

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

[Through Physical Hearing (with Hybrid Option)]

**APPEAL NO.23 OF 2023 (WZ)
WITH
I.A.NO.09/2024 IN APPEAL NO.23/2023 (WZ)**

Protection of Environment and
Public Service Committee Appellant

Versus

Union of India & Ors. Respondents

Date of Hearing : 19.11.2024

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

Applicant : Mr. Tanaji Gambhire, Advocate along with Mr. Vijay Mhaske,
Advocate

Respondents : Mr. Rahul Garg, Advocate for R-1/MoEF&CC
Mr. Aniruddha Kulkarni, Advocate for R-2/Env’t.Deptt.,
R-3/SEIAA and R-4/MCZMA
Ms. Manasi Joshi, Advocate along with Ms. Pooja Natu,
Advocate for R-5 and R-6/MPCB
Mr. Saket Mone, Advocate along with Ms. Shrushti Torat,
Advocate for R-11

ORDER

1. From the side of respondent No.1 – MoEF&CC, learned counsel Mr. Rahul Garg has appeared.
2. From the side of respondent Nos.5 and 6 – MPCB, learned counsel Ms. Manasi Joshi has appeared and states that she has already filed the reply-affidavit.
3. From the side of respondent No.11 – Project Proponent, learned counsel Mr. Saket Mone has appeared and filed the reply-affidavit dated 23.10.2024, wherein it is averred that there is no error in the *ex post facto* Environment Clearance (EC) in the present case, as no prior EC was required till the construction below threshold limit of 20,000 sq. had been

completed. IN the case in hand, when the EC was applied, construction of 16,733 sq.mtrs had been undertaken by the answering respondent. On the basis of the orders dated 24.03.2014 and 18.12.2014, passed by the Hon'ble High Court of Bombay in Writ Petition (L) No.655 of 2014 (**Glomore Constructions and Ors. Vs. The Union of India and Ors.**), Circular dated 21.04.2015 has also been issued by the Government of Maharashtra, which is annexed at page 1410 of the paper-book in this regard. The EC granted is annexed at pages 1485 to 1495 of the paper-book, wherein the proposed built-up area (FSI + Non-FSI) is recorded as 3,23,656.18 sq.mtrs. and under the project category, 8(b) B1 is recorded. When we made a query to the learned counsel for respondent No.11 – Project Proponent as to whether the project in question is a township, he drew our attention to page 1447 of the paper-book, which is an application for prior EC in the present matter, wherein at serial No.3, category of the project as per Schedule of EIA Notification, 2006 under clause (a) i.e. Major Project/Activity, it is recorded under 8(b) as “Townships and Area Development Projects”. Therefore, it appears that the EC has been granted treating the project as Township and Area Development Project.

4. Now the question arises as to whether the law laid down in the case of **Glomore Constructions and Ors. Vs. The Union of India and Ors.** would be applicable in the case in hand, because it is being opposed by the learned counsel for the applicant. We find that till now, respondent No.3 – SEIAA has not yet filed the reply. The same may be filed within two weeks. Respondent No.1 – MoEF&CC also shall file its reply-affidavit within two weeks and clarify the position as regards the above aspects.

5. None has appeared from the side of respondent Nos.8 and 9 – Mira-Bhayander Municipal Corporation. We would like them to file an affidavit as to whether the project in question was approved as Township or simply a under-construction project. Since none has appeared from the side of respondent Nos.8 and 9, we direct the Registry to send a letter to these

respondents directing them to file their reply-affidavit in the present case within two weeks from the date of uploading of this order, failing which we will be compelled to direct their personal appearance in this case.

6. It has also transpired from the perusal of the reply of respondent No.11 – Project Proponent that there is another Original Application being O.A. No.107/2022 pending consideration before this Tribunal with regard to the same project, which is fixed on 26.02.2025. We direct the Registry to place present appeal along with O.A. No.107/2022 on 26.02.2025. Since an I.A. No.09/2024 (WZ) has been moved by respondent No.11 with the prayer that the present appeal may be tagged with O.A. No.107/2022, the same shall stand disposed of.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

November 19, 2024
APPEAL NO.23/2023(WZ)
npj