

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE BENCH, PUNE
ORIGINAL APPLICATION NO. 65/2019**

Ajay Jayvantrao Bhosale ... Applicant

vs.

Union of India & Ors. ... Respondents

**REPLY AFFIDAVIT BY RESPONDENT NO. 4,
STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT
AUTHORITY**

I, Dattatray Suryakant Bhalerao, working as Scientist II & Under Secretary, Environment and Climate Change Department, Government of Maharashtra do hereby state on solemn affirmation as under –

I am well conversant with the facts of the present case and I am competent to swear this Affidavit based upon the records available with this office.



1. The present case pertains to the construction undertaken by the M/s. Brahmacorp Limited of their project named Brahma Exuberance situated at Survey No. 13/1, 13/2, 13/3, Taluka Haveli, Village Kondhwa Khurd, District Pune.
2. The project proponent has not been granted Environmental Clearance. Project proponent has not applied for prior Environment Clearance as required under EIA Notification, 2006.
3. Environmental Impact Assessment Notification came into force on 14th September, 2006. Project proponent claims that the building permission was granted to them before the EIA Notification 2006 came into force.
4. Ministry of Environment and Forest vide notification dated 7th July, 2004 made further amendments in paragraph 3 of the notification number S.O. 60 (E), dated the 27th January 1994 following was inserted after sub-para (f)

“(g) any construction project falling under entry 31 of Schedule-I including new townships, industrial townships, settlement colonies, commercial complexes, hotel complexes, hospitals and office complexes for 1,000 (one thousand) persons or below or discharging sewage of 50,000 (fifty thousand) litres per day or below or with an investment of Rs.50,00,00,000/- (Rupees fifty crores) or below.”




Further in the notification it has been explained that the New construction projects which were undertaken without obtaining the has not come up to the plinth level, shall require clearance under this notification with effect from the 7th day of July, 2004.

Project Proponent has not applied for EC to Environment Department. Copy of the Notification dated 7th July, 2004 is attached herewith as **EXHIBIT A.**

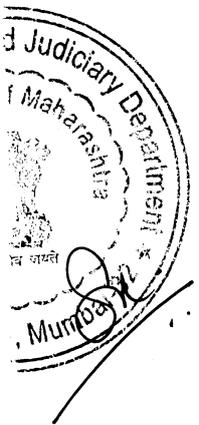
5. This respondent craves leave to file any additional reply as and when required. In light of the above submissions, it is respectfully prayed that Environment Department shall abide by any orders and directions issued by the Hon'ble Tribunal.

Place: Mumbai

Date: 28/01/2022



(Dattatray Suryakant Bhalerao)
Scientist II & Under Secretary,
Environment & CC Department,
Government of Maharashtra



VERIFICATION

I, Dattatray Suryakant Bhalerao, Age- 38, working as Scientist II & Under Secretary, Environment and Climate Change Department, Government of Maharashtra, having my office address at 15th floor, New Administrative Building, Mantralaya, Mumbai-400 032, do hereby verify and declare that the statements made in the aforesaid Para's are true and correct to the best of my knowledge and information and I believe the same to be true and that nothing material has been concealed therefrom.

Solemnly affirmed on this 28th day of the January, 2022 at Mumbai.



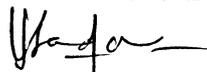
(Dattatray Suryakant Bhalerao)

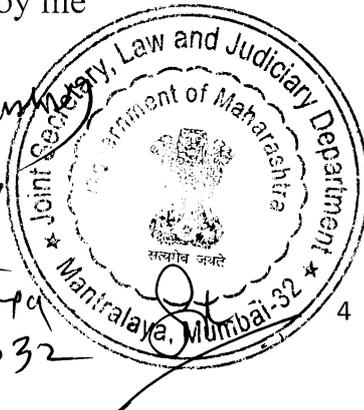
Scientist II & Under Secretary,
Environment & CC Department,

Government of Maharashtra

SOLEMNLY AFFIRMED
BEFORE ME BY THE DEPONENT
SHRI DATTATRAY SURYAKANT BHALERAO
TO WHOM I PERSONALLY KNOW,

Identified by me


(Saijog Sandan)
Under Secretary,
Environment &
Climate Change
Deptt. Mantralaya
Mumbai 400032




Mumbai, Joint Secretary
Law and Judiciary Department
Dated 28-01-2022
& Oath Officer Appointed
Under oaths Act, 1969

THE GAZETTE OF INDIA**EXTRAORDINARY****PART II – Section 3 – Sub-section (ii)****MINISTRY OF ENVIRONMENT AND FORESTS****NOTIFICATION**

