

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

(Application under Section 14 and 20 of the NGT Act 2010)

Original Application No. 56/2019

Mangesh Mahadev Parab

...Applicant

Versus

M/s. New Monarch Builders and Contractors

And others

...Respondents

WITTEN NOTES OF ARGUMENT ON BEHALF OF THE APPLICANT

The Applicant in the present matter most sincerely states as under-

1. That, the main contention of the Applicant is that the R-1 M/s. New Monarch Builders and Contractors has not taken any Environmental Clearance (EC) and hence, the whole construction at Gat. Nos. 706, 706/1 to 10, 106/11, 706/14 to 15 and 706/22 at the village Marol at Andheri (East) Mumbai-400059, is illegal.
2. That, though as per the EIA Notification dated 07/07/2004 and 14/09/2006, EC is required, it is also necessary to understand that the R-1 M/s. New Monarch Builders and Contractors has made changes from time to time in the proposed construction and submitted revised plans to R-4 the Chief Executive Officer, Slum Rehabilitation Authority and R-5 the Commissioner Municipal Corporation Greater Mumbai (MCGC), and hence, the Respondent No 1 comes under the regime of securing EC for the revised plan otherwise it amounts to breach of Clause 4 (ii) of the

Notification dated 14/09/2006. While adducing arguments, the Hon'ble NGT was requested to peruse Page No. 65 of the Annexure- D.

3. That, it was argued that the construction made by R-1 M/s. New Monarch Builders and Contractors till today is without availing EC and hence it is illegal. It was also argued that the R-4 the Chief Executive Officer, Slum Rehabilitation Authority and R-5 the Commissioner Municipal Corporation Greater Mumbai has issued/ granted/ approved letter of intent (LOI), occupation/completion/certification, etc., without the R-1 having EC and such ignores by the lawful authorities is based on some corruption.
4. That, the illegal attitude of R-2 MPCB and R-3 Environment Department of State requires thorough inquiry who has not monitored the construction made by the R-1 which is without EC.
5. That, in Paragraph G of the Grounds on Page No. 12 of the Application, the detail Amendment made by the MOEFCC on 09/12/2016 in the EIA Notification, 2006 have been mentioned and those needs to be considered while taking decision on this Environment Interest Litigation. It is mentioned clearly that the R-6 SEIAA is empowered to grant EC for buildings and construction projects with build-up area from 1,50,000 to 3,00,000 Square Meters.
6. That, recently the Applicant has duly submitted some important documents and those shows that the R-1 was responsible to avail EC which they never did and hence all the prayers made by the Applicant may kindly be considered.

7. That, there is a substantial question related to Environment which has been already narrated in Paragraph No. 18. And the Grounds, that according to sec. 2 (1) (m), substantial question relating to environment includes direct violation of specific statutory environmental obligation and refers to the instances related to following some environmental norms. The combined reading of sec. 2(1)(m) and sec. 14 of this Act gives clear understanding that breach of various enactment of schedule 1 NGT Act is 'Substantial issue related to environment'. In the grounds clause, the Applicant has mentioned that the SRA is being done not in accordance EIA Notifications dated 07/07/2004 and 14/09/2006, the R-3 MPCB, the R-5 Commissioner MCGM and R-6 SEIAA have completely neglected their legal obligations mentioned under Environment Protection Act, 1986 along with various rules and subordinate legislations. The above all has been mentioned descriptively in the grounds of the Application hence, the substantial issue related to environment have sufficiently narrated.
8. That, the Environment Impact Assessment and EC are two important unavoidable balancing actions mentioned in Environmental law through various Notifications. It is asserted that, only because the site where the construction is in progress was earlier occupied by slums does not mean that there are no issues related to Environment.
9. That, the R-6 SEIAA has accepted in Paragraph No. 27(c) that '*there is no violation of spirit of the EIA Notification of 07/07/2004*'. It is interesting to understand the term 'violation of the spirit of EIA'.
10. That, fortunately the R-6 SEIAA has accepted in Paragraph No. 27(e) that '*there is a grey area regarding the violation of EIA Notification 14/09/2006*'. Now understanding this 'grey area' concept regarding

'Applicability of EIA Notification' will be interesting. Such mentions clearly indicate that R-6 SEIAA has prepared so called Affidavit in reply dated 17/04/2023 under some pressure and with an ulterior motive to safeguard commercial interest of R-1.

11. That the Paragraph No. 27(f) makes it more interesting to understand a new concept *'the violation can be at most'*, in terms of the actual construction are, if exceeded above 75,603.55 M3 as per the LOI of 05/06/2003. The R6 SEIAA seems to have using safe terminologies to protect the interest of R-1.
12. That, the whole Affidavit in reply is unclear and use of the words *'No violation of spirit of law'* and *'there is a grey area regarding the applicability of EIA'*, and *'the violation can be at the most'* are the vague phraseology and statements made by the R-6 which indicated that they don't have anything valid to mention.
13. That on behalf of the Applicant two important Affidavits have been submitted one dated 16/09/2024 and another dated 8/04/2025 and some important documents have been submitted. Without considering contents of those affidavits and without seeing the documents attached to those affidavits no conclusion may kindly be drawn.
14. The Applicants Advocate wish to mention that Affidavits dated 16/09/2024 and 8/04/2025 may kindly be taken into consideration with its contents and documents and appreciation of the same may be cited in the final Judgment and order to be passed on merits.

15. It is argued on behalf of the Applicant that he had received various documents which clearly indicate that, for SRA projects, NOC/Clearance from the concerned regulatory authority is required in view of the environmental clearance. The Hon'ble NGT may please see the copy of the document dated 05/01/2010 at Annexure-L, page 527. The said circular is issued by the Slum Rehabilitation Authority, signed by Chief Executive Officer, S.R.A itself.
16. It is clearly mentioned in the said circular that even for the construction of temporary transit camp of the slum dwellers NOC/Clearance is required, for the demolition of huts NOC/Clearance from SEIAA is required, prior clearance from SEIAA is required for slum rehabilitation project. But no such NOC or Clearance from SEIAA is availed by the R-1 M/s New Monarch Builders.
17. It is argued that, an important part is mentioned at the end of the above document which says that 'in case of composite building/buildings having built up area equal or more than 20,000 square meters, the prior clearance from SEIAA shall be insisted before approving plinth C.C. of the building.' The R-1 has not shown any document to the NGT that any such prior clearance is taken by the R-6 SEIAA and on the other hand the R-6 SEIAA also has not stated that such legally required 'prior environmental clearance' is given by them to the R-1 Project proponent.
18. It has been stated that, a letter was issued by the S.R.A. 'Revised LOI for partial conversion of SR Scheme', which clearly mentions that 'the built area for sale and rehabilitation shall be as per the following scheme parameters. In the event of change in area of plot eligibility etc. the parameters shall be got revised from time to time.' Kindly see the copy of

letter dated 27/02/2024, issued by the SRA, which is at Annexure-M page 536.

19. It is argument of the Applicant that above letter dated 27/02/2025 has been issued regarding R-1 M/s New Monarch Builders and Contractors in relation to Sarbaugh Sneh Sagar CHS Ltd. The salient features of the scheme are also mentioned in the chart of twenty six points. The additional conditions are important to be perused and based on the above document, the subject matter involved in the present case can be decided.

20. I state that, the Slum Rehabilitation Authority's 'Revised LOI cum Amended Plans for rehab building no. 7 and sale building no. 1 in SR scheme' bearing CTS No. 706/2 to 8, 706/11, 706/12, 706/14 to 16 and 706/22 of village Marol, at Andheri (East), Sagbaugh Sneh Sagar CHS Ltd.' is mentioned. For this kindly see the copy of the said SRA letter at Annexure-N, page-549. If the Hon'ble NGT sees page no. 521 the scheme parameters which were revised on 4/12/2015 are mentioned.

21. Further it is argued that, the construction seems to be strictly restricted to limited area and hence the Hon'ble NGT may kindly direct the R-1 or R-2 to R-5 to submit a detailed survey with maps regarding each building structure. They may be asked to copies of relevant permissions/clearances.

22. It is being argued that it was the duty of our R-2 to R-5 to submit detailed survey with maps regarding each building structure and copies of relevant clearances/permissions which will be helpful for the NGT while deciding the subject matter.

23. That one document dated 21/1/25 regarding 'Mithi River boundary abutting plot bearing CTS No. 706, 706/1 to 706/10 of village Marol, Andheri (East) in K/E ward for Slum Rehabilitation Scheme'. The letter dated 21/01/2025 mentions that 'as per condition no. 7 of the said remarks to facilitate maintenance and desilting operations 7.00 mtr clear Paved/Asphalted access or buffer zone as directed by MMRDA was insisted'. The said remarks were valid up to 12/5/19 but for revalidation of these remarks, no one approached the concerned authority.
24. Further the letter clearly mentions as conclusion that 'presently the compound wall of the building corner is out of the range and not maintaining the 7mtr space, is clear violation as per plan'. Hon'ble NGT may please see the letter dated 21/01/2025 is annexed as Annexure-O at page-573.
25. That the R-1s project has been initiated without following due environmental norms and hence applying Polluter Pays Principle, environmental fine Rs. 800 crore may be imposed on R-1. R-1 may be directed to give Rs. 2,00,000 as a cost of the litigation.
26. Any other order deemed just and proper in the interest of justice may kindly be passed by the Hon'ble NGT.

Pune

Date: 09/09/2025



Advocate for the Applicant