

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

APPEAL NO. 74/2024 WZ

TANAJI B. GAMBHIRE

APPELLANT

V/s

UNION OF INDIA & ORS.

RESPONDENTS

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PUNE

DATE : 26 /11/2024



ADVOCATE FOR RESPONDENT NO. 04

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
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APPELLANT

V/s

UNION OF INDIA & ORS.

RESPONDENTS

REPLY ON BEHALF OF RESPONDENT NO.4,
(M/S SUKHWANI DEVELOPERS)

MOST RESPECTFULLY SHOWETH:

1. At the outset, it is submitted that, the contents of the Appeal are not admitted by the Respondent No.4 and that the contents therein of are false and incorrect. The Respondent No.4 submits that the statements and averments made in the said Appeal are not admitted by the Respondent No.4 except so far they are expressly admitted herein under. It is further submitted that, the Respondent No.4 craves leave of this Hon'ble Tribunal to file a detailed Reply, if necessary in the present proceedings. At the outset, the Appeal filed by the Appellant is devoid of any merit and is liable to be dismissed with the compensatory cost. The Appellant herein is neither resident of the concerned area nor an aggrieved party. The

Applicant herein is claiming relief, which is beyond the purview of this Hon'ble Tribunal.

2. The Respondent No.4 submits that no substantial issue has been made out for adjudication of this Hon'ble Tribunal. The statutory authorities are already performing their statutory duties. The Respondent No.4 further submits that the Appellant herein has no locus to file the present Appeal and it is also not an aggrieved party to the present proceedings. The Hon'ble Supreme Court has held that the bonafides of the litigant are to be tested before proceeding with the proceedings for adjudication.
3. The present Appeal is filed by the Appellant whereby he has sought quashing and setting aside of Environment Clearance (EC) dated 6th February 2024 issued by the Respondent No.2 **(which is annexed at ANNEXURE – A-1 of the Appeal at Pg No.14 of the Appeal Paper Book)**.
4. The present Appeal is clearly abuse of process of law and has been wrongfully filed by the Appellant, lacking any merit in its assertions against the Respondent No.4. The Appeal is entirely founded on baseless assumptions, speculation, and conjectures, and thus holds no substance.

I. PRELIMINARY OBJECTIONS:

5. Appeal Not Maintainable Due to MoEFCC's 2nd AUGUST 2023 Notification Allowing SEIAA Members to Grant EC Post-Tenure:

- a. The sole ground for the Appellant's challenge in the present appeal is the claim that the EC, granted to Respondent No.4 by SEIAA, was issued during a period when SEIAA was allegedly not operational. However, this assertion is wholly unfounded and misleading as Ministry of Environment, Forest, and Climate Change vide its notification/office memorandum dated 2nd August 2023 explicitly grants authority to Member of SEIAAs to issue/grant Environment Clearance letter for category B proposals even after expiry of its tenure for certain period where after approval to grant EC the SEIAA has become non-functional.
- b. The Respondent No.4 submits that the present case is clearly covered by the *de-facto* doctrine as the decision

was taken in good faith and the law on the said aspect is clear.

6. Appellant's Wrongful Suppression of MoEFCC Notification

Clarifying Procedure:

- a. The Appellant has conveniently suppressed the material fact that the Ministry of Environment, Forest, and Climate Change (MOEFCC) issued a notification/office memorandum dated 2nd August 2023, titled "*Procedure for consideration of Category 'B' proposals at Central level due to the non-functionality or delay in constitution of SEIAA/SEAC.*" This notification explicitly outlines the procedures for handling EC proposals when SEIAAs or SEACs are non-functional or delayed in their constitution.
- b. The said notification categorizes various scenarios where EC proposals might be delayed, which includes:
 - 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.
- c. For scenarios given in point I to V of the said notification, the MOEFCC has outlined a process where these pending proposals can be transferred from the state level to the Central level for further processing, ensuring they are not indefinitely stalled due to the non-functionality of SEIAAs/SEACs.
- d. The Respondent No.4 submits that whereas point VI specifically addresses the scenario where proposals have already been approved by the SEIAA but the official minutes or approval letters have not yet been uploaded to

the PARIVESH system (*an online platform used for environmental clearances and monitoring*). Pertinently, the proposal of Respondent No.4 was covered under point VI as SEIAA has granted the EC to it on 13th December 2023, after which SEIAA's tenure had expired on 10th January 2024. However, official minutes of meetings and EC letter/certificate has been uploaded on the site of PARIVESH on 6th February 2024. It is thus submitted as stated earlier, the present scenario would be covered by the *de-facto* doctrine.

- e. It is stated that the MOEFCC has granted a "*window period*" of fifteen (15) days, for the Member Secretary of the SEIAA, extendable with another fifteen (15) days to upload the minutes or approval letters related for the proposals covered under point VI, i.e., proposal which was duly approved by SEIAA before it became non-functioning.
- f. In the case of Respondent No. 4, the SEIAA operated within this time frame, ensuring that the EC approval was

formalized and recorded in compliance with the procedure laid out by the MOEFCC.

