an affected and/or genuine aggrieved party. Section 16 of the NGT Act starts with the opening words "*Any person aggrieved by...*" can approach the Hon'ble Tribunal invoking its Appellate Jurisdiction. A bare perusal of the captioned Appeal would show that the Appellant is not an "*Aggrieved person*" for the purpose of Section 16 of the NGT Act and hence, the present Appeal is liable to be rejected.
8. I say that by merely stating that the primary objective of the Trust is the protection of environment does not make the Appellant a "*person aggrieved*" within the meaning of Section 16 of the National Green Tribunal Act, 2010.
9. The Hon'ble Supreme Court in Civil Appeal No. 2407-2412 of 2021, ***The State of Uttar Pradesh & Ors. vs. Uday Education and Welfare Trust & Anr.*** and connected cases, has held that when issues and objections to the credentials and *bonafides* of litigants approaching the National Green Tribunal are seriously



raised, the same cannot be ignored. Before a litigant is permitted to knock the doors of justice and seek orders which have far reaching effects of affecting the employment of thousands of persons, stopping investment in the State, prejudicing the interests of the farmers; the credentials and *bonafides* of the Applicants must be tested. The Hon'ble Supreme Court, therefore, laid stress that when credentials and *bonafides* of such litigants are seriously raised and when entertaining the grievance of such litigants, which is likely to affect the rights of many, the National Green Tribunal should ensure the *bonafides* and credentials of such litigants. The Hon'ble Supreme Court also observed that the Tribunal must examine questions as to what the aims and objectives of the Applicants were and what are their sources of funding etc. Merely filing some Public Interest Litigations in the past would not suffice.

10. I say that the Appellant has similarly relied on the fact that it has filed Appeals against various orders, clearances, granted by the government authorities and other Original Applications along with Writ Petitions and Special Leave Petitions in the Gujarat High Court and the Hon'ble Supreme Court of India,



however, the same does not suffice to ensure the *bonafides* of the Appellant as not a single person who may be said to be a resident of Village Penkarpada, District: Thane, Maharashtra allegedly affected by the Project of the Respondent No. 11 is before the Hon'ble Tribunal. Therefore, a serious shadow of doubt is cast upon the credentials and *bonafides* of the Appellant to maintain the present Appeal and it cannot be said to be a 'person aggrieved' within the meaning of Section 16 of the National Green Tribunal Act, 2010 and, therefore, this Appeal is not maintainable at the behest of the Appellant.

***Suppression of Material Fact***

11. I say that the Appellant has, for reasons best known to it, suppressed the fact that there is a pending Original Application being OA No. 107 of 2022 before this Hon'ble Tribunal with respect to the same project,
12. It is submitted that under Section 16 of the NGT Act, it is the Order granting EC which is required to be challenged. In the present case, the Appellant has not challenged the Order dated 10<sup>th</sup> March 2023 granting EC passed by SEIAA. In fact, the Appeal is filed challenging the EC and future alleged non-



compliances mentioned therein. Therefore, the present Appeal requires to be dismissed.

13. The Appellant is guilty of blatantly suppressing vital material facts, and in doing so the Appellant has engaged in *suggestio veri* and *suppression falsi* with a view to mislead and prejudice this Hon'ble Tribunal.

### **REQUIREMENT OF EC:**

14. The Respondent No. 11 states that as per EIA notification issued on 14<sup>th</sup> September, 2006 (“EIA notification”) an Environmental Clearance is required to be obtained for construction activity beyond the threshold of 20,000 sq. mtrs.

### **Scheme of the EIA Notification 2006 and requirement EC**

- 14.1. On 14<sup>th</sup> September 2006, the earlier EIA Notification was superseded by the EIA Notification, 2006. Clause 2 of the EIA Notification, 2006 sets out the requirement of obtaining prior Environmental Clearance in respect of industries enumerated in the Schedule to the Notification. Clause 2 reads as follows:

#### ***“2. Requirements 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."*

15. In the Schedule to the said Notification, items 8(a) and 8(b) relate to building and construction projects which says that any construction in excess of 20,000 sq. mtrs. built-up area for



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covered construction would require prior Environmental Clearance.

16. The Hon'ble Bombay High Court in judgment dated 6 March 2013 in *Writ Petition (O.S.) (L) No. 470 of 2013(M/s. Saumya Buildcon Pvt. Ltd. Vs Union of India & ors)* had the occasion to examine whether EC is required to be obtained prior to completion of construction activity upto 20,000 sq. mtrs. The Bombay High Court after considering all relevant aspects, categorically held that no EC is required as long as the construction is below the threshold limit set in the EIA notification of 20,000 sq. mtrs. Relevant portion of the judgment is produced hereinbelow, for sake of ready reference;
- “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*



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as the developer has made construction upto 20,000 sq. meters.”

17. Furthermore, on 24<sup>th</sup> March 2014 the Hon'ble Bombay High Court in *W. P. (L)No.655 of 2013*, relying on the case detailed out hereinabove, reiterated that no EC is required for residential or commercial project where construction is below 20,000 sq. mtrs.
18. Accordingly, in pursuance of the orders of the Hon'ble Bombay High Court, the Principal Secretary, Environment Department has issued a Circular No. ENV/2013/CR39/TC-1 dated 21<sup>st</sup> April 2015, *inter alia* holding that proposed construction below 20,000 sq. mtrs. may not be considered as violation of EIA notification 2006. The aforesaid circular is valid, legal and subsisting and has not been challenged in any proceeding. Hereto annexed and marked as **Exhibit A Colly** is a copies of the judgment dated 24<sup>th</sup> March, 2014 and circular dated 21<sup>st</sup> April, 2015.
19. The Hon'ble Bombay High Court in *Criminal Writ Petition No. 3607 of 2018 (M/s. Sancheti Properties and Ors. Vs. Maharashtra Pollution Control Board & Anr.)*, when a Petition

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was filed against the order of issuance of process passed by the learned Judicial Magistrate First Class, Pune holding that if the construction is below 20,000 sq. meters, such clearance is not required and it cannot be said that there is breach of law or rules under the Environment (Protection) Act, 1986. The Hon'ble Bombay High Court has taken a similar approach in *Criminal Application No. 732 of 2016 (M/s. Suncity Corporation & Anr. Vs Maharashtra Pollution Control Board & Anr.)* and *Criminal Application No. 229 of 2018 (M/s. PS Developers & Ors. Vs. Maharashtra Pollution Control Board & Anr.)* Hereto annexed and marked as **Exhibit B Colly** are copies of the judgment dated 24.10.2018 in *Criminal Writ Petition No. 3607 of 2018*, judgment dated 26.07.2017 in *Criminal Application No. 732 of 2016* and, judgment dated 15.03.2019 in *Criminal Application No. 229 of 2018* passed by the Hon'ble Bombay High Court.

20. Even this Hon'ble Tribunal has taken the same view in similar matters filed for quashing Environmental Clearance. Vide Judgment dated 03.04.2023 passed in Appeal No. 26 of 2020 (WZ) *Ajay Jayvantrao Bhosale v Union of India and Ors.*, this Hon'ble Tribunal has dismissed the Appeal filed challenging the Environmental Clearance on similar grounds. Hereto



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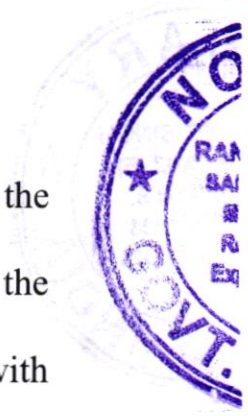
annexed and marked as Exhibit C is the copy of the judgment dated 03.04.2023 passed in Appeal No. 26 of 2020 by this Hon'ble Tribunal.

21. Further, even the SEIAA while deliberating the other proposals in its Meetings have accepted the Circular dated 21<sup>st</sup> April 2015 and observed that construction upto 20,000 sq. mtrs. can't be considered as violation of EIA Notification, 2006. Thus, the Appellant has incorrectly portrayed that the Respondent No. 11 has constructed more than 20,000 sq. mtrs without EC.

**EC OBTAINED AFTER FOLLOWING DUE PROCESS OF LAW:**

22. The Respondent No.11 submitted an application for EC to SEIAA on 6<sup>th</sup> April 2022 for total construction Area of 3,23,656.18 sq. mtrs which includes FSI area of 1,85,303.99 sq. mtrs. for 12 Residential Buildings with shops, which falls under 8 (b) B-1 category of the EIA Notification 2006. It is pertinent to note at this juncture that the construction at the project site was being carried out by the Respondent No. 11 as per the relevant revised Commencement Certificate which was below the threshold limit of below 20,000 sq. mtrs. The proposal for consideration of the EC application was listed in the 178<sup>th</sup>

B



Meeting of SEAC –II on 30<sup>th</sup> June 2022 & 1<sup>st</sup> July 2022. In the said Meeting, after deliberation, SEAC-II recommended the proposal of Respondent No. 11 to SEIAA for grant of EC with certain terms and conditions. Hereto marked and annexed as **Exhibit D** is the copy of the Application dated 6<sup>th</sup> April 2022 for EC and **Exhibit E** copy of 178<sup>th</sup> Minutes of Meeting held by SEAC –II.

23. Thereafter, the proposal of Respondent No. 11 was listed before SEIAA in its 249<sup>th</sup> Meeting on 26<sup>th</sup> August 2022, wherein the proposal was deliberated and during the meeting, direction was given to produce the approved plans as sanctioned by MBMC and accordingly the proposal was deferred. In compliance of the directions issued by SEIAA, the Respondent No. 11 uploaded the approved plans and accordingly vide letter dated 6<sup>th</sup> September 2022 requested SEIAA to list the project for appraisal in their forthcoming meeting. Hereto marked and annexed **Exhibit F** is a copy of the 249<sup>th</sup> Minutes of Meeting of SEIAA held on 26<sup>th</sup> August 2022. The proposal of Respondent No. 11 was listed during the 252<sup>nd</sup> & 253<sup>rd</sup> meetings of SEIAA. However, the proposal could not be taken up/deliberated.



24. 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 G** 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 H** 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.
25. In any case, on the plain reading of EIA Notification dated 14.09.2006, the requirement of Environment Clearance is if the construction exceeds 20,000 sq. mtrs of built-up area. The legislature in its wisdom has chosen to bring construction above 20,000 sq. mtrs within the ambit of EC. In the present case, admittedly, the construction at site is well below 20,000 sq. mtrs and thus, the question of any violation does not arise.

**NO VIOLATION OF CRZ NOTIFICATION, 1991 AND**  
**TERMS AND CONDITIONS OF CRZ CLEARANCE:**



26. The Respondent No. 11 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 an area of 4730.48 sq. mts, and accordingly submitted building plans to planning authority i.e., MBMC on 01.02.2018. Since the aforesaid two survey nos. were partially falling in CRZ II, the Respondent No. 11 submitted the proposal to MCZMA, seeking a NOC for development as per CRZ Notification 2011. The Respondent No. 11 further submits that in respect of the aforesaid CRZ-II impacted portion, it has already obtained requisite NOC dated 07.06.2019 from MCZMA as per CRZ Notification 2011. Despite the aforesaid NOC, as of now, no construction work is undertaken on the aforesaid Survey Nos. As regards Survey No. 233 (New Survey No. 66), the same neither falls nor is impacted under CRZ-II and thus NOC of MCZMA is not required and the said fact has duly been informed to SEIAA by Respondent No. 11.
27. At the further outset, Respondent No. 11 submits that the averment that constructions is being carried out in violation of



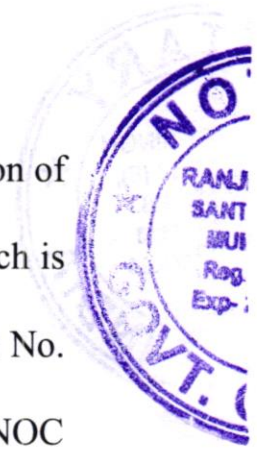
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CRZ 1991, itself is misdirected and out of context. It is reiterated that the small portion of S. No. 68(pt) and 69(pt.) is being impacted by CRZ-II as per CZMP based on CRZ Notification 2011.

28. The Appellant on the basis of Report/Executive Summary of CZMP for MBMC Of Centre for Earth Science Studies, Thiruvanthpuram have tried to mislead the Hon'ble NGT by mentioning that Survey Nos. 68 & 69 are affected by CRZ-1, CRZ-1B, CRZ-II and Mangroves Buffer Zone. By the aforesaid table, the Appellant has tried to purposely misdirect by stating that both the survey numbers i.e., 68 & 69 are affected by CRZ. While misconstruing the factual position and making the aforesaid averments, the Appellant has deliberately suppressed the true facts that Respondent No. 11 is holder of only part of Survey No. 68 & 69, both admeasuring an area of 17390.73 sq. mtrs., out of which 1721.41 sq. mtrs. area was only affected by CRZ-II on the landwards side of the existing road.
29. The Respondent No. 11 denies that CRZ map or CZMP is prepared under CRZ notification 1991, in fact as matter of record the CZMP is prepared based on CRZ Notification 2011

*[Handwritten signature]*

and CRZ NOC dated 07.06.2019 in respect of small portion of Survey No. 68 & 69 admeasuring 4,730.48 sq. mtrs., which is issued under the CRZ notification 2011. The Respondent No. 11 denies that the special condition No. 1 of the said NOC refers to any terms of ESZ area for mangroves as alleged.



30. The Clause 5 (x) of the CRZ Notification 2011 specifically states that *“all developmental activities listed in this notification shall be regulated by the State Government, Union Territory Administration, the local authority or concerned CZMA within the framework of such approved CZMPs as the case may be in accordance with provisions of this notification.”*

Therefore, on a plain reading of the aforesaid provision, it is clear that the concerned authorities shall consider only such approved CZMP as has been duly considered and prepared by the concerned CZMA. The CZMP is approved only after the State Government or Union Territory CZMA submits draft CZMPs to the MoEF along with its recommendations on the CZMP within a period of six months after incorporating the suggestions and objections received from the stakeholders. The MoEF thereafter considers and approves the CZMPs within a period of four months from the date of receipt of CZMPs. Thus,

*[Handwritten signature]*



the reliance of the Appellant on Executive Summary of CZMP prepared by the Centre for Earth Science Studies, Thiruvananthapuram prepared in the year 2014 for MBMC is completely misplaced and devoid of any merits. It is pertinent to mention that as per the new draft CZMP based on the CZR Notification 2019 (prepared and published), the subject property under development is completely out of the scope of the CRZ.

31. The Respondent No. 11 states that just as it is the state government-controlled Development Authorities that primarily undertake the task of urban planning in major cities, similarly, the Coastal Zone Management Plans (CZMP) are prepared by the coastal State Government or Union territory by engaging reputed and experienced scientific institution(s) or the agencies including the National Centre for Sustainable Coastal Management of MoEF and in consultation with the concerned stakeholders. In the present case, only a small portion out of the survey no. 235 (pt.) & 256 (pt) [new survey no. 68 (pt) and 69 (pt.)] is impacted by CRZ – II for which the Respondent No. 11 has already obtained the requisite NOC dated 07.06.2019 from MCZMA as per CRZ Notification 2011.

**NO VIOLATION OF CONSENT TO ESTABLISH (“CTE”)**

32. Respondent No. 11 states that the Respondent No. 11 submitted a proposal before Maharashtra Pollution Control Board (“MPCB”) for grant of Consent to Establish in respect of said project. The proposal of Respondent No. 11 was considered by the Consent Appraisal Committee on 20.12.2021 and accordingly MPCB granted Consent to Establish dated 02.02.2022 subject to terms and conditions as mentioned therein. The Respondent No. 11 submits that, in any case, the construction carried out is below threshold limit of 20,000 sq. mtrs. which is permissible as per the aforesaid Circular and Orders of Hon’ble Bombay High Court. Respondent No. 11 has already taken requisite steps for obtaining of EC, and accordingly, EC was granted. Thus, the grant of Consent to Establish (CTE) is not an *ex post facto* consent as alleged or portrayed by the Appellant. Hence, the allegations of Appellant are totally vague, baseless and devoid of any merit. The aforesaid submissions are without prejudice to our rights and contentions that even 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. A copy of the Delhi High Court judgment dated is hereto annexed and marked as **Exhibit**

**I.**

**FELLING OF TRESS AS PER NOC FROM TREE AUTHORITY**

33. The Respondent No.11 states that the Tree Authority of MBMC has granted permission on 6<sup>th</sup> January 2022 for felling of 167 tress and 30 trees to be transplanted at site. It is submitted that as per the Application of Respondent No. 11 and site inspection carried out by the Tree Authority, NOC was granted for felling of 167 trees and 30 trees to be transplanted to another location. As per the conditions of the said NOC, Respondent No. 11 has carried out compensatory plantation of 835 trees (in the ratio of 1:5) along with geo-tagging as per applicable laws. The Respondent No. 11 is also periodically complying with the condition by submitting a report in every 3 months to the Tree Authority of MBMC. Thus, there is no violation of NOC dated 6<sup>th</sup> January 2022 and Environment Act. A copy of the Tree Authority NOC dated 6<sup>th</sup> January 2022 is annexed herewith as **Exhibit-J** and the periodic compliance report submitted to the

Tree Authority is annexed herewith as Exhibit-K. The Respondent No. 11 states that the trees have been planted and transplanted in accordance with Tree NOC granted under the Maharashtra Felling of Trees Act, and these permissions have not been challenged. In any case, this cannot be a ground to challenge the Environmental Clearance.



