



**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE BENCH, PUNE
ORIGINAL APPLICATION NO. 105/2021**

Shashikant Vitthal Kamble

... Applicant

V/s.

Union of India & Ors.

... Respondents

**REPLY AFFIDAVIT BY RESPONDENT NO. 5,
STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT
AUTHORITY**

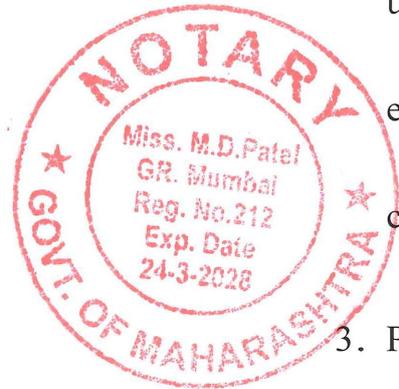
I, Dattatray Suryakant Bhalerao, working as Scientist II & Under Secretary, Environment and Climate Change Department, Government of Maharashtra do hereby state on solemn affirmation as under –

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. It is submitted that at the very outset this respondent denies each averment made in the present application which is contrary to and inconsistent with the averments made and the facts stated in the present reply. It is submitted that nothing stated in the application may deemed to have been admitted by this respondent unless and until the same has been admitted by the respondent.

2. The present case pertains to the alleged illegal construction undertaken by the Respondent no. 14, Aurangabad Holiday Resorts having their project named JUBILEE PARK, survey no. 84/2 + 4, 83/1, plot no. 3, Village Warje, Tal. Haveli, District Pune. It is alleged that the construction has been undertaken beyond 20,000 m², without obtaining consent to establish, consent to operate and prior environmental clearance.

3. PP had applied for EC on 03-04-2014 for proposed total BUA of 30,811.28 m². Environment Department issued proposed



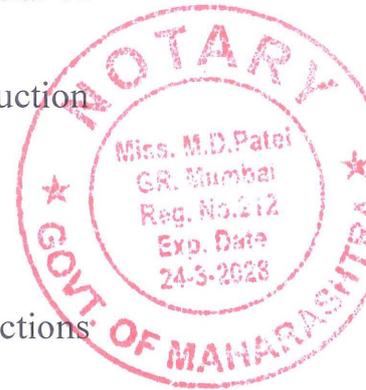
① *Shree*

directions on 10-09-2014 u/s 5 of the Environment Protection Act, 1986 r/w EIA Notification, 2006 for starting construction activity without obtaining EC. Copy of the proposed directions dated 10-09-2014 are marked as Annexure 1.

4. PP submitted their reply to the Environment Department on 06-10-2014. Personal hearing was extended to PP on 13-03-2015 wherein it was observed that even after the potential of the project exceeded 20,000 m², PP carried out construction of total BUA 8142.66 m² without obtaining prior EC.

5. On 25-03-2015, Environment Department issued directions u/s 5 of the Environment Protection Act, 1986 and EIA Notification, 2006 for carrying out construction admeasuring 8142.66 m² at the site without obtaining prior EC, when the potential of the project exceeded 20,000 m² vide amendment of plan dated 18-06-2012.

Copy of proposed directions dated 25-03-2015 issued by Environment Department is marked as Annexure 2.



A handwritten signature in blue ink, appearing to be "Shri".

6. SEIAA considered the proposal of PP in their 230th Meeting dated 01st October, 2021, wherein it was observed that PP has applied for EC on 19-05-2017 under the MoEF&CC Amnesty Scheme Notification dated 14th March, 2017.
7. Proposal was considered in 4th EAC Meeting on 21-02-2018, however PP remained absent for the meeting. Further the proposal was transferred to SEIAA vide MoEF&CC Notification dated 08-03-2018 and OM dated 15-03-2018 as the proposal was Category B project. SEIAA could not come to a logical end as the said proposal was withdrawn by the PP. PP further made multiple applications to SEIAA vide applications dated 25-03-2021, 04-05-2021 and 15-06-2021. SEIAA asked PP to submit additional details regarding construction done on site along with architect's certificate, details of chronology of the proposal. SEIAA decided to defer the proposal.