Copy of Ministry of Environment, Forest, and Climate Change (MOEFCC) issued a notification/office memorandum dated 2nd August 2023, titled "*Procedure for consideration of Category 'B' proposals at Central level due to the non-functionality or delay in constitution of SEIAA/SEAC*" is annexed herewith as **ANNEXURE – R-1**.

7. Compliance of Due Process by Respondent No. 4:
 - a. Respondent No.4 has scrupulously followed the due process prescribed for seeking Environmental Clearance (EC) for its project categorized under Category B as per the EIA Notification, 2006. Environmental Clearance has been granted to Respondent No.4 in absolute compliance with the provisions of the EIA Rules and Regulations and after a thorough and proper appraisal process.
 - b. Both SEAC II and SEIAA have granted approval to the proposal of Respondent No.4 in all their meetings whenever the proposal was listed for appraisal. The said

approvals were granted by the competent authorities within their tenure, following due deliberation and careful consideration. Thus, there has been no deviation from the prescribed procedures at any stage of the process.

- c. The Respondent. No.4 submits that the Respondent No.4 has complied with all rules/regulations/procedures prevailing at that period of time. The Respondent No.4 thus cannot be denied the due benefits of the EC which has been obtained in accordance with the law.

8. Baseless Allegations of Misrepresentation and Non-Compliance by Appellant:

- a. The Appellant's claims that Respondent No. 4 submitted a false, defective, and misleading application for the grant of Environmental Clearance (EC) and failed to comply with the conditions imposed by SEAC and SEIAA are entirely baseless and without merit.
- b. Respondent No.4 has meticulously adhered to all regulatory requirements under the Environmental Impact Assessment (EIA) framework and has acted in full

compliance with the stipulated procedures. Respondent No.4 has not only submitted its application in strict accordance with the provisions of the EIA but has also responded comprehensively to every query and concern raised by the SEAC and SEIAA.

- c. It is stated that the EC was granted to Respondent No.4 by the SEIAA after carefully considering all the aforementioned submissions and ensuring that Respondent No.4 had fully complied with all procedural and regulatory requirements. The SEIAA's decision was based on a thorough appraisal of the application, the responses to queries, and the supporting documentation provided by Respondent No.4. Thus, the Appellant's allegations of non-compliance and misrepresentation are devoid of any factual basis and are simply an attempt to mislead this Hon'ble Tribunal.

9. No Prejudice to Environmental Safeguards:

- a. The Appellant has entirely failed to demonstrate any harm or prejudice to environmental safeguards as a result of the

Environmental Clearance (EC) granted to Respondent No.4. There is no specific assertion in the appeal that the project in question will cause any environmental damage or degradation rendering the allegations of appellant baseless.

- b. Respondent No.4 has adhered to all environmental regulations and requirements as mandated by law. The EC was granted after a thorough and lawful appraisal process conducted by the appropriate authorities, ensuring that all environmental conditions were met. The Appellant's allegations lack any factual basis and do not provide any evidence of non-compliance with environmental safeguards. The absence of any concrete assertion regarding potential environmental harm demonstrates that the appeal is unfounded and serves no legitimate purpose other than to obstruct Respondent No.4's lawful activities.

BRIEF FACTS OF THE PRESENT CASE:

10. The brief facts of the present case are enumerated as under: -

- a. Respondent No.4, is a Partnership Firm registered under the laws of India, having its registered office at the address mentioned in the caption of the present Appeal.
- b. The Respondent No.4 filed an application with the Ministry of Environment, Forest and Climate Change seeking Environment Clearance (*EC*) for expansion of residential and commercial building known as Sukhwani Amber located at Survey No.84/3A, 85/1/1, 85/1/2, 85/2A, 85/2B, 85/3/1, 85/3/2, 86/2A, 86/2/B/1 situated at Wakad, Taluka Mulshi, Pune. The application of Respondent No.4 has been registered in “*Category B*” projects vide proposal No.SIA/MH/INFRA2/442836/2023.
- c. The proposal of the Respondent No.4 was considered by the SEAC. After recommendation of SEAC III to SEIAA for grant of EC to Respondent No.4 in its 272nd meeting, the proposal was taken up by SEIAA for appraisal in its 272nd Meeting dated 13th December 2023. SEIAA after considering the documents was pleased to grant Environment Clearance. After grant of EC on 13th

December 2023, the computer-generated copy of the same has been received by Respondent No.4 on 6th February 2024. Copy of Minutes of 272nd Meeting of SEIAA dated 13th December 2023 in reference to Respondent No.4 is annexed herewith as **ANNEXURE – R-2**.

PARAWISE REPLY

- 11.The Respondent No.4 submits that with respect to the contents of Para 1 of the appeal are a matter of record and hence needs no reply.
- 12.The Respondent No.4 submits that with respect to the contents of Para 2 of the Appeal to an extent are a matter of record and needs no response. Rest of the contents of the said para are denied being ill-motivated, false and incorrect. It is stated that the present appeal at the outset is not maintainable as the same wrongly challenges the issuance of EC to the answering Respondent by Respondent Nos.2 & 3. It is further stated that the contention of the Appellant that SEIAA was non-functional and hence cannot grant EC is misconceived. The Respondent's proposal was approved by SEIAA on 13th December 2023, i.e.,

when the SEIAA was operational and was uploaded on online portal (PARIVESH) on 6th February 2024, exercising the power/authority given by MOEFCC vide its notification dated 2nd August 2023 whereby, MOEFCC has categorically granted a "*window period*" of fifteen (15) days, for the Member Secretary of the SEIAA, extendable with another fifteen (15) days to upload the minutes or approval letters related for the proposals which was duly approved by SEIAA before it became non-functioning.

