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Prakash Baviskar

Ref. No. MCHI/PRES/18-19/133

January 23, 2019

To,

(1) Hon'ble Shri Narendra Modi

Prime Minister

Government of India

152, South Block,

Raisina Hill,

New Delhi-110011

(2) Hon'ble Shri Devendra Fadnavis

Chief Minister

Government of Maharashtra

Mantralaya,

Mumbai - 400032

Sub: Review of the Environmental Clearance Process and Need for Streamlining the same

Respected Sirs,

Introduction :

CREDAI-MCHI has received various grievances from its members highlighting the difficulties in getting the environmental clearance from concerned bodies and also suggestions as to how the process of environmental clearance can be streamlined by devising proper mechanism to facilitate inter departmental information sharing and removing overlapping actions of the concerned authorities.

Environmental clearance process and need for streamline:

The preamble for the draft notification dated 27th Oct 2003, started with the sentence "In view of the concerns expressed by the Green Bench of the Supreme Court in the Yamuna River Pollution Case", wherein the fact is that the case referred to therein the Supreme Court was commenting on the reckless permissions given to the industries permitted along the Yamuna River and attended development wherein the effluents were being discharged into the Yamuna. Under notification dated 22nd Dec 2014, Govt has already exempted the construction of school, college, hostels, hospitals and even industrial sheds subject to ensuring sustainable environmental management plan and using RWH system and therefore there is an urgent need for preparing policies by the government for speedy approval of the real estate projects to reduce the interest cost of the related project.

Difficulties in getting environmental clearance in Maharashtra

- (1) The real estate developers in Maharashtra are facing difficulties in getting clearances from MoEF Committees Viz. State Expert Appraisal Committee (SEAC) & State Environment Impact Assessment Authority (SEIAA), as the concerned authorities are straying from their mandate which are

primarily constituted to check and impart Environment clearance relating to project under scrutiny & to propose solution to environmental issues which will mitigate any adverse impact because of the proposed project under consideration on the Environment.

- (2) The current EIA process is cumbersome and needs to be changed for better efficiency and efficacy of the Project execution and completion.
- (3) It is observed that even after getting environment clearance the order makes various caveats like NOCs from local bodies like water boards, SPCBs etc. which is not necessary at all since these permissions/specific requirements can be taken into account by the concerned planning authority hence no further recommendations are required to be incorporated in the environmental clearance order as this amounts to straying into the domain of Urban Local Body by raising queries about FSI, CFO NOC, High Rise Committee approval, planning aspects etc. and in the bargain missing real points concerning the Environment.
- (4) Project approval should be on basis of Concept Plan with full potential FSI of the project. Moreover, the SEIAA Committee needs IOD for entire FSI at one go otherwise it restricts the EC up to the FSI mentioned in the IOD. This is absurd as Project Proponent (PP) while applying for EC, submits Environmental Studies & mitigation thereto for entire plot area along with entire permissible FSI of the project. More so, IOD is issued based on the Concession Report for full permissible FSI approved by the Municipal Commissioner and PP is allowed to take IOD in parts within the permissible FSI mentioned in the concession report as it involves huge finance. As such this action by SEIA mandates the PP to approach SEIA whenever amended IOD is obtained for incremental FSI even though it is well within the total permissible FSI approved by the MC in concession report. This leads to undue project delays & cost over runs for the PP.
- (5) It has been observed that bureaucrats in the State Expert Appraisal Committee (SEAC) and the State Environmental Impact Assessment Authority (SEIAA) are not in consonance with the idea enshrined in the provisions of the Environment Act and the guidelines/notifications issued from time to time; rather it has been observed in practice that hardly any steps are being taken by the authorities for immediate clearance of the Project which are causing delayed clearance of the Project and ultimately the Builders are suffering financially since they have borrowed huge money from the market for the construction of their project.
- (6) Builders are facing problems to harmonise between the order of the Environmental panel vis a vis order of MCGM which many times are at odds with each other and causing hurdles in the clearance of the project due to an ego trip between the two authorities.
- (7) Many representations have been lodged with the Union Environment Ministry to bring to their notice about the arbitrariness of two environment panels, the SEAC and the SEIAA. The two state environment panels instead of just sticking to issues like environmental impact and assessment

are going in to project lay out, FSI and layout of the project which is not their domain.

- (8) While applying, the laws as laid down by various High Courts in favour of Environmental Protection must be balanced with the laws framed by the High Courts in favour of the Project execution and effective clearance.
- (9) Unnecessary conditions like traffic survey of 500 sq. mtrs periphery around the Project site must be left to the subjective jurisdiction of the local authority instead of being taken up for consideration by the SEAC and the SEIAA.

CREDAI-MCHI's suggestions for changes in Policy

1. Wherever an already approved DP Plan for residential, commercial and retail development / projects is existing, no Environmental Clearance should be demanded or pressed for. All the prescribed conditions could become part of the DCR or the relevant development rules.
2. The Clauses related to MoEF to be incorporated in the DCR can be approved by the MoEF, Central Government, based on suggestions submitted by State level committee, considering and taking into cognizance the local state wise issues.
3. Only projects of above 1.5 lakh sq. mtrs. FAR / FSI should require Environmental Clearance; thereby, construction projects which are less than 1.5 lakh sq. mtrs. should be exempted from getting Environmental NOCs.
4. Only one common Committee should be formed for all the Authorities and Clearance Committees like CRZ, SEAC-I, II etc.
5. Within any city limits, projects based on land side in CRZ Zone, the latest DCR and Development plan as applicable on the date of submission of the project proposal should be considered.

Conclusion

Sir, under the current circumstances and with the objective of Ease of Doing Business, CREDAI-MCHI humbly feels that it is justified and necessary to consider the above referred suggestions to frame proper guidelines for :

(a) Smooth working of SEAC & SEIAA Committees so that they work within their domain i.e. environmental issues only and leave the rest of the matter to the concerned local / competent authority to deal with the issues exclusively falling within their jurisdiction;

(b) SEIAA Committee to issue Environmental Clearance based on Conceptual Plan & not to insist IOD or Approved plans for issuance of Environmental Clearance

(c) Completing the hearings for grant of Environmental Clearance within the time frame of 60 days.

We look forward to your kind co-operation and acceptance of our prayers and suggestions.

Thanking you,

Yours sincerely,
For CREDAI-MCHI


Nayan A. Shah
President


Bandish Ajmera
Hon. Secretary


Sanjiv S. Chaudhary MRICS
COO, CREDAI-MCHI

CC:

(1) **Hon'ble Dr. Harsh Vardhan**, Union Minister for MoEF & CC, Ministry of Environment, Forests & Climate Change, Indira Paryavaran Bhawan, New Delhi-110 003

(2) **Hon'ble Shri Hardeep Singh Puri**, Minister of State for Housing and Urban Affairs, Nirman Bhawan, C - Wing, Dr. Maulana Azad Road, New Delhi - 110011

(3) **Shri Ramdas Kadam**, Minister for Environment, Government of Maharashtra, Mantralaya, Mumbai - 400 021,

(4) **Shri Nripendra Misra**, Principal Secretary to Prime Minister, PMO, South Block, Raisina Hills, New Delhi - 110 001

(5) **Shri Pravin Pardeshi (I.A.S.)**, Additional Chief Secretary to Hon'ble Chief Minister, Chief Minister's Office, Govt. of Maharashtra, Mantralaya, Mumbai

(6) **Shri C. K. Mishra (I.A.S.)**, Secretary, Ministry of Environment, Forest & Climate Change, Indira Paryavaran Bhavan, Govt. of India, New Delhi

(7) **Shri Durga Shanker Mishra (I.A.S.)**, Secretary, Ministry of Urban Development, Nirman Bhawan, New Delhi, 110011

(8) **Shri Anil Diggikar (I.A.S.)**, Principal Secretary, Environment Department, Govt. of Maharashtra, 217, Annex Bldg., Mantralaya, Mumbai - 400 032

(9) **Mr. Jaxay Shah**, President, CREDAI National, New Delhi

(10) **Shri Shantilal Kataria**, President, CREDAI- Maharashtra

HJ to Mr. Sachin Patil - Mr. Sandip

24/11/19
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24/11/19
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