Copy of SEIAA 230th MoM dated 01st October, 2021 is

marked as Annexure 3.

8. In light of the above averments, this respondent craves leave to file any additional reply as and when required. 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.

Mumbai

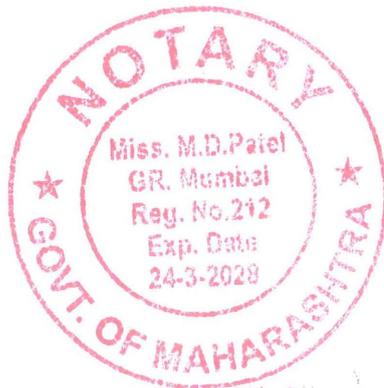


Date 8/5/2023



Deponent

Dattatray Suryakant Bhalerao
Scientist II & Under Secretary,
Environment and Climate Change Department,
Government of Maharashtra



BEFORE ME

M. D. Patel
8-5-2023
Sr. No. 276
Bk. No. 2

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

VERIFICATION

I, Dattatray Surayakant Bhalerao, Scientist II & Under Secretary, Environment and Climate Change Department, Government of Maharashtra, having my office address at room no. 217, 2nd floor, Mantralaya, Mumbai – 400 032 do hereby verify and declare that the statements made in the aforesaid paras are true and correct to the best of my knowledge and information and I believe the same to be true and that no material is has been concealed therefrom.

shv Solemnly affirmed on this 8th day of May, 2023 at Mumbai.

Deponent

Dattatray Suryakant Bhalerao
Scientist II & Under Secretary,
Environment and Climate Change Department,
Government of Maharashtra

BEFORE ME

M. D. Patel

8-5-2023

Sr. No. 276

Bk. No. 2

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

GOVERNMENT OF MAHARASHTRA

Tel. No. : 2279 3132
Fax No. : 2281 3947

SEAC-III-2014/CR-110/TC-3
Environment Department,
217(Annex), Mantralaya, Mumbai - 400 032.

Date : 10/09/2014

By Fax/ RPAD/ Speed Post

To,

M/s. Aurangabad Holiday Resorts,
A 401, Silver Woods Society,
Koregaon Park, Annex,
Pune. 411036.

Sub. :- Proposed Directions u/s 5 of the Environment (P) Act, 1986
r.w. EIA Notification dtd. 14.9.2006

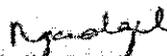
WHEREAS, it was obligatory on your part to obtain prior Environment Clearance from the Competent Authority, as per the EIA Notification dtd. 14.9.2006, before starting any building construction activity.

AND WHEREAS, you have applied for Environmental Clearance for proposed Project "Jubilee Park" at S.No.84, H.No.2+4 & S.No.83/1(Plot No 3), Village Warje Mauje, Tehsil-Haveli, Pune. During the 16th meeting of the State Expert Appraisal Committee - III held on 25th to 26th August, 2014 it was observed that you have started the construction activity without obtaining prior Environment Clearance from the Government of Maharashtra. This amounts to violation of the EIA Notification 2006.

NOW THEREFORE, in view of the above non-compliance, you are hereby directed to show cause as under :-

- Why your building construction activity shall not be stopped forthwith for the violation of Environment Impact Assessment Notification dtd. 14.9.2006, issued by the Ministry of Environment & Forest, Government of India, for not obtaining prior Environmental Clearance from the Competent Authority / Government of Maharashtra?
- Why further legal action shall not be initiated against you under the provisions of the Environment (Protection) Act, 1986 and Rules made there under?

You are also directed to submit your reply within 15 days from the receipt of this Proposed Directions, failing which, this office has no option than to initiate stringent legal action against you including stoppage of your construction activity, which please be noted.


(Medha Gadgil)
Addl. Chief Secretary,
Environment Department

o/c

GOVERNMENT OF MAHARASHTRA

Tel. No. : 2279 3132
Fax No. : 2281 3947

SEAC-III-2014/CR-110/TC-3
Environment Department
217, Annex Building, Mantralaya
Madam Cama Road, Mumbai - 400 032
Date : 25/03/2015

By Speed Post/ RPAD / Hand Delivery
To,

M/s. Aurangabad Holiday Resorts.
A 401, Silver Woods Society,
Koregaon Park, Annex,
Pune. 411 036.