13. The Respondent No.4 submits that with respect to the contents of Para 3 of the appeal are denied being false and incorrect as the appeal filed by the Appellant is misconceived, without merit, and lacks any cause of action. The issues raised by the Appellant as mixed questions of law and facts are wholly untenable and do not warrant consideration by this Hon'ble Tribunal. The appeal is not maintainable and should be dismissed at the outset.

Rebuttal to Issues Raised by the Appellant:

13.1. Whether the impugned EC can be granted when SEIAA is not in operation & functioning due to its expiry of tenure since 10.01.2024?

- The Appellant's contention regarding the invalidity of the Environmental Clearance (EC) due to the alleged non-operation of SEIAA is fundamentally flawed. Even in instances where SEIAA's tenure has expired, MOEFCC vide its notification dated 2nd August 2023 has ensured the continuity of administrative functions. The impugned EC was issued by authorized officials within the authority granted to it under MOEFCC notification dated 2nd August 2023, ensuring that all necessary legal and procedural requirements were met. Therefore, this issue raised by the Appellant is misconceived and does not affect the validity of the EC.

13.2. Whether the SEIAA have followed the due process of law and also, the procedures under EIA Notification, 2006, law laid down by Hon'ble Supreme Court and by Hon'ble NGT Rulings?

- Respondent No.4 submits that the SEIAA, through its authorized representatives, followed due process and adhered to the procedures

prescribed under the EIA Notification, 2006, as well as the precedents set by the Hon'ble Supreme Court and the Hon'ble NGT. The granting of the impugned EC was conducted in strict compliance with all applicable legal requirements, leaving no room for questioning its validity. The Appellant's suggestion that due process was not followed is speculative and baseless in view of the notification of MOEFCC dated 2nd August 2024.

13.3. Whether the Conduct of Member Secretary of SEIAA, Respondent No.4 is in collusion and needs strict Legal action?

- The allegation of collusion between the Member Secretary of SEIAA and the Respondent No.4 is entirely unfounded and unsupported by any credible evidence. Respondent No.4 strongly denies any collusion or wrongdoing in the process of granting the EC. The entire process was conducted with transparency and in accordance with the law.

The Appellant's baseless allegations are an attempt to jeopardize the authority vested in SEIAA and SEAC.

13.4. Whether the impugned EC is tenable in the eyes of law being granted by ex-officio in absence of any powers and without authority?

- The impugned EC was granted by officials who were vested with the necessary authority to act on behalf of SEIAA. The delegation of authority in such circumstances is well within the legal framework and ensures the uninterrupted functioning of administrative duties. The Appellant's challenge to the authority of these officials is without merit, and the EC remains fully tenable in the eyes of the law.

13.5. Whether there is compliance to the conditions imposed in SEAC & SEIAA minutes and who have verified the same in the absence of SEIAA?

- The compliance with the conditions imposed by SEAC and SEIAA was duly verified by

competent authorities acting within their legal mandate. The Appellant's doubts regarding verification are unfounded. It is stated that Respondent No. 4 has duly replied to each and every concern raised by both SEIAA and SEAC. Contents of para 8 of the preliminary objections may be read as part and parcel of the reply to the present para as the same has not been repeated herein for the sake of brevity.

13.6. Whether the Respondent No. 3-Shri. Pravin C. Darade has powers in personal capacity to grant impugned EC? And is there any abuse of process of law by Respondent No. 3-Shri. Pravin C. Darade?

- The said question as framed is mischievous and reeks of ulterior motives of the appellant. The EC has been issued in compliance with the applicable law and authority vested by law. There has been no abuse of the process of law, and the EC was granted in full compliance with the applicable legal provisions.

14. The Respondent No.4 submits that with respect to the contents of Para 4.1. of the appeal is denied being false and incorrect. The Appellant appears to be indulging in extortive acts by abusing legal process. It is stated that the present appeal is without any merit as the EC has been granted to Respondent No.4 in absolute compliance of the provisions of EIA Rules and Regulation.
15. The Respondent No.4 submits that with respect to the contents of Para 4.2 of the appeal is a matter record and needs no response.
16. The Respondent No.4 submits that with respect to the contents of Para 4.3 of the appeal are denied being false and incorrect. It is denied that Respondent No.4 has procured the subject EC from SEIAA false, baseless and misleading information without following the due process. Respondent No.4 states that it has taken part in each and every meeting of both SEAC and SEIAA and provided all the information/documents as sought by both the authorities.
17. The Respondent No.4 submits that with respect to the contents of Para 4.4, 4.5 and 4.6 of the appeal are matter of record and needs no response.
18. The Respondent No.4 submits that with respect to the contents of Para 4.7 to the extent are a matter of record and needs no

response. Rest of the contents are denied being false and incorrect. It is denied that Respondent No.4 has not complied with any condition proposed by SEAC II.