**ALLEGATIONS QUA NON-COMPLIANCE TO THE SEAC  
& SEIAA CONDITIONS:**

34. The present Appeal is filed u/s 16 of the NGT Act challenging the EC dated 12<sup>th</sup> April 2023. It is submitted that the compliance/non-compliance of conditions of EC is not in the scope of deciding the present Appeal. Without prejudice to the above, it is further submitted that some allegations mentioned in the Appeal are in fact even premature and are required to be considered at the appropriate stage. In any case, the issue of compliance/non-compliance is within the domain of the concerned authorities granting the EC. Therefore, the Respondent No. 11 craves leave to file an additional affidavit regarding the same at the relevant time, if the circumstances so warrant.



The Respondent No.11 states that the Respondent will not be dealing with the Appeal in seriatim more particularly since the entire bogey of allegations and contentions raised in the Appeal have been dealt with and answered in terms of the above. The Respondent No.11, however, expressly craves leave to file an additional Affidavit dealing with the Appeal in a paragraph-wise manner, if the circumstances so warrant. Even otherwise, the Respondent No. 11 states that the Respondent has obtained all requisite permissions from the authorities in accordance with law and therefore, the various allegations of the Appellant are baseless and devoid of merits.

36. The Respondent No.11 states that the issues and grievances raised by the Appellant stand fully answered in terms of all that is stated hereinabove and thus, the Appellant has failed to make out a cogent and compelling case for grant of any reliefs by this Hon'ble Tribunal.

37. The Respondent specifically denies that the Respondent No. 11 obtained an "*ex-post facto Environment Clearance*" in respect of the project, as alleged by the Appellant. The Respondent No.11 submits that the Appellant has presented a case, replete with bald allegations, surmises and conjectures and have failed



to make out a cogent and compelling case for grant of reliefs by this Hon'ble Tribunal. In the premises therefore, the answering Respondent submits that the Appeal be dismissed by this Hon'ble Tribunal with the imposition of costs.

Solemnly affirmed at )

Dated this 23<sup>rd</sup> day of October, 2024 )

V. D. Barde

Respondent No.11

Advocates for Respondent No.11

Before me,

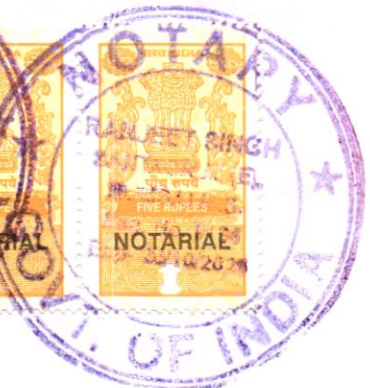
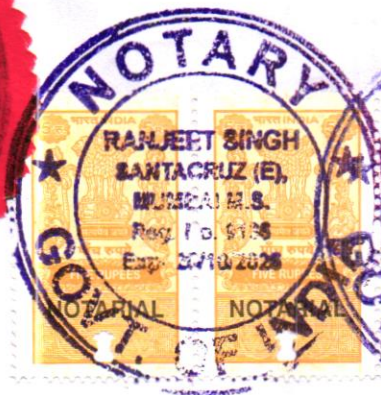
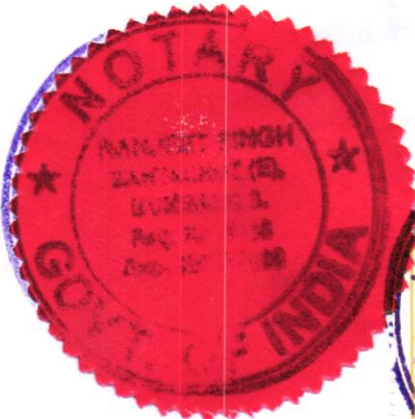


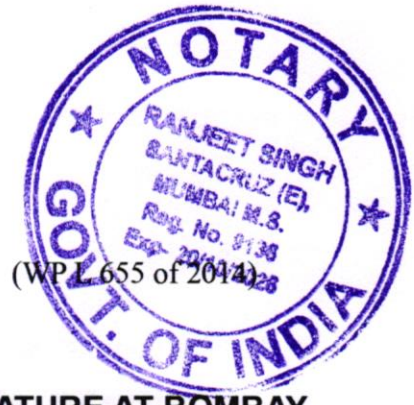
BEFORE ME

RANJEET SINGH  
M.Sc LL.B

NOTARY  
MAHARASHTRA  
GOVT OF INDIA

RANJEET SINGH (Notary Govt of India)	
Register No	5394
Dated	12 3 OCT 2024





- 1 -

(W.P. 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.**

**DATE : 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

1/2



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.]**

# 1410



## Government of Maharashtra

Telephone No. 22793132  
Fax No. 22813947

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

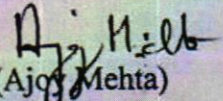
### CIRCULAR

**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.

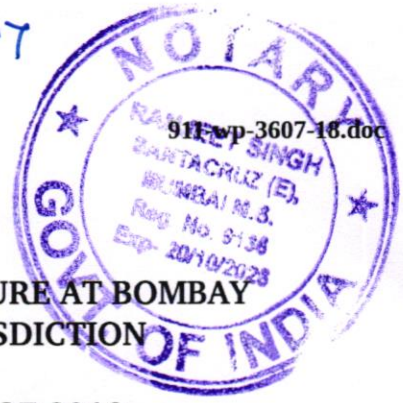
Now, Hon'ble High Court in the matter of Glomore Construction and others Vs. Union of India (W.P. No. 655 of 2014) vide order dated 24/03/2014 & 18/12/2014 allowed construction up to 20,000 m<sup>2</sup> of free sell component, even in residential and commercial projects, indicating no violation of EIA 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.

  
(Ajoy 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.



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3607 OF 2018

M/s. Sancheti Properties and Ors.

...Petitioners

Versus

Maharashtra Pollution Control Board & Anr.

...Respondents

.....

Mr.R.D.Soni i/b. Ram and Co. for the Petitioners.

Ms.Sharmila U.Deshmukh for Respondent No.1.

Mr.A.R.Patil, APP for Respondent No.2 – State.

.....

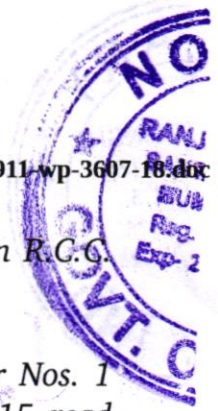
**CORAM: MRS.MRIDULA BHATKAR, J.**

**DATED: OCTOBER 24, 2018**

**P.C.:**

1. Rule. Rule made returnable forthwith. By consent of the parties, the Petition is heard finally and disposed of at the stage of admission.
2. This Petition is directed against the order dated 29<sup>th</sup> January 2015 of issuance of process passed by the learned Judicial Magistrate First Class, Pune in R.C.C. No.2926 of 2014.
3. On 22<sup>nd</sup> October 2018, this Court has passed the following order .:

*“1. In this Petition, the petitioners, who are the builders, are praying for quashing and setting aside the order dated They are also challenging the order dated 21<sup>st</sup> June 2018 passed by the learned Chief Judicial*



Magistrate, Pune below application exhibit 17 in R.C.C. No. 2926 of 2014.

2. ...The process is issued against petitioner Nos. 1 to 3 for the offence punishable under Section 15 read with Section 16 of the Environment (Protection) Act, 1986 read with the Environment Impact Assessment Notification of 2006.

3. Admittedly, as per notification of 2006 and further circular dated 21<sup>st</sup> April 2015, prior permission of Environmental Department is not required for construction upto 20,000 sq.meters. If the construction is going beyond 20,000 sq. meters, then prior clearance from the Environmental Department is mandatory. The same view is taken by the Division Bench of this Court in the case of **M/s. Vardhman Developers Limited vs. Union of India & Ors.** (Writ Petition (L) No. 2305 of 2013 with Notice of Motion (L) No. 539 of 2013 decided on 18<sup>th</sup> December, 2013) by holding that no prior permission is required from the Environmental Department to put up construction below 20,000 sq. meters.

4. In the present case, admittedly, the petitioners have submitted plans for construction of more than 20885.18 sq. meters before the Corporation. The petitioners had started their construction in the year 2010. According to the petitioners, they have completed first phase upto 14750 sq. meters without obtaining prior approval from the Environmental Department. Subsequently, the environmental clearance was obtained on 7<sup>th</sup> September, 2012 for construction of 38980 sq. meters”.

4. The learned counsel for the petitioners has pointed out that in the case of **M/s. Vardhman Developers Limited vs. Union of India &**



Ors. (Writ Petition (L) No. 2305 of 2013 with Notice of Motion (L) No. 539 of 2013 decided on 18<sup>th</sup> December, 2013), the Division Bench of this Court while dealing with the similar issue has accepted the undertaking given by the petitioners that they would construct only upto 20,000 sq. meters and shall not construct further. It means that in the said case, the proposal was given for more than 20,000 sq. meters. He has submitted that the petitioners have constructed upto 14,750 sq meters in the first phase i.e., in 2010 for which the action was taken by respondent No.1. He has relied on the sanctioned plan of first phase wherein the Collector has approved the construction upto 13,027.37 sq. meters. He has further submitted that the petitioners have not violated the rules and the notification. If the construction is beyond 20,000 sq. meters, then prior clearance from the environmental department is required.

5. The learned counsel for respondent No.1 has mainly relied on Section 15 read with Section 16 of the Environment (Protection) Act, 1986. She has submitted that if the party proposes to construct more than 20,000 sq. meters, then at that time also, prior clearance from the environmental department is mandatory. She has further submitted that the petitioners had submitted their first proposal in the year 2009 and it was of 20,885 sq. meters and, therefore, it was binding on the

petitioners to obtain prior clearance from the environmental department.

6. Heard submissions. Considered the documents and record placed before this Court especially the circular dated 21<sup>st</sup> April, 2015 and the notification of 2006. Both the documents disclose that for construction beyond 20,000 sq. meters, prior clearance from the environmental department is mandatory. If the construction is below 20,000 sq. meters, such clearance is not required. In the case of **M/s. Vardhman Developers Limited** (supra), the Division Bench of this Court has accepted the undertaking given by the petitioners that they would not construct more than 20,000 sq.meters and restrict upto limit as prescribed in the circular. In the present case, though, the proposal was given above 20,000 sq. meters as pointed out by the learned counsel for the petitioners, the authority has approved the construction upto 13,027.37 sq.meters and the construction was upto 14,750 sq. meters.

7. Under such circumstances, it cannot be said that there is breach of law or rules under the Environment (Protection) Act, 1986. The environmental department gave clearance on 7<sup>th</sup> September, 2012 for construction upto to 38,983.59 sq. meters. Therefore, I do not find any breach or violation of the rules under Environment (Protection) Act,



1986 as per complained by respondent No.1. Hence, it is a fit case to invoke the supervisory jurisdiction of this Court. Writ Petition is allowed. Rule made absolute in terms of prayer clause (a).

(MRIDULA BHATKAR, J.)



1416



42-apl-732-2016.odt

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL APPLICATION NO. 732 OF 2016

M/s. Suncity Corporation & Anr. ... Applicants  
vs.  
Maharashtra Pollution Control Board & Anr. ... Respondents

WITH  
CRIMINAL APPLICATION NO. 733 OF 2016

Manoj Daisaria ... Applicant  
vs.  
Maharashtra Pollution Control Board & Ors. ... Respondents

Mr. Robin Jaisinghani a/w. Mr. Harshil Parekh i/b. M/s. Purnanand & Co. for the Applicants.  
Ms. Rupali Dixit for Respondent no.1  
Ms. P. N. Dabolkar, APP for the State.

CORAM . A. K. MENON, J.  
DATE . 26<sup>th</sup> JULY, 2017

P.C.:

1. By these applications the applicant's challenges identical orders dated 10<sup>th</sup> March, 2015 issuing process against the petitioners under Section 15 of Environment (Protection) Act, 1986 r/w. Environment Impact Assessment Notification 2006 dated 14<sup>th</sup> September, 2006 which required any development or construction project in excess of 20000 sq.mtrs to obtain clearance under the said Environment Impact Assessment Notification dated 14<sup>th</sup> September, 2006, copy of which is at Exhibit "C".

1/3



2. It is common ground that a division bench of this court has in WP(L) 2305 of 2013 and WP(L) NO. 655 OF 2014 passed an order permitting construction upto 20000 sq.mtrs without obtaining environment clearance. Mr. Parekh, learned Counsel for the petitioner has tendered a copy of the order dated 18<sup>th</sup> December, 2013 passed in the aforesaid Writ Petition. The Writ Petition was disposed of. In paragraph 6 of the said order the Court noted that there was no impediment in granting any interim relief permitting the petitioner therein to carry out construction upto 20000 sq.mtrs without obtaining environment clearance.

3. It is not in dispute today that the aforesaid order dated 18<sup>th</sup> December, 2013 has not been challenged by the Board or any other respondent. The Writ Petition was finally disposed of by the said order. Process was issued on 10<sup>th</sup> March, 2015 well after the order dated 18<sup>th</sup> December, 2013 was passed and therefore process could not have been issued and probably may not have been issued if the Order of this Court was brought to the attention of the Ld. Magistrate. For these reasons the impugned orders must be set aside. Furthermore it is stated on behalf of the applicant that sanction has subsequently been obtained in respect of entire project from the said Environment Impact Assessment Authority on 12<sup>th</sup> January, 2016. Copy of sanction appears at Exhibit "E" to this application.



1418



42-apl-732-2016.odt

In view of the fact that the commencement of construction upto 20000 sq.mtrs was not objectionable, in view of the order dated 18<sup>th</sup> December, 2013 and in view of the fact that subsequently permission has been granted for the entire project, there is no justification in sustaining the impugned order. Hence, I pass the following order: -

- (i) Applications are allowed in terms of prayer clause (a)
- (ii) Regular Criminal Case No. 261/SS/2015 before the 53<sup>rd</sup> Court Mulund and the common impugned order dated 10<sup>th</sup> March, 2015 are quashed and set aside.
- (iii) No order as to costs.

(A. K. MENON, J.)



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION No. 229 OF 2018**

M/s.PS Developers & Ors.

...Applicants

Versus

The Maharashtra Pollution Control Board & Anr.

...Respondents

-----

Mr.Niranjan Mundargi i/b.Mr.Siddharth R. Karpe for the Applicants.

Ms. A.R.Patil, APP for Respondent No.1-State.

Ms. Jaya J. Bagwe for Respondent No.2

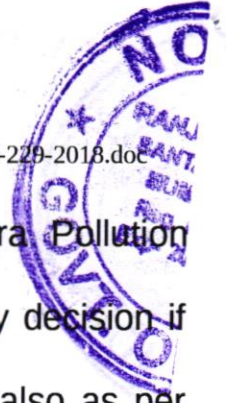
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**CORAM : MRS. MRIDULA BHATKAR, J.**

**DATE : 15 MARCH 2019**

**P.C.:**

1. This Criminal Application is filed under section 482 of the Code of Criminal Procedure.
2. This Criminal Application is directed against the order dated 07.12.2015 passed by the learned Chief Judicial Magistrate First Class, Pune in R.C.C. No. 1222 of 2015 thereby issuing process under section 15 read with section 16 of the Environment (Protection) Act, 1986 and the Environment Impact Assessment Notification, 2006.



3. As per case of the complainant i.e., the Maharashtra Pollution Control Board (for short "Board"), the Board is having a policy decision if the construction is above more than 20,000 sq. meters and also as per Environment Impact Assessment Notification, 2006, then the environment clearance certificate is required to obtain for construction beyond 20,000 sq. meters.

4. Heard submissions. Perused complaint. In paragraph No. 9 of the complaint, the complainant has specifically stated that the applicants/accused have started construction having total built up area more than 20,000 sq. meters without obtaining such Environment Clearance. The words are started from "have started construction". This is not the requirement to constitute an offence. The construction should be complete more than 20,000 sq. meters.

5. The learned counsel for the applicants/accused has produced the plan. The Principal Secretary, Environment Department had written a letter dated 02.02.2015 to the applicants/accused wherein it was mentioned that the applicants have completed the construction of total built up area admeasuring 19959.06 sq. meters. It appears that the applicants/accused



want to construct more than 20,000 sq meters and accordingly they have made correspondence with the Municipal Corporation, other authorities and the Environment Department.

6. Undoubtedly, if the construction is going beyond 20,000 sq. meters, then the environment clearance certificate is required to obtain, is a rule and this is not to be breached. However, there is no *prima facie* material to show that the construction is beyond 20,000 sq. meters. Hence, the order of issuance of process is hereby quashed and set aside. Criminal Application is allowed in terms of prayer clause (b).