Sub. :- Direction under section 5 of the Environment (Protection) Act, 1986
r.w. Environment Impact Assessment Notification dtd. 14.9.2006

Ref. :- 1. Proposed Directions issued vide letter dtd. 10.9.2014.
2. Your reply dtd. 6.10.2014.
3. Personal hearing extended to you on 13.3.2015.

WHEREAS, the State Level Expert Appraisal Committee (SEAC - III) in its 16th meeting held on 25th to 26th August, 2014 observed that you have violated the provisions of the Environment (Protection) Act, 1986 read with EIA Notification, 2006.

AND WHEREAS, this office had issued Proposed Directions to you vide letter at reference one above, for carrying out construction of proposed Project "Jubilee Park" at S.No.84, H.No.2+4 & S.No.83/1 (Plot No 3), Village Warje Mauje, Tehsil-Haveli, Pune, without obtaining prior EC.

AND WHEREAS, you have submitted your reply dtd.6.10.2014 and the additional information submitted during the course of personal hearing, stating that :-

- 1) The first plan was sanctioned by the PMC on 2.2.2012 for proposed total BUA of 16090.36 m2.
- 2) Subsequently, the plan was amended on 18.6.2012 for proposed total BUA of 20175.80 m2.
- 3) Thereafter, you have applied for EC on 3.4.2014 for proposed total BUA of 30811.28 m2.
- 4) Even after the potential of the project exceeded 20000 m2 vide amendment of plan dtd. 18.6.2012, you have continued the construction and carried out the construction of total BUA admeasuring 8142.66 m2 at site.

AND WHEREAS, a personal hearing was extended to you on 13.3.2015 at 3.20 p.m., before the Principal Secretary, Environment Department. During the course of personal hearing it has been observed that even after the potential of the project exceeded 20000 m2 vide amendment of plan dtd. 18.6.2012, you have continued the construction and carried out the construction of total BUA admeasuring 8142.66 m2 at site, without obtaining prior EC, which is violation of the provisions of the EIA Notification 2006.

NOW THEREFORE, in view of the above violations of the Environment (Protection) Act, 1986 r.w. EIA Notification dtd. 14.9.2006, you are hereby directed to stop the construction work till you obtain Environmental Clearance from the Competent Authority. You are also directed to submit a Board Resolution to comply with Para 5 (i) of the Office Memorandum, issued by the M.o.E.F., G.o.I. dtd. 12.12.2012.


(A. J. ...)

Principal Secretary,
Environment Department

Copy to :-

- (1) Member Secretary, Maharashtra Pollution Control Board, Kalpataru Point, 3rd-4th Floor, Opp. Cine Planet, Sion Circle, Mumbai - 400022 :- He is instructed to direct the concerned Regional Officer of the Maharashtra Pollution Control Board who has been authorized under section 19 (a) of the Environment (Protection) Act, 1986, to file the case for the offence committed by M/s Aurangabad Holiday Resorts under section 15 of the Environment (P) Act, 1986 r.w. EIA Notification dtd. 14.9.2006 before the appropriate court of law within 15 working days, so as to comply with the Office Memorandum issued by the M.o.E.F., G.o.I. No. J-1101313112006-1A. II(1) dtd. 12.12.2012
- (2) Deputy Engineer, Building Permission Department, Pune Municipal Corporation, PMC Main Building, Near Mangla Theatre, Shivajinagar, Pune - 411 005:- He is directed not to issue further permissions / approvals for said project till the Competent Authority grants Environment Clearance to M/s Aurangabad Holiday Resorts.
- (3) Member Secretary, SPAC - III:- for information and further follow up

Minutes of 230th (Part-A) meeting of SEIAA held on 01st October, 2021

Item no. 40

Proposal No.:- SIA/MH/MIS/211317/2021

Type of Project: Modi. ToR

Subject- Environment Clearance for Proposed Residential Project with convenient shops Jubilee Park S. No. 84, H. No. 2 & 4 and S. No. 83/1 (Plot No 3) at Mauje Warje Pune by M/s. Aurangabad Holiday Resorts

Project Details-

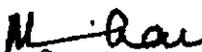
Representative of PP was present during the meeting along with environmental consultant M/s. Mahabal Enviro Engineers Pvt. Ltd. Thane

The proposal under consideration is construction of "Jubilee Park" on land bearing Survey No. 84, H. No. 2 + 4 & S. No. 83/1 (Plot No. 3) at Warje, Pune -411036.