19.The Respondent No.4 submits that with respect to the contents of Para 4.8 of the appeal are matter of record and needs no response.

20.The Respondent No.4 submits that with respect to the contents of Para 4.9 of the appeal are denied being false, incorrect and an afterthought. The present appeal is without any substantive basis and are an attempt to misconstrue the facts and the law. The appeal itself is misconceived, lacks any cause of action, and is therefore not maintainable.

REPLY TO GROUNDS:

21.Ground 5.1 of the appeal is denied being misconceived. It is stated that Respondent No.3 in terms of MOEFCC notification dated 2nd August 2023 is lawfully authorized to grant EC for the proposals which was duly approved by SEIAA before it became non-functioning for a period of one month after the expiry of the tenure of SEIAA Committee.

22. Ground 5.2 of the appeal is denied being false, incorrect and misconceived. It is denied EC granted to Respondent No.4 has been approved illegal manner and in abuse of process of law.

23. Ground 5.3 of the appeal is denied being false and incorrect. It is stated that subject EC has been granted to Respondent No.4 after following due process and procedure by both Respondent Nos.2 & 3 and Respondent No.4.

24. Ground 5.4 and 5.5 of the appeal is categorically denied being false and incorrect. Respondent No.4 at no point of time submitted any false and baseless information before SEIAA. Respondent No.4 has time and again provided the required documents and information as sought by SEAC II and SEIAA in its meetings. The Appellant's allegation that false, baseless, or misleading information was submitted to the SEIAA during the process of obtaining EC. It is stated that all information provided by Respondent No. 4 was accurate, truthful, and in compliance with the applicable regulations and guidelines. The accusation of "*Suppressio Veri Suggestio Falsi*" is without any basis in fact or law. The process of obtaining the EC involved thorough scrutiny by SEIAA, which included multiple levels of review and verification of the information provided by Respondent No.4.

The SEIAA, being a competent authority, would not have granted the EC if any discrepancies or falsehoods had been detected in the application submitted by Respondent No. 4.

25. Ground 5.6 of the appeal is denied being false, incorrect and untenable in the eye of law. It is denied that EC granted to Respondent No.4 by SEIAA valid and correct and issued in due compliance of the relevant rules and regulations.

26. Ground 5.6 of the appeal is denied being false, incorrect and untenable in the eye of law. It is denied that the EC granted is illegal or that it warrants quashing along with any legal action or costs. The EC was granted following all due processes under the law, including proper evaluation and compliance with all applicable norms and guidelines. The Appellant's demand for quashing the EC is baseless and devoid of merit, and the prayer for legal action against Respondent No.4 is entirely unwarranted.

27. Ground 6(a) of the appeal is denied being false and incorrect. It is stated that there is no basis to the claim that there was a lack of coordination between MOEFCC and SEIAA during the grant of the EC. The entire process was conducted in accordance with the law, with due regard to environmental protection and MOEFCC notification dated 2nd August 2023. Respondent No. 4 has strictly

followed all required environmental regulations, and the EC was granted after careful consideration of all relevant factors.

28. Ground 6(b) of the appeal is denied being false and incorrect.

Clearly, the Appellant has failed to establish any prima-facie case that justifies the quashing of the EC or the imposition of a stay on its operation. The EC was granted in compliance with all legal requirements, and Respondent No. 4 is not engaged in any illegal construction activity. The demand for a stay is entirely without merit and would unjustly halt a legally approved project, causing irreparable harm to Respondent No.4 and other stakeholders. There is no basis for any prohibition or stay, and the Hon'ble Tribunal is urged to dismiss this request.

29. Ground 6(c) of the appeal is denied being false and incorrect.

Respondent No. 4 firmly denies the baseless and defamatory characterization as a "*white-collar defaulter*" or "*violator*." The EC was obtained through a lawful and transparent process, with all due diligence exercised. The insinuation of corruption or impropriety is wholly unfounded and intended to malign Respondent No. 4 without any supporting evidence. Respondent No. 4 maintains that the EC process was conducted with full integrity and in accordance with the law.

30. Ground 6(d) of the appeal is denied being false and incorrect.

Respondent No. 4 states that the Appellant's allegations of "*intentional violations of laws*" are entirely unfounded. The Appellant has not demonstrated any specific legal violation by Respondent No.4. The EC was granted following the legal procedures established under the NGT Act, 2010, and related rules. The Appellant's invocation of this Hon'ble Tribunal's jurisdiction is an attempt to obstruct a legally compliant project, and the appeal lacks merit.

31. Ground 6(e) of the appeal is denied being false and incorrect.

Respondent No. 4 takes note of this submission and has no further comments on this point as it does not raise any substantive legal issue against Respondent No. 4.

32. Ground 6(f) is denied being false and incorrect. It is stated that

the Appellant's actions are not based on any genuine public interest concern. Instead, the appeal appears to be driven by a desire to obstruct a legally compliant project without any substantial legal grounds.

33. Contents of Para 6(g) and 6(h) of the appeal is not maintainable

and is illegal. Respondent No. 4 reserves the right to respond to

any such additional grounds or documents as per the directions of this Hon'ble Tribunal.

