

Item No.2

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

[Through Physical Hearing (with Hybrid Option)]

ORIGINAL APPLICATION NO.41 OF 2023 (WZ)

Arun Nathuram Gaikwad

.... Applicant

Versus

Secretary, Environment Department,
Govt. of Maharashtra & Ors.

.... Respondents

Date of hearing : 09.10.2023

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicant : Mr. Aditya Pratap, Advocate

Respondents : Mr. Aniruddha Kulkarni, Advocate for R-1 and R-6
Mr. Raghvendra Kulkarni, Advocate holding for
Mr. Rahul Garg, Advocate for R-5

ORDER

1. From the side of respondent No.5 – MoEF&CC, in their affidavit filed on 07.10.2023, in paragraph No.16, it is submitted that with reference to the allegations made by the applicant, a letter dated 08.08.2023 was sent to the Regional Office of MoEF at Nagpur for conducting site inspection of the project in question, which was conducted on 01.09.2023 and it appears that the respondent No.5 – MoEF got a report on the project. A copy of that report has not been annexed. We direct the learned counsel for respondent No.5 to submit that report on record for our perusal. A certain portion of that report appears to have been narrated in paragraph No.16 of the said affidavit wherein it is mentioned that the Wadala notified area has been notified and layout sanctioned in 1985 and the development initiated in 1985

onwards. The construction of buildings especially in Phase-I were carried out by the individual proponents between 1995 to 2017 and the built-up area was less than 20,000 sq.mtrs. After the plan was revised in 2010, in Phase-II, one block has been allotted to M/s Macrotech Developers Limited (Lodha Crown Buildmart Pvt Ltd) and other developers have obtained EC for the constructions. No other developments/constructions took place after 2019 revised plan. Further, the MMRDA will dispose of the plots (when vacated) through tendering as per MMRDA Disposal Regulations, 1977 and Environmental Clearance on individual plots will be insisted to be taken by the Project Proponent, if applicable.

2. In paragraph No.17 of the said affidavit, it is mentioned that the majority of the layout/infrastructure is developed prior to EIA Notification. The MMRDA shall ensure that the individual plot owners to obtain prior EC in case the built-up area is more than 20,000 sq.mtrs.

3. From the side of respondent No.6 – SEIAA, reply-affidavit dated 06.10.2023 has been filed wherein it is submitted that the scheme by the name “Lodha Green City” at Block C, Wadala Terminus, which is being built by M/s Lodha Crown Buildmart Pvt. Ltd., has been granted prior Environmental Clearance (EC) on 05.09.2011 for total built-up (TBUA) area of 10,98,835 sq.mtrs, which comprised of 10 residential and one commercial buildings. A copy of the said EC has been annexed at pages 252 to 259 of the paper-book. Thereafter there was an amendment in the said EC on 17.01.2013 whereby TBUA was increased to 11,29,344 sq.mtrs. and the residential building numbers was increased from 10 to 12. Copy of the said EC dated 17.01.2013 is annexed at pages 260 to 262 of the paper-book. The next amendment to the said EC was granted on 11.06.2014 on account of modification in parking plan, for the basement area was increased and thus, TBUA was increased to 11,48,749 sq.mtrs. Copy of the said EC dated 11.06.2014 is annexed at

Annexure-3. Thereafter, subsequent amendment dated 15.01.2019 was granted whereby TBUA was reduced to 9,16,995.57 sq.mtrs., a copy of which is annexed at Annexure-4. Thereafter, EC dated 15.01.2020 was granted for expansion for TBUA of 8,85,691.51 sq.mtrs. But we find that instead of expansion, the area was reduced from earlier area. A copy of the said EC dated 15.01.2020 is annexed at Annexure-5.

4. Further it is mentioned in this affidavit that the validity of grant of EC cannot be raised by the applicant in the present case nor can they be adjudicated, as, for that, an appeal would have to be filed.

5. It appears from the above two replies from respondent No.5 – MoEF and respondent No.6 – SEIAA that the project in question i.e. Township and Area Development Project was launched in 1985 prior to the coming into force the EIA Notification, 2006 and that the allotment of plots out of the total area would be done by the MMRDA, which is reflected from the reply of respondent No.5 in paragraph No.17 and it is those plot owners who would have purchased the said plots who would have to obtain prior EC before raising construction provided the same exceeds 20,000 sq.mtrs individually. From the above two replies, it appears that no EC is required as such for the entire project by the name Township and Area Development Project, which is being constructed in an area of 122.10 Hectares.

6. The learned counsel for the applicant has been served with a copy of above two replies and he seeks time to file rejoinder thereto. We grant him three weeks' time for the same.

7. We would require from the applicant to convince us as to how the Township and Area Development Project would require prior EC because it is not respondent No.3 – MMRDA, which, according to the applicant, is raising construction and hence, requiring EC, rather we find that it is the

individual owners who would be allotted plots out of this area, who would be required to obtain EC, individually, if so applicable.

8. Put up this matter after receipt of the rejoinder to be filed by the applicant, for admission with a direction to the learned counsel for the applicant to serve a copy of the rejoinder to the learned counsel for respondent Nos.5 and 6 in advance, on 09.01.2024.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

October 09, 2023
O.A. No.41/2023(WZ)
npj