

**RE THE HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH PUNE
APPEAL NO. 48 OF 2024**

IN THE MATTER OF:

MR. SAYYED MOHAMMED SABIR USMAN

...APPELLANT

VERSUS

UNION OF INDIA & ORS.

.... RESPONDENTS

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BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL**WESTERN ZONE BENCH PUNE****APPEAL NO. 48 OF 2024**

IN THE MATTER OF:

MR. SAYYED MOHAMMED SABIR USMAN ...APPELLANT

VERSUS

UNION OF INDIA & ORS.RESPONDENTS

AFFIDAVIT IN REPLY ON BEHALF OF RESPONDENT NO.4

TO THE CAPTIONED APPEAL:

I, Anil Vijay Deshmukh, aged about 60 years, Indian inhabitant, residing at 203-204, 2nd Floor, Orbit Plaza, New Prabhadevi Road, Prabhadevi, Mumbai – 400 025, have read and understood the contents of the captioned Appeal and in reply thereto I have to state as under:-

1. I say that I am the Partner of Respondent No. 4 and I am authorized to file the present Reply.
2. At the outset I state that the Appeal as framed and filed by the Appellant is false, frivolous, misconceived,

untenable in the law and liable to be dismissed with compensatory costs. I further say that the said Appeal has been filed with mala fide intentions and with the sole objective of arm twisting this Respondent into settlement. Further, the Appeal suppresses several crucial facts on which ground alone, the said Appeal ought to be rejected at the threshold itself by imposition of compensatory costs.

3. At the further outset, I deny all the statements, assertions, allegations made in said Appeal insofar as they are contrary to what is stated in this Affidavit in Reply. I further say that no fact not specifically admitted in the present Reply should be deemed to be admitted by reason of non-traverse or otherwise.
4. I say that at present, Respondent No. 4 is filing a short Affidavit in Reply in order to comply with the directions issued in Order dated 08.05.2024 passed by this Hon'ble Tribunal. This Respondent reserves its right to and craves leave to file a further detailed Affidavit in Reply if and when considered necessary.





5. At the outset, I say and submit that the Appeal filed by the Appellant is only an arm-twisting and extortionist tactic and does not have any basis in law. It is submitted that the limited point raised in the present Appeal pertains to the sanctity of the EC issued by the SEIAA allegedly after the expiry of its tenure. This limited point is without any basis for *inter alia* the following reasons:

- i. The impugned EC has been granted in favour of Respondent No. 4 by the SEIAA in its 271st Meeting held on 30.11.2023. It is submitted that the SEIAA was very much in operation and fully functional on the said date. Hereto annexed and marked as **Exhibit A** is the relevant extract of the minutes of the meeting of SEIAA held on 30.11.2023.
- ii. A bare perusal of these minutes makes it clear that the impugned EC was granted to this Respondent after following the due process and fully in accordance with law.

- iii. The Appellant himself in the present appeal has admitted that the SEIAA decided to grant the EC on 30.11.2023.
- iv. The Government of India (Ministry of Environment, Forest and Climate Change) has issued an office memorandum dated 02.08.2023 whereunder it has specifically stated that in the case of proposals approved by SEIAA but minutes/letter not uploaded on PARIVESH, a window period of 15 days shall be provided to the Member Secretary SEIAA, extendable by a further period of 15 days, to only upload the minutes/letters for the proposals which were duly approved by the SEIAA before it became non-functional. Hereto annexed and marked as **Exhibit - B** is a copy of the said office memorandum dated 02.08.2023. It is submitted that even otherwise, in view of the present Office Memorandum, the issuance of the impugned EC is lawful and ought not to be set aside.






In view of these submissions, it is clear that the present Appeal is misconceived and without any basis and the same ought to be rejected by imposition of exemplary costs.

6. A brief background of facts necessary for the adjudication of the present Appeal are as follows:

- a. Respondent No. 4 is presently in the process of executing a project under a proposed slum redevelopment scheme under DCR-33(10) on land bearing C.T.S. No. 1A (pt) of village Mankhurd, M-E Ward for Shrushtiraj Mohite Patil Nagar SRA CHS (Prop.).
- b. On 03.06.2020, Respondent No. 4 submitted an application for Environmental Clearance (EC) in respect of the aforementioned project to the SEIAA vide proposal No. SIA/MH/MIS/155920/2020.
- c. After due consideration, on 07.12.2021, the Environment Clearance came to be issued to this Respondent by the SEIAA.

- d. On 26.06.2023, this Respondent once again applied for issuance of EC due to the expansion of the development project.
- e. At the 216th meeting of the SEAC-II held on 06.10.2023 after a detailed discussion and analysis, SEAC-II recommended to the SEIAA for grant of EC to the expansion of the project of Respondent No. 4.
- f. Consequently, the SEIAA in its 271st Meeting held on 30.11.2023 after due deliberation and by following the due process of law decided to grant the Environment Clearance. This decision was communicated to the representative of Respondent No. 4 who was present at the said meeting. The said decision of the SEIAA has also been recorded in the minutes of the meeting of the said 271st meeting of SEIAA duly signed by the Chairman and Member Secretary which were uploaded on the Parivesh Portal and sent to the Respondent No.4 by their Environmental Consultant by email dated 20/01/2024.





g. On 02.02.2024, the SEIAA issued a computer generated certificate containing the details and particulars about the EC. It is submitted that the date of 02.02.2024 is not the date on which the SEIAA undertook deliberations and took the decision to grant the EC.

7. In view of the aforementioned facts and circumstances, it is submitted that the proposal of this Respondent was approved pursuant to due deliberations. It is only after considering the submissions made by this Respondent's representative and after detailed scrutiny of this Respondent's submissions, a decision to issue the EC was taken by the SEIAA on 30.11.2023 on which date the said authority was fully operational and functional. It is pertinent to note that the decision to issue EC to the proposal of this Respondent was taken while the Authority was in full force and functioning in accordance with the law. Importantly, the decision making process that was undertaken to issue the EC did not suffer from any infirmity either legal or otherwise as is evident from the records. In the light thereof, the

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approval accorded in favour of this Respondent was of 30th November 2023.

8. It is further submitted that in light of the aforementioned Office Memorandum dated 02.08.2023, the ministerial act of issuance of the impugned EC on 02.02.2024 is legal, valid and has full binding authority. In view of these facts, this Respondent submits that the present Appeal ought to be dismissed at the threshold and by imposing exemplary costs.

9. I say that most of the allegations in the said Appeal pertain to Respondent Nos. 1 to 3 and therefore, for the sake of brevity, Respondent No. 4 is not dealing with each and every paragraph in the said Appeal. However, by way of abundance caution, this Respondent's paragraph wise reply is as follows:

A. With reference to paragraph 1 of the Appeal, it is submitted that the contents thereof do not warrant any specific reply from this Respondent.





B. With reference to paragraph 2 of the Appeal, this Respondent denies that this Respondent has obtained EC when SEIAA was not functioning.

C. With reference to paragraphs 3.1 to 3.6 of the Appeal, it is submitted that the contents thereof are the questions posed for consideration of this Hon'ble Authority. It is respectfully submitted that the EC has been granted to this Respondent by following the due process of law and the same is valid, proper, legal and binding. For the reasons and facts narrated hereinabove, it is submitted that the approval accorded to this Respondent's proposal was very much given on 30th November 2023 which was done in accordance with the law. Therefore, merely a ministerial act of uploaded a EC on 2nd February 2024 does not suffer from any infirmity for the reasons as set out in the preceding paragraphs. In view of this, it is submitted that the Questions posed for consideration are required to be answered in the affirmative.

D. With reference to the paragraphs 4.1 to 4.9 of the Appeal it is submitted that the Appellant has set out certain facts relating to the issue at hand and this Respondent denies the Appellant's version of narration of facts and repeats and reiterates what is stated in the preceding paragraphs. The answering respondent submits that they have complied with the conditions imposed by SEAC in its recommendations and only after considering the same, SEIAA decided to grant EC.

E. With reference to the paragraphs 5.1, 5.2 and 5.3 of the Appeal, it is submitted that these paragraphs under reply do not pertain to this Respondent, hence no reply is warranted from this Respondent.

F. With reference to paragraph 5.4 and 5.5 of the Appeal, it is denied that this Respondent has submitted false, baseless and misleading information to SEIAA while obtaining the EC and that this Respondent is guilty of *Supressio Veri Suggestio Falsi*. It is submitted that this Respondent has submitted all the necessary documents and represented all the necessary




information before the SEIAA and also pointed out all the vital information during the meetings of SEIAA. It is only after considering the submissions of this Respondent's representative as also the details put forward regarding its proposal, the SEIAA has approved the proposal of this Respondent. In any case, the Appellant's allegations are devoid of any substance, vague and meritless and hence denied in totality.

G. With reference to paragraphs 5.6, 5.7, 6 (c) of the Appeal, Respondent No. 4 specifically denies that the impugned EC is illegal for the reasons as alleged or otherwise. It is also specifically denied that Respondent No. 4 is acting in collusion with Respondent Nos. 2 and 3 or any other Respondent or persons. Respondent No. 4 denies that there is any abuse of the process of law in the present case. Respondent No. 4 also specifically denies that it has submitted any false, baseless or misleading information to the SEIAA in order to obtain the impugned EC. It is denied that this Respondent by procuring the EC has stared in the eyes of law. Further, in view of the facts stated hereinabove and as

discernible from the records, it is denied that EC be quashed and strict action be taken *inter alia* against this Respondent. It is also denied that the Appellant has made out any case to justify its contention that any strict Order be passed against this Respondent as alleged or otherwise. I say that the entire case of the Appellant is based on the conjectures, surmises and incorrect understanding of the records and the law. On this ground alone, the Appeal of the Appellant be dismissed in *limine*. Rest of the contents of the paragraphs under reply that are contrary to or inconsistent with what is stated herein are denied in totality save and except those that are specifically admitted herein.

H. With reference to paragraphs 6(a), 6(b), 6 (d) and 6(e) of the Appeal, this Respondent denies the contents thereof as the same are false, untrue and based on the erroneous understanding of law. I deny that the issuance of the EC under consideration shows any lack of coordination between MoFCC and SEIAA as alleged or otherwise. It is categorically denied that the Appellant





has any case much less any Prima facie case as alleged or otherwise. Rest of the contents of the paragraphs under reply that are contrary to or inconsistent with what is stated herein are denied in totality save and except those that are specifically admitted herein.

I. With reference to paragraphs numbers 6 (f) to 6 (j) & 7 to 11, the contents thereof are denied in totality as the same are false, incorrect and based on figment of Appellant's own imagination. It is submitted that there is no cause of filing the present Appeal as the EC issued to the Appellant is issued in accordance with the law which is evident from the facts as narrated hereinabove. Rest of the contents of the paragraphs under reply that are contrary to or inconsistent with what is stated herein are denied in totality save and except those that are specifically admitted herein.

J. With reference to paragraphs 12 of the Appeal, it is submitted that the Appellant is not entitled to any reliefs as prayed for, for the reasons as set out in the preceding paragraphs.

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10. I say that apart from the bare allegation, no further proof in this regard has been offered by the Appellant. Respondent No. 4 also denies that the Appellant is entitled to any stay or reliefs as prayed or otherwise. I say that the entire case of the Appellant is based on the erroneous understating of the facts and law and hence required to be dismissed by imposing exemplary cost.

11. In light of the facts and reasons stated hereinabove, I say and submit that the present Appeal ought to be dismissed with exemplary costs.



Advocate for Respondent No. 4



Respondent No. 4



VERIFICATION

I, Mr. Anil Vijay Deshmukh, aged about 60 years, Indian inhabitant, residing at 203-204, 2nd Floor, Orbit Plaza, New Prabhadevi Road, Prabhadevi, Mumbai – 400 025, do hereby solemnly affirm and state that what has been stated in paragraph Nos. 4 to 20 hereinabove is true to best of my own knowledge and belief save and except the legal submissions which I also believe to be true and correct.

Solemnly affirmed at Mumbai)

This 21st day of September 2024) **For Arihant Construction Co.**


Advocate for Respondent No. 4


Partner
(Respondent No. 4)

Before me

BEFORE ME


R. B. GUPTA

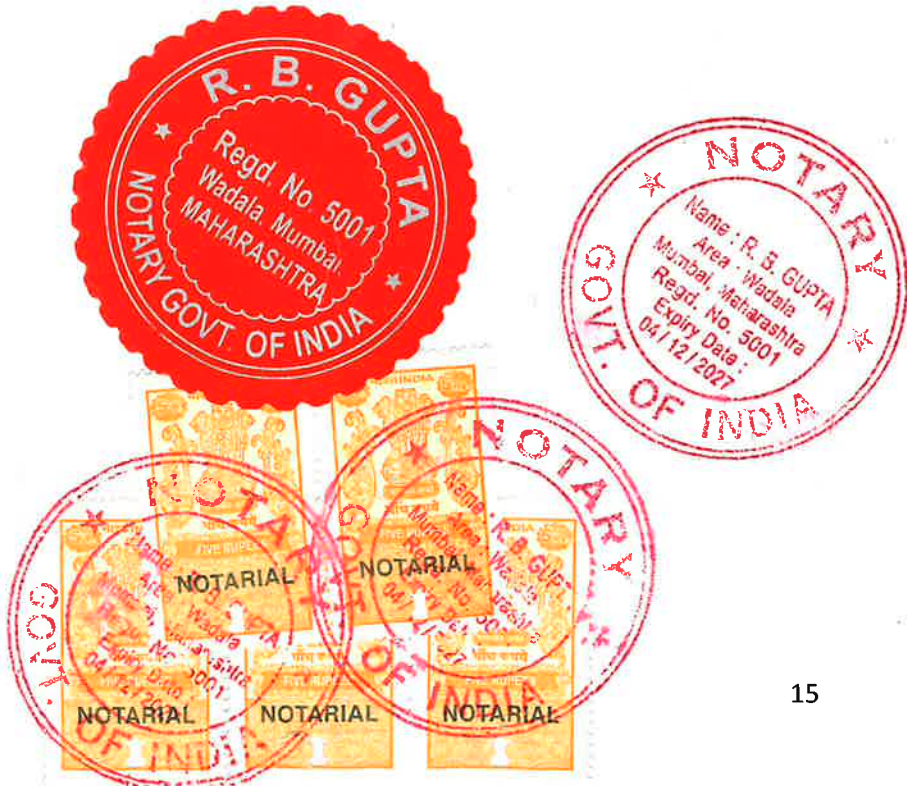
B.Com., LL.B. Regd. No. 5001
NOTARY GOVT. OF INDIA
Resi: Room No. 80 8/8, Nanabhai Wadi,
S. P. Road, Wadala (E), Mumbai - 400 037.

21 SEP 2024

NOTED & REGISTERED

Sr. No. 72626 Page No. 90

Date 21 SEP 2024



Minutes of 271st Day 2 (Part A) meeting of SEIAA held on 30th November, 2023.

**Item no. 07****Proposal No.:-** SIA/MH/INFRA2/434648/2023**Type of Project:** EC

Subject- Environmental Clearance for proposed Slum Rehabilitation Scheme along with sale component at plot bearing CTS No. 1A (pt), Village: Mankhurd, Taluka and District: Mumbai by M/s.Arihant Construction Company.

Project Details-

PP submitted the application for environmental clearance to their proposed Slum Rehabilitation Scheme project having total plot area of 24,011.94 Sq.Mtrs., Total construction area of 3,03,907.54 Sq.Mtrs. and FSI area of 1,69,000.42 Sq.Mtrs. PP proposes to construct Rehab Wings A to I and Sale Wing A to J having maximum height of 119.30 Mtrs. as mentioned at Sr.no. 20 of the project details.

Representative of PP was present during the meeting along with Environmental Consultant Ultra-Tech. The details of project are as mentioned below:

Sr. No.	Description	Details	
1	Proposal Number	SIA/MH/INFRA2/434648/2023	
2	Name of Project	"Slum Rehabilitation Scheme along with sale component" at plot bearing CTS no. 1A (pt), Village: Mankhurd, Taluka and District: Mumbai, State: Maharashtra, India.	
3	Project category	8 (b)	
4	Type of Institution	Private	
5	Project Proponent	Name	M/s. Arihant Construction Company Mr. Vilas P. Kharche (Partner)
		Regd. Office address	203-204, 2 nd Floor, Orbit Plaza, New Prabhadevi Road, Prabhadevi, Mumbai - 400 025.
		Contact number	7738074522
		E-mail	arvind.scmwal@catapultrealty.in
6	Consultant	ULTRA TECH Certificate No: NABET/EIA/2023/RA 0194 - Rev 01 Validity: 18 th October 2024	
7	Applied for	Expansion	
8	Location of the project	CTS no. 1A (pt), Village: Mankhurd, Taluka and District: Mumbai, State: Maharashtra, India.	
9	Latitude and Longitude	Latitude: 19° 3'12.99"N Longitude: 72°56' 3.17"E	
10	Plot Area (sq.m.)	24,011.94 sq.mt.	
11	Deductions (sq.m.)	730.65 sq.mt	
12	Net Plot area (sq.m.)	23,281.29 sq.mt	
13	Ground coverage (m ²) & %	18,101.50 sq.mt (78%)	
14	FSI Area (sq.m.)	1,69,000.42 sq.mt.	
15	Non-FSI (sq.m.)	1,34,907.12 sq.mt.	


Member Secretary


Chairman

Minutes of 271st Day 2 (Part A) meeting of SEIAA held on 30th November, 2023.

16	Proposed built-up area (FSI + Non FSI) (sq.m.)			3,03,907.54 sq.mt.			
17	FSI area (m2) approved by Planning Authority till date			Received Letter of Intent (LOI) dated 26.03.2021 received from SRA. Approved FSI = 1,69,000.42 sq.mt. Commensurate Non-FSI area = 1,34,907.12 sq.mt. Total construction built up area = 3,03,907.54 sq.mt.			
18	Earlier EC details with Total Construction area, if any.			Received prior Environmental Clearance (EC) dated 07.12.2021 from SEIAA, Maharashtra for total construction built up area 1,41,857.97 sq.mt			
19	Construction completed as per earlier EC (FSI + Non FSI) (sq. m.)			The total Constructed Area (FSI + Non FSI) on site till date is 17,724.62 sq.mt.			
20	Previous EC dt. 07.12.2021			Proposed Configuration			Reason for Modification/ Change
	Building Name	Configuration	Height (m)	Building Name	Configuration	Height (m)	
	Rehabilitation building (3 nos. of Buildings)			Rehabilitation building (1 building with 9 wings)			
	Building 1	Ground/stilt + 23 upper floors	69.91 m	Wing A to I	Ground/stilt + 1 st to 21 st floors + 22 nd (pt.) floors each	67.13 m	
	Building 2	Ground/stilt + 23 upper floors	69.91 m				
Building 3	Ground/stilt + 20 (pt.) upper floors	69.95 m					
			School (Wing F)	Ground + 6 floors			
Sale building (2 nos. of Buildings)			Sale building (1 Building with 11 nos. of wings)			Proposed only one building	

Small
Member Secretary

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Chairman

Minutes of 271st Day 2 (Part A) meeting of SEIAA held on 30th November, 2023.

	Building 4	Ground/Stilt + 40 upper floors	119.70 m	Wing A & K	Basement + Lower Ground +	119.30 m	with 11 wings instead of earlier 2 buildings to accommodate sale component.
	Building 5	Ground/Stilt + 1 st to 35 th (Pt.) upper floors	105.30 m	Wing B to J	Ground + 1 st floor (commercial/ residential) + 2 nd to 6 th (parking/ residential) + 7 th to 39 th Floors Basement + Lower Ground + Ground + 1 st floor (commercial / residential) + 2 nd to 6 th (parking / residential) + 7 th to 22 nd floors	70 m	
21	No. of Tenements & Shops			Rehabilitation Building: Flats: 890 nos. PAP: 696 nos. R/C: 13 nos. Shops: 174 nos. Amenity 1 & 2: 7 nos. each Balwadi: 7 Nos. Society Office: 16 nos. Welfare Centre: 7 nos. Community Hall: 1 no. Classroom: 9 Nos. Sale Building: Flats: 1762 nos. Offices Shops (for Sale & Rehabilitation)			
22	Total Population			20837 numbers of person			
23	Total Water Requirements CMD			2096 CMD			
24	Under Ground Tank (UGT) location			Rehabilitation Building: Underground Sale Building: Basement			
25	Source of water			Municipal Corporation of Greater Mumbai (MCGM)			
26	Sewage Generation CMD & % of sewage discharge in sewer line			Sewage Generation: 1805 CMD % of treated sewage discharge in sewer line: 568 KLD (35%)			


Member Secretary


Chairman

Minutes of 271st Day 2 (Part A) meeting of SEIAA held on 30th November, 2023.

27	STP Capacity & Technology	Rehabilitation Building: 2 nos. of STPs of total capacity 1000 KL Sale Building: One STP of capacity 1100 KL Technology: Moving Bed Bio Reactor (MBBR)		
28	STP Location	Rehabilitation Building: Underground Sale Building: Basement		
29	Solid Waste Management during Construction Phase	Type	Quantity (Kg/d)	Treatment / disposal
		Dry waste	15 kg/day	Segregation of solid waste and hand over to authorized recyclers
		Wet waste	10 kg/day	
		Demolition debris	4364 cum	1592 cum disposed to authorized landfill site with permission from Solid Waste Management Department, M.C.G.M. And 2772 cum shall be disposed to authorized landfill site with permission from Solid Waste Management Department, M.C.G.M.
		Excavation material	60565 cum	18170 cum reused within site for levelling and backfilling purpose. Approx. 42395 cum will be generated during construction of remaining building shall be partly reused within site for leveling and backfilling purpose and remaining shall be disposed to authorized landfill site as per permission from M.C.G.M.
Construction waste	--	Reuse/recycle on site and disposal of remaining waste to the authorized landfill site with permission of authorized recycler		
30	Total Solid Waste Quantities with type during Operation Phase & Capacity of OWC to be installed	Type	Quantity (Kg/d)	Treatment / disposal
		Dry waste	4255 kg/day	To Authorized recyclers


Member Secretary


Chairman

Minutes of 271st Day 2 (Part A) meeting of SEIAA held on 30th November, 2023.

		Wet waste	2838 Kg/day	Treatment in Organic Waste Converters (OWCs)
		E-Waste	17 kg /month	Separate storage at common designated location and handed over to Authorized agency for further disposal.
		STP Sludge (dry)	--	Use as manure
31	R.G. Area in sq.m.	<p>RG required: 1862.50 sq.mt. RG provided on Mother earth: 1862.77 sq.mt. Total: 1862.77 sq.mt.</p> <p>Existing trees on plot: 7 nos. Number of trees to be cut: 3 nos. (already cut) Number of trees to be transplanted: 4 nos. Number of trees to be retained: -- Number of trees to be planted: In RG area: 291 nos. (including periphery planation) Total Nos. of trees after development: 295 nos.</p>		
32	Power requirement	<p>During Operation Phase: Connected load (kW): 14499 kW Maximum demand (kW): 11601 kW</p>		
33	Energy Efficiency	<p>a) Total Energy saving (%): 22.85% b) Solar energy (%): 5.24%</p>		
34	D.G. set capacity	<p>DG sets are not proposed during construction & operation phase. Alternate source of Power supply from Adani Electricity only.</p>		
35	No. of 4-W & 2-W Parking with 25% EV	<p>4-Wheeler: 1683 nos. 2-Wheeler: 421 nos. Provision of 25% E-charging facilities.</p>		
36	No. & capacity of Rain water harvesting tanks /Pits	<p>Provision of 20 nos. of Rain Water Harvesting tanks of total capacity 530 KL</p>		
37	Project Cost in (Cr.)	<p>Rs. 1048.50 Cr.</p>		
38	EMP Cost	<p>EMP Cost including costing towards disaster management: Construction Phase: Rs. 391.83 Lacs Operation Phase: 1. Capital Cost: Rs. 3285.57 Lacs 2. Operational & Maintenance Cost: Rs. 306.79 Lacs/annum</p>		
39	CER Details with justification if any....as per MoEF & CC circular dated 01/05/2018	<p>--</p>		
40	Details of Court Cases/litigations w.r.t the project and project location, if any.	<p>No litigation against the project or land</p>		


Member Secretary


Chairman

Minutes of 271st Day 2 (Part A) meeting of SEIAA held on 30th November, 2023.

SEAC Deliberation -

PP informed that the project is Slum Rehabilitation Scheme project under Regulation 33(10) of 2034 in the jurisdiction of Municipal Corporation of Greater Mumbai (MCGM) & planning authority is Slum Rehabilitation Authority (SRA). PP also informed that the project site is well connected by existing 60 Mtr wide Mankhurd Ghatkoper Link road (East) & existing 27.45 Mtr. wide Mohite Patil Road (South). PP further informed that the project site is in Rehabilitation and Resettlement Zone as per DP Remarks received from M.C.G.M.

PP submitted that the project had received earlier EC vide EC identification no. EC 21B038MH180918, dated 07/12/2021 for plot area of 11,951.44 sq.Mtrs., total construction area of 1,41,857.97 Sq.Mtrs. & FSI area of 85,351.82 Sq.Mtrs. PP also submitted that they have completed construction of 17,724.62 Sq.Mtr on site till date & submitted architect certificate dated:7/7/2023 to that effect.

PP submitted that due to amendment in planning, now, they have proposed expansion in earlier EC. The comparative statement showing details of project as per earlier EC and proposed expansion is as below:

No.	Description	EC received dt. 07.12.2021	Seeking Expansion in EC	Remarks
1.	Total plot area (sq.mt.)	11,951.44	24,011.94	Increased by 12,060.50 Sq.mt. due to amalgamation of adjoining slum area.
2.	Net plot area (sq.mt.)	11,951.44	23,281.29	Proposed increase by 11,329.85 Sq.mt.
3.	Required Recreational Ground (RG) area (sq.mt.)	956.44 (8%)	1862.50 (8%)	Proposed increase by 906.06 Sq.mt. due to increase in net plot area
4.	Provision of RG area (Sq.mt.)	956.44	1862.77	Proposed increase by 906.33 sq.mt. in line with requirement of RG area
5.	Additional green cover on podium (sq.mt.)	0.00	2185.02	Provision of additional green area on podium
6.	Proposed Built-up Area as per FSI including fungible area (sq.mt)	85,351.82	1,69,000.42	Proposed increase by 83,648.60 sq.mt. as per permissible built up area.
7.	Built up area as per non-FSI (sq.mt)	56,506.15	1,34,907.12	Proposed increase by 78,400.97 sq.mt.
8.	Total Construction built up area (sq.mt)	1,41,857.97	3,03,907.54	Proposed increase by 1,62,049.57 sq.mt.


Member Secretary


Chairman

Minutes of 271st Day 2 (Part A) meeting of SEIAA held on 30th November, 2023.

COMPARATIVE STATEMENT – PROJECT PROPOSAL

EC received dated 07.12.2021	Seeking Expansion in EC	Remarks
Rehabilitation building		
<p>3 nos. of Buildings</p> <p>Building 1: Ground/Stilt + 23 upper floors</p> <p>Building 2: Ground/Stilt + 23 upper floors</p> <p>Building 3: Ground/Stilt + 20 (pt.) upper floors Flats: 452 nos. PAP: 469 nos. R/C: 8 nos. Shops: 57 nos. Amenity: 10 nos. Balwadi: 5 nos. Society Office: 10 nos. Welfare Center: 5 nos. Community Hall: 1 no. Religious structure: 2 nos.</p>	<p>1 Building with 9 Wings (Wing A to I) Ground/ Stilt + 1st to 21st Floors + 22nd (Pt.) Floors each</p> <p>School (Wing F): Ground + 6 Floors</p> <p>Flats: 890 nos. PAP: 696 nos. R/C: 13 nos. Shops: 174 nos. Amenity 1 & 2: 7 nos. each Balwadi: 7 Nos. Society Office: 16 nos. Welfare Center: 7 nos. Community Hall: 1 no. Classroom: 9 nos.</p>	<p>Proposed 01 building instead of earlier 3 buildings with change in location within same plot for which EC is issued for the following reasons;</p> <p>To provide enough space for children play area especially in Rehab Bldg. as per condition imposed by SEIAA in EC dated 07.12.2021.</p> <p>To accommodate additional Rehab tenements under amalgamated scheme with better & efficient planning with proper infrastructure.</p> <p>Provision of Amenities in line with LOI from SRA.</p> <p>Construction status: Construction of only part Rehab building undertaken within plot under earlier EC. No construction activity undertaken in plot under expansion.</p>
Sale building		
<p>2 nos. of Buildings</p> <p>Building 4: Ground/Stilt + 40 upper floors</p> <p>Building 5: Ground/Stilt + 1st to 35th (Pt.) upper floors</p> <p>Flats: 1563 nos. Fitness Centre: 2 nos. Society office: 2 nos. Commercial units: 21 nos.</p>	<p>1 Building with 11 Nos. of Wings (A to K)</p> <p>Wing A & K: Basement + Lower Ground + Ground + 1st floor (commercial/residential) + 2nd to 6th (parking/ residential) + 7th to 39th Floors</p> <p>Wing B to J: Basement + Lower Ground + Ground + 1st floor (commercial/residential) + 2nd to 6th (parking/ residential) + 7th to 22nd floors</p> <p>Flats: 1762 nos. Offices</p>	<p>Proposed only one building with 11 wings instead of earlier 2 buildings to accommodate sale component.</p> <p>Construction status: Not yet started</p>

Small
Member Secretary

[Signature]
Chairman

Minutes of 271st Day 2 (Part A) meeting of SEIAA held on 30th November, 2023.

	Shops (for Sale & Rehabilitation)	
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COMPARATIVE STATEMENT - ENVIRONMENTAL PARAMETERS

No.	Description	EC received Dt. 07.12.2021	Seeking Expansion in EC	Remarks
1.	Occupancy (nos.)	11063	20837	Proposed increase by 9774 nos. due to increase in flat nos.
2.	Total water requirement (KLD)	1478	2096	Proposed increase by 618 KLD due to increase in occupancy.
3.	Sewage (KLD)	1373	1805	Proposed increase by 432 KLD due to increase in water requirement.
4.	Solid waste generation (kg/day)	5438	7093	Proposed increase by 1655 kg/day due to increase in occupancy.

PP submitted that the project was considered in 210th SEAC-2 meeting held on 14.07.2023, wherein, proposal was referred to SEIAA for deciding alleged violation and taking further necessary action in this case. PP also submitted that the project was listed in 264th SEIAA meeting dated: 09.08.2023, wherein SEIAA decided refer back the proposal to SEAC for appraisal. The part of the minutes of said 264th SEIAA meeting is reproduced as below:

“Deliberation in SEIAA-

Proposal is an expansion of existing construction project. SEAC-2 in its 210th meeting referred the proposal to SEIAA for deciding alleged violation and taking necessary action in this case as PP has changed the location/footprint of the Rehab buildings as well as location of environment infrastructure proposed in plan submitted before SEAC/SEIAA for obtaining earlier EC dated: 07/12/2021.

During the meeting, PP submitted that,

- 1.They have obtained earlier Environment Clearance vide EC identification no. EC 21B038MH180918, dated 07/12/2021 for plot area of 11,951.44 Sq.Mtrs., total construction area of 1,41,857.97 Sq.Mtrs. & FSI area of 85,351.82 Sq.Mtrs. In the said EC one of the EC condition was to provide enough play area for children especially the ones from Rehab building.
- 2.In observance of above EC condition and also to provide better, efficient planning and proper infrastructure, 1 rehab building with various wings was proposed with provision of enough space for children instead of 3 standalone buildings within the same plot for which Environment Clearance was issued.
- 3.Construction of only a part of said rehab buildings has been started on site for early accommodation of slum dwellers within the same plot for which Environment Clearance was granted as per the permissions received from the SRA.


Member Secretary


Chairmah

Minutes of 271st Day 2 (Part A) meeting of SEIAA held on 30th November, 2023.

4.No construction on plot under expansion is started and no construction of sale building started.

5.All the Environmental considerations are fulfilled on site.

In the view of above, PP requested SEIAA to not to consider their proposal as a case of violation and requested to refer back the same to SEAC for appraisal. SEIAA noted the same and asked PP to submit an undertaking under the signature of PP, architect and Environment Consultant. PP submitted the same dated 11.08.2023.

SEIAA deliberated upon the issue in detail and is of the opinion that, the proposal under consideration shall not be considered as a case of violation. SEIAA after deliberation decided to refer back the proposal to SEAC for appraisal.

SEIAA Decision-

SEIAA decided to refer back the proposal to SEAC for appraisal.”

Committee perused the above minutes and directions given by SEIAA in its 264th meeting held on 09th August, 2023 and decided to appraise the project as per above directions.

PP also submitted that they have received auto-generated ToR from SEIAA vide letter No. SIA/MH/MIS/74775/2022 dated: 05.08.2022 for total plot area of 24,011.94 Sq.Mtrs., Total construction area of 3,03,907.54 Sq.Mtrs. and FSI area of 1,69,000.42 Sq.Mtrs. PP further submitted that they have carried out baseline studies from January- March,2022 & accordingly prepared & submitted EIA report on the basis of ToR received for appraisal.

PP submitted that they have received plan approval dated: 26/03/2021 from SRA showing required RG area on mother earth.

The project proposal was discussed on the basis of presentation made and documents submitted by the proponent along with environmental consultant Ultra-Tech. 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- 2/1,1A, 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 thereunder as per the circular dated 30.01.2014 issued by the Environment Department, Govt. of Maharashtra showing all required RG area on mother earth as per Hon'ble Supreme Court order.

2.PP to submit following NOCs & remarks as per amended planning:

a) Water Supply; b) Revised CFO NOC; c) Revised SWM/C & D NOC; d) Civil Aviation NOC.

3.PP to undertake mitigation measures with respect to air and noise pollution due to road traffic adjacent to the project.

4.PP to maintain minimum 1.5 m distance between OWC of Rehab building & STP of Sale building


Member Secretary


Chairman

Minutes of 271st Day 2 (Part A) meeting of SEIAA held on 30th November, 2023.

5. 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.

6. PP to submit revised Architect certificate with chronology of building approvals i.e CCs & EC received & building wise, FSI, Non-FSI area wise, configuration wise construction done on site.

7. PP to submit undertaking that they will follow guidelines of dust mitigation issued by planning authority.

8. PP to obtain revised Nalla remark as RG proposed adjacent to the Nalla which obstruct the 5 Mtr. road required for cleaning the nalla as per earlier Nalla remarks.

9. PP to provide adequate 2-wheeler parking considering the socio-economic surroundings of the project.

10. PP to convert minimum 5% of RG area in to the Miyawaki plantation & include cost of Miyawaki plantation in EMP; PP to revise tree list with nos. of trees to be planted in Miyawaki Planation.

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 an expansion of existing construction project. Proposal is recommended by SEAC-2 in its 216th meeting for grant of Environment Clearance for total plot area of 24,011.94 Sq.Mtrs., Total construction area of 3,03,907.54 Sq.Mtrs. and FSI area of 1,69,000.42 Sq.Mtrs.

Project has received earlier Environment Clearance vide EC identification no. EC 21B038MH180918, dated 07/12/2021 for plot area of 11,951.44 sq.Mtrs., total construction area of 1,41,857.97 Sq.Mtrs. & FSI area of 85,351.82 Sq.Mtrs.

At the outset, SEIAA asked PP whether they are in receipt of Certified Compliance Report (CCR) as mandated by MoEF&CC Office Memorandum dated 26.09.2022. PP submitted that, they have obtained the same dated 24.07.2023. SEIAA noted the same and asked PP to strictly comply with the points raised in the Certified Compliance Report (CCR) dated 24.07.2023.

During the meeting, SEIAA asked PP regarding the provision of RG. PP submitted that, they have provided mandatory RG having area of 1862.50 m² on mother earth without any construction. SEIAA asked PP to submit area undertaking to that effect. PP submitted the same dated 08.12.2023.

SEIAA also asked PP to submit undertaking regarding the complying the SEAC conditions. PP submitted the same dated 22.11.2023.

SEIAA further observed that, PP has obtained CFO for rehab building only. SEIAA decided to restrict the EC as per CFO NOC. SEIAA further observed that, the configuration of the building mentioned in the Consolidated statement and the CFO NOC are different. PP submitted that, in the CFO NOC instead of wings of building, zones are mentioned. PP further submitted that, in the plans along with the CFO NOC wings are mentioned as per consolidated statement. SEIAA


Member Secretary


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Minutes of 271st Day 2 (Part A) meeting of SEIAA held on 30th November, 2023.

noted the same and asked PP to submit an undertaking to that effect. PP submitted the same dated 06.12.2023.

SEIAA after deliberation decided to grant EC for-FSI-1,69,000.42 m², Non FSI-1,34,907.12 m², total BUA-3,03,907.54 m². (Plan approval No-SRA/ENG/1502/ME/STGL/LOI, dated-26.03.2021)

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

1. PP has provided mandatory RG area of 1862.50 m² on mother earth without any construction Local planning authority to ensure the compliance of the same.
2. This EC is only for rehab building i.e. excluding the sale building as PP has not obtained CFO NOC for the same.
3. 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.
4. PP to achieve at least 5% of total energy requirement from solar/other renewable sources.
5. 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.
6. SEIAA after deliberation decided to grant EC for-FSI-1,69,000.42 m², Non FSI-1,34,907.12 m², total BUA-3,03,907.54 m². (Plan approval No-SRA/ENG/1502/ME/STGL/LOI, dated-26.03.2021)

SEIAA Decision-

SEIAA after deliberation decided to grant Environment Clearance.


Member Secretary


Chairman

F.No. IA3-22/10/2022-IA.III [E 177258]
Government of India
Ministry of Environment, Forest and Climate Change
Impact Assessment Division

Indira Paryavaran Bhawan
3rd Floor, Vayu Wing, Jor Bagh Road
Ali Ganj, New Delhi-3

Dated: 2nd August, 2023**OFFICE MEMORANDUM**

Subject: Procedure for consideration of Category 'B' proposals at Central level due to the non-functionality or delay in constitution of SEIAA/SEAC - reg.

The State Environmental Impact Assessment Authorities (SEIAAs)/State Expert Appraisal Committees (SEACs) have been constituted in exercise of the powers conferred by sub-section (3) of section 3 of the Environment (Protection) Act, 1986 for decentralisation of the Environment Clearance (EC) process and grant of Environment Clearances at the State level. All projects or activities under Category 'B' in the Schedule of the EIA Notification, 2006 are appraised by the respective SEACs/SEIAAs of the States/UTs.

2. As per the extant provisions of EIA, 2006, in the absence of a duly constituted SEIAA/SEAC, a Category 'B' project shall be considered at the Central Level as a Category 'B' project. However, instances have been brought to the notice of this Ministry that in the event of non-functionality or delay in constitution of SEIAA/SEAC, many proposals submitted to SEIAA are held up at different stages of EC process at the State level. The matter has been examined in the Ministry and it is observed that there could be different situations arising out of non-functionality or delay in constitution of SEIAA/SEAC as enumerated below:

- i. Proposals submitted to SEIAA and not accepted by SEIAA.
- ii. Proposals received by SEAC/SEIAA and have been processed or are under processing.
- iii. Proposals considered and/or deferred by SEAC for various reasons.
- iv. Proposals recommended by SEAC but not forwarded to/not approved by SEIAA.
- v. Proposals (which do not require examination of SEAC) accepted by SEIAA but not processed and/or deferred for various reasons.
- vi. Proposals approved by SEIAA but minutes/letter not uploaded on PARIVESH.

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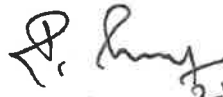
3. In this regard, the Ministry deems it necessary to clarify the process for handling such proposals. For the scenarios mentioned at sub para (i) to (v) of para 2 above, the following procedures shall be followed:

- i. Consequent upon the non-functioning/ discontinuation of SEIAA/SEACs, the Member Secretary of SEIAA/State Government shall submit the details of the pending proposals to the PARIVESH of MoEF&CC with a request to transfer such proposals to the Central level.
- ii. PARIVESH shall examine the aforesaid request and seek the approval of the Competent Authority for the transfer of proposals from SEIAA/SEAC to the Central level.
- iii. Thereafter, the proposals from the SEIAA/SEAC shall be transferred through PARIVESH to the concerned Member Secretary of the EAC at Central level.
- iv. The concerned Member Secretary of the EAC at Central level shall carry out the due diligence to ascertain the level of examination/appraisal needed to be carried out by the Central level EAC based on the stage at which the proposal was pending for appraisal at the concerned SEIAA/SEAC.

4. For the scenario mentioned at sub para (vi) of para 2 above, based on the request from the Member Secretary of SEIAA/State Government, a window period of 15 days shall be provided to the Member Secretary SEIAA, extendable by a further period of 15 days, to only upload the minutes/letters for the proposals which were duly approved by SEIAA before it became non-functional.

5. Further, in case of only SEIAA becoming non-functional / discontinued due to various reasons, the proposals pending with SEAC for (re)consideration up to the day of such discontinuation shall be (re)considered by the respective SEAC and forwarded to the Ministry along with recommendation as per the procedure prescribed at Para 3 above.

6. This is issued with the approval of Competent Authority.


(Sundar Ramanathan) 2/8/2023
Scientist E

To

1. Chairman, Central Pollution Control Board (CPCB).
2. Chairman of all the Expert Appraisal Committees
3. Chairperson/Member Secretaries of all the SEIAAs/SEACs

- 
4. Chairpersons/Member Secretaries of all SPCBs/UTPCCs
 5. All the Officers of IA Division

Copy for information to:

1. PS to Hon'ble Minister for Environment, Forest and Climate Change
2. PS to Hon'ble MoS (EF&CC)
3. Sr.PPS to Secretary (EF&CC)
4. Sr.PPS to AS(TK) / AS (NPG)
5. Sr.PPS to JS (SKB)
6. Website, MoEF&CC
7. Guard file.

**BEFORE THE NATIONAL GREEN
TRIBUNAL**

WESTERN ZONE BENCH, PUNE

APPEAL NO.48/2024 WZ

(I.A. NO.104/2024 WZ)

SAYYED MOHAMMED SABIR USMAN

VS.

UNION OF INDIA & ORS.

AFFIDAVIT IN REPLY ON BEHALF OF

RESPONDENT NO.4 TO THE

CAPTIONED APPEAL:



Dated this ___ day of September 2024

Mr. Sachin S. Gangan

Advocate for Respondent No.4