34. Contents of Para 6(i) of the appeal calls for no reply.

35. Contents of Para 6(j) of the appeal denied being incorrect. It is stated that there is no prima facie case in favour of the appellant and the present appeal does not call for any relief as sought by appellant.

36. Contents of para 7 of the appeal are denied being false and incorrect. It is specifically denied that the present appeals consist of a question of public importance.

37. Contents of para 8 of the appeal are denied being false and incorrect. It is, however, submitted that the present appeal is not maintainable and without jurisdiction as the same is without any cause of action.

38. Contents of para 9 of the appeal are denied being false and incorrect. It is stated that there is no cause of action in favour of the Appellant and against the Respondent No.4.

39. Contents of para 10 of the appeal are denied being false and incorrect. Respondent No.4 asserts that the Appellant has deliberately attempted to mislead this Hon'ble Tribunal by

inaccurately presenting the delay as 59 days, when in fact it amounts to 68 days. The period of delay is non-condonable.

40. Contents of para 11 of the appeal, i.e., Prayer clause is incorrect and vehemently denied. The Appellant is by instituting this appeal is only trying to harass the Respondent No.4 and waste the precious time of this Hon'ble Tribunal.

41. The Appellant has not provided any concrete evidence to support the allegations of misrepresentation, non-compliance, or submission of a defective application by Respondent No. 4. The claims made by the Appellant are speculative, unsupported by facts, and appear to be an attempt to obstruct the lawful grant of EC. It is stated that in the absence of any substantive evidence, the appeal lacks merit and should be dismissed.

42. It is stated that Respondent No. 4 has followed the due process prescribed for seeking EC in respect of projects categorized under Category B. The EC has been granted to Respondent No.4 in absolute compliance of the provisions of EIA Rules and Regulation.

43. The Appellant has failed to demonstrate any actual harm or prejudice to environmental safeguards resulting from the grant of EC to Respondent No.4. On the contrary, Respondent No.4 has

complied with all environmental conditions and requirements imposed by SEAC and SEIAA, thereby ensuring that the environmental integrity of the project is maintained. The appellant's appeal is thus not only baseless but also an abuse of the legal process.

44. The present appeal is a vexatious attempt to delay and hinder the lawful operations of Respondent No.4, despite the latter's compliance with all legal and procedural requirements. The appellant's continued pursuit of this appeal, despite the lack of any substantive grounds, constitutes an abuse of process.

45. Given the baseless nature of the Appellant's claims, it is evident that the appeal is an abuse of the judicial process, aimed at causing undue delay and prejudice to Respondent No.4. The Appellant's conduct warrants the imposition of heavy costs to deter such frivolous and malicious litigation in the future.

46. In light of the aforesaid facts and circumstances, and in view of the comprehensive submissions made by Respondent No.4, a para-wise reply to the appeal is not warranted. The baseless and unsubstantiated nature of the Appellant's allegations does not necessitate a detailed response, as the grounds for rejection of the appeal are clear and evident.

PRAYER

In the aforesaid premise, it is most humbly prayed that this Hon'ble Tribunal may graciously be pleased to:

A. Dismiss the appeal filed by the appellant with exemplary costs;

And/or

B. Pass any such other further orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case and in the interests of justice.

Pune

Date : 26/11/2024



Advocate for Respondent No.4

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

APPEAL NO. 74/2024 WZ

TANAJI B. GAMBHIRE

APPELLANT

V/s

UNION OF INDIA & ORS.

RESPONDENTS

A F F I D A V I T

MAY IT PLEASE THE HON'BLE TRIBUNAL:

I, Ghanshyam J. Sukhwani , adult, Occu.: business, having office at 32, Sukhwani Chambers, Pimpri, Pune - 411018 do hereby state on solemn affirmation as under: -

I am the Partner of the Respondent No.4 above named and responsible for day to day administration of my business. As such, I have gone through the Reply and annexure thereto being filed today. I find that the contents therein are true and correct to the best of my knowledge and belief and which may be treated as part and parcel of the present affidavit.

WHATEVER STATED ABOVE is true and correct to the best of my knowledge and belief. In witness whereof I have signed hereunder at

_____ on _____ day of November 2024

DEPONENT
BEFORE ME

Pandurang V. Nimbalkar 26/11/2024
PANDURANG V. NIMBALKAR
ADVOCATE & NOTARY
GOVERNMENT OF INDIA
Kalewadi, Pimpri, Dist. Pune

NOTED & REGISTERED
AT SR NO.: 9987004
DATE : 26 NOV 2024



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

ANNEXURE-R-1

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.


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)
 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.



Minutes of 272nd Day 1 (Part B) meeting of SEIAA held on 13th December, 2023

Item no. 22**Proposal No.:-** SIA/MH/INFRA2/442836/2023.**Type of Project:** EC

Subject- Environmental Clearance for Proposed Residential cum Commercial Project – Sukhwani Ambar project at S. No - 84/3A, 85/1/1, 85/1/2, 85/2A,85/2B, 85/3/1, 85/3/2, 86/2/A, 86/2/B/1, Village: Wakad, Taluka: Mulshi, District: Pune, State: Maharashtra by M/s Sukhwani Developers

Project Details-

It is noted that, the PP has submitted the application for prior environment clearance for proposed expansion project with total plot area of 11,304.00 m2, FSI area of 41,033.91 m2, Non FSI area of 19,308.68 m2 and total BUA of 60,342.59 m2.

