

MAHARASHTRA POLLUTION CONTROL BOARD
POLICY AND LAW DIVISION

Sub : Before the National Environment Appellate Authority
New Delhi , Appeal No.39/2009 filed by
Shri Dattaram Tandel and Ors.
v/s
M/s.Shivalik Ventures.

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Shri Dattaram Tandel and Ors. have filed an Appeal No.39/2009 against M/s.Shivalik Ventures and Ors. (MPCB is Respondent No.5) before the Hon'ble National Environment Appellate Authority, