

**BEFORE THE APPELLATE AUTHORITY CONSTITUTED BY THE  
BOARD UNDER THE PROVISIONS OF THE RIGHT TO INFORMATION  
ACT, 2005.**

**HEARING HELD ON 24/01/2008**

Mr.Kris Charuvilla James,  
Room No.61, 2<sup>nd</sup> Floor, Samata Colony,  
Transit Camp, Pant Nagar,  
Ghatkopar (East),  
Mumbai- 400 075.

... Appellant

V/s

Public Information Officer (HQ),  
Maharashtra Pollution Control Board,  
Kalpataru Point Bldg., 3<sup>rd</sup> Floor,  
Sion(East), Mumbai-400 022

... Respondents

**ORDER**

The Appellant had applied to the Chief Information Officer of the Maharashtra Pollution Control Board, asking him to provide inspection of all the files pertaining to the application preferred for obtaining "Environmental Clearance" and all actions taken in relation to redevelopment project on Plot bearing CTS No.194(part) of Village: Ghatkopar, situated at Pantnagar, Ghatkopar (East), Mumbai in respect of M/s.Agnel Developers, Mumbai. The Appellant also asked for information about all correspondence between MPCB & Ministry of Environment & Forests, Govt.of India, Govt.of Maharashtra, BMC, MHADA and M/s.Agnel Developers etc.

Chief Public Information Officer of the MPCB at HQ given reply to the application stating that as per new EIA Notification dtd.14/09/2006, small re-development & construction projects have been exempted and in respect of large projects, having construction area over 20,000 sq.mtrs. only, an Environment Clearance is required as per said Notification. He has also made it clear that MPCB has not received any application from M/s.Agnel Developers for re-development of land belonging to economically weaker section. He had also stated that due to amendment to the earlier EIA Notification dtd.14/09/2006, Tenants Association and MHADA at Survey No.236-A, CTS No.194 (part) in Pantnagar, Ghatkopar (East), Mumbai, may

not require Environment Clearance. He had also pointed out that work of granting permission for re-development does not come under the purview of MPCB, it is granted by MHADA & MCGM. Therefore, MPCB is unable to take action against M/s.Agnel Developers. If necessary, the Applicant may contact MHADA & MCGM for taking further necessary action.

During the hearing extended to the Appellant on 24/01/2008, Shri Parvinder Singh, Advocate for the Appellant stated that the scheme for re-development include rehabilitation of 512 existing tenants and the said building has already been completed. Besides that, on account of additional FSI, more than 500 new tenements will also be added in the said complex. He has pointed out that his client has already filed FIR before the Police Authority alongwith all necessary documents and copy of the said documents was enclosed to the application made by the Applicant under Right to Information Act, 2005 before the Chief Public Information Officer of the Maharashtra Pollution Control Board. He has further brought to the notice that Commencement Certificate for the above project was received in February, 2006 i.e. much prior to new EIA Notification dtd.14/09/2006. His client therefore asked the details about action taken by MPCB against M/s.Agnel Developers for starting construction without obtaining EIA. His grievance was that Chief Public Information Officer, MPCB has not made available the information asked by his client with malafide intention to hide the illegal acts of the said developer. His contention was that MPCB was duty bound to initiate necessary action against M/s.Agnel Developers and other interested parties for commencing the construction work without obtaining mandatory Environment Clearance. Therefore, the appeal was preferred.

Chief Public Information Officer of MPCB stated that his office has not received the documents stated by the Advocate for the Appellant and shown the original application in his record, where, only forwarding page of the document but without enclosures. The same was shown to the Advocate & Appellant and they have agreed to make available one set by 25/1/2008. The

Advocate for the Appellant also referred to the Letters of Intent dtd.15/10/2004 & 21/10/2004 respectively and the application made by M/s.Agnel Developers for Environment Clearance dtd.24/2/2007.

Chief Public Information Officer filed on record his reply to the Appeal dtd.15/1/2008 and stated that the Regional Officer, MPCB, Mumbai is looking after the area & monitoring the activities and Regional Officer (Project & Planning), MPCB looks after Environment Clearance at HQ. Since, M/s.Agnel Developers not applied for Environment Clearance, MPCB was not having any details of such activity. Therefore, he had rightly pointed out the factual situation to the notice of the original applicant.

The Appellate Authority has come to the conclusion that taking into consideration the submissions made by the Advocate for the Appellant, it appears that there is necessity to investigate the matter of redevelopment through the concerned officer of the Board on account of Commencement Certificate granted by the MCGM prior to 14/09/2006 i.e. new EIA Notification. It becomes necessary to confirm whether the re-development scheme is covered under old EIA Notification, 1994 as amended on 07/07/2004, as the Advocate for the Appellant brought on record substantial details, which prima-facie show that the re-development scheme on the face of record attracts EIA Notification dtd.07/07/2004.

Therefore, the Appellate Authority asked Dr.Arjun Jadhav, Field Officer, MPCB, Mumbai and Shri Sandeep Tope, Field Officer from Regional Officer(Project & Planning) Division to explain the queries raised by the Advocate for the Appellant. Shri Sandeep Tope, Field Officer from RO(P&P) Division told since application is not received, he is unable to offer any comments. Dr.Arjun Jadhav, FO visited the spot but could not get any information, as nobody was available. He told that he has not seen anybody at the spot from the outside, but construction work is going on. He assured to visit

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the spot afterwards because he was having very little time, having short notice given by his Regional Officer-Mumbai and therefore, just taken round of the area. The Appellate Authority therefore hereby instruct the Regional Officer, MPCB, Mumbai to cause visit & inspection of the said area and to submit a detailed report about the re-development scheme, including whether it covers under old EIA Notification, 1994 or a new EIA Notification dtd.14/9/2006.

Dated this 25<sup>th</sup> day of January, 2008 at Mumbai.

Sd/-  
(D. T. Devale)  
Appellate Authority  
MPCB