Brief information of the proposal is as below:

1	Proposal Number	SIA/MH/INFRA2/442836/2023	
2	Name of Project	Proposed Residential cum Commercial Project – Sukhwani Ambar project at S. No - 84/3A, 85/1/1, 85/1/2, 85/2A,85/2B, 85/3/1, 85/3/2, 86/2/A, 86/2/B/1, Village: Wakad, Taluka: Mulshi, District: Pune, State: Maharashtra by M/s Sukhwani Developers	
3	Project category	8 (a), B2	
4	Type of Institution	Private Limited	
5	Project Proponent	Name	M/s. Sukhwani Developers
		Regd. Office address	Sukhwani Chambers, Pimpri, Pune
		Contact number	020-27426857
		e-mail	sukhwani77@gmail.com
6	Consultant	Sneha Hi-Tech Products NABET Accredited Certificate No. NABET/EIA/2124/RA0235 dated 05.04.2022 valid till 15.02.2024	
7	Applied for	Expansion	
8	Details of previous EC	EC obtained vide letter No. SEIAA-EC-0000002327 dtd 24.01.2020	
9	Location of the project	S. No - 84/3A, 85/1/1, 85/1/2, 85/2A,85/2B, 85/3/1, 85/3/2, 86/2/A, 86/2/B/1, Village: Mulshi, Taluka: Wakad, District: Pune	
10	Latitude and Longitude	Latitude: 18°36'7.44"N, Longitude: 73°44'46.76"E	
11	Total Plot Area (m2)	11,304.00	
12	Deductions (m2)	20.99	
13	Net Plot area (m2)	11,283.01	
14	Proposed FSI area (m2)	41,033.91	
15	Proposed non-FSI area (m2)	19,308.68	
16	Proposed TBUA (m2)	60,342.59	
17	TBUA (m2) approved by Planning Authority till date	60,488.06	
18	Ground coverage (m2) & %	2718.87 sq.m (24.097%)	
19	Total Project Cost (Rs.)	Rs. 182 Cr.	


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20	CER as per MoEF& CC circular dated 01/05/2018	NA, per Memorandum 22-65/2017-IA-III dated 25th February 2021				
21	Details of Building Configuration: <Please use following legends: Floor = F , Parking = Pk, Podium = Po, Stilt =St, Ground= G, Lower Ground = LG, Upper Ground = UG, Basement = B, Shops = Sh>					Reason for Modification /Change
	Previous EC / Existing Building			Proposed Configuration		
	Building name	Configuration	Height (m)	Building name	Configuration	Height (m)
	Building A	B+ P+ 12 Floors	37.70	Building A	B+ Gr (Parking Slab) + 21 Floors	69.00
	Building B	B+ P+ 12 Floors	37.70	Building B	B+ Gr (Parking Slab) + 21 Floors	69.00
	Building C	B+ P+ 12 Floors	37.70	Building C	B+ Gr + 6 Floors	32.64
	Building D	B+ P+ 12 Floors	37.70	--	--	Deleted
	Building E	Gr/P+ Floors	7 22.80	Building D (MHAD A)	B + Gr + 8 Floors	28.00
	Club House	Gr + 1 Floor	7.80	Club House	Gr + 1 Floor	8.00
23	Total number of tenements	Residential: 360 nos. Shops: 63 nos. Users: 2567 nos.				
24	Water Budget	Dry Season (CMD)		Wet Season (CMD)		
		Fresh Water	182 KLD	Fresh Water	182 KLD	
		Recycled (Flushing)	97 KLD	Recycled (Flushing)	97 KLD	
		Recycled (Gardening)	6 KLD	Recycled (Gardening)	0 KLD	
		Swimming Pool	-	Swimming Pool	-	
		Total	285 KLD	Total	279 KLD	
		Waste water generation	257 KLD	Waste water generation	257 KLD	
25		Drinking tank			30 cum	



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	Water Storage Capacity for Firefighting / UGT (m3)		Utility tank	260 cum		
			Fire tank	200 cum		
			Raw water tank	25 cum		
26	Source of water		PCMC/ treated water			
27	Rainwater Harvesting (RWH)	Level of the Ground water table:	Summer Season – 13.00 m. to 17.33 m. BGL. (15.17 M. Average)			
			Rainy Season – 5.00 m. to 8.00 BGL. (6.50 M. Average)			
		Winter Season – 9.00 m. to 12.67 m. BGL. (10.84 M. Average)		Size and no of RWH tank(s) and Quantity:		Nil
		Quantity and size of recharge pits:	5 nos. a) 1.25 M. X 1.25 M. X 1.50 M b) 1.25 M. X 1.25 M. X 1.25 M		Details of UGT tanks if any:	
28	Sewage and Wastewater		Sewage generation in CMD:	257 KLD		
			STP technology:	MBBR		
			Capacity of STP (CMD):	260 KLD		
29	Solid Waste Management during Construction Phase	Type	Quantity (kg/d)	Treatment / disposal		
		Dry waste:	8.75			
		Wet waste:	3.75			
		Total waste	12.5	Utilized on site at maximum extent. Rest handed over to local body		
30	Solid Waste Management during Operation Phase	Type	Quantity (kg/d)	Treatment / disposal		
		Dry waste:	477 kg/day	Handed over to Authorized Agency		
		Wet waste:	623 kg/day	Treated in OWC		
		Hazardous waste:	Negligible			
		Biomedical waste	Biomedical waste like Mask, Gloves, Face shields etc. (required for Pandemic situation)	Shall be segregated at designated place near OWC and shall be given to authorized vendor for management		
		E-Waste	8 kg/day	Shall be handed over to Authorized recycler for further handling & disposal purpose		
		STP Sludge	40 kg/day	Used as manure for gardening		
31	Green Belt Development	Total RG area (m2):		1289.45 sq.m.		
		Existing trees on plot:		8 nos.		
		Number of trees to be planted:		156 nos.		
		Number of trees to be cut:		Nil		
		Number of trees to be transplanted:		2 nos.		