**(MRIDULA BHATKAR, J.)**

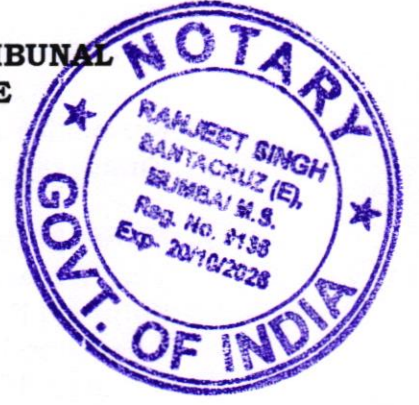


Exhibit - C  
1422

**BEFORE THE NATIONAL GREEN TRIBUNAL  
WESTERN ZONE BENCH, PUNE**

(By Video Conferencing)

**Appeal No. 26/2020 (WZ)**



**IN THE MATTER OF :**

**1. Mr. Ajay Jayvantrao Bhosale**

Age: Adult, Occupation: Self employed,  
R/o-25B, Cycle Society, Nana Peth,  
Near Y. M. C. Club, Pune-411011,  
Mob. No. 9673902727  
E-mail: [ajaybhosale2772@gmail.com](mailto:ajaybhosale2772@gmail.com)

**.....Appellant**

**Versus**

**1. Union of India,**

Through Secretary,  
Ministry of Environment and Forest,  
Paryavaran Bhawan, CGO complex,  
Lodhi Road, New Delhi-110001  
Email: [secy-moef@nic.in](mailto:secy-moef@nic.in)

**2. Chief Secretary,**

Government of Maharashtra,  
Annex Building, Mantralaya, Mumbai 400032  
E-mail: [chiefsecretary@maharashtra.gov.in](mailto:chiefsecretary@maharashtra.gov.in)

**3. The Principle Secretary, Environment Department,**

Government of Maharashtra,  
Room No. 217, 2<sup>nd</sup> Floor, Annex Building  
Mantralaya Mumbai-400032, Maharashtra  
Email Address: [psec.env@maharashtra.gov.in](mailto:psec.env@maharashtra.gov.in)

**4. State Level Environment Impact Assessment Authority-  
Maharashtra(SEIAA)**

Through Member Secretary,  
15<sup>th</sup> Floor, New Administrative Building,  
Mantralaya, Mumbai-400032, Maharashtra  
Email: [psec.env@maharashtra.gov.in](mailto:psec.env@maharashtra.gov.in)

**5. State Expert Appraisal Committee (III)- Maharashtra (SEAC-III)**

Through Member Secretary,  
15<sup>th</sup> Floor, New Administrative Building,  
Mantralaya, Mumbai-40032, Maharashtra

**6. Mr. Anil U. Diggikar**

Principle Secretary of DoE and Member Secretary- SEIAA,

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Government of Maharashtra  
Room No. 217, 2<sup>nd</sup> Floor, Annex building,  
Madam Kama Road, Mantralaya,  
Mumbai-400032, Maharashtra  
Email: [psec.env@maharashtra.gov.in](mailto:psec.env@maharashtra.gov.in)



**7. Maharashtra Pollution Control Board,**

Through Member Secretary,  
Kalptaru Point, 3<sup>rd</sup> Floor, Near Sion Circle,  
Opp. Cine Planet Cinema, Sion(E)  
Mumbai-400022, Maharashtra  
Email: [ms@mpcb.gov.in](mailto:ms@mpcb.gov.in)

**8. Municipal Commissioner-PCMC**

Pimpri-chinchwad Municipal Corporation,  
PCMC Building, Old Mumbai- Pune Highway,  
Pimpri, Pune-411018  
Email: [commissioner@pcmcindia.gov.in](mailto:commissioner@pcmcindia.gov.in)

**9. City Engineer- PCMC**

Pimpri- Chinchwad Municipal Corporation,  
PCMC Building, Old Mumbai- Pune Highway,  
Pimpri, Pune-411018,  
Email: [bldp@pcmcindia.gov.in](mailto:bldp@pcmcindia.gov.in)

**10. Collector of Pune,**

As Collector and President of District Environment,  
Protection Committee-Pune,  
Collector Office, Bund Garden,  
Pune-411001  
Email: [rdc.pune-mh@gov.in](mailto:rdc.pune-mh@gov.in)

**11. M/s Bramha Leisures Private Limited,**

A limited Company registered under Indian Company  
Act-1952 with (CIN) U 55101PN2009PTC134096,  
**Having Registered Office At-**"Bramha House", 250/251  
M. G. Road, Camp Pune-411001.  
Email: [vishal574@yahoo.co.in](mailto:vishal574@yahoo.co.in)  
Through its Directors  
11A Surendrakumar Bramhadutta Agrawal  
11B Vishal Srendrakumar Agrawal

....Respondent(s)

**Counsel for Appellant(s):**

Mr. Tanaji Gambhire, Advocate

**Counsel for Respondent(s):**

Ms. Manasi Joshi, Advocate for R-1 /MoEF&CC & R-7 MPCB  
Mr. Aniruddha Kulkarni, Standing Advocate for R-4/SEIAA & R-5 /SEAC-III  
Mr. S. Swaminathan, Advocate for R- 8 & 9/PCMC  
Mr. Saket Mone along with Mr. Abhishek Salian, Advocate for R-11/PP



**PRESENT:**

**1424**

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER  
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

**Reserved on : 23.03.2023**

**Pronounced on : 03.04.2023**

## **JUDGMENT**

1. This Appeal has been preferred for quashing Environmental Clearance dated 18.02.2020 granted by the Respondent No.4 /SEIAA Maharashtra to Respondent No.11-M/s Bramha Lesure's Private Limited/ Project Proponent; also it is prayed that the direction be issued to Respondent No.2/ Chief Secretary Government of Maharashtra to take action against the Respondent No.6/Anil U. Diggikar, Principal Secretary and Member Secretary SEIAA for indulging into granting Environmental Clearance (EC) illegally.

**2. The brief facts of this cases as submitted by the Appellant are as follows:**

The Respondent No.11/Project Proponent has procured ex-post facto Environmental Clearance dated 18.02.2020 to regularize illegal commercial buildings project 'Bramha Uzuri' situated at Survey No. 209/A/2 CTS No. 4702, at Pimpri Chowk Taluka- Haveli, District- Pune. The Appellant had earlier filed Original Application No. 63/2019 against the Project Proponent (PP) for not obtaining Environmental Clearance and for violation of terms and conditions of Consent to Establish dated 10.03.2015. This Tribunal had appointed Joint Committee of State Level Environment Impact Assessment Authority-Maharashtra (SEIAA) and Maharashtra Pollution Control Board (MPCB) vide order dated 22.10.2019 which submitted its report dated 07.01.2020 disclosing therein that the Project Proponent (PP) had carried out construction of 13806.52sq.m without obtaining prior EC, for which the National Green

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Tribunal(NGT) issued show cause notice to Project Proponent for stoppage of further construction activity and also notices to all other Respondent vide order dated 05.02.2020. A notice was served upon all the Respondents on or before 17.02.2020, but in spite of service of notice and having advance knowledge of ongoing proceedings of Original Application No. 63/2019, Respondent No.4/ SEIAA, Maharashtra and Respondent No.6- Mr. Anil U. Diggikar in personal capacity granted EC on 18.02.2020. It is further submitted that the as per the EIA Notification 2006 dated 14.09.2006, it is mandatory on the part of the Project Proponent (PP) to obtain the prior Environmental Clearance (EC) from SEIAA and Consent to Establish from MPCB before commencement of any construction work, yet the Project Proponent (PP) has started and completed substantial part of the project, details of which are given below:

Description	EC Permission	Completed Construction as per Joint Committee Report prior to EC	Total Proposal
Built -Up Area (M <sup>2</sup> )	0	13806.52	54600
13. Note on the initiated work (if Applicable)		Work initiated below 20000 sq. M. Withdrawal of Violation Letter from Government of Maharashtra vide letter No. SEAC-2013/ CR-449 / TC-2DT. 10.03.2015	

The concept of ex-post facto Environmental Clearance (EC) is not permissible under Environmental jurisprudence in our country. The EC




in question is ex-post facto. Respondent No.4/SEIAA had full knowledge of the fact that the construction of 13806.52 sq.m. against the total potential BUA of 54600M<sup>2</sup> had already been carried out without Environmental Clearance (EC) and that matter was *subjudice* before this Tribunal, yet it proceeded to grant Environmental Clearance (EC) ex post facto. If the EC is allowed ex-post facto, any Project Proponent (PP) would complete its project by causing irreversible damages to the Environment and thereafter would seek Environment Clearance, ex-post facto, making the provisions of EIA Notification infructuous, which would defeat the very purpose of Environmental Protection Law. The SEIAA had failed to take any action against the Project Proponent for violation of EIA Notification 2006. SEIAA as well as Expert Committee- SEAC is equally liable for allowing the illegal structures of expansion and granting Environmental Clearance (EC) to the project in gross violation of EIA Notification, 2006. Reliance is placed on several judgments of Hon'ble Apex Court such as **Common Cause vs. Union of India (2017) 9 SCC 499 to 578, Civil Appeal No. 10854/2016**. The Project Proponent (PP) has carried out construction of residential as well as commercial structures in industrial zone reserved in development plan and undertook excavation activity in 2012 and construction activity in December-2017. The Project Proponent (PP) has not preserved the top layer of the fertile soil nor did it conduct ground water test. Under ground water was used from bore well at project site without appropriate clearance. Hence, the above prayers have been made.

3. This matter was first considered on 13.07.2020 with Original Application No. 63/2019, Original Application No. 64/2019 and Original Application No. 65/2019 mentioning therein that all said Applications were connected matters arising out of the same PP cause of action and the next date was fixed to be 29.09.2020. On the next date Original Application No. 63/2019 along with the present Appeal were heard together and

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direction was given for issuance of notices to the Respondents 1,3,4,5,7,8,9,10 and 11 as other respondents had already appeared. Thereafter, on the next date 10.12.2021, no material order was passed. On 10.12.2021, for the first time, this Bench had taken up this matter for consideration and recorded that the pleadings were not complete in this case and directed the Respondents to file reply affidavits and posted the matter for final hearing on 23.03.2023. This matter was finally heard on 23.03.2023.

4. The stand of **Respondent No.11/Project Proponent (PP)** is as follows:

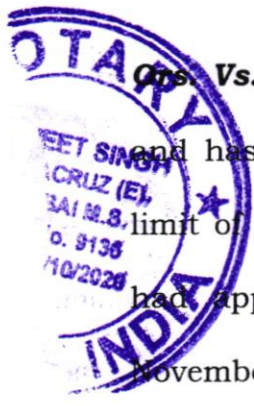
Denying the allegation made by the Appellant, it is submitted that the Appellant has no *locus standi* being not an aggrieved party. Appellant resides about 10 Kilometres away from the location of the project, therefore he, in no way could be affected by the execution of the said project. For instant project, which has been classified as the category 8 (a) B(2) under EIA Notification 2006, as per said provision the same is exempted from scoping and public consultation. Environmental Clearance (EC) was required to be obtained from SEIAA. All the necessary steps were scrupulously followed by the Respondent No.3/SEIAA as well as other authorities after taking into consideration all relevant aspects concerning the environment and found this case to be a fit one to grant of Environmental Clearance (EC). The object of the EIA process is to ensure that all the environmental aspects were examined prior to granting EC and that environment as well as development concerns were appropriately balanced on the basis of accurate information and following a detailed and exhaustive procedure laid down for the purpose. When the experts apply their mind and follow the detailed procedure as mandated by law before granting Environmental Clearance (EC), the same would be treated to be valid unless there are allegations of procedural impropriety, non-application of mind or malafide. The Appellant should invoke its Appellate jurisdiction



under Section 16 (h), only in those cases where the Appellant proves or alleges that an Environment Clearance (EC) is granted arbitrarily, or capriciously or perversely or where the authority has ignored settled principles of law or procedure, but none of these grounds stands fulfilled here. This Tribunal ought not to rely on the material and information provided by the Appellant in order to reach different conclusion from the one reached by the Authority, when the Authority had considered them following due process. In view of the above, Appeal deserves to be dismissed at the very threshold.

Further, it is mentioned that the Commencement Certificate (CC) was obtained on 28<sup>th</sup> March 2008, for a Total Built up Area (BUA) of 17595 sq. m (FSI 8535.48 + Non FSI 9059.56 sq.m), in furtherance of which excavation activity was commenced. As the total permissible built up area in the Commencement Certificate (CC) was below the threshold limit of 20000 sq. m., the Answering Respondent did not apply for grant of prior EC. Thereafter, on 9<sup>th</sup> April, 2013, Answering Respondent obtained a Commencement Certificate (CC) for construction of 21368.3 sq. m. (FSI 9285.51 sq. m + Non FSI 12082.77 sq. m). On 7<sup>th</sup> September, 2013, the Answering Respondent applied for EC in order to commence construction. On 24<sup>th</sup> March, 2014, the Hon'ble Bombay High Court in Writ Petition No. (L) 655 of 2014, **Glomore Construction and Ors. Vs. the Union of India & ors** ruled that EC was not required to be obtained by the Project Proponent as long as the Project Proponent had not carried out construction beyond the threshold limit of 20,000 sq. m. On 4<sup>th</sup> July, 2014, the Answering Respondents had applied for Consent to Establish. In meetings held by the SEAC between 15<sup>th</sup> to 18<sup>th</sup> July 2014, the Answering Respondent's proposal was considered for grant of EC by the SEAC, wherein the proposal was declared as a violation case and show cause notice was issued to the Answering Respondent under Section 5 of the Environment Protection Act, 1986 (EP Act) read with EIA Notification

2006 mentioning therein that the Answering Respondent had violated the environmental mandate by commencing construction without prior EC. A detailed reply was submitted by the Answering Respondent on 28<sup>th</sup> September, 2014. Thereafter on 10<sup>th</sup> March, 2015, the Environment Department, Government of Maharashtra withdrew the show cause notice and declared that the Answering Respondent's proposal would not fall in violation category. Such conclusion was arrived at after carefully considering and verifying the reply. The basis for withdrawal of the said notice was that Answering Respondent had commenced excavation/ construction activity in furtherance of Commencement Certificate (CC), whereby permission was granted for construction upto 17595 sq. m., same being below 20,000 sq. m., which did not require prior EC to be obtained. On 10<sup>th</sup> March 2015, the MPCB granted Consent to Establish (CTE) for five (5) years or up to commissioning of the proposed hotel. On 21<sup>st</sup> April, 2015, a circular was issued by Environmental Department, Government of Maharashtra categorically observing that EC would not be required to carry out construction as long as the actual construction remained below threshold limit on 20,000 sq. m, which has not been challenged and is still subsisting. On 30<sup>th</sup> September, 2015, the answering Respondent had obtained another Commencement Certificate for carrying out construction upto 22010.3 sq. m. (FSI 9260.12 sq. m. + Non FSI 12750.16 sq. m). On 30<sup>th</sup> June, 2016, the Answering Respondent had applied for EC with respect to the said project because of proposed construction exceeding threshold limit of 20,000 sq. m. On 24<sup>th</sup> November, 2016, the answering Respondent had obtained commencement certificate for carrying out construction upto 21213.9 sq. m (FSI 8835.93 sq. m. + Non FSI 12377.95 sq. m. ). In or around the year 2016 to 2017, the answering Respondent carried out construction of the present project relying on the judgment of Hon'ble Bombay High Court in Writ Petition No. (L) 655 of 2014, **Glomore Construction and**



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Ops. Vs. the Union of India and circular dated 21<sup>st</sup> April, 2015

and has not, till date exceeded the construction beyond the threshold limit of 20,000 sq. m. On 28<sup>th</sup> April, 2017, the answering Respondent had applied for Consent to Establish which was granted on 12<sup>th</sup> November, 2017 for a period of five years pursuant to which construction is being carried out upto 51358.46 sq. m. On 31<sup>st</sup> March, 2018, the answering Respondent had obtained commencement certificate for carrying out construction upto 19991.4 sq.m (FSI 6998.59 sq. m. + Non FSI 12992.76 sq. m.). On 4<sup>th</sup> October, 2018, a Layout Plan was sanctioned by PCMC/Respondent No.8-Municipal Commissioner and Respondent No.9-City Engineer. On 5<sup>th</sup> December, 2018, in it's 77<sup>th</sup> meeting, the SEAC considered the Answering Respondent's application for grant of EC which was deferred because of non-presence of Answering Respondent. In the meeting of SEAC dated 24<sup>th</sup> April, 2019, the proposal for EC was considered and SEAC appraised the proposal of the answering Respondent and certain queries were raised. On 19<sup>th</sup> May 2019, the Appellant made a complaint with various authorities including the MPCB raising identical issues which are sought to be raised in the present Appeal as well as were raised in Original Application No. 63 of 2019. On 22<sup>nd</sup> May, 2019, MPCB conducted site visit of the said project. Thereafter, on 10<sup>th</sup> June, 2019, another site visit was conducted by the MPCB. On 25<sup>th</sup> July, 2019, the Environment Department, Government of Maharashtra, issued a show cause notice to the answering Respondent and called upon to show why coercive action be not initiated against it in furtherance of the complaint of the Appellant. In the meeting of SEAC held on 26<sup>th</sup> July, 2019 Answering Respondent's proposal was considered and it was observed that the Environment Department, Government of Maharashtra had issued the answering Respondent a show cause notice. Therefore, SEAC postponed the hearing for 26<sup>th</sup> July, 2019 and kept the proposal of the answering Respondent in abeyance till

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any decision was taken on the show cause notice. On 29<sup>th</sup> June, 2019, the MPCB issued a show cause notice to the answering respondent as to why legal action be not initiated under the Water (Prevention & Control of Pollution) Act, 1974, Air (Prevention & Control of Pollution) Act, 1981 and Hazardous & Waste Rules, 2016, which was responded by the Answering Respondent on 29<sup>th</sup> June 2019, 16<sup>th</sup> July, 2019 and 20<sup>th</sup> August 2019. The Responses are contained in sub para a) to d) of paragraph 6.31 of the Affidavit of Answering Respondent/ Project Proponent, which are as follows:

- a) *"The Respondent No.11 has not violated any provisions of the Environment law.*
- b) *The Respondent No.11 commenced construction/ excavation in pursuance of the commencement certificate issued in the year 2008. Wherein the permissible built up area was 17595 sq. m. which is much below the threshold limit, therefore, the Respondent No.11 was not required to obtain EC prior to commencing construction.*
- c) *The Respondent No.11 subsequently changed the plans with regards the said property and obtained various commencement certificate. As the construction exceeded the threshold limit to 20,000 m. after amendment in the construction plan, the Respondent No.11 made an application for grant of EC in the year 2013. However, such EC was not granted.*
- d) *The Respondent No.11 relying on the circular issued by the Environment Department, State of Maharashtra on 21<sup>st</sup> April 2015 commenced construction. It is worth mentioning at this Juncture that till date the Respondent No.11 has not exceeds the threshold limit of 20,000 sq. m"*

The main thrust in the response has been laid on the fact that the Project Proponent did not exceed construction beyond 20,000 sq. m., hence did not require prior EC. on 16<sup>th</sup> November, 2019, the Environment Department withdrew the proposed directions dated 15<sup>th</sup> June, 2019, issued under Section 5 of the Environment Protection Act, 1986 (EP Act) read with the EIA Notification 2006 after due consideration and verification of the submission of the Project Proponent. The reasons

why the notice was withdrawn have been recorded in sub para a) to d) of

Paragraph 6.33 of the Affidavit of Answering Respondent/ Project Proponent, which are as follows:

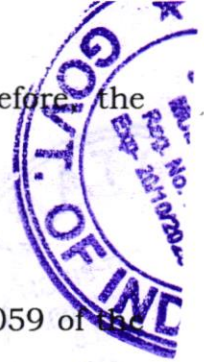
- a) *The Respondent No.11 commenced construction as per commencement certificate issued in the year 2008.*
- b) *As the plans were revised and the total built up area exceeds 20,000 sq. m, the Respondent No.11 applied for grant of EC on 7<sup>th</sup> September, 2013 and 30 June, 2016.*
- c) *Relying on the circular issued by Environment Department, Government of Maharashtra dated 21<sup>st</sup> April, 2015, the Respondent No.11 has carried out construction upto 8467.69 sq. m.*
- d) *It is clear that construction is below 20,000 sq. Mtrs, and thus, is excluded from getting environment clearance as per provision of the EIA notification. Further, if the Respondent No.11 exceeds construction over 20,000 sq. m, it is required to obtain an EC.*

The main thrust in withdrawing the notice was on the fact that the threshold level of 20,000 sq.m was to exceed pursuant to the revised plan/commencement certificate dated 9<sup>th</sup> April, 2013, therefore, the answering Respondent had applied for EC on 7<sup>th</sup> September, 2013 and 30<sup>th</sup> June, 2016 but till then, construction was below 20,000 sq. m. The SEIAA in its meeting held on 10<sup>th</sup> December, 2019 again considered the proposal of answering Respondent and took notice of the fact that the notice issued to the Answering Respondent under Section 5 of the Environment Protection Act, 1986 (EP Act) had been withdrawn on 16<sup>th</sup> November, 2019 and that SEAC also observed that the answering Respondent had complied with all the points raised in 91<sup>st</sup> meeting, therefore, it recommended the grant of EC to the answering Respondent. After 6<sup>th</sup> February 2020, SEIAA granted EC to the answering respondent subject to complying with certain conditions, pursuant to the same on 18<sup>th</sup> February, 2020, the final grant of EC was made in favour of the answering Respondent which has been impugned herein. Having cited the above course of proceedings, it is mentioned that the entire



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procedure has been followed in accordance with law. Therefore, the appeal deserves to be rejected.



5. The stand of **Respondent No.4/SEIAA** is as follows:

Through its affidavit dated 21.02.2023 at page No. 1053 to 1059 of the paper book, the facts narrated by it are almost identical to the facts which have already been mentioned by us above in the affidavit of the Project Proponent. We find it to have been said by the SEIAA that in its 99<sup>th</sup> Meeting held on 10.12.2019, it was noted that the earlier issued show cause notice under Section 5 of the Environment (Protection) Act, 1986 had been withdrawn by the Environment Department vide letter dated 16.11.2019 and that all issues relating to the Environment including air, water, land, soil, ecology, biodiversity and social aspects were examined and after being satisfied in regard to the fact that the Project Proponent had satisfactorily complied all the points raised in the 91<sup>st</sup> Meeting of the SEAC-III, recommendation was made to it by SEAC for grant of EC. The said recommendation was considered by the SEIAA in its 186<sup>th</sup> meeting dated 06.02.2020 which included conditions that the Project Proponent would ensure that the CER (Corporate Environmental Responsibility) plan is got approved from Municipal Commissioner/ District Collector and Standard EC conditions would be complied with by the Project Proponent as mentioned in Office Memorandum issued by the MOEF&CC dated 04.01.2019, and accordingly it granted EC in its meeting held on 06.02.2019.

6. The stand of **Respondent No.7/MPCB** is as follows:

The Project Proponent had obtained first consent to Establish on 10.03.2015 for TPA-9337.66 sq. m. & BUA 36611.49 sq. m subject to certain terms and conditions stipulated therein, where-in Bank Guarantees of Rs. 10 lakh & Rs. 5.0 lakh & Rs. 2.0 Lakh were to be furnished but the Bank guarantee demanded had not been submitted. The answering Respondent granted revised Consent to Establish to



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Project Proponent on 12.10.2017 for Total Built up Area (BUA) 51358.46 sq. m. including utilities and services as per Commencement Certificate issued by Local Bodies. It is further submitted that the Project Proponent submitted Bank Guarantee of Rs. 10 Lakh as per Consent Condition. The said Bank Guarantee is valid up to 11.10.2022. The answering Respondent has granted amendment in Consent to Establish for construction of Commercial development Project on 13.11.2020 which is valid up to 31.10.2022, which is granted for Total Built up Area 5466789 sq.m. as per the Environmental Clearance dated 18.02.2020.

7. We have heard the learned counsel for the parties and perused the record.

8. From the side of the Appellant following arguments have been made.

There is no provision for ex-post facto EC in EIA Notification 2006, therefore, the Environmental Clearance (EC) in question deserves to be set aside. Thereafter, the appellant drew our attention to Page No. 934 of the paper book which gives chronology in respect of the Environmental Clearance (EC), Consent to Establish and Consent to Operate. Thereafter, he drew our attention to Page No. 949 of the paper book which shows that initially commencement certificate was issued to the Project Proponent on 28.03.2008 for the Total Built up Area (BUA) 17995.00 sq. m. for which no Environmental Clearance (EC) was required. On 09.04.2013, the Project Proponent enhanced the Total Built up Area to 21368.30sq.m.,thereafter, the Project Proponent had applied for Environmental Clearance (EC) on 09.05.2013 because the Total Built up Area (BUA) of construction exceeded threshold limit of 20,000 sq. m. Subsequent Commencement Certificates dated 30.09.2015, 24.11.2016, 31.03.2018, 04.10.2018, 16.05.2019 and 08.01.2020 have been shown to have been granted for different Total Built up Areas (BUA) with the conditions imposed while granting these commencement certificate, that EC would be obtained prior to initiating

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the construction beyond the 20,000 sq. m. Attention is also drawn by the learned counsel for the Appellant to Page No. 950 of the paper book which contains Maharashtra Pollution Control Board's (MPCB) consents and conditions for obtaining Environmental Clearance, where-in it is recorded that Consent to Establish granted on 10.03.2015 for Total Built up Area (BUA) 36611.49 sq. m., stipulates consent condition No.12 mandating obtaining prior Environmental Clearance. Similarly, Consent to Establish granted on 12.10.2017 for Total Built up Area 51358.46 sq. m. stipulates condition No.12 related to the same that is the Project Proponent would obtain prior Environmental Clearance (EC). The main thrust of the Appellant's argument appeared to be that when the Project Proponent had in mind the larger construction to be made i.e. beyond the 20,000 sq. m., in that condition he was required to obtain prior Environmental Clearance even if construction had not exceeded 20,000 sq. m. In view of this it was emphasized by him that the impugned EC which has been granted, should be treated to have been granted *ex-post facto*. There is no provision for ex post facto Environmental Clearance, therefore the construction made by the Project proponent prior to obtaining EC needs to be treated to have been made in violation and for that Environmental Compensation should be assessed / levied from it.

9. On the other hand, from the side of the Respondent No.11/ Project Proponent mainly it has been hammered that the judgment of Hon'ble Bombay High Court in Writ Petition No. (L) 655 of 2014, **Glomore Construction and Ors. Vs. the Union of India & ors.** says that there was no requirement for prior Environmental Clearance (EC) to be obtained for the present project as long as the Project Proponent did not exceed actual construction beyond 20,000 sq. m. and he has also placed reliance on judgment of Hon'ble Bombay High court in Writ Petition Lodging No. 470 of 2013, M/s Saumya Buildcon Pvt. Ltd. Vs. Union of India &Ors. delivered on 6<sup>th</sup> March, 2013, where-in emphasis has been



laid on Para- 17 which is requested herein-below for the sake of convenience :

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“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. m., 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 Vivekanad Co-operative 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. m 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. m of built up area without obtaining prior environmental clearance. This court has held that when clearance 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 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.”

10. The relevant portion of the judgment of Hon'ble Bombay High Court in Writ Petition No. (L) 655 of 2014, **Glomore Construction and**

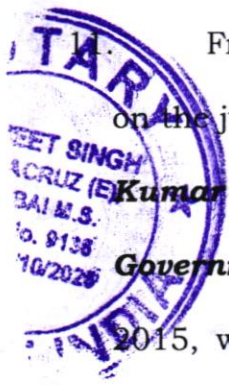
**Ors. Vs. the Union of India & Ors.** 1437, delivered on 24<sup>th</sup> March, 2014 is as

follows:

*"2. The grievance of the Petitioners is that though the Petitioners propose to construct the buildings, which are less than 20000 sq. m. and though this court, in number of cases has held that for construction of buildings, which are below 20000 sq. m., 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 building which are in project and are admittedly below 20000 sq. m. It is submitted that the petitioners have given an undertaking that they shall not carry out construction work of the buildings beyond 20000 sq. m. It is submitted that in view of this, the impugned notice which has been issued by the Respondent No.3 may be stayed."*

*"3. This court in several petitioners, has already held that Environmental Clearance for the purpose of construction of building below 20000 sq. m. is not required and the said orders have not been challenged by the Government of 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."*

Based on the above, learned counsel vehemently argued that it is absolutely clear that the above judgment of the Hon'ble Bombay High Court, which has jurisdiction over this Tribunal, have to be respected and based on that position of law only, the judgment in the present case should be delivered.



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From the side of the Applicant in rebuttal, the reliance is placed on the judgment passed by this Tribunal in Appeal No. 66 of 2014, **Sunil Kumar Chugh & Anr. Vs. Secretary, Environment Department Government of Maharashtra 5 others**, delivered on 3<sup>rd</sup> September, 2015, wherein reliance has been placed on Para 22, which is quoted herein-below for the sake of convenience:

*“22. Several judgments of the Hon’ble High Court of Judicature at Bombay namely, copy of order dated 29.03.2012 in Naresh Janardhan Mali Vs. The State of Maharashtra and Ors., copy of order dated 24.09.2012 in Vardhaman Developers ltd. Vs. Union of India, copy order dated 16.01.2013 in Nahur Vivekanad CHS Vs. Union of India, Copy order dated 06.03.2013 in Saumiya Buildcon Pvt. Ltd. Vs. Union of India, Copy of order dated 09.05.2013 in Tridhatu Ventures LLP Vs. State of Maharashtra, copy of order dated 21.06.2013 in vision Developers Vs. Union of India, Copy of order dated 18.12.2013 in vardhaman Developers Ltd. Vs. Union of India, copy of order dated 24.03.2014 in Glomore Construction Vs. Union of India were cited to buttress the claim that the construction without prior Environment Clearance was legally permissible. In answer, Learned Counsel appearing on behalf of the appellants submitted that these judgments cannot be regarded as a law declared and will not be binding upon this Tribunal, more particularly so because the Hon’ble High Court gave permission to construct up to 20,000 sq. meters without Environment Clearance only on a case to case basis and did not expound law with reference to EIA Notification, 2006. It is true that the said judgments cannot be regarded as a law declared and binding all courts within the territory of India as is the law declared by the Supreme Court under Article 141 of the Constitution. However, if the expounding of the law has been made by the Hon’ble High Court, such exposition of law will certainly have persuasive effect on us. On perusal of these judgments one finds merit in the submission made by the appellants that the Hon’ble High Court dealt with the exigencies of the fact situation on case to case basis and granted permissions to*

construct up to 20,000 sq. meters without Environmental Clearance. Nowhere we find that the Hon'ble High Court considered the scope and scheme of the EIA Notification, 2006 and expounded the law concerning need to have prior EC for the construction as specified in Entry 8 (a) of EC Regulation, 2006. Significantly, in Vardhaman Developers case the Hon'ble High Court, directed the petitioners not to claim any equity on the basis of the order made and further clarified that no equity shall be created in favour of the petitioner when its application for Environment Clearance is considered by the Authority and the authority was to consider such proposals for Environment Clearance on its merits without being influenced by the order. The judgments, therefore, need not persuade us to hold that the Respondent No.5 is without any blame of violating EIA Notification, 2006 by undertaking construction and continuing with it before the Environmental Clearance was granted."

12. Having relied upon the above judgment the learned counsel for the appellant has distinguished the facts of **Glomore Construction and Ors. Vs. the Union of India &ors**, from the facts of the case in hand and pointed out that the view taken by the Hon'ble Bombay High Court in that case would have only persuasive effect on the Tribunal and that the Tribunal found that nowhere the Hon'ble High Court considered the scope and scheme of EIA Notification 2006 concerning the need to have prior EC for construction as specified in Entry 8 (a) of EC Regulation 2006, therefore, this Tribunal should rely on the law laid down by the Tribunal in above judgment, where-in it is said in Para 3 that the EIA Notification 2006 dated 14<sup>th</sup> September, 2006 requires prior EC for building and construction projects having Built up Area of more than 20,000 sq. m., which is issued by MoEF&CC, Government of India in exercising of powers under Section 3 of the EP Act and rules framed there-under. Further, in para 4, it is recorded that according to the appellant, in the said case, Slum Rehabilitation Authority had recorded



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in clear terms that proposed Built Up Area of the project exceeded 20,000 sq.m. and, thus required EC from MoEF&CC, Government of India and same will be insisted upon before approval of further EC/ Commencement Certificate to first Rehabilitation building.

Notwithstanding the fact that Notification of 2006 clearly stated that no construction of any nature shall commence without obtaining prior EC, yet the construction of the project had started in full swing and the authorities including the Environment Department, Government of Maharashtra, failed to take any effective action against the construction despite various complaints made by the Appellant.

13. In para - 43 of the said judgment, it is recorded that the Project Proponent violated the EC Regulations, 2006 by undertaking construction before the EC was granted and thereby denied the realistic environmental safeguard to be in place. Further, it is mentioned in that paragraph, this begs a pertinent question as to whether EC in question needs to be set aside and the construction which includes rehabilitation component/ building comprising of 263 flats, 61 shops, 4 tenements of welfare centre, 4 tenements of Balwadi, Society office and Municipal Office, should be exposed to its logical consequence. In the opinion of the Tribunal it was held that when there is some space left for providing certain safeguards and seek compensation for the violation of EC regulations, it would be rather harsh to set aside the EC and instead the Project Proponent needs to be saddled with appropriate measure of compensation and directed to make certain amendments in the construction of sale component building, the construction of which has been stopped vide order dated 30<sup>th</sup> April, 2014 to maintain *status quo* so as to provide adequate parking spaces as required, to avoid spilling over of the vehicles on the public streets and cause congestion of traffic leading to adverse impact on the environment.

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14. Having cited this judgment learned counsel for the appellant urged that in this judgment the Tribunal had considered the judgment delivered by the Hon'ble Bombay High Court in Writ Petition No. (1) 655 of 2014, **Glomore Construction and Ors. Vs. the Union of India & ors.**, which has been cited above and yet the opinion expressed in it was that if the Total Built up Area (BUA) exceeded 20,000 sq. m. it would require prior EC and that the view taken by the Hon'ble Bombay High Court that if the construction was not exceeding 20,000 sq. m., the same would not be treated to be violation even if the prior EC was not obtained, as the same would be required only when the construction exceeded 20,000 sq. m., the said view was discarded by the Tribunal distinguishing the facts of the said two cases.

