

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

O. A. NO. 48/2020 (WZ)

Tanaji Gambhire

... Appellant

v/s

Union of India & Ors.

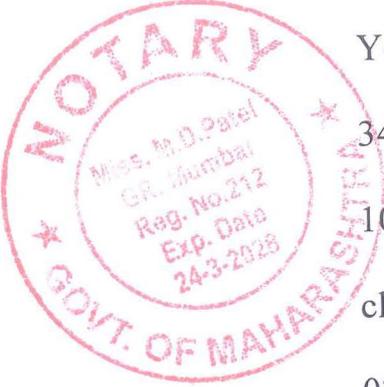
... Respondents

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

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 –

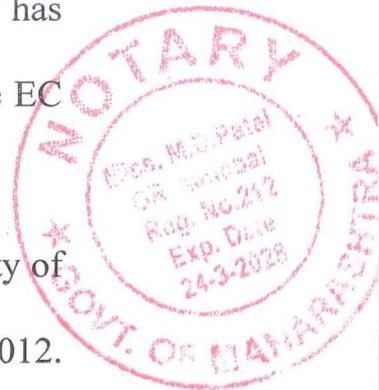
I am well conversant with the facts of the present case and I am competent to swear this Affidavit based upon the records available with this office.

1. There is a connecting Appeal No. 42/2020 wherein EC dated 20/07/2020 granted by SEIAA has been challenged. SEIAA has filed detailed reply in that appeal.
2. The present OA alleges non-compliance of conditions of the first EC dated 10/04/2007 granted by MoEF&CC.
3. The said EC dated 10/04/2007 was granted by MoEF&CC for total plot area of 41,806.35 sq.m for development of Shopping Mall "Ishanya" at C.S. No. 190 & 192, Shastri Nagar, Yerwada, Pune, Maharashtra for a total built up area of 34,170.83 sq.m. MoEF&CC granted EC to the PP on 10/4/2007 referring application seeking prior environmental clearance under the EIA notification 1994 as amended on 07/07/2004.
4. The proposal was appraised as per prescribed procedures and provisions under the EIA Notification 14/09/2006. The said EC was granted for Total Built up Area (TBUA) of 34170.83 sq. m. **The PP has constructed the total built up area of 94,568.64 sq.m. which is more than the approved built-up area of 34170.83 sq.m., and is violation of Environmental Clearance and provisions of EIA Notification 2006.**



Handwritten signature and initials in blue ink.

5. General Condition, as mentioned at Part B; Para 6 of the said EC dated 10/04/2007 clearly stipulates a condition that *“In case of change(s) in the scope of the project, the project would require a fresh appraisal by this Ministry.”*
6. **Construction of a new building structure (i.e. Building No. 7) was started which was not in the application/proposal dated 15/05/2006 submitted while grant of EC dated 10/04/2007. Therefore, PP has violated the General Condition as at Part B; para 6 of the EC dated 10.04.2007.**
7. As per clause 9 of the EIA notification 14/09/2006, validity of the said EC dated 10/04/2007 is 5 years i.e. 09/04/2012. However, obtaining Commencement Certificate dated 03/09/2012 and dated 14/7/2014 followed by obtaining Completion Certificate dated 03/9/2013 and dated 03/11/2016 respectively reveal, that the **construction continued beyond validity of the said EC dated 10/4/2007 and thus violated clause 9 of the EIA Notification 2006.**
8. Earlier, PP approached MoEF&CC for the revalidation of EC dated 10/04/2007 and MoEF&CC transferred the proposal to SEIAA. PP applied for Environmental Clearance on



3/10/14

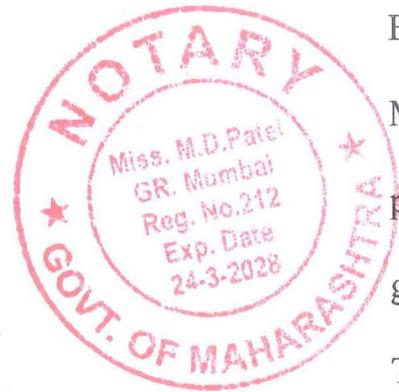
24/12/2016 to SEIAA for the expansion and change in use as referred in 175th SEIAA minutes dated 18/09/2019.

9. It is submitted with due respect, that the EC dated 10/04/2007 since granted by MoEF&CC, whatever violation is there, may kindly be commented by MoEF&CC. Moreover, according to the EIA Notification 14/09/2006, monitoring of the project regarding compliance of the EC conditions, is within the purview of the MoEF&CC as the compliance reports are to be submitted by a PP to the Regional Office of the MoEF&CC.

10. Present case is OA alleging violation / non-compliance of the EC conditions of the EC dated 10/04/2007 granted by MoEF&CC and therefore it is respectfully submitted that, procedural validity of the grant of the EC dated 20/07/2020, granted by SEIAA cannot be considered by the Hon'ble Tribunal.

11. 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.





Whatever is stated above is true and correct to the best of my knowledge, ability and belief and I affirm it to be true.

Place: Mumbai

AP Date: 21/04/2023
D.D.

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



VERIFICATION

I, Dattatray Suryakant Bhalerao, Age- 39, 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 st 21 day of the April, 2023 at 
Mumbai.



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

Identified by me


(Sanjay Baliram Sandanshir)
Under Secretary
Environment & C.C. Dept.



BEFORE ME
M. D. Patel
21-4-2023
Sr. No. 228
Bk. No. 2

MISS M. D. PATEL
ADVOCATE & NOTARY
Kohiar House,
4, Dhuswadi, Dhobitalao,
MUMBAI - 400 002.