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				(6 nos. of trees to be retained)	
32	Power requirement:	Source of power supply:		MSEDCL	
		During Construction Phase (Demand Load):		75 kW	
		During Operation phase (Connected load):		2884 kW	
		During Operation phase (Demand load):		1268 kW	
		Transformer:		2 X 630 kVA & 1 X 315 kVA	
		DG set:		1 X 400 kVA, 1 X 40 kVA & 1 X 250 kVA	
		Fuel used:		HSD	
33	Details of Energy saving		Total energy savings: 24.69 %		
34	Environmental Management plan budget during Construction phase	Type	Details	Cost	
		Capital	Site Barricading, Personal Protective Equipment, Site Sanitation- Mobile toilets & Debris Management	10.00	
		O&M	Water for Dust Suppression	0.14	
			Site Sanitation, Disinfection & Safety	3.5	
			Environmental Monitoring	2	
			Health Check up	0.6	
			Environment Management Cell	7.8	
Total	14.04				
35	Environmental Management plan Budget during Operation phase	Component	Details	Capital (Rs.Lakh)	O&M (Rs. Lakh/Y)
		Sewage treatment	STP Operation and its maintenance	70.00	22.30
		RWH & Storm water	Recharging existing ground water table, SWD - Connection to external line	5.00	0.25
		Swimming pool	Swimming pool and its maintenance	-	-
		Solid Waste	Collection Segregation and management of MSW	16.75	4.23
		Hazardous waste	NA	NA	NA
		E-waste	Collection Segregation and hand over to authorized vendors	Included in Solid waste	
		Green development belt	Plantation of new trees and maintenance of existing trees	14.07	2.57
		Energy saving	Energy saving measures	91.25	1.825
Environmental Monitoring	To monitor sustainability of	-	2.8		


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			Environmental Infrastructure		
		Environment Management Cell	--	-	10.2
		Biomedical Waste Management	Handling segregation and management of waste like mask, shields, PPE kits etc.	-	Included in solid waste
		Disaster Management	Emergency preparedness plan to develop and implement on site	73.00	10.00
		Total		270.07	54.175
36	Traffic Management	Type	Required as per DCR	Actual Provided	Area per parking (m2)
		4-Wheeler	332	408	25 – 35
		2-Wheeler	546	546	-
37	Details of Court cases/litigations w.r.t. the project and project location if any.	No			

SEAC Deliberation –

PP stated that, the application is for Proposed expansion of Residential cum Commercial Project project at S. No - 84/3A, 85/1/1, 85/1/2, 85/2A,85/2B, 85/3/1, 85/3/2, 86/2/A, 86/2/B/1, Village: Wakad, Taluka: Mulshi, District: Pune. PP holds previous EC vide letter No. SEIAA-EC-0000002327 dtd 24.01.2020.

The comparative statement for the project is as below:

Sr.	Description	Detail as per EC received on 24.01.2020	Proposed amendment	Remarks For proposed changes
1	Plot Number	S. No - 84/3A, 85/1/1, 85/1/2, 85/2A,85/2B, 85/3/1, 85/3/2, 86/2/B	84/3A, 85/1/1, 85/1/2, 85/2A,85/2B, 85/3/1, 85/3/2, 86/2/A, 86/2/B/1	Plot added 86/2/A
2	Total Plot Area	9,904.00 m2	11,304.00 m2	Increased by 1400 sq.m
3	Deductions	20.99 m2	20.99 m2	No change
4	Net Plot Area	9,883.01 m2	11,283.01 m2	Increased by 1400 sq.m
5	Proposed FSI	15,645.05 m2	41,033.91 m2	Increased by 25,388.86 sq.m
6	Non FSI Area	14,854.33 m2	19,308.68 m2	Increased by 4454.35 sq.m
7	Total Construction Area	30,499.38 m2	60,342.59 m2	Increased by 29843.21 sq.m