15. On the other hand, from the side of the learned counsel for the Project Proponent it has been vehemently argued that the opinion given by the Tribunal that the judgment of Hon'ble Bombay High Court would have only persuasive effect on it and that nowhere the Hon'ble Bombay High Court considered the scope and scheme of EIA Notification 2006 and expounded the law concerning need to have EC for construction as specified in Entry 8 (a) of EC Regulation 2006, is wrong appreciation of the judgment by the Tribunal and insisted that the view of Hon'ble Bombay High Court should be adhered to.

16. On the basis of the respective arguments of the parties concerned, we find that following questions need to be answered by us in this case

- I) Whether it would be treated to be violation on the part of the Project Proponent not to obtain prior EC, though the project which it had undertaken to build up, was ultimately going to exceed 20,000 sq. m. Area, even if actual construction remained below 20,000 sq.m., in the light of the judgments of Hon'ble Bombay High Court delivered in **M/s Saumya Buildcon Pvt. Ltd.**



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**Vs. Union of India and Glomore Construction and Ors. Vs. the Union of India &ors.?**

- II) Whether the act of the Project Proponent, in not obtaining prior Environmental Clearance, despite the fact that it had in mind to construct the Project beyond the 20,000 sq. m. and had obtained commencement certificates also, though construction remained below 20,000 sq.m., would be treated to be a violation on its part, in view of the position of law laid down by this Tribunal in **Sunil Kumar Chugh & Anr. Vs. Secretary, Environment Department Government of Maharashtra 5 others?**
- III) Whether, if Tribunal comes to the conclusion that the Project Proponent has committed violation in not obtaining prior EC and proceeded with the construction, the EC would be required to be set aside ? if yes, its consequence.?
- IV) What relief appellants are entitled to granted ?

**17. FINDINGS:**

**Findings on question No.1 & 2 :**

In respect of question No.1 and 2, we have gone through the judgment of Hon'ble Bombay High Court in **M/s Saumya Buildcon Pvt. Ltd. Vs. Union of India** case which in para-17 clearly says that if the Project Proponent does not exceed 20,000 sq. m. construction for residential buildings, without obtaining Environmental Clearance the same would not be treated to be violation of EIA Notification 2006, but as soon as it exceeds the said threshold level, it would require prior EC. This very position of law is reiterated by the Hon'ble Bombay High Court in the **Glomore Construction and Ors. Vs. the Union of India &ors.**

which is evident from the paragraph cited above. Against this judgment, there is a judgment of this Tribunal, in **Sunil Kumar Chugh & Anr. Vs. Secretary, Environment Department Government of Maharashtra 5 others** case, which says that whether construction exceed 20,000 sq. m. or not, if the project is likely to exceed 20,000 sq. m. for which approval has been taken, prior EC must be obtained by the Project Proponent before starting any construction. In our view, EIA Notification 2006 is silent on this point as to whether before initiating any construction of building project, the prior EC would be required or not, if construction exceeds 20,000 sq. m. at any future point of time but this grey area appears to have been covered by the above judgments cited by us. Since the Hon'ble Bombay High Court is the jurisdictional High Court under whose jurisdiction this Tribunal is functioning, the view taken by the Hon'ble Bombay High Court would have to be followed by us, though in our view the provision laid down in EIA Notification 2006 appears to be that if large building construction project is to be undertaken by any builder /Project Proponent who aims to certainly exceed 20,000 sq. m. of Total Built up Area, it should obtain prior EC in the interest of protection of environment because at the initial stage it would be feasible to put in place all such systems which would be conducive to protecting environment after thorough prior study. If at subsequent stage after crossing the Built up Area of 20,000 sq. m., further permission is granted to expand a project, that would certainly harm the environment. But because of the above view taken by the Hon'ble Bombay High Court, we are going by the same. In the present case, first Commencement Certificate was taken in the year 2008 for the BUA 17995.00 sq. m. which was below 20,000 sq. m. Threshold limit and hence



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prior EC was not required to be obtained before starting construction. The Project Proponent in this case has been granted commencement certificate on 09.04.2013 for Total Built up Area 21368.30 sq. m., exceeding 20,000 threshold limit. Therefore, it required prior EC to be obtained. On 07.09.2013, application for EC was moved before the SEIAA Maharashtra for which a long process started for considering the same which is apparent from the pleadings above and ultimately the impugned EC was granted on 18.02.2020. Prior to grant of impugned EC, the Project Proponent never exceeded the construction beyond the 20,000 sq. m. as stated by it in para 6.18 of their affidavit at Page No.261 of the paper book. Therefore, it is apparent that prior to applying for the prior EC and same having been granted, the Project Proponent did not exceed threshold limit of 20,000 sq. m and whatever construction below that was done by it would not be treated to be violation in terms of the judgments of the Hon'ble Bombay High Court cited above. Because of this reason, we also come to the conclusion that impugned EC would also not be treated to be ex- post facto. Therefore, question Nos.1 and 2 stand answered in favour of the Project Proponent against the appellant.

**Finding on question No.3.**

In respect of question No.3, we are of the opinion that since the answers to the question No.1 and 2 have gone in favour of the Project Proponent and against the appellant, this question would require to be answered to the effect that no violation is committed by the Project Proponent in proceeding with construction. It is decided accordingly.

**Finding on question No.4**

In respect of question No.4 as regards relief to the appellant we are of the view that the relief for quashing impugned EC does not

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deserve to be allowed. We may also note that the Project Proponent has already given all the details of the measures taken/ to be taken by it for the entire project regarding water, energy, management of waste, rain water harvesting, storm water management etc. We have also noted that as per page No. 1082 of the paper book, Project Proponent is going to incur the 1.99 cr. which is 1.5% of Capital cost of project towards the CER and EC specifically mandates to him to get that CER (Corporate Environmental Responsibility) approved from Municipal Commissioner / District Collector.

18. We have also noted that as per EC letter at page Nos. 32 to 42, PP has proposed comprehensive plan for treatment and recycle/ reuse of sewage, rain water harvesting, storm water management, organic Waste Composting, energy conservation including solar water heating, and tree plantation. Estimated project cost is Rs. 132.68 cr. Whereas capital cost of environmental management plan (EMP) is Rs. 2.68 cr and annual O &M provision is Rs. 58.27 lakh. EMP seems to be planned for both already constructed as well as proposed construction. Hence, apprehension that PP has tried to save on expenditure for protection of environment stands dispelled.

19. At this stage we are seriously concerned about practice of granting Commencement Certificate for BUA beyond 20,000 sq. m. by the Municipal Authorities without ensuring availability of environmental clearance when BUA is more than 20,000 sq. m. In OA 13-2021 SEIAA Maharashtra had submitted affidavit dated 15.07.2022 stating that-

*“VI. In order to reiterate primary responsibility of Local Planning Authority Urban Local Bodies Circular instructions are being issued by Department of Environmental and Climate Change government of Maharashtra.*

*a) State of Commencement Certificate- At the time of granting Commencement Certificate to construction projects where EIA Notification, 2006 is applicable, the authority concerned, should verify whether prior Environmental Clearance has been granted.*



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If authority comes across any violation, Commencement Certificate should not be given unless the project has received valid prior EC bearing EC identification Number. (ECs given after 20.10.2021 bear EC Identification Number) and the same to be brought to the notice of Regional Officer Maharashtra Pollution Control Board, who should initiate action in exercise of the powers conferred under Section 5 of the Environment (Protection) Act, 1986 and also inform EC Co-ordination Cell/ SEIAA/”

It seems that Government of Maharashtra has conveniently forgotten the said Affidavit. We direct Chief Secretary Maharashtra to personally ensure that necessary directions are issued within one month of this order.

20. Appeal is accordingly dismissed.

Dinesh Kumar Singh, JM

Dr.Vijay Kulkarni, EM

April 3, 2023.  
Appeal No. 26/2020(WZ)  
Sachin J.

## APPLICATION FOR PRIOR ENVIRONMENTAL CLEARANCE




S. No.	Item	Details
1.	<p>Whether it is a violation case and application is being submitted under Notification No. S.O.804(E) dated 14.03.2017 ?</p> <p><b>Details of Project:</b></p> <p>(a) Name of the project(s)</p> <p>(b) Name of the Company / Organisation</p> <p>(c) Registered Address</p> <p>(d) Legal Status of the Company</p>	<p>No</p> <p>PROPOSED RESIDENTIAL DEVELOPMENT AT Old SurveyNos 233 (pt), 235(pt) &amp; 256(pt) New Survey Nos 66(pt), 68(pt) and 69(pt) AT VILLAGE PENKARPADA, MIRA ROAD, THANE by EVERSMILE PROPERTIES PVT LTD.</p> <p>EVERSMILE PROPERTIES PVT LTD.</p> <p>75-old block factory, Sector-I, Srishti Housing Complex, Penkarpada, Mira Road, Thane,,Mumbai (Suburban),Maharashtra-401104</p> <p>Private</p>
2.	<p><b>Address for the correspondence:</b></p> <p>(a) Name of the Applicant</p> <p>(b) Designation (Owner/ Partner/ CEO)</p> <p>(c) Address</p> <p>(d) Pin code</p> <p>(e) E-mail</p> <p>(f) Telephone No.</p> <p>(g) Fax No.</p> <p>(h) Copy of documents in support of the competence/authority of the person making this application to make application on behalf of the User Agency .</p>	<p>Imtiaz Kanga</p> <p>Director</p> <p>101, Kalpataru Synergy, Opp Grand Hyatt, Santacruz East,,Kurla,Mumbai (Suburban),Maharashtra-400055</p> <p>400055</p> <p>eversmile@kalpataru.com</p> <p>22-30645000</p> <p>Annexure-Uploaded Copy of documents in support of the competence/authority</p>
3.	<p><b>Category of the Project/Activity as per Schedule of EIA Notification,2006:</b></p> <p>(a) Major Project/Activity</p> <p>(b) Minor Project/Activity</p> <p>(c) Category</p> <p>(d) Proposal Number</p> <p>(e) Master Proposal Number(Single Window)</p> <p>(f) EAC concerned (for category A Projects only)</p> <p>(g) Project Type</p>	<p><b>8(b) Townships and Area Development projects.</b></p> <p><b>NIL</b></p> <p><b>B1</b></p> <p><b>SIA/MH/MIS/238569/2021</b></p> <p><b>SW/266387/2022</b></p> <p><b>INFRA-2</b></p> <p><b>Fresh EC</b></p>
4.		

Exhibit-1



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<b>Location of the Project:</b>		
(a)Plot/Survey/Khasra No.		Land Bearing Old Survey Nos. 233 (Pt.) ,235(Pt.) &
(b)Pincode		401104
(c)Bounded Latitudes (North)		
From		
Degree		19
Minutes		16
Second		11.13
From		
Degree		19
Minutes		16
Second		22.83
(d)Bounded Longitudes (East)		
From		
Degree		72
Minutes		52
Second		10.76
From		
Degree		72
Minutes		52
Second		14.76
(e)Survey of India Topo Sheet No.		E43A15&11
(f)Uploaded Topo Sheet File		<a href="#">Copy of Topo Sheet File</a>
(g)Maximum Elevation Above Means Sea Level(AMSL)		6
(h)Uploaded (kml) File		<a href="#">Copy of Kml File</a> 
(i)Distance of Nearest HFL from the project boundary within the study area		0.22
(j)Seismic Zone		3
5.	(a)Number of States in which Project will be Executed	1
	(b)Main State of the project	Maharashtra

**Details of State(s) of the project**

S. No.	State Name	District Name	Tehsil Name	Village Name
(1.)	Maharashtra	Thane	Thane	VILLAGE PENKARPADA, MIRA ROAD
6.				

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**Details of Terms of Reference (ToR):**

(a) Whether TOR is mandatory for submitting application

Yes

**Details of Public Consultation:**

7. (a) Whether the Project Exempted from Public Hearing?

Yes

(b) Reason

as per EIA Notification

(c) Supporting Document

Copy of Supporting Document8. **Details of Project Configuration/Product:**8.1. **Project Configuration**

S. No.	Plant/Equipment/Facility	Configuration	Remarks
(1.)	Tower C	2B + Ground/Shopping + 1st Podium/Shopping + 2nd Podium + 1st to 33th floor	Height 108.60 m
(2.)	Tower F	3B + Ground + 1st Podium + 2nd Podium + 1st to 31st floor	Height 102.70 m
(3.)	Tower I	2B + Ground + 1st Podium + 2nd Podium + 1st to 2nd floor	Height 16 m
(4.)	Tower J	2B + Ground + 1st to 4th floor	Height 14.95 m
(5.)	Tower L	2B + Ground + 1st Podium + 2nd Podium + 1st to 33th Floor	Height 108.60 m
(6.)	Tower D	3B + Ground/Shopping + 1st Podium/Shopping + 2nd Podium + 1st to 33th floor	Height 108.60 m
(7.)	Tower H	2B + Ground + 1st Podium + 2nd Podium + 1st to 31st floor	102.70 m
(8.)	Tower A	2B + Ground + 1st Podium + 2nd Podium + 1st to 33th floor	Height 108.60
(9.)	Tower G	2B + Ground + 1st Podium	Height 102.70 m







	(d) Funds Allocated for Environment Management Plan (EMP) (Recurring per Annum) (in crores)	0.47
	(e) Funds Allocated for Environment Management Capital(%)	0.32
11.	<b>Whether project attracts the General Condition specified in the Schedule of EIA Notification ?</b>	No
12.	<b>Whether project attract the Specific Condition specified in the Schedule of EIA Notification ?</b>	No
13.	<b>Raw Material / Fuel Requirement:</b>	
	(a)Proposed quantity of raw material/fuel	0
	(b)Existing quantity of raw material/fuel	N/A
	(c)Total quantity of raw material/fuel	0

**13.1. Raw Material / Fuel Profile**

S. No.	Raw Material / Fuel	Quantity	Unit	Other Unit	Source (incase of Import. please specify country and Name of the port from which Raw Material / Fuel is received )	Mode of Transport	Other Mode of Transport	Distance of Source from Project Site (in Kilometres) (In case of import, distance from the port from which the raw material / fuel is received)	Type of Linkage	Other Type of Linkage	Uploaded Copy of Linkage
(1.)	Construction Materials	0	Others	sqm	NA	Road		0	Open Market		Copy of Linkage

14.	<b>Baseline Data :</b>	
	(a)Period of Base Line Data Collection	FROM 01 Dec 2020 To 28 Feb 2021
	(b)Season	Winter

**14.1. No. of ambient Air Quality (AAQ) Monitoring Locations : 8**

S.	Criteria Pollutants	Other Criteria Pollutants	Unit	Maximum	Minimum	98 Percentile	Prescribed
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No.			Value	Value	Value	Standard	
(1.)	PM2.5		Micro Gram per Meter Cube	88.72	15.39	81.81	180
(2.)	PM10		Micro Gram per Meter Cube	123.21	20.61	115.09	200
(3.)	Others	CO	Mili Gram per Meter Cube	2.07	0.21	2.02	4
(4.)	SO2		Micro Gram per Meter Cube	56.60	9.63	56.60	80
(5.)	NOx		Micro Gram per Meter Cube	63.18	11.35	58.02	80

14.2. No. of Ground Water Monitoring Locations : 1

S. No.	Criteria Pollutants	Other Criteria Pollutants	Heavy Metal	Unit	Other Unit	Maximum Value	Minimum Value	Desirable Limit	Maximum Permissible Limit
(1.)	Chlorides			mg/l		64	64	250	1000
(2.)	Fluoride			mg/l		0.45	0.45	1	1.50
(3.)	TDS			mg/l		422	422	500	2000
(4.)	pH			NA		7.64	7.64	6.5	8.5
(5.)	Total Hardness			mg/l		168	168	200	600
(6.)	Heavy Metals		Pb	mg/l		0	0	0.01	0.01
(7.)	TSS			mg/l		0	0	1	5

14.3. No. of Surface Water Monitoring Locations : 2

S. No.	Criteria Pollutants	Other Criteria Pollutants	Unit	Other Unit	Maximum Value	Minimum Value	Classification of inland water body
(1.)	DO		mg/l		4.20	4.20	C
(2.)	BOD		mg/l		4.50	4	E
(3.)	COD		mg/l		20.04	18.50	E
(4.)	Others	Total Coliform	Others	MPN / 100ml	2600	2500	C
(5.)	pH		NA		8.20	8.07	C

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## 14.4. No. of Ambient Noise Monitoring Locations : 8

S. No.	Parameter	Unit	Maximum Value	Minimum Value	Prescribed Standard
(1.)	Leq(Day)	A-weighted decibels(dB(A))	64.73	53.40	65
(2.)	Leq(Night)	A-weighted decibels(dB(A))	44.40	40.01	55

## 14.5. No. of Soil Sample Monitored Locations : 1

S. No.	Parameter	Unit	Other Unit	Maximum Value	Minimum Value
(1.)	Electric Conductivity	Others	µS/cm	454.27	454.27
(2.)	P(Phosphorus)	Milligram per Kilogram		1.64	1.64
(3.)	N(Nitrogen)	Milligram per Kilogram		922.46	922.46
(4.)	K(Potassium)	Milligram per Kilogram		3072.75	3072.75
(5.)	pH			7.76	7.76

