

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

Original Application No. 110/2022 (WZ)

Nagesh Vinayak DhamaleApplicant

Versus

Environment Department, Maharashtra & Ors.Respondents

**Reply-Affidavit on behalf of Maharashtra Pollution Control
Board i.e. Respondent No. 4 & 5.**

I, Kiran Hasabnis, Age – 52 years, Occupation – Service, the
Sub-Regional Officer of the Maharashtra Pollution Control Board at
Pimpri-Chinchwad Office i.e. Respondent No. 4 & 5, having my
office at 2nd Floor, Jog Center, Wakdewadi, Pune – 411 003 do
hereby state on solemn affirmation as under :-

- 1) I say and submit that Applicant has filed this application alleging that Respondent No. 7 M/s Aswani Constructions is carrying out construction of project 'Green Valley' situated at Survey No. 257, Village – Wakad, Taluka – Mulshi, Pune – 411057 without obtaining Environment Clearance, Consent to Establish or Operate from the competent authorities and thus by violating provisions of Environment Laws.
- 2) I say and submit that the MPC Board official at Pune carried out the visit at the project 'Green Valley' located at Survey No.



257/1/2/1 and 257/2 at Wakad, Tal. Mulshi, Dist. Pune on 30/1/2023 and observed as below –

- i) Respondent no. 7 has constructed 4 wings on the site, building 'A' is having P + 11 floors and for other 3 buildings viz. 'B', 'C' & 'D' there are P + 10 floors.
 - ii) Society Manager informed that Respondent No. 7 i.e. M/s Aswani Construction had handed over constructed buildings to the society in the year 2018.
 - iii) Respondent No. 7 has provided Sewage Treatment Plant at the said project which is now operated by Society. The society manager informed that the Respondent PP has not provided any information about capacity, drawing and design of the STP to the Society. STP was found in ideal condition.
 - iv) Respondent PP has not provided Organic Waste Converter for treatment of wet waste; generated wet waste is sent to Pimpri Chinchwad Municipal Corporation for further treatment.
- It was informed by the society manager that any document related to Environment Clearance or Consent to Establish or Consent to Operate is not available in the society office



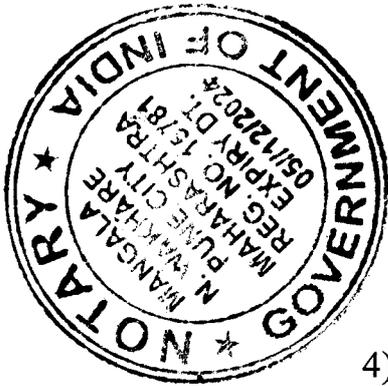
nor it was handed over by the Respondent PP to the society.

- vi) PCMC has not granted Occupancy Certificate to the society.
- vii) There are 5 nos. of bore wells, but those are not in working condition; currently used as rain water recharge / harvesting pit.

A copy of the visit report dated 30/1/2023 is attached and annexed herewith as an **Annexure – I**.

- 3) I say and submit that Respondent No. 7 has not obtained Environment Clearance from the competent authority prior to construction or Consent to Establish or Consent to Operate from the MPC Board prior to construction or operation of the said project; the Respondent No. 7 has thus violated necessary provisions of the Environment Laws.

- 4) I say and submit that Maharashtra Pollution Control Board had filed Regular Criminal Case No. 4254 of 2015 before Hon'ble Chief Judicial Magistrate, Pune and same has been decided on 4/2/2020 in which Accused M/s Aswani Constructions and 4 Ors. have pleaded guilty and Hon'ble Court imposed sentence to pay



fine of Rs. 80,000/- each. A copy of the Judgment dated 4/2/2020 is attached and annexed as an **Annexure – II**.

Solemnly affirmed on thisst..... day of February, 2023 at Pune.

I know the affiant.

For and on behalf of Maharashtra Pollution Control Board i.e. Respondent No. 4 & 5

ADVOCATE


(Kiran Hasabnis)
Sub – Regional Officer,
Pimpri-Chinchwad



BEFORE ME


MANGALA N. WAKHARE
ADVOCATE & NOTARY
GOVERNMENT OF INDIA

01 FEB 2023



**MAHARASHTRA POLLUTION CONTROL BOARD
SUB REGIONAL OFFICE PIMPRI CHINCHWAD**

Phone No. 2581 0222
Fax No. 2581 1029
E-mail:
sropimprichinchwad@mpcb.gov.in



Jog Center, 2nd Floor,
Shivajinagar, Wakadewadi,
Pune Mumbai Road,
Pune - 411 003

Visit Report

Date:- 30/01/23.

Name & Address of Industry: M/s. "Green Valley" S.No. 257/1/2/1
and 257/2, Village:- Wakad,
Pq:- Mulshi, Dist:- Pune

Industry Representative: :- Kashinath Namne, Society Manager.
"Green Valley"

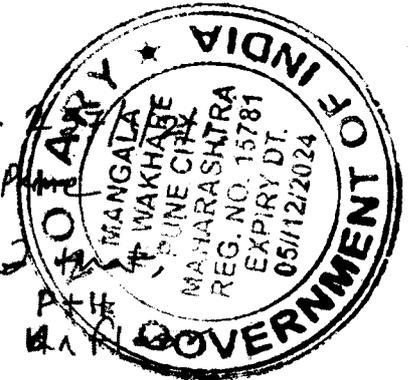
Email: :- gvchswakad.manager@gmail.com

Contact No. :- 9841040040.

Consent Status: :- Not obtained RC & Consent to

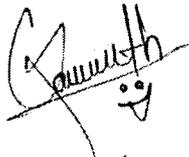
Observations: :- Establish.

- 1) "Green Valley" Society is located at S.No. 257/1/2/1 and 257/2 at Wakad, Pali-Mulshi, Dist:- Pune.
- 2) During Visit to the site, it is observed that there are 4 wings on site, having 4 floors at 'A' wing & 10 floors for other 3 wings namely B, C, D.
- 3) Society B Manager informed that Society Builder, namely Aswani Construction had hand over the All the constructed Building to Society in the year 2018.
- 4) PP has provided STP which is operated by Society. The Capacity, Drawing & Design not available & not handover to Society. STP found in ideal condition.
- 5) Not provided organic Waste Converter for the



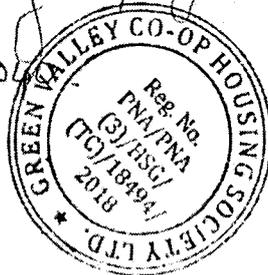
treatment of ^{wet} waste. Generated ~~wet~~ wet waste is send to PCMC for further treatment.

- 6) ~~PCMC~~ Document related to EC, Consent, SPP details are not available at Society office. Society Representative informed that these document are not hand over to Society.
- 7) Occupancy Certificate is not granted by PCMC, as reported by Society representative.
- 8) There are 05 Nos. of Borewells, but which are not in working condition, Presently using as rain water recharge pit.



(Kashinath M. Namne)
Society Manager
Green Valley Co-op. Hsg. Soc.

784104004




(Kiran N. Hasabnis)
SR0-PC



1

R.C.C No. 4254/2015 Judgment.
CNR NO. MHPU04-029072 -2015



Presented on : 05/11/2015
Registered on : 05/11/2015
Decided on : 04/02/2020
Duration : Y. M. D.
04 02 29

IN THE COURT OF CHIEF JUDICIAL MAGISTRATE, PUNE

(Presided Over by V. V. Nashikkar)

REG.CRIMINAL CASE NO. 4254/2015

Exh. No. 70

Maharashtra Pollution Control Board
3rd and 4th Floor, Kalpataru Point Building,
Sion (East), Mumbai- 400022.

(Represented by Mr. S. S. Doke
Regional Officer-Pune
Maharashtra Pollution Control Board
S. No. 21/5 F. P. No. 28,
Jog Centre Building, 3rd Floor, Wakdewadi,
Mumbai-Pune Highways,
Pune - 411 003



.....**COMPLAINANT**

-VERSUS-

- 1) M/s. Aswani Constructions,
Near Shere Punjab Hotel,
Old Mumbai Pune Road,
Kasarwadi, Pune.
- 2) Shri. Sandeep Rasiklal Shah
Flat No. 103, B-1, Swarganaga Apartment,
San Tukaram Nagar,
Pimpri, Pune 411018.

2

R.C.C No. 4254/2015 Judgment.
CNR NO. MHPU04-029072 -2015

- 3) Reshma Sunil Chugwani
Jardevi Kutaiy, Plot No. 313,
Pimpri, Pune – 411017.
- 4) Satish Shamandas Aswani
Shaymbhavan, Plot No. 140,
Opp. Cosmos Bank, Pimpri,
Pune 411017.
- 5) Anil Shamandas Aswani
Shaymbhavan, Plot No. 140,
Opp. Cosmos Bank, Pimpri,
Pune 411017.



... ACCUSED

Offence under section 15 read with section 16 of the Environment (Protection) Act, 1986 and the Environment Impact Assessment Notification, 2006 (EIA Notification, 2006).

Appearances

Ld. Adv. Shashank Vakil for the Complainant.

Ld. Adv. C.S. Nichal for the accused No. 1 to 5 .

JUDGMENT

(Delivered on 04th day of February 2020)

01. The complainant Mr. S. S. Doke, Regional Officer of the Maharashtra Pollution Control Board, at Pune [For short "MPCB"] alleging that accused have committed the offence under section 15 read

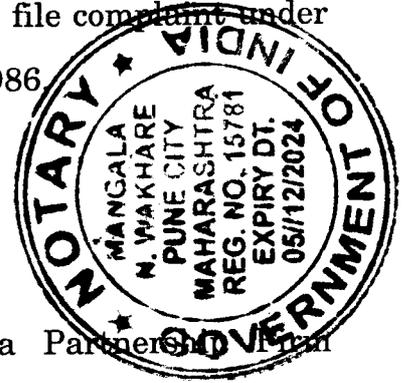
with section 16 of the Environment (Protection) Act, 1986 and the Environment Impact Assessment Notification, 2006 (EIA Notification, 2006) [For short "MPCB Board"]. He is authorized to file complaint under the Provisions of the Environment (Protection) Act, 1986.

Following are the facts in nutshell:-

02. It is contended that accused No.1 is a Partner in a firm constituted under the provisions of the Partnership Act, 1932. The accused No. 1 Firm is represented by the Sandeep Rasiklal Shah, Reshma Sunil Chgwani, Satish Shamandas Aswani and Anil Shamandas Aswani, who are accused to No. 2 to 5 respectively and nominated by the accused No. 1 – Firm for the execution of the construction of proposed projects " Green Valley " at S. No. 257/1/2/1 and 257/2 at village : Wakad , Tehsil Mulshi, Dist. Pune . They are directly in-charge and responsible to the company for the conduct of business of the company as well as the company and responsible for the compliance of various provisions of the Environmental Laws including the EIA, 2006.

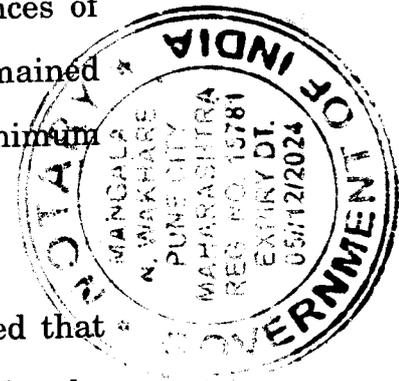
It is contention of the complainant that accused are engaged in the development of construction project namely " Green Valley " at S. No. 257/1/2/1 and 257/2 at village : Wakad , Tehsil Mulshi, Dist. Pune without obtaining prior Environmental Clearance from the Govt. of Maharashtra.

03. It is further contended that the complainant board has filed the complaint against accused persons for the offence punishable under section 15 read with section 16 of the Environment (Protection) Act, 1986 and the Environment Impact Assessment Notification, 2006 (EIA Notification,



2006).

04. Accused Nos. 1 to 5 are appeared before the Court, accused No. 2 to 4 represent the accused No.1 i.e. and accepted the liability of accused No.1. Today they remained present before the Court. The charge vide Exh.64 has been framed against accused No. 1 to 5 to which they pleaded guilty and submitted that this is their first offence and they want to voluntarily plead guilty for the offence leveled against them on behalf of the company as well as themselves. They submitted separate application in respect of plead guilty before the Court at Exh. 59. Consequences of plead guilty were narrated to accused. However, the said accused remained firm on their decision to confess the guilt with prayer for minimum punishment.



05. The learned advocate for the complainant board submitted that accused be punished with maximum fine. The learned advocate for the accused submitted that this is the first offence committed by accused. They do not have antecedents. So also, they submitted that leniency be shown towards them while passing the sentence and prayed for minimum fine. As accused voluntarily pleaded guilty, it appears to be first offence of accused. Therefore, in my opinion and to meet ends of justice it would be just and proper to direct accused persons to pay the fine amount of Rs. 80,000/- each, as I think it is just and proper. Hence, for the reason stated above, I proceed to pass the following order:

ORDER

- i) Accused No. 1) M/s. Aswani Constructions, 2) Shri. Sandeep Rasiklal Shah 3) Reshma Sunil Chugwani 4) Satish Shamandas

Aswani 5) Anil Shamandas Aswani are hereby convicted vide section 246 (3) of the Code of the Criminal Procedure for the offence under section 16 punishable under section 15 of the Environment (Protection) Act, 1986 and the Environment Impact Assessment Notification, 2006 (EIA Notification, 2006) and sentence to pay fine of Rs. 80,000/- (Rs. Eighty thousand Only) each, in default of payment of the fine they shall suffer further simple imprisonment for one month each.

- ii) Bail bonds of accused persons stand cancelled .
- iii) Copy of the judgment be given to accused free of cost.

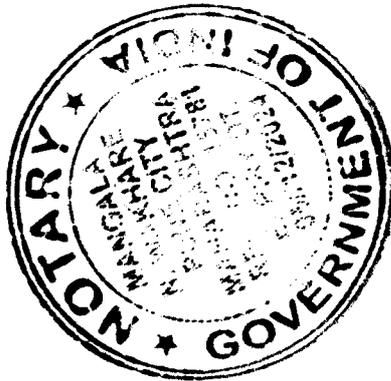
(Pronounced in open Court.)

Vyanktesh
Vinayak
Nashikkar

Digitally signed by
Vyanktesh Vinayak
Nashikkar
Date: 2020.02.04
00:47:13 +0530

Date : 04/02/2020

(V. V. Nashikkar)
Chief Judicial Magistrate, Pune.



I affirm that the contents of this P.D.F file judgment are same word for word as per original Judgment.

Name of Stenographer : Smt. S.R.Shaikh

Court Name : Chief Judicial Magistrate, Pune.

Date of judgment : 04/02/2020

Judgment Signed by P.O. on : 04/02/2020.

Judgment uploaded on : 04/02/2020