The UID for the project is SIA/MH/MIS/211317/2021. It is noted that, different proposals on the same land with different UIDs are considered earlier by different committees, which is summarized as below-

Sr. No	Project UID No	Submission Date	Considered in	Decision/remarks
1	IA/MH/NCP/64 794/2017	19.05.2017	4th EAC meeting dated 19-21 February, 2018	PP was absent, hence project was deferred.
2	IA/MH/NCP/64 794/2017-MoEf & CC transfer to SEIAA SIA/MH/NCP/ 60016/2021	Received from MoEF & CC 20/1/2021	1) 145th SEAC2 meeting 08.04.2021 2) 117th SEAC3 meeting 12.05.2021	1) Withdrawal letter submitted to SEAC2 2) Withdrawal letter & consideration for UID- SIA/MH/MIS/6222 6/2021 submitted to SEAC3
3	SIA/MH/MIS/6 2226/2021	25.03.2021	ToR proposal- 121st SEAC3 meeting 29th July, 2021	absent letter submitted to SEAC3
4	SIA/MH/MIS/2 11317/2021	04.05.2021	Modification in ToR proposal- 121st SEAC3 meeting 29th July, 2021	
5	SIA/MH/MIS/2 15352/2021	15.06.2021	Proposal without violation and ref of Environment Department Circular dated 21.04.2015	

SEAC Deliberation -


Member Secretary


Chairman

Minutes of 230th (Part-A) meeting of SEIAA held on 01st October, 2021

The Environment Consultant of the project under consideration with UID SIA/MH/MIS/211317/2021 has informed that, work has initiated and around 12,177.37 Sq.mt construction has been done on site. It is a case of violation of EIA Notification, 2006.

It is also noted that, application of PP to MoEF & CC during the provided window period vide Notification dated 14th March, 2017 could not come to the logical end, as PP withdrawn the proposal which was forwarded to SEIAA by MoEF & CC regarding violation of EIA Notification. Considering this, SEAC-3 after detailed deliberation decided to refer the matter to SEIAA to address the issue of violation. Once the said issue decided, SEAC-3 will appraise the proposal subject to decision of SEIAA.

Recommendations of SEAC-

SEAC-3 will appraise the proposal subject to decision of SEIAA.

Deliberation in SEIAA-

SEAC-3 in its 121st meeting pointed out that, application of PP to MoEF & CC during the provided window period vide Notification dated 14th March, 2017 could not come to the logical end, as PP withdrawn the proposal which was forwarded to SEIAA by MoEF & CC regarding violation of EIA Notification. SEAC decided to refer the matter to SEIAA to address the issue of violation. Once the said issue decided, SEAC-3 will appraise the proposal subject to decision of SEIAA.

During the meeting, PP submitted that, they have started the construction on the site and constructed 12,117 m², on site and after that no construction was done on the site since 2015. PP further submitted that, they had applied for EC under the violation category as per MoEF&CC notification dt. 14.03.2017, vide application having proposal no. SIA/MH/NCP/64794/2017 dated 19.05.2017. The project was listed in the 4th EAC meeting (21.02.2018), however the PP couldn't attend the meeting and remained absent.

The MoEF& CC Notification S. O. 1030(E) dt 08.03.2018 and OM dated 15.03.2018, had decided to transfer the category B Projects to the State SEIAA's.

During the meeting, SEIAA asked PP to submit additional details regarding construction done on site along with architect certificate, details of chronology of the proposal.

SEIAA decided to defer the proposal for compliance of above.

SEIAA Decision-

SEIAA decided to defer the proposal.


Member Secretary


Chairman