

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH: NAGPUR
WRIT PETITION NO.791 OF 2006**

Vidarbha Institute of Mountaineering and Adventure

V/s

Secretary, Ministry of Environment & Forests, GOI & Ors.

Mr.R.K. Deshpande, Advocate for petitioner
A.G.P. for Respondent No.1, 2, 3
Mr.N.W. Sambre, Advocate for Respondent No.4
Mr.Kaptan, Advocate for Respondent No.5
Mr.V.R. Manohar, Senior Advocate for Respondent No.9 & 10

**CORAM: R.M.S. KHANDEPARKAR AND
S.R.DONGAONKAR, JJ**

DATE : 14.07.2006

Heard the Advocates for the parties, Perused the records. The Learned Senior Advocate for the Respondent No.9 and 10 has placed on record a letter dtd.6.7.2006 by the Maharashtra Pollution Control Board, which reads :

- “1] Plot No.1 & 2 are independent and separated and naturally sub divided plots by D.P. Road and plans have been approved by Nagpur Municipal Corporation on 1.3.2006.
- 2] The project will be “Private Information Technology Park” located on industrial land admeasuring plot area of 30252.593 sq.mtrs.(3.025 hectares) and in accordance with the I.T. and ITES Policy, 2003.
- 3] The construction of the building is in progress and till date the investment incurred in the projects is about 27% of the total project cost.
- 4] It is propose to provide the full fledge sewage treatment plant with reuse of treated water for secondary purposes like landscaping, flushing, cooling power backup. It is also propose to provide the rain water harvesting.

: 2 :

In view of above and in consideration of the contents in the application submitted by you under reference above, it is to inform you that your project does not attract the provisions of the EIA Notification dtd.7.7.2004.

This letter is issued keeping in view that development of this IT Park (Industrial estate) for non-polluting activities. No change of user shall be undertaken.

You should separately submit the application for consent to establish/operate under Section 25 of the Water (Prevention & Control of Pollution) Act, 1974 and under Section 21 of Air (Prevention & Control of Pollution) Act, 1981 and amendments thereto alongwith the required consent fees.

However, you should obtain the necessary permissions / clearances from the concerned Central and State Departments”

The Learned Senior Counsel has further stated that the Respondent No.9 & 10, do not intend to carry out any development contrary to what has been permitted and / or exempted from the requirement of Environmental Pollution Clearance Certificate.

Considering the controversy, which is sought to be raised in the matter and the defence raised by the Respondent No.10 on the above referred letter, it is apparent that there are disputed questions of facts involved in the matter. Besides, the concerned authorities are yet to apply their mind as regard the grant of Environment Clearance Certificate to the development by the Respondent in relation to the plots other than the plot No.1 and 2, as the clearance has been granted under letter dated 6.7.2006 relates only to the said two plots. Nothing prevents the petitioners or any aggrieved person from placing their grievances in relation to the issues sought to be raised in the petition before the concerned authorities. In case, the said Respondents approaches those authorities for Environmental Clearance Certificate for the purpose of development in the plots other than plot No.1 and 2, needless to say that, if any grievance is placed before the authorities by the petitioners, those authorities will have to consider the same in accordance with the provisions of law.

It was also sought to be contended that the directions should be given to those authorities to grant a personal hearing to such persons, who may make representation before those authorities. Question of granting such direction at this stage does not arise in the absence of any material before us which would disclose that in spite of statutory requirement for providing such hearing, the same has been denied by the concerned authorities. It will be for the authorities to apply their mind to act in accordance with the provisions of law when any such representation is made in the matter.

While accepting the statement made on behalf of the respondent assuring the court that the Respondent will not flout any of the provisions of the law relating to protection of environment and will carry out the development bearing in mind those provisions and in accordance with the provisions of law, after obtaining clearance certificate where ever it is necessary and at the same time, availing exemption, if any in that regard available under the statutory provisions, we do not find it necessary to interfere in the matter at this stage.

No cogent material is placed before us in support of allegation of development being carried out or proposed at the place having water-body or that any heritage edifice being affected by the development in question. The allegation being without any basis and supporting material, there is no scope for interfere in writ jurisdiction in the matter in issue and particularly at the stage in the facts & circumstances of the case depicted above.

While granting liberty to the petitioner to approach the concerned authorities with necessary representation, who shall deal with the same in accordance with the provisions of laws, we dispose of the petition without expressing any opinion on any of the issues sought to be raised in the matter.

Sd/-
Assistant Registrar
High Court of Bombay
Bench at Nagpur