

MAHARASHTRA POLLUTION CONTROL BOARD

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Date - 30/8/12

To

The Joint Director (APC)

Maharashtra Pollution Control Board

Mumbai

Sub - Writ Petition No 1584 of 2012

JSW Energy Limited V/s Union of India and Ors

Ref - Hon'ble High Court order dated 22/8/2012

M/s JSW Energy (Ratnagiri) Limited, (JSWERL) had set up a 4 X 300 MW Coal Based Power Plant, at Jaigad, Ratnagiri, JSWERL had filed aforesaid Writ Petition before the Hon'ble High Court of Judicature at Mumbai, Bench at Mumbai, aggrieved by the Board's Order dated 3rd July 2012 and 5th July 2012 regarding revocation of Bank Guarantee for installation of FGD at their Power Plant.

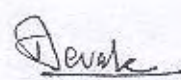
The Petitioner's Advocate has submitted that the Ministry of Environment and Forest, Govt of India has accepted their request for revision of the Schedule for installation of FGD as proposed in their letter dated 24th May 2012 and 18th June 2012. The deadline stipulated for installation of FGD stand extended. A copy of letter of Ministry of Environment and Forest, Govt of India dated 9th July 2012.

In view of the above, the Hon'ble High Court passed an order dated 10th July 2012, stating that the Ministry accepts the revised Schedule of implementation of FGD at Jaigad Thermal Power Plant of M/s JSW Energy Limited and the Bank Guarantee of Rs.527 Crore shall continue to be in force and be valid for 36 months till the FGD is installed for the fourth unit."

The said matter was again come up before the Hon'ble High Court of Judicature at Mumbai, Bench at Mumbai on 22nd Aug 2012, wherein the Hon'ble High Court has accepted that in view of letter dated 9th July 2012, of

Ministry of Environment and Forest, Govt of India, the time limits for installation of the four units of FGD have been extended as indicated, the MPCB shall not invoke the Bank Guarantee so long as the petitioner has the benefit of the extended time limits as communicated in the letter dated 5th July 2012. Accordingly, Petitioner's Advocate submitted that they will complete the installation of the requisite FGD within the extended time limits as indicated in the letter dated 9th July 2012 and accordingly the Hon'ble H.C. disposed off the above petition by order dated 22nd Aug 2012.

You are requested to bring to the notice of Consent Appraisal Committee the Hon'ble High Court Order dated 22/8/2012. A copy of the Hon'ble High Court order dated 22nd Aug 2012 is enclosed for your perusal.


(D T Devale)
Sr Law Officer
o/c

Encl- As above.

Copy to -

- i) Regional Officer, MPCB, Kolhapur/ Sub Regional Officer, MPCB, Ratnagiri- for information and necessary action.
- ii) Asstt System Officer, MPCB, Mumbai- He is requested to hoist the Hon'ble High Court order dated 22/8/2012 on the website of the Board.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY.

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1584 OF 2012

JSW Energy Limited ..Petitioner

Versus

Union of India & Ors. ..Respondents.

Mr. Venkatesh Dhond, Senior Advocate with Mr.Vikas Kumar i/b. Anil T. Agarwal for petitioner.

Mr. B.M. Chatterjee with Mr. D.P. Singh for the respondent No.1.

Ms.Sharmila Deshmukh for respondent No.2.

Ms. Sabeena Mahadik i/b. S.R. Legal for respondent No.3-IDBI.

**CORAM: MOHIT S. SHAH, C.J. &
N.M. JAMDAR, J.**

DATE : 22 August 2012.

P.C.

Rule, returnable forthwith.

2. The petitioner company has challenged the decision dated 3 July 2012 of the Maharashtra Pollution Control Board at the meeting of the Consent Appraisal Committee for issuing show cause notice to the petitioner company for refusal of consent as the industry has not provided Flue Gas Desulphurization (FGD) as per Environmental Clearance/Consent and the consequent decision to invoke the bank guarantee.

3. The learned counsel for the petitioner has pointed out that the said decision is taken on the basis that the petitioner had not installed

the FGD at Jaigad Thermal Power Plant within the time limits stipulated earlier. The learned counsel points out that by letter dated 9 July 2012 of Government of India in the Ministry of Environment and Forest the time limits for installation of the four units of FGD have been extended as indicated in the said letter dated 9 July 2012 at Exhibit "A" to the additional affidavit dated 9 July 2012. It is submitted that the petitioner, therefore, still has time to install the FGD units and, therefore, the Maharashtra Pollution Control Board is not justified in invoking the bank guarantee given by the petitioner as a security for compliance with the conditions of the Environment Clearance/Consent.

4. The learned counsel for the Government of India as well as the learned counsel for the MPCB do not dispute the above position that the Government of India has extended the time limits by its letter dated 9 July 2012.

5. In view of the above, it is clear that the impugned decision taken by the MPCB through their Appraisal Committee on 3 July 2012 would not survive in so far as the petitioner's units at Jaigid, Taluka Ratnagiri is concerned.

6. In view of the above, the MPCB shall not invoke the bank guarantee so long as the petitioner has the benefit of the extended time limits as communicated in the letter dated 5 July 2012.

7. We are granting the above relief in view of the statement being made by Mr. Dhond, the learned counsel for the petitioner that the petitioner company shall complete the installation of the requisite FGD units within the extended time limits as indicated in the

Government of India letter dated 5 July 2012 without seeking any further extension.

8. Petition is accordingly disposed of.

CHIEF JUSTICE

(N.M. JAMDAR, J.)