**Details of Ground Water Table:**

14.6.	(a)Range of Water Table Pre-Monsoon Season (Meters Below Ground Level (m bgl))	From 0.50 To 14.60
	(b)Range of Water Table Post-Monsoon Season (Meters Below Ground Level (m bgl))	From 1.20 To 6.90
	(c)Whether Ground Water Intersection will be there ?	No

## 15. Details of Water Requirement (During Operation)

S. No.	Source	Source Other	Required Quantity	Distance from Source	Copy of Permission from Competent Authority	Mode of Transport	Other Mode of Transport	Method of Water Withdrawal	Other Method of Water Withdrawal	Letter No.	Date of Issue	Permitted Quantity
(1.)	Others	MBMC	1705	20	Copy of Permission Letter	Pipeline		Others	Pipe line	-	29 Sep 2021	0

15.1. (a)Whether Desalination is proposed | No

## 16. Waste Water Management(During Operation)

S. No.	Type/Source	Quantity of Waste	Treatment Capacity	Treatment Method	Mode of Disposal	Other Mode of Disposal	Quantity of Treated Water	Quantity of Discharged
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		Water Generated (Kilolitre per Day)	(Kilolitre per Day)			Used in Recycling/Reuse (Kilolitre per Day)	Water (Kilolitre per Day)			
(1.)	Sewage Water	1236	1624	MBBR	Others	Reuse & Disposal	602			
16.1.	(a)Total Waste Water Generation						1236			
	(b)Total Discharged Water						634			
	(c)Total Reused Water						602			
<b>17. Solid Waste Generation/Management</b>										
S. No.	Name of Waste	Item	Other Item	Quantity per Annum	Unit	Distance from Site(KM)	Mode of Transport	Other Mode of Transport	Mode of Disposal	Other Mode of Disposal
(1.)	Non Biodegradable Waste	Municipal Solid Waste		1293	Tons	20	Road		Authorized Recyclers	
(2.)	Biodegradable Waste	Municipal Solid Waste		862.13	Tons	0	Others	Onsite	Others	OWC
<b>18.</b>										
<b>18.1. Air Quality Impact Prediction</b>										
S. No.	Criteria Pollutants	Other Criteria Pollutants	Unit	Baseline Concentration	Distance GLC	Incremental Concentration	Total GLC	Prescribed Standard		
(1.)	NOx		Microgram per Meter Cube	63.01	1.5	1.5	64.10	80		
(2.)	PM10		Microgram per Meter Cube	123.21	2	0.142	123.35	100		
(3.)	PM2.5		Microgram per Meter Cube	88.72	1.50	1.50	88.92	60		
(4.)	SO2		Microgram per Meter Cube	56.6	4	1.43	58.03	80		
<b>18.2. Stack Details</b>										
S. No.	Source	Fuel	Stack Height(m)	Stack Diameter(m)	Pollutants	Other Pollutants	Emission (GLS)			
(1.)	DG	HSD	114.63	0.4	NOx		0.11			
(2.)	DG	HSD	40.88	0.4	PM2.5		0.021			



(3.)	DG	HSD	105.78	1.4	PM10	0.02
(4.)	DG	HSD	40.88	0.4	SO2	0.209

19.	<b>Power Requirement:</b>	
	(a)Quantity (Kilo Volt Amps (kVA))	13343
	(b)Source	Adani
	(c)Uploaded Copy of Agreement	<u>Copy of Agreement</u>
	(d)Standby Arrangement (Details of DG Sets)	3 x 910 KVA
	(e)Stack Height (in m)	114.63

20.	<b>Land Ownership Pattern:</b>	
	(a)Forest Land	0
	(b)Private Land	3.7880
	(c)Government Land	0
	(d)Revenue Land	0
	(e)Other Land	0
	<b>Total Land</b>	<b>3.7880</b>

21.	<b>Present Land Use Breakup of the Study Area in Ha:</b>	
	(a)Agriculture Area	0
	(b)Waste/Barren Land	0
	(c)Grazing/ Community Land	0
	(d)Surface Water Bodies	0
	(e)Settlements	0
	(f)Industrial	0
	(g)Forest	0
	(h)Mangroves	0
	(i)Marine Area	0
	(j)Others : Plot Area	3.7880
	<b>Total</b>	<b>3.788</b>

**22. Land Requirement for Various Activities**

S. No.	Description of Activity / Facility / Plant / Others	Others	Land Requirement	Remarks
(1.)	Built Up Area		3.7880	Construction Project
	<b>Total</b>		<b>3.788</b>	

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23. **Ecological and Environmental Sensitivity (Within 10 Km) - WLS-Wild Life Species; NPA-Notified Protected Area; ESAs-Eco Sensitive Areas; ESZs-Eco Sensitive Zones :**

23.1. **Details of Ecological Sensitivity :**

S. No.	Details of Ecological Sensitivity	Name	Distance from the Project (Km)	Remarks
(1.)	Corridors	NA	0	NA
(2.)	WLS	NA	0	NA
(3.)	Wildlife Corridors	NA	0	NA
(4.)	ESZs	SGNP	1.29	away from notified esz
(5.)	Critically Polluted Area	NA	0	NA
(6.)	NPA	NA	0	NA
(7.)	ESAs	NA	0	NA

23.2. **Details of Environmental Sensitivity :**

S. No.	Details of Environmental Sensitivity	Other Details of Environmental Sensitivity	Name	Distance from the Project (Km)	Remarks
(1.)	Forest		NA	0	NA
(2.)	Archaeological Sites		NA	0	NA
(3.)	Defence Installations		NA	0	NA
(4.)	Others	NA	NA	0	NA

23.3. (a)Whether Noc / Permission from the competent authority is required? | No

(b)Whether NBWL recommendation is required? | No

24. **Forest Land:**  
**Whether any Forest Land involved?** | No

25. **Tree Cutting:**  
(a)No. of Trees Cut for the Project (if Forest Land not Involved) | 167  
(b)Details of Tree Cutting and Planting of Trees | Copy of Details of Tree Cutting and Planting of Trees

26. **Land Acquisition Status:**  
(a)Acquired Land(Ha) | 3.7880





	(b) Land yet to be acquired (Ha)	0
	(c) Status of Land acquisition if not acquired	0
	<b>Rehabilitation and Resettlement (R&amp;R):</b>	
27.	(a) No. of Villages	0
	(b) No. of Households	0
	(c) No. of PDFs (Project Displaced Families)	0
	(d) No. of PAFs (Project Affected Families)	0
	(e) Funds Allocated for R&R (in Rs)	0
	(f) Status of R&R	Completed
	<b>Details of Presence of Schedule-I Species:</b>	
28.	(a) Whether there is Presence of Schedule-I Species ?	No
	(b) Whether conservation plan for Schedule-I Species has been prepared ?	No
	(c) Whether conservation plan for Schedule-I Species has been approved by competent authority ?	No
	<b>Details of Presence of Water Bodies in Core Area:</b>	
29.	(a) Whether there is Presence of Water Bodies in Core Area ?	No
	(b) Whether there is Diversion Required ?	No
	(c) Whether permission has been obtained from competent authority ?	No
	<b>Details of Presence of Water Bodies in Buffer Area:</b>	
30.	(a) Whether there is Presence of Water Bodies in Buffer Area ?	No
	<b>Manpower Requirement:</b>	
31.	(a) Permanent Employment-During Construction	50
	(b) Permanent Employment-During Operation	50
	(c) Temporary Employment- During Construction	50
	(d) Temporary Employment- During Operation	2500
	(e) No. of working days	6
	(f) Total Manpower	2650
	<b>Green Belt in Ha:</b>	
32.	(a) Total Area of Green Belt (in hectare)	0.378
	(b) Percentage of Total Project Area	9.98
	(c) No. of Plants to be Planted	974
	(d) Funds Allocated for Plantation	6116000

	(e)Uploaded Green Belt plan	
33.	<b>Project Benefits</b>	
<b>S. No.</b>	<b>Type of Project Benefits</b>	<b>Details of Project Benefits</b>
(1.)	Environmental	Providing STP, OWC & RWH



### 34. CRZ Specific Details : Not Applicable

### 35. Sector Specific Details For INFRA-2

S. No.	Item	Details
1.	<b>Details of Building Construction:</b> (a)Maximum Height of the Building (Meters) (b)Total No. of Flats to be Build (c)No. of Buildings (d)Total plot area (sqm) (e)Total built up area (sqm)	108.60 2521 12 37880.43 323656.18
2.	<b>Foreshore Facilities and/or Marine Disposal:</b> (a)Whether Project Involves Foreshore Activities and/or marine Disposal?	No
3.	<b>Rain Water Harvesting:</b> (a)No. of Storage Capacity (b)No. of Recharge Pits Capacity	0 0 11 1053
4.	<b>Parking:</b> (a)Details of 4 Wheeler/ 2 Wheeler Parking	2917/3036
5.	<b>Energy Saving Measures:</b> (a)Source/Mode (b)Percentage (c)Quantity	Solar, LED, etc 20 2705651

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6.	<b>Other details:</b> (a)Details of impact on Water Bodies and Drainage patterns of catchment area (b)Details of Traffic Density Impact Assessment and Modelling Study (c)In case Underground Tunnel Project below the Forest Land - Subsidence Impact Study report	Proper Internal SWD design has been proposed  <u>Copy of Details of Traffic Density Impact Assessment and Modelling Study</u>  <u>Copy of Underground Tunnel Project below the Forest Land - Subsidence Impact Study report</u>
7.	<b>Type of Industries to be established with Industrial Estate as per their category A/B</b>	
<b>S. No.</b>	<b>Type of Industry</b>	<b>No. of Units</b>
		<b>Category A/B</b>
	<b>NIL</b>	
8.	<b>Length of the alignment</b>	N/A
9.	<b>Details Bridges/ROB/Interchanges,Flyovers,Vehicle Underpass and Pedestrian Underpass</b>  <b>Details Not Applicable</b>	
<b>S. No.</b>	<b>Item</b>	<b>Details</b>
36.	<b>Details of Court Cases:</b> (a)Whether there is any Court Cases pending against the project and/or land in which the project is proposed to be set up ?	No
37.	<b>Details of Direction Issued under Environment (Protection) Act / Air (Prevention &amp; Control of Pollution) Act / Water (Prevention &amp; Control of Pollution) Act:</b> (a)Whether any Direction issued under EPA Act/Air Act/Water Act ?	No
38.	<b>Details of EIA Consultant:</b> (a)Have you hired Consultant for preparing document? (i)Accreditation No. (ii)Name of the EIA Consultant (iii)Address (iv)Mobile No. (v)Landline No. (vi)Email Id (vii)Category of Accreditation	Yes NABET/EIA/2023/RA 0206 Enviro Analysts & Engineers Pvt Ltd B-1003, Enviro House, 10th Floor, Western Edge II, Near Western Express Highway,Borivali East, Mumbai 400066 9321619749 0222854164 info@eaepl.com A



INFRA-2

13 May 2023

Copy of Certificate of Accreditation

(viii)Sector of Accreditation  
 (ix)Validity of Accreditation  
 (x)Uploaded Certificate of Accreditation certified by  
 QCI/NABET

**Documents to be Attached:**

(a.I)Upload Copy of EIA/EMP(Text)  
 (a.II)Upload Copy of EIA/EMP(Annexures) Report  
 (a.III)Upload Copy of EIA/EMP(Maps/Plans/Figures only)  
 (b)Uploaded Copy of Risk Assessment Report  
 (c)Uploaded Copy of Feasibility Report/ Detailed Project Report(DPR) /Detailed Engineering Report /Detailed Conceptual Plan /Approved Mining Plan  
 (d)Uploaded Copy of Final Layout Plan  
 (e)Uploaded Cover Letter  
 (f)Uploaded Copy of documents in support of the competence/authority of the person making this application to make application on behalf of the User Agency  
 (i)Uploaded Additional File  
 (j)Uploaded Proposal Presentation (To be given in EAC/SEIAA/SEAC meeting)  
 (k)Uploaded updated Form1

39.

Copy of EIA/EMP(Text)  
 Copy of EIA/EMP(Annexures)  
 Copy of EIA/EMP(Maps/Plans/Figures only)  
 Copy of Risk Assessment  
 Copy of Feasibility Report/ Detailed Project Report(DPR) /Detailed Engineering Report /Detailed Conceptual Plan /Approved Mining Plan  
 Copy of Final Layout Plan  
 Copy of Cover Letter  
 Copy of documents in support of the competence/authority of the person making this application to make application on behalf of the User Agency  
 Copy of Additional File  
 NA  
 NA

Essential Details Sought			
S. No.	EDS Sought Date	EDS Sought	Letter
NO Record			
Additional Details Sought			
S. No.	ADS Sought Date	ADS Sought	Letter
NO Record			

**Undertaking**

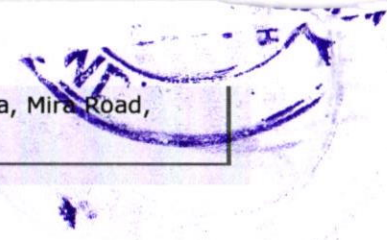
I hereby give undertaking that the data and information given in the application and enclosures are true to be best of my knowledge and belief. And I am aware that if any part of the data and information found to be false or misleading at any stage, the project will be rejected and clearance given, if any to the project will be revoked at our risk and cost. In addition to above, I hereby give undertaking that no activity/ construction/ expansion has since been taken up.

Name of Applicant	Imtiaz Kanga
Designation	Director
Name of Company (Applicant Name should not be given here)	EVERSMILE PROPERTIES PVT LTD.

1461

**Address**

75-44-100k factory, Sector-I, Srishti Housing Complex, Penkarpada, Mira Road,  
Thane



Minutes of the 178<sup>th</sup> meeting of the State Level Expert Appraisal Committee-II (MMR & Konkan Region) held on 29<sup>th</sup> 30<sup>th</sup> June, 2022 & 1<sup>st</sup> July, 2022 through Video Conferencing.

**Item No.28: Eversmile Properties Pvt Ltd. (SIA/MH/MIS/238569/2021)**

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.

**Introduction:**

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: 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.	

Minutes of the 178<sup>th</sup> meeting of the State Level Expert Appraisal Committee-II (MMR & Konkan Region) held on 29<sup>th</sup> 30<sup>th</sup> June, 2022 & 1<sup>st</sup> July, 2022 through Video Conferencing.



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	Configurat ion	Heig ht (m)	Building Name	Configurati on		Heig ht (m)	
		NA	NA	A	2B + Ground + 1 <sup>st</sup> Podium + 2 <sup>nd</sup> Podium+ 1st to 33th floor		108.6 0	NA
				B	2B + Ground + 1 <sup>st</sup> Podium + 2 <sup>nd</sup> Podium+ 1st to 33th floor		108.6 0	
				C	2B + Ground/Shopping+ 1 <sup>st</sup> Podium/Shopp ing + 2 <sup>nd</sup> Podium + 1st to 33th floor		108.6 0	
			D	3B + Ground/Shopping + 1 <sup>st</sup> Podium/Shopping + 2 <sup>nd</sup> Podium + 1st to 33th floor	108.6 0			

  
Member Secretary

  
Chairman

Minutes of the 178<sup>th</sup> meeting of the State Level Expert Appraisal Committee-II (MMR & Konkan Region) held on 29<sup>th</sup>, 30<sup>th</sup> June, 2022 & 1<sup>st</sup> July, 2022 through Video Conferencing.

			E	3B + Ground + 1st Podium + 2 <sup>nd</sup> Podium + 1st to 31 <sup>st</sup> floor	102.7 0
			F	3B + Ground + 1st Podium + 2 <sup>nd</sup> Podium + 1st to 31st floor	102.7 0
			G	2B + Ground + 1st Podium + 2 <sup>nd</sup> Podium + 1st to 31st floor	102.7 0
			H	2B + Ground + 1st Podium + 2 <sup>nd</sup> Podium + 1st to 31st floor	102.7 0
			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	108.6 0
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			


  
Member Secretary



Minutes of the 178<sup>th</sup> meeting of the State Level Expert Appraisal Committee-II (MMR & Konkan Region) held on 29<sup>th</sup> June, 2022 & 1<sup>st</sup> July, 2022 through Video Conferencing.



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	
		Constructi on waste	Top Soil	68057 cum	To be preserved for landscaping.
			Demoliti on waste	Nil	NA
			Excavate d material	137550 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 (@20L)	23168 Cans	To be sold to recyclers
			Scrap metal generate d	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.	

 Member Secretary





Minutes of the 178<sup>th</sup> meeting of the State Level Expert Appraisal Committee-II (MMR & Konkan Region) held on 29<sup>th</sup>, 30<sup>th</sup> June, 2022 & 1<sup>st</sup> July, 2022 through Video Conferencing.

