

S. S. Hussain I.A.S. (Ex)
Chief Executive Officer

Ref. No.: MCHI/CEO/13-14/308

April 14, 2014

To,
Shri R. A. Rajeev (I.A.S.)
Principal Secretary,
Environment Department,
Government of Maharashtra,
Mantralaya, Mumbai 400 032

Dear


As you are aware that there have been cases of construction of buildings which are less than 20,000 sq. mtrs., where the authorities are insisting for getting environmental clearance. You may recollect that there have been Bombay High Court's orders in several petitions that environmental clearance for the purpose of the construction of building below 20,000 sq. mtrs. is not required. Notification has also been issued by the State Government in this regard to follow the law laid down by the Hon'ble High Court. However, the officials and competent authorities are insisting upon getting for Environmental Clearance to provide green signal for such projects.


Under these circumstances, I would once again request you to please issue clear orders and memorandum to the authorities under your control, not to insist for getting environmental clearance for the projects of constructing the buildings for less than 20000 sq. mtrs. It would be great help to streamline the process and quicken the completion of the projects and the compliance of the Hon'ble High Court order will also be made as well, you would agree.

We, in MCHI, would also like to meet you to discuss certain issues concerning our members. Please give the time as per your convenience.

Thank you in anticipation.

Yours


05/04/2014
बाबक लाबक
वरिष्ठ निदेशक
वसाहत, मुंबई-३३


S. S. Hussain

To
Shri R. A. Rajeev (I.A.S.)
Principal Secretary,
Environment Department,
Government of Maharashtra,
Mantralaya, Mumbai 400 032

VAT

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) No.655 OF 2014

Glomore Constructions and Ors.

...Petitioners

Vs.

The Union of India and Ors.

...Respondents

Mr.Virag Tulzapurkar, Senior Counsel with Mr. Rafi Patni with Ms.
Anjali S. Mohan i/b. Wadia Ghandy & Co. for Petitioners
None for Respondents

CORAM : V. M. KANADE &
A.K. MENON, JJ.

DATE : MARCH 24, 2014

P.C.

1. Heard the learned counsel appearing on behalf of the Petitioners. None appears on behalf of the Respondents, though they were served. Two affidavits of services are taken on record.

2. The grievance of the Petitioners is that though the Petitioners propose to construct the buildings, which are less than 20000 sq.mtrs. and though this Court, in number of cases, has held that for construction of buildings, which are below 20000 sq.mtrs., environmental clearance is not required, even then, Respondents State have issued a stop work notice, directing the Petitioners to stop the construction work of the buildings which are in project and are admittedly below 20000 sq.mtrs. It is submitted that the

1/2

Petitioners have given an undertaking that they shall not carry out construction work of the buildings beyond 20000 sq.mtrs. It is submitted that in view of this, the impugned notice which has been issued by Respondent No.3 may be stayed.

3. This Court in several petitions, has already held that environmental clearance for the purpose of construction of buildings below 20000 sq. mtrs. is not required and the said orders have not been challenged by the Government in the Apex Court. A Notification, accordingly, has been issued by the State Government recently, taking into consideration, the law laid down by this Court. In spite of that, the impugned notice has been issued by Respondent No. 2. Prima facie, therefore, case is made out for grant of ad-interim relief.

4. Ad-interim relief is granted in terms of prayer clauses (j) and (k). Undertaking given by the Petitioners in Ground (M) is accepted. The Petitioners, however, shall file a further undertaking that they shall not carry out any construction beyond 20000 sq.mtrs., within one week. It is clarified that the Petitioners may be permitted to carry out construction of the free sell component of the buildings in the said project.

5. Issue notice to Respondent Nos.1 to 7, returnable on 28.4.2014. Humdust permitted.

[A.K. MENON, J.]

[V. M. KANADE, J.]

VAISHALI TIKAM

GOVERNMENT OF MAHARASHTRA

Tel. No.: 22793132
Fax No.: 22813947

No.ENV 2013/CR 39/TC-1
Environment Department,
Mantralaya, Mumai-400 032.
Dated: 17th January, 2014.

C I R C U L A R

Sub : Requirement of Environmental Clearance for building
projects – clarification regarding ...

The Ministry of Environment & Forests, Government of India issued EIA Notification on 14th September 2006 mandating prior Environmental Clearance for construction projects to ensure environmental aspects from planning phase till operation phase in sustainable and environmental friendly manners.

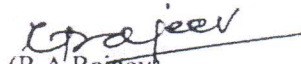
2. However, the Hon'ble High Court of Mumbai has passed order in various Writ Petitions (viz. WP No. 1916 of 2012, WP No. (L) 470 of 2013, WP No. 654 of 2013, WP No.(L) 852 of 2013, WP No. 2809 of 2012, WP No. 504 of 2012 granting relief to the redevelopment projects for residential buildings by allowing them to the extent of constructions below 20,000 m² for the 'Rehab portion' without obtaining prior Environmental Clearance.

3. In view of the above development, Environment dept. vide letter dated 29/06/2013 issued directions to State Appraisal Committees to not to consider construction below 20,000 m² undertaken in such projects as a violation of EIA Notification subject to further Court orders. Meanwhile, Hon'ble Green Tribunal Bench at Pune, passed orders dated 26/09/2013 in the Appeal No. 72 and 73 of 2013 stating that the judgment of Hon'ble High Court of Bombay are rendered in peculiar circumstances in each case and the said judgment do not give a go-bye to the requirements as enumerated vide MoEF notification dated 14/09/2006 nor OM dated 12/12/2012 issued by MoEF has been quashed or held ultra vires.

4. Therefore, in view of orders of Hon'ble NGT, earlier circular dated 29/6/2013 was withdrawn and OM dated 31/10/2013 was issued by Environment Department, indicating that, if the construction plan above 20,000 m² is approved (for Residential / Commercial / Rental Housing Scheme / SRA / Industrial Construction etc.) by the Planning Authority and part Commencement Certificate below 20,000 m² issued for commencement of the construction work to the Project Proponent without making mandatory to obtain prior EC, then such construction will be treated as a violation of the provisions of the EIA Notification 2006 read with Office Memorandum No. J-11013/41/2006-IA.II (I) dated 12/12/2012.

5. Recently, Hon'ble High Court in its order given in the matter of WP (L) No. 2305 of 2013 dated 18/12/2013 again opined that all earlier orders have not been challenged in the Apex Court and the said orders are binding on all respondents including the State Government.

6. In view of the above order of Hon'ble High Court, redevelopment projects wherein rehabilitation of tenants in SRA / Dilapidated / Cess buildings is involved, construction of rehab component below 20,000 m² may not be considered as a violation of EIA notification of 2006 (amended time to time) and read with OM of MoEF dated 12/12/2012. However, it is desirable that in such cases all environmental concerns are addressed at the planning stage only. State Environmental Appraisal Committees' (SEACs) should ensure the compliance of above orders of Hon'ble High Court.


(R.A. Rajeev)

Principal Secretary,

Copy to :

- 1) Additional Chief Secretary, Revenue Department – for information – It is requested to forward the above Circular to the Concerned Authorities comes under your jurisdiction.
- 2) Principal Secretary – I / II, Urban Development Department – for information – It is requested to forward the above Circular to the Planning Authorities comes under your jurisdiction.
- 3) Divisional Commissioner – Konkan / Nashik / Pune / Aurangabad / Amravati / Nagpur – for information and necessary action
- 4) Municipal Commissioner – Municipal Corporation of Greater Mumbai / Navi Mumbai
Municipal Corporation / Thane Municipal Corporation / Pune Municipal Corporation / Pimpri-Chinchwad Municipal Corporation / Solapur Municipal Corporation / Sangli-Miraj-Kupwad Municipal Corporation / Kolhapur Municipal Corporation / Nashik Municipal Corporation / Aurangabad Municipal Corporation / Nagpur Municipal Corporation / Amravati Municipal Corporation / Ulhasnagar Municipal Corporation / Kalyan Dombivali Municipal Corporation / Nanded – Waghala Municipal Corporation / Bhiwandi-Nijampur Municipal Corporation / Akola Municipal Corporation / Malegaon Municipal Corporation / Mira-Bhyandar Municipal Corporation / Jalgaon Municipal Corporation / Dhule Municipal Corporation / Ahamadnagar Municipal Corporation / Vasai-Virar Municipal Corporation / Parabhani Municipal Corporation / Chandrapur Municipal Corporation / Latur Municipal Corporation – for information and necessary action
- 5) Managing Director, CIDCO – for information and necessary action
- 6) Metropolitan Commissioner, Mumbai Metropolitan Region Development Authority – for information and necessary action
- 7) Vice-Chairman & Managing Director, Maharashtra State Road Development Corporation - for information and necessary action
- 8) Chief Executive Officer, Slum Rehabilitation Authority, Anant Kanekar Marg, Bandra (E).
Mumbai – 400 051 – for information and necessary action
- 9) Member Secretary, Maharashtra Pollution Control Board, Sion (E), Mumbai – for information
- 10) Member Secretary, State Level Expert Appraisal Committee –II / III – for information and necessary action