New Delhi, the 7th July, 2004

S.O.801(E), dated 7th July, 2004 - Whereas a draft of certain amendments to the notification of the Government of India in the Ministry of Environment and Forests number S.O.60 (E), dated the 27th January 1994 was published in the Gazette of India, Extraordinary, Part II, section 3, sub-section (ii) vide number S.O.1236 (E), dated the 27th October, 2003 inviting objections and suggestions from all persons likely to be affected thereby within a period of sixty days from the date on which copies of the Gazette containing the said notification were made available to the public;

And whereas, copies of the said notification were made available to the public on 27th October, 2003;

And whereas, the Orders of the Hon'ble Supreme Court in the Writ Petition (C) No.725 of 1994 with I.A. No.20, 21, 1207, 1183, 1216 and 1251 in Writ Petition (C) No.4677 of 1985 in the matter of news item published in Hindustan Times titled "And Quiet Flows the Maily Yamuna" vs. Central Pollution Control Board and Others have been duly considered;

And whereas, the Orders of Hon'ble High Court of Madras in W.P. (C) No.33493 of 2003 and W.P. Nos.35205, 35517, 35691, 35692 and 35825 of 2003 and W.P. M.P. Nos.40556, 42562, 43720, 45348 to 45350, 42791, 42792, 43882,

43181, 43366 to 43369, 43544 and 43545 of 2003 between C.S. Kuppuraj and others Vs. the State of Tamil Nadu and others have also been duly considered;

And whereas, all objections and suggestions received have been duly considered by the Central Government;

Now, therefore, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986) read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government hereby makes the following further amendments in the notification number S.O. 60 (E), dated the 27th January 1994, namely:-

In the said notification, -

I. in paragraph 3-

(i) in item (a), for the letters, word and figures "Nos.3,18 and 20", the letters, word and figures "Nos.3,18,20,31 and 32" shall be substituted;

(ii) after sub-para (f), the following shall be inserted, namely:-

"(g) any construction project falling under entry 31 of Schedule-I including new townships, industrial townships, settlement colonies, commercial complexes, hotel complexes, hospitals and office complexes for 1,000 (one thousand) persons or below or discharging sewage of 50,000 (fifty thousand) litres per day or below or with an investment of Rs.50,00,00,000/- (Rupees fifty crores) or below.

(h) any industrial estate falling under entry 32 of Schedule-I including industrial estates accommodating industrial units in an area of 50 hectares or below but excluding the industrial estates irrespective of area if their pollution potential is high.

Explanation.-

- New construction projects which were undertaken without obtaining the clearance required under this notification, and where construction work has not come up to the plinth level, shall require clearance under this notification with effect from the 7th day of July, 2004.

- In the case of new Industrial Estates which were undertaken without obtaining the clearance required under this notification and where the construction work has not commenced or the expenditure does not exceed 25% of the total sanctioned cost, shall require clearance under this notification with effect from the 7th day of July, 2004.

- Any project proponent intending to implement the proposed project under sub-paras (g) and (h) in a phased manner or in modules, shall be required to submit the details of the entire project covering all phases or modules for appraisal under this notification”;

II. in Schedule-I, after item 30 and the entry relating thereto, the following shall be inserted, namely:-

“31. New construction projects

32. New industrial estates.”;

III. in Schedule-II, -

(i) in para 5, for sub-para (f), the following shall be substituted, namely:-

“(f)(i) The quantum of existing industrial effluents and domestic sewage with incremental load to be released in the receiving water body due to the proposed activities along with treatment details;

(ii) The quantum and quality of water in the receiving water body before and after disposal of solid wastes including municipal solid wastes, industrial effluents and domestic sewage;

(iii) The quantum of industrial effluents and domestic sewage to be released on land and type of land;";

(ii) in para 6, for sub-para (a), the following shall be substituted, namely:- "(a) Nature and quantity of solid wastes generated including municipal solid wastes, biomedical wastes, hazardous wastes and industrial wastes."

[No. Z-11011/1/2002-IA-I]

R. Chandramohan, Jt. Secy.

Note: The principal notification was published in the Gazette of India vide number S.O.60 (E) dated 27-1-1994 and subsequently amended vide:

- S.O. 356 (E) dated 4th May, 1994,
- S.O 318 (E), dated 10th April, 1997,
- S.O. 73 (E) dated 27th January, 2000,
- S.O. 1119 (E) dated 13th December, 2000,
- S.O. 737(E) dated 1st August, 2001,
- S.O.1148 (E) dated 21st November, 2001,
- S.O. 632 (E) dated the 13th June, 2002,
- S.O. 248 (E) dated the 28th February, 2003,
- S.O. 506 (E) dated the 7th May, 2003,
- S.O. 891(E) dated the 4th August, 2003,
- S.O. 1087(E) dated the 22nd September, 2003.