

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**
THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

Original Application No.07/2022(WZ)

IN THE MATTER OF:

Mr. Shashikant Vitthal Kamble

Residing at: Popular Colony Flat No. Ci/13,
Near Vitthal Nagar, Warje Maiwadi, Warje,
Pune - 411 058.

.....Applicant

Versus

- 1. Ministry of Environment, Forest & Climate Change (MoEF&CC) New Delhi, through its Secretary,**
having office at Indira Paryavaran Bhawan,
Jor Bagh Road, New Delhi - 110 003
- 2. Central Ground Water Authority (CGWA), New Delhi, through its Chairman,**
having office at: 'Central Ground Water Board',
Bhujal Bhawan, NH-IV, Faridabad – 121 001.
- 3. Central Pollution Control Board (CPCB), New Delhi, through its Member Secretary,**
having office at : Parivesh Bhawan,
CBD-cum-Office Complex
East Arjun Nagar, Delhi - 110 032.
- 4. Environment Department, Maharashtra Through its Principal Secretary,**
having office at: Room No.229,
Mantralaya, Mumbai-400 032.
- 5. State Environment Impact Assessment Authority (SEIAA), Maharashtra, through its Chairman,**
having office at : 601, 6th Floor, NKM International House,
behind LIC Yogakshema Building,
177 Babubhai Chinoy Marg,
Nariman Point, Mumbai -400 020.
- 6. State Expert Appraisal Committee(SEAC), Maharashtra, through its Chairman,**
having office at : 15th floor, Environment Department,
Mantralaya, Mumbai-411 032.
- 7. State Ground Water Authority, Maharashtra**
Through its Chairman,
having office at: New Agriculture College Building,
1st Floor, Bhujal Bhavan, KB Joshi Marg

Near, Shivajinagar, Pune - 411005.

- 8. Maharashtra Pollution Control Board (MPCB) Mumbai, through its Member Secretary,**
Having office at: Kalpataru Point, 3rd & 4th floor,
Road No.8, Sion Circle, Opp. PVR Theater,
Mumbai- 400 022.
- 9. Maharashtra Pollution Control Board (MPCB),**
Pune, through its Regional Officer,
Having office at: Jog Center, 3rd Floor,
Mumbai Pune Road, Wakdewadi, Pune - 411 003.
- 10. District Environment Impact Assessment Authority,**
Through the Collector, Pune as a Chairman,
having office at : New Collectorate office,
Opposite Sasson Hospital, Pune- 411 001.
- 11. The Commissioner Land and Records, Pune**
Through its Commissioner and Director,
Having office at: 2nd & 3rd floor,
New Administrative Building, Opposite Council Hall,
Agarkar Nagar, Pune- 411 001.
- 12. Pune Metropolitan Region Development**
Authority (PMRDA) through its Metropolitan
Commissioner and Chief Executive Officer
having office at: Maharaj Sayaji Gaikwad Udyog Bhawan,
Ward No.8, Survey No.152 - 153,
Aundh Gaon, Aundh, Pune - 411 067.
- 13. Naiknavare Developers Private Limited**
through its Project Proponent,
Mrs. Gauri Naiknavare
having office address at : 1204/4,
Ghole Road, Shivajinagar, Pune - 411 005.
having site address at: "Avon Vista"
at Survey No. 8/3, 8/4, 8/5, 8/6, 8/7,
8/9, 8/10, 8/11, 8/12, Mhalunge,
Pune - 410 501.

.....Respondent(s)

Counsel for Applicant:

Mr. Viraj Pawar, Advocate

Counsel for Respondent(s):

PRESENT:

Hon'ble Mr. Justice Dinesh Kumar Singh (Judicial Member)

Hon'ble Dr. Vijay Kulkarni (Expert Member)

Reserved on : 21.02.2024

Pronounced on : 22.03.2024

JUDGMENT

1. This Original Application has been filed with the prayers that a direction be issued to the respondent No.13-Naiknavare Developers Private Limited through its Project Proponent to stop illegal construction in contravention to the Environment Clearance condition; a Committee be constituted with a direction to submit a factual report, based on which the illegal constructions, if any, be directed to be demolished; direction be issued to the government authorities as well as the Joint Committee to make a plan for restitution of the environment; and environmental compensation be levied from the respondent No.13-PP.

2. In brief, the facts of this case are that the respondent No.13-Naiknavare Developers Private Limited had obtained the Environment Clearance Permission on 18/07/2016, a copy of which is annexed as Annexure 'A'. On 19/09/2018, the Project Proponent was issued the amended Commencement Certificate by the Respondent No. 12-Pune Metropolitan Region Development Authority (PMRDA) for starting of the construction activity in the said project scheme, a copy of which is annexed as Annexure- 'B'. Another amended Commencement Certificate was issued by the respondent No.12 to the Respondent No.13-PP for the same purpose. On 17.12.2020, the respondent No.12 issued the Completion Certificate to respondent No.13-PP for Residential Building B-1, a copy of which is annexed as Annexure- 'D'. On 24/03/2021, the respondent No.8- Maharashtra Pollution Control Board issued the Consent

to Operate, a copy of which is annexed as Annexure 'E'. On 31/03/2021, the respondent No.12 issued the Completion Certificate to respondent No.13-Project Proponent for Residential Building A-1, a copy of which is annexed as Annexure 'F'.

3. It is further submitted in this application that on 123rd Meeting of the SEAC-3 held on 2nd, 3rd, 6th, 7th, 8th & 9th September 2021, the respondent No.13- Project Proponent submitted proposal for amendment in the Environment Clearance. On 02/06/2021, the respondent No.12 issued the amended Commencement Certificate to the respondent No.13-Project Proponent, a copy of which is annexed as Annexure 'G'. On 14/10/2021, a notice was got issued to the respondent No.13 for violation during the construction activity, which was also duly served upon the respondent No.1-MoEF&CC to respondent No.12- PMRDA.

4. It is further submitted in this application that the respondent No.13-Project Proponent had proposed to construct the said project in question in the year 2016 and construction of the same was carried out by the respondent No.13 in violation of the EC terms & conditions. The respondent No.13-Project Proponent carried out additional construction without getting the EC amended. Since 2016 till the filing of this application, the respondent No.13-PP never made an application for obtaining amendment in the Environment Clearance. On 18/07/2016, the Environment Clearance was granted to the Respondent No.13 for carrying out construction for the Residential Buildings A1, B1, B2, A2, A3, B3 and Club Houses. The said Environment Clearance Permission is annexed as Annexure- 'A'. On 17/12/2020 and 31/03/2021, the Respondent No.12 issued the Completion Certificate to the Respondent No.13, which are annexed as Annexure 'D' & 'F' respectively.

5. We find that there are number of repetitions made in the pleadings by the applicant and that the pleadings mentioned in this application are very vague, making it difficult to understand as to what is the actual dispute, by and large, it appears that the ground of filing this application is that the terms & conditions of EC are allegedly violated by the respondent No.13-PP.

6. In para nos.27 & 28 of this application, there appears to be repetition of the earlier mentioned facts. In para no.29 of this application, it is submitted that the respondent No.13 approached the respondent No.12-PMRDA and obtained the Commencement Certificate dated 19/09/2018 for a total plot area of 50,900.00 sq. mtrs. The Environment Clearance dated 18.07.2016 for the same including FSI and Non-FSI built up area was 73427.00 sq. mtrs. There are various typographical errors found in the present Original Application, such as in para no.32, reference is being made of respondent No.15. But we do not find the name of respondent No.15 to be there in the present application.

7. It is further submitted in this application that the respondent No.13 has extracted the ground water through drilling bore in the ground without taking prior permission. The Respondent No.13-PP did not carry out plantation as per the guidelines of the appropriate Government authority. Respondent No.13 has not installed Rain Water Harvesting System, Sewage and Waste Water Management Systems nor have installed Pollution Monitoring Systems.

8. In other paragraphs of the present Original Application, by and large, there is repetition of facts and it is very much apparent that there is no coherence in what the applicant is trying to convey.

9. Looking to the facts, it appears that the Predecessor of this Tribunal, on the very first date i.e. on 22.02.2022, while admitting the matter, has noted only 5 points pertaining to the violations of EC norms, which are narrated herein below:-

- “
- (i). *Plot area of Environmental Clearance (EC) and the plot area of the commencement certificate are different.*
 - (ii). *The configuration of the buildings has been changed.*
 - (iii). *Construction without prior permission of the competent authority.*
 - (iv). *Construction of the building (A-1 and B-2) without having any environmental clearance.*
 - (v). *Construction and action of the Respondent in contravention of the sanctioned layout plan and the environmental clearance conditions.”*

10. On 21.02.2024, during argument, the learned counsel for applicant has also tried to confine himself to these five points only. On the very first date of this matter having been admitted by the Tribunal, the Joint Committee was constituted and also direction was given to send notices to the respondents.

11. In compliance of the above-mentioned order, the Joint Committee has submitted its report, which is annexed at page nos.129 to 355 of the paper book, the relevant part of which is quoted herein below for the sake of convenience:-

“3.0 Observation and Findings:-

This report is outcome containing factual and action taken report of the said joint committee based on the preliminary information received from the nodal agency, followed by site inspection, information given by PP & Pune Metropolitan Region Development Authority (PMRDA) through MPCB and subsequent discussions of the joint committee. The observations & findings of the joint committee are given as below:

Observations w.r.t Environmental Clearance

Details of EC, sanctioned plans, plinth certificate, completion certificate and current status of the project as verified and submitted by PMRDA to MPCB is given at Table No. 1. Copy of the same is given at Annexure-2 for kind information.

to time, none of them has been challenged from the side of applicant at relevant time within the prescribed limitation period.

57. With the above directions/observations, we deem it appropriate to dispose of this application and is accordingly disposed of.

58. All pending applications, if any, also stand disposed of. No order as to cost.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

March 22, 2024
Original Application No.07/2022(WZ)
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