		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.</p> <p>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	<p>a) Total Energy saving (%): 20%            b) Solar energy (%): 5%</p>								
34	D.G. set capacity	3 x 910 KVA								
35	No. of 4-W & 2-W Parking with 25% EV	<p>4W – 2917 No's            2W – 3036 No's            25% EV Charging Points provided</p>								
36	No. & capacity of Rain water harvesting tanks /Pits	11 Recharge Pits								
37	Project Cost in (Cr.)	Rs 1084.26crores								
38	EMP Cost	<p>Capital Cost: Rs. 366.25 lakhs            O &amp; M Cost: Rs. 47.34 lakhs/annum</p>								
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								

  
Member Secretary

  
Chairman

Minutes of the 17<sup>th</sup> meeting of the State Level Expert Appraisal Committee-II (MMR & Konkan Region) held on 29<sup>th</sup> 30<sup>th</sup> June, 2022 & 1<sup>st</sup> July, 2022 through Video Conferencing.



40	Details of Court Cases/litigations w.r.t the project and project location, if any.	Nil
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**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%.
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.

  
Member Secretary

  
Chairman

Minutes of the 178<sup>th</sup> meeting of the State Level Expert Appraisal Committee-II (MMR & Konkan Region) held on 29<sup>th</sup>, 30<sup>th</sup> June, 2022 & 1<sup>st</sup> July, 2022 through Video Conferencing.

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.

**Decision: -**

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

  
Member Secretary

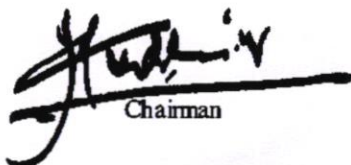
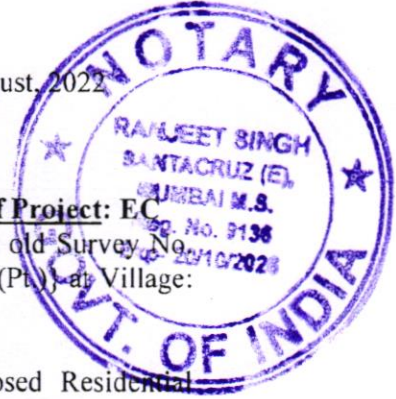
  
Chairman

Exhibit 'F'  
1469

Minutes of 249<sup>th</sup> Day 2 (Part C) meeting of SEIAA held on 26<sup>th</sup> August, 2022



**Item no. 39**

**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 %)

Member Secretary

Chairman



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>Building Name</b>	<b>Configuration</b>	<b>Height (m)</b>				
		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 + 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				

*M. S. S.*  
Member Secretary

*M. S. S.*  
Chairman



			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			
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>Treatme nt / disposal</b>	
		Dry waste	20	Will be handed over to a recycler	
		Wet waste	30	Will be handed over to	

*K. Anu*  
Member Secretary

*M. M. M.*  
Chairman



				municipal waste collector
Constructi on waste	Top Soil	6805 7 cum	To be preserved for landscaping.	
	Demoliti on waste	Nil	NA	
	Excavate d 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 containe r (@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 authorized vendors.	

*M. Rau*  
Member Secretary

*M. M. M.*  
Chairman



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 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" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2" style="text-align: center;">Details</th> </tr> </thead> <tbody> <tr> <td style="width: 70%;">Connected load (kW)</td> <td style="text-align: center;">37788</td> </tr> <tr> <td>Demand load (kW)</td> <td style="text-align: center;">10674</td> </tr> </tbody> </table>			Details		Connected load (kW)	37788	Demand load (kW)	10674
Details										
Connected load (kW)	37788									
Demand load (kW)	10674									

Member Secretary

Chairman



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

#### 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

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 37880.43 m<sup>2</sup>, FSI area of 185303.99 m<sup>2</sup>, Non FSI area of 138352.19 m<sup>2</sup> and total BUA of 323656.18 m<sup>2</sup>.

The proposal was then considered in 247<sup>th</sup> meeting of SEIAA wherein PP was absent for the meeting.

During the meeting, PP submitted that they have not obtained approved plan from MBMC. SEIAA after deliberation decided to defer the proposal for want of above point.

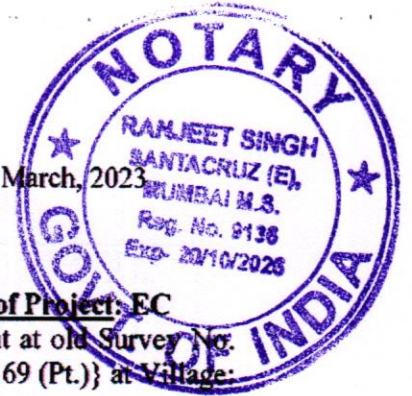
**SEIAA Decision-**

SEIAA after deliberation decided to defer the proposal.

  
Member Secretary

  
Chairman

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-**

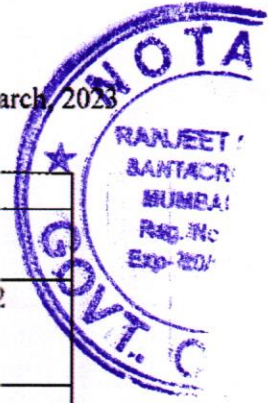
PP submitted the application for environment clearance to their proposed Residential Development project having total plot area of 37,880.43 Sq. Mtrs, Total construction area of 3,23,656.18 Sq. Mtrs and FSI area of 1,85,303.99 Sq. Mtrs. PP proposes to construct 12 Nos. of Residential buildings with shops 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:

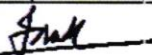
Sr No.	Description	Details	
1	Proposal Number	SIA/MH/MIS/238569/2021	
2	Name of Project	Proposed residential development at old Survey No. 233 (Pt.), 235(Pt.) and 256(Pt.) (new survey no. 66(Pt.), 68(Pt.) and 69(Pt.) at Village: Penkarpada, Mira road, Thane by M/s Eversmile Properties Pvt Ltd.	
3	Project 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

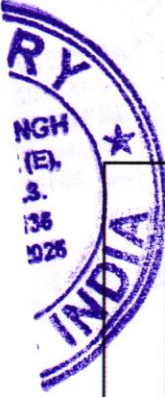
  
Chairman




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	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		

  
Member Secretary

  
Chairman



				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	

  
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Chairman



30	Total	Solid	Waste	Type	Quantity (Kg/d)	Treatme
				Constructi on waste	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.
30	Total	Solid	Waste	Type	Quantity (Kg/d)	Treatme

*Small*  
Member Secretary

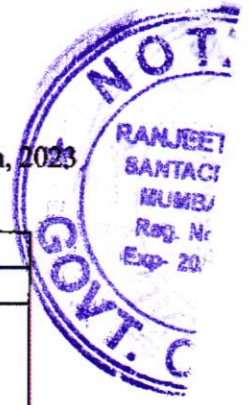
*MIT*  
Chairman



Quantities with type during Operation Phase & Capacity of OWC to be installed			nt / 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 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" style="margin-left: 20px;"> <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%							

*Sanku*  
Member Secretary

*[Signature]*  
Chairman



		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/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


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

Exhibit 'H'  
1484



ENVIRONMENTAL  
CLEARANCE



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

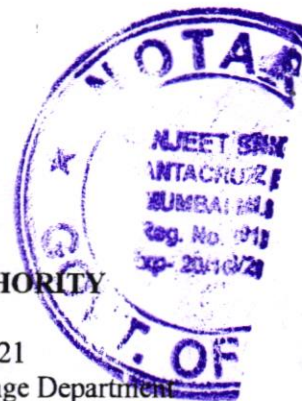
(e-signed)  
Pravin C. Darade , I.A.S.  
Member Secretary  
SEIAA - (Maharashtra)

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



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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**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.	
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		Contact number	022 30645000
		e-mail	<a href="mailto:eversmile@kalpataru.com">eversmile@kalpataru.com</a>

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.					
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Paint container	2316 8	To be sold to			



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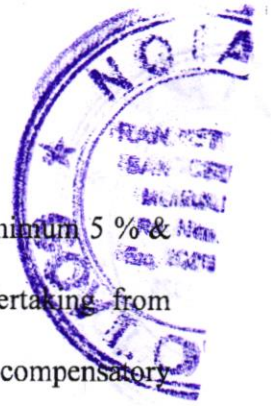
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Demand load (kW)	10674							
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34	D.G. set capacity	3 x 910 KVA						
35	No. of 4-W & 2-W Parking with 25% EV	4W – 2917 No's 2W – 3036 No's 25% EV Charging Points provided						
36	No. & capacity 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 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.



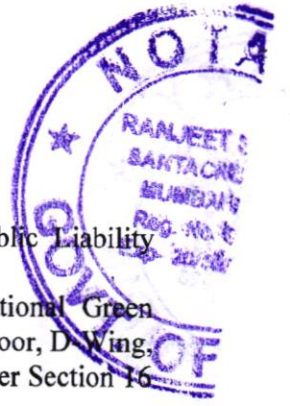
- III. a) The installation of the Sewage Treatment Plant (STP) should be certified by an independent expert and a report in this regard should be submitted to the MPCB and Environment department before the project is commissioned for operation. Treated effluent emanating from STP shall be recycled/ reused 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



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.

*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

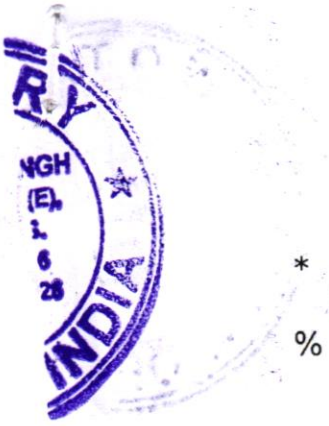
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Darade, I.A.S.  
Member Secretary

Date: 4/12/2023 2:39:24 PM



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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 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

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

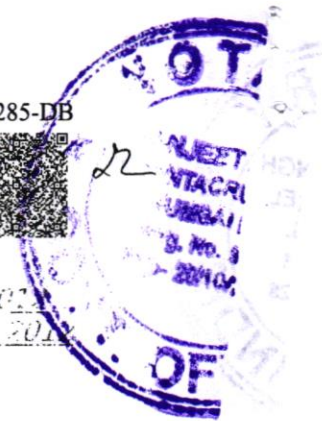
PRADEEP NANDRAJOG, J.

For orders see LPA No.895/2010.

  
(PRADEEP NANDRAJOG)  
JUDGE

  
(PRATIBHA RANI)  
JUDGE

JANUARY 23, 2012  
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IN THE HIGH COURT OF DELHI AT NEW DELHI

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

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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.



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

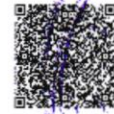
VARDHMAN PROPERTIES LTD & ORS ..... Respondents  
Through Mr.Anil Sapra, Sr. Advocate with Ms.Urvi  
Kothiala, Ms.Praneeta Vir and Mr.Sanjay  
Goswami, Advocates

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

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.

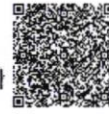
versus

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.



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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

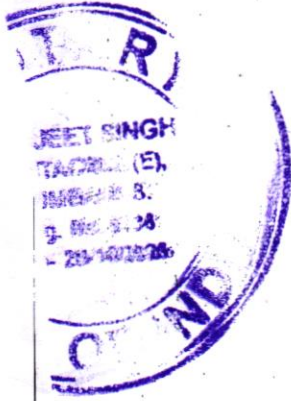
RAJESH PROJECTS INDIA PVT LTD & ORS ..... Respondents  
Through Mr.Sanjay Goswami, Advocate for R-1  
Mr.Neeeraj Chaudhari, CGSC with  
Mr.Akshay Chandra and Mr.Khalid Arshad,  
Advocates for UOI

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  
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

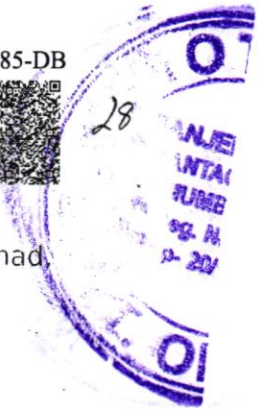
AS BUILDWELL PVT LTD & ORS ..... Respondents  
Through Mr.Sanjay Goswami, Advocate for R-1  
Mr.Neeeraj Chaudhari, CGSC with  
Mr.Akshay Chandra and Mr.Khalid Arshad,  
Advocates for UOI

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

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.



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versus

VARDHMAN PROPERTIES 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 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



VARDHMAN PROPERTIES LTD & ORS ..... Respondent  
Through Mr.Sanjay Goswami, Advocate for R-J  
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

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



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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

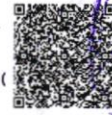
CORAM:

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 Judge.

3. The buildings with respect where to 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 a 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) .....

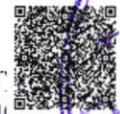
(k) 'trade effluent' includes any liquid, gaseous or solid substance which is discharged from any premises used for carrying on any industry, operation or process, or treatment and disposal system, other than domestic sewage.

**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,



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) .....



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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,—

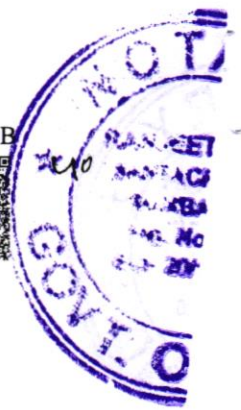
(a) 'air pollutant' means any solid, liquid or gaseous substance (including noise) present in the atmosphere in such concentration as may be or tend to be injurious to human beings or other living creatures or plants or property or environment;

(b) .....

(c) .....

(d) .....

(e) .....



- (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:

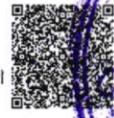
Provided that it shall be open to the State Board to cancel such consent before the expiry of the period for which it is granted or refuse further consent after such expiry if the conditions subject to which such consent has been granted are not fulfilled:

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—



(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*



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*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





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



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



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



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applied by the learned Single Judge is that widest amplitude 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



to shopping malls and commercial shopping complexes 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.



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25. The reasoning of the learned Single Judge to 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

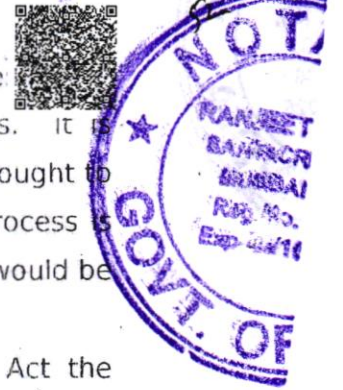


process which is likely to discharge sewage or trade effluent is not intended to apply to all and sundry establishments. It is restricted to only when a building, housing an industry is sought to be established or a building in which an operation or a process is intended to be carried on where effluent 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 21 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

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*  
*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

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





57

Control Board is the power of the Board to serve upon the 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



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

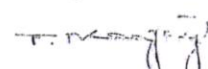



without any jurisdiction. In the instant case the penalty levied is unconstitutional being not sanctioned by any power vested in DPCC either under the Water Act or the Air Act. The impugned decisions where penalty levied has been directed to be refunded are upheld.

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

1536 Exhibit-7

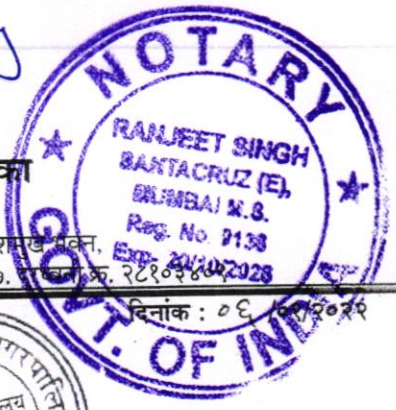


## मिरा भाईंदर महानगरपालिका

उद्यान व वृक्ष प्राधिकरण विभाग

तळ मजला, प्रभाग समिती क्र.4, कै. विलासराव देशमुख भवन,

जांगिड इन्वलेक्, कनकिया, मिरारोड (पूर्व), ता.जि.ठाणे-४०११०७.



जा.क्र. मनपा/वृ.प्रा./मिरारोड/ ७०७ /२०२१-२२

दिनांक : ०६/०१/२०२२

प्रति,  
मे. एव्हरस्माईल प्रॉपर्टीस प्रा.लि.  
प्लॉट नं. ७५, ओल्ड ब्लॉक,  
सेक्टर नं.-१, सृष्टी हौसिंग कॉम्प्लेक्स,  
मिरारोड (पु.)



- विषय :- विकास कामातील बाधित झाडे मुळासहित काढणे / मुळासहित काढून पुनःरोपण करणेबाबत.
- संदर्भ - १) मे. एव्हरस्माईल प्रॉपर्टीस प्रा.लि. यांचे दि. १२/०३/२०२१ रोजीचे पत्र.  
२) जा.क्र. मनपा/ नर/ ३९०४/ २०२०-२१ दि. १०/०३/२०२१ रोजीचे बांधकाम प्रारंभपत्र. (नेक्शे मंजूरीसह) (फक्त जोत्यापर्यंत)  
३) मा. आयुक्त सो. यांची दि. २०/०९/२०२१ रोजीची मान्यता.  
४) मा. वृक्ष प्राधिकरण समिती सभा ठराव क्र. ०१ दि. २७/१२/२०२१ अन्वये मंजूरी.  
५) जा.क्र. मनपा/ वृ.प्रा./६९०/२०२१-२२ दि. २९/१२/२०२१ रोजीचे अनामत रक्कम भरणेकामी दिलेले पत्र.  
६) दि.०५/०१/२०२२ रोजीची पावती क्र.१८९२ व पुस्तक क्र.१८९१९९, पुस्तक क्र. १३ पावती क्र. १२७५  
७) मा. आयुक्त सो. यांची दि. ०६/०१/२०२२ रोजीची मान्यता.