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8	Building Configuration	Total No. of Buildings: 5	Total No. of Buildings: 4	
		Building A – B+ P+ 12 Floors	Building A – B+ Gr (Parking Slab) + 21 Floors	Change in planning
		Building B: B+ P+ 12 Floors	Building B: B+ Gr (Parking Slab) + 21 Floors	
		Building C: B+ P+ 12 Floors	Building C: B+ Gr + 6 Floors	
		Building D: B+ P+ 12 Floors	--	Deleted
		Building E: Gr/P+ 7 Floors	Building D (MHADA): B + Gr + 8 Floors	Change in nomenclature with increase in a floors & addition of basement
		Club house- Gr + 1 Floor	Club house- Gr + 1 Floor	No change
9	No. of tenements & shops	Residential: 240 nos. Shops: 3 nos.	Residential: 366 nos. Shops: 61 nos.	Increase in number of Flats by 126 nos. Increased in commercial by 58 nos.
10	No. of expected users	1222 nos.	2567 nos.	Increased by 1345 nos.
11	Water requirement	Domestic water: 108.44 KLD Flushing water: 54.5 KLD Total – 162.94 KLD	Domestic water: 182 KLD Flushing water: 97 KLD Total – 279 KLD	Total water requirement increased by 116.06 KLD
12	Sewage Generation	146.65 KLD	257 KLD	Sewage generation increased by 110.35 KLD
13	STP capacity	160 KLD	260 KLD	STP capacity increased by 100 KLD
14	Dry Waste	243 kg/day	477 kg/day	increased by 234 kg/day
15	Wet Waste	362 kg/day	623 kg/day	increased by 261 kg/day
16	Parking	4-wheelers: 130 nos. 2-wheelers: 486 nos.	4-wheeler- 408 nos. 2-wheeler (Scooters)- 546 nos.	Revised as per requirement
17	DG set provision	1 X 160 KVA	400 kVA, 250 kVA & 40 kVA	Revised as per requirement
18	Total Connected Load	1464 KW	2884 kW	Revised as per requirement
19	Total Demand Load	653 KW	1268 kW	Revised as per requirement


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20	RG Area on Ground	988.32 sq.m	1289.45 sq.m	Increased
21	No. of trees after development	134 nos.	156 nos.	Increased
22	Project Cost	Rs. 78.00 Cr	Rs. 182.00 Cr	Increased by Rs. 104 Cr.

PP clarified that the mandatory RG is on ground.

The case was discussed on the basis of the documents submitted and presentation made by the proponent. All issues relating to environment, including air, water, land, soil, ecology, biodiversity and social aspects were examined. The proposal is appraised as category 8(a) b2.

During discussion following points emerged:

1. PP to submit Certified Compliance Report (CCR), from Regional Office, MoEFCC, Nagpur.
2. PP to provide electric charging facility by providing charging points at suitable places as per Maharashtra Electric Vehicle Policy, 2021.
3. PP to ensure that, the water proposed to be used for construction phase should not be drinking water. They can use recycled water or tanker water for proposed construction.

Recommendations of SEAC-

After deliberation, Committee decided to recommend the proposal for Environmental Clearance to SEIAA, subject to compliance of above points.

Deliberation in SEIAA-

Proposal is an expansion of existing construction project. Proposal is recommended by SEAC-3 in its 183rd meeting for grant of Environment Clearance for total plot area of 11,304.00 m², FSI area of 41,033.91 m², Non FSI area of 19,308.68 m² and total BUA of 60,342.59 m².

PP has obtained earlier EC vide SEIAA-EC-0000002327 dtd 24.01.2020 for total BUA of 30,499.38 m².

SEIAA asked PP to submit Architect Certificate regarding construction initiated on site is within BUA and as per configuration of earlier EC. SEIAA keeps certificate from registered architect as a proof of compliance of construction Initiated on site by PP is within BUA and as per configuration of earlier EC. PP submitted the architect certificate dated 12.12.2023.

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 08.11.2023. SEIAA noted the same and asked PP to strictly comply with the points raised in the Certified Compliance Report (CCR) dated 08.11.2023.

During the meeting, SEIAA asked PP regarding the provision of RG. PP submitted that, they have provided mandatory RG having area of 1128.31m² on mother earth without any construction i.e. Club House etc. SEIAA asked PP to submit area undertaking to that effect. PP submitted the same dated 12.12.2023.

SEIAA also asked PP to submit undertaking regarding the complying the SEAC conditions. PP submitted the same dated 06.12.2023.


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SEIAA after deliberation decided to grant EC for-FSI-40999.04 m², Non FSI- 19,308.68 m², total BUA- 60,307.72m². (Plan approval No- BP/EC/Wakad/14/2023, dated-04.10.2023) (FSI Restricted as per approval and non FSI as per appraisal) SEIAA after deliberation decided to grant Environment Clearance subject to compliance of following conditions-

1. PP has provided mandatory RG area of 1128.31m² on mother earth without any construction Local planning authority to ensure the compliance of the same.
2. 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.
3. PP to achieve at least 5% of total energy requirement from solar/other renewable sources.
4. 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.
5. SEIAA after deliberation decided to grant EC for-FSI-40999.04 m², Non FSI- 19,308.68 m², total BUA- 60,307.72m². (Plan approval No- BP/EC/Wakad/14/2023, dated-04.10.2023) (FSI Restricted as per approval and non FSI as per appraisal)

SEIAA Decision-

SEIAA after deliberation decided to grant EC.



Member Secretary

Chairman