मिरा भाईंदर महानगरपालिका क्षेत्रातील मौजे पेणकरपाडा सर्वे क्र. / हिस्सा क्र. ६३(२३१), ६५(२३२), ६६(२३३), ६७(२३४), ६८(२३५), ६४/२(२४०/२), ३९(२६०), ४९(२१७), ५०(२१८), ५१(२१९), ५२(२२०), ६०/१ व २ (२२८/१ व २), ६१(२१९), ६२/१, २(२३०/१ व २), ४(१७५), ७९(१८७), ७१(२३६), ७४(२३८), ७६(२३९), ७७(२४४), ७८(२५५), ६९(२५६), ७०(२५७), ७५(२५८) या जागेत इमारत बांधकामामध्ये बाधित होणारी १६७ झाडे मुळासहित काढणे व ३० झाडे पुनःरोपण करणेकामी संदर्भ क्र. ०१ अन्वयेचा आपल्या पत्रान्वये व संदर्भ क्र. ०४ अन्वये महाराष्ट्र (नागरी क्षेत्र) झाडांचे संरक्षण व जतन अधिनियम १९७५ चे कलम ८(३) नुसार मा. वृक्ष प्राधिकरण समिती सभा ठराव क्र. ०१ दि. २७/१२/२०२१ अन्वयेचा मंजूरीनुसार खालील झाडे मुळासहित काढणे व पुनःरोपण करणेकामी अटीशर्तीच्या अधिन राहून परवानगी देण्यात येत आहे.

अ) वृक्ष तोडणे			
अ.क्र.	झाडांचे प्रकार	झाडांची संख्या	शेरा
१.	सप्तपर्णी (सातविन)	१	मुळासहित काढणे.
२.	सुरु	१	
३.	फायकस	१	
४.	उंबर	१	
५.	शोमट	१	
६.	पापडी	१	
७.	सुवाभुळ	४४	
८.	कळम	१	
९.	जंगली चेरी	१६	
१०.	पेल्ट्रोफारम (सोनमोहर)	५०	
११.	विलायती चिंच	२	
१२.	शमी	३	
१३.	रेंद्री	१९	
१४.	स्पेथोडीया	९	
१५.	करवटी (स्टेरेटीलीया अल्टा)	२	
१६.	जांभुळ	१	
१७.	भेंड	४	
१८.	बोर	१०	
	एकुण	१६७	

ब) वृक्ष पुनःरोपण करणे.			
अ.क्र.	झाडांचे प्रकार	झाडांची संख्या	शेरा
१.	आकेशिया	२	पुनःरोपण करणे.
२.	काशीद (कॅशीया)	१	
३.	गुलमोहर	१२	
४.	काळा उंबर	३	
५.	उंबर	७	
६.	पिंपळ	२	
७.	जांभूळ	१	
८.	आंबा	१	
९.	पुत्रंजीवा	१	
एकुण		३०	
एकुण तक्ता अ+ब		१९७	



**अटीशर्ती :**

- १) मुळासहित काढावयाची १६७ नग झाडांच्या बदल्यात प्रती झाड ५ नग झाडे याप्रमाणे ८३५ नग रोपांची लागवड करणे. त्याबाबतचा अहवाल प्रत्येकी तीन (०३) महिन्यांनी उद्यान व वृक्ष प्राधिकरण विभागास सादर करणे बंधनकारक राहिल.
- २) नव्याने वृक्ष लागवडीकरीता ०८ ते १० फुट उंचीची रोपे, Polybag Size २१ X २१ inch, Trunk Size ३० ते ३५ mm, Canopy Branch १ Meter Length या स्पेसिफिकेशन नुसार रोपांची लागवड करणे त्यास संरक्षण जाळी बसविणे, रोपांना पाणी देणे याकरीताचा सर्व खर्च स्वखर्चाने करावा.
- ३) मुळासहित झाडे काढणे / पुनःरोपण करणे / नव्याने झाडे लावणे इत्यादी कामे उप.मुख्य उद्यान अधीक्षक / वृक्ष अधिकारी यांच्या समक्ष किंवा अवगत करून करणे आपल्यावर बंधनकारक राहिल.
- ४) सदरची झाडे स्वखर्चाने व स्वनिर्णयाने तांत्रिक / तज्ञ मनुष्यबळ उपलब्ध करून तोडणे / पुनःरोपण करून घेणेकामी महानगरपालिका कोणत्याही प्रकारची साधन सामग्री पुरवणार नाही. झाडाच्या फांद्या, लाकडे रस्त्यावर फेकण्यात येऊ नये.
- ५) पुनःरोपण करण्यात येणारी झाडे काढण्याच्या वेळी व पुनःरोपण करतेवेळी फोटोग्राफी व व्हिडीओ चित्रीकरण करण्यात यावे.
- ६) झाडांचे पुनःरोपण व वृक्षारोपण केल्यानंतर जिओ टॅगींग करण्यात यावे.
- ७) वृक्षारोपण / पुनःरोपण केल्यानंतर जिओ टॅग फोटो विभागाकडे यादीसह सादर करण्यात यावेत.
- ८) सदर कामी भरण्यात आलेली पाहणी फी रक्कम परत केली जाणार नाही.
- ९) सदर पुनःरोपण केलेली झाडे ३ वर्षे सुस्थितीत ठेवणे बंधनकारक राहिल. जर तीन वर्षांच्या आत सदरची झाडे मृत पावल्यास प्रती झाड रू.५,०००/- याप्रमाणे अनामत रक्कम कपात करण्यात येईल.
- १०) सदर झाडे काढणे / पुनःरोपण करणेकामी परवानगी ०६ महिने वैध राहिल. त्यानंतर ही परवानगी आपोआपच रद्द होईल.
- ११) झाडे काढणे / पुनःरोपण करणेकामी काही अपघात झाल्यास त्याची संपूर्ण जबाबदारी आपली राहिल. (उदा. जिवित हानी, वित्तहानी वाहनाचे अपघात)
- १२) जागेसंबंधी काही वाद उद्भवल्यास व प्रकरण न्यायप्रविष्ट झाल्यास ते सोडवण्याची जबाबदारी आपली राहिल. महानगरपालिका कोणत्याही प्रकारचा हस्तक्षेप करणार नाही.
- १३) झाडे काढणे / पुनःरोपण करणेकामी कोणत्याही नागरीकानी परवानगीची विचारणा केल्यास सदर परवानगीची माहिती देणे बंधनकारक आहे.
- १४) सदर झाडे काढण्याच्या बदल्यात नविन झाडे न लावल्यास आपणांवर महाराष्ट्र (नागरी क्षेत्र) झाडांचे संरक्षण आणि संवर्धन नियम २००९ नुसार कायदेशीर दंडात्मक कारवाई करण्यात येईल.

मा. वृक्ष प्राधिकरण समितीचा मान्यतेने

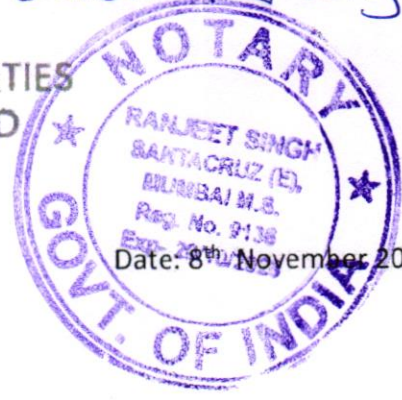
*(Signature)*  
6.1.2022

(कृष्णेंत गायकवाड)  
सहाय्यक आयुक्त  
तथा वृक्ष अधिकारी  
मिरा भाईंदर महानगरपालिका

15/38

Exhibit - K 'copy'

EVERSMILE PROPERTIES  
PRIVATE LIMITED



Date: 8<sup>th</sup> November 2022

To,

Chief Garden Superintendent,  
Mira Bhayander Municipal Corporation,  
Dist. Thane.

Sub: Trees transplantation and New trees plantation at Village – Penkar Pada, Srishti Hsg. Complex, Mira Road (East), Dist. Thane

Ref: your letter No. मनपा / वृ. प्रा. / मीरारोड / ७०७ / २०२१-२२ दिनांक - ०६/०१/२०२२

Dear Sir,

We are submitting the quarterly report of newly planted trees and transplanted trees as mentioned in the subject letter.

The following documents are attached

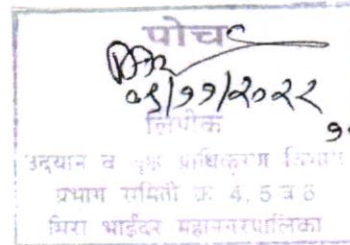
- Geo tag photos of newly planted & transplanted trees
- Inventory of newly planted trees
- Summary of Trees Inventory
- Inventory of transplanted trees

Thanking you.

Yours Sincerely,  
For EVERSMILE PROPERTIES PVT. LTD.,

f V.D. Bunde  
Authorized Signatory.

Encl: As above.



CIN No.: U70100MH1979PTC021291

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

# 1539

## EVERSMILE PROPERTIES PRIVATE LIMITED



Date: 17 February 2023

To,

Chief Garden Superintendent,  
Mira Bhayander Municipal Corporation,  
Dist. Thane.

Sub: Trees transplantation and New trees plantation at Village – Penkar Pada, Srishti Hsg. Complex, Mira Road (East), Dist. Thane

Ref: your letter No. मनपा / वृ. प्रा. / मीरारोड / ७०७ / २०२१-२२ दिनांक - ०६/०१/२०२२

Dear Sir,

We are submitting the quarterly report of newly planted trees and transplanted trees as mentioned in your above-referred letter.

The following documents are attached

- Latest Geo tag photos of newly planted & transplanted trees
- Transplanted tree summary
- New trees plantation inventory
- Transplanted tree inventory

As per circular no. वृक्षअ 2021/प्र. क्र. 26 / ता. क्र. 4 dated 24 June 2021 of Department of Environment and Climate Change, Government of Maharashtra, if there is any change and/or instructions in respect of number of new trees to be planted, please advise us accordingly.

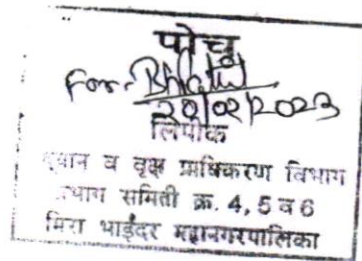
Thanking you.

Yours Sincerely,  
For EVERSMILE PROPERTIES PVT. LTD.,

*V.D. Bhalde*

Authorized Signatory.

Encl: As above.



CIN No.: U70100MH1979PTC021291

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

# 1540

**EVERSMILE PROPERTIES  
PRIVATE LIMITED**

Date: 13 May 2023

To,

Chief Garden Superintendent,  
Mira Bhayander Municipal Corporation,  
Dist. Thane.

Sub: Trees transplantation and New trees plantation at Village – Penkar Pada, Srishti Hsg. Complex, Mira Road (East), Dist. Thane

Ref: your letter No. मनपा / वृ. प्रा. / मीरारोड / ७०७ / २०२१-२२ दिनांक - ०६/०१/२०२२

Dear Sir,

We are submitting the quarterly report of newly planted trees and transplanted trees as mentioned in your above-referred letter.

The following documents are attached

- Latest Geo tag photos of newly planted & transplanted trees
- Summary of Transplanted trees
- Inventory of Transplanted trees
- Summary of New planted trees
- Inventory of New planted trees

As per circular no. वृक्षअ 2021/प्र. क्र. 26 / ता. क्र. 4 dated 24 June 2021 of Department of Environment and Climate Change, Government of Maharashtra, if there is any change and/or instructions in respect of number of new trees to be planted, please advise us accordingly.

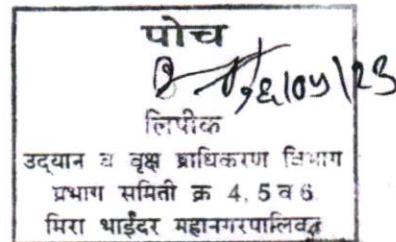
Thanking you.

Yours Sincerely,  
For EVERSMILE PROPERTIES PVT. LTD.,

*V. D. Bode.*

Authorized Signatory.

Encl: As above.



CIN No.: U70100MH1979PTC021291

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

1541

Exhibit - K

EVERSMILE PROPERTIES  
PRIVATE LIMITED



Date: 28 July 2022

To,

Chief Garden Superintendent,  
Mira Bhayander Municipal Corporation,  
Dist. Thane.

Sub: Trees transplantation and New trees plantation at Village – Penkar Pada,  
Srishti Hsg. Complex, Mira Road (East), Dist. Thane

Ref: your letter No. मनपा / वृ. प्रा. / मीरारोड / ७०७ / २०२१-२२ दिनांक - ०६/०१/२०२२

Dear Sir,

Pursuant to the letter referred above, we have attached the following documents

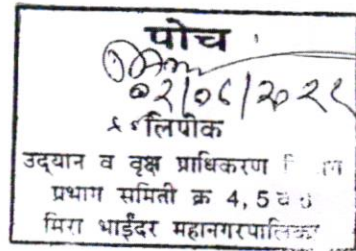
- Photos of trees transplantation
- Videography and presentation of trees transplantation
- Geo tag report of transplanted trees
- Geo tag photos of transplanted trees
- Geo tag report of newly planted trees
- Summary of newly planted trees
- Geo tag photos of newly planted trees

Thanking you.

Yours Sincerely,  
For EVERSMILE PROPERTIES PVT. LTD.,

Authorized Signatory.

Encl: As above.



CIN No. U70100MH1979PTC021291

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

# 1542

EVERSMILE PROPERTIES  
PRIVATE LIMITED

Date: 9 August 2023

To,

Chief Garden Superintendent,  
Mira Bhayander Municipal Corporation,  
Dist. Thane.

Sub: Trees transplantation and New trees plantation at Village – Penkar Pada, Srishti Hsg. Complex, Mira Road (East), Dist. Thane

Ref: your letter No. मनपा / वृ. प्रा. / मीरारोड / ७०७ / २०२१-२२ दिनांक - ०६/०१/२०२२

Dear Sir,

We are submitting the quarterly report of newly planted trees and transplanted trees as mentioned in your above-referred letter.

The following documents are attached

- Latest Geo tag photos of newly planted & transplanted trees
- Summary of Transplanted trees
- Inventory of Transplanted trees
- Summary of New planted trees
- Inventory of New planted trees

As per circular no. वृक्षअ 2021/प्र. क्र. 26 / ता. क्र. 4 dated 24 June 2021 of Department of Environment and Climate Change, Government of Maharashtra, if there is any change and/or instructions in respect of number of new trees to be planted, please advise us accordingly.

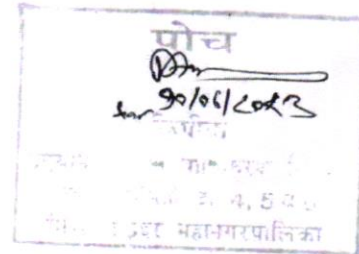
Thanking you.

Yours Sincerely,  
For EVERSMILE PROPERTIES PVT. LTD.,

*V.D. Barde*

Authorized Signatory.

Encl: As above.



CIN No. U70100MH1979PTC021291

Plot No. 75, Old Block Factory, Sector - 11, Srishti Housing Complex,  
Penkarpada, Mira Road, Dist. Thane - 401 104

# 1543

## EVERSMILE PROPERTIES PRIVATE LIMITED

Date: 13 May 2024

To,

Chief Garden Superintendent,  
Mira Bhayander Municipal Corporation,  
Dist. Thane.

Sub: Trees transplantation and New trees plantation at Village – Penkar Pada, Srishti Hsg. Complex,  
Mira Road (East), Dist. Thane

Ref: your letter No. मनपा / वृ. प्रा. / मीरारोड / ७०७ / २०२१-२२ दिनांक - ०६/०१/२०२२

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- Inventory of Transplanted trees
- Summary of New planted trees
- Inventory of New planted trees

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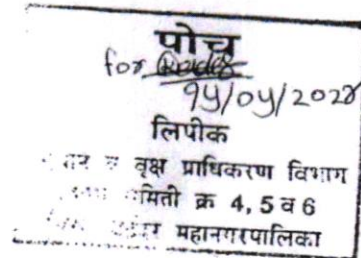
Thanking you.

Yours Sincerely,  
For EVERSMILE PROPERTIES PVT. LTD.,

VINIT BARDE Digitally  
signed by  
VINIT BARDE

Authorized Signatory.

Encl: As above.



1544

**EVERSMILE PROPERTIES  
PRIVATE LIMITED**

Date: 14 August 2024

To,

Chief Garden Superintendent,  
Mira Bhayander Municipal Corporation,  
Dist. Thane.

Sub: Trees transplantation and New trees plantation at Village – Penkar Pada, Srishti Hsg. Complex,  
Mira Road (East), Dist. Thane

Ref: your letter No. मनपा / वृ. प्रा. / मीरारोड / ७०७ / २०२१-२२ दिनांक - ०६/०१/२०२२

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- Inventory of New planted trees

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Thanking you.

Yours Sincerely,  
For EVERSMILE PROPERTIES PVT. LTD.,

VINIT Digitally  
signed by  
BARDE VINIT BARDE

Authorized Signatory.

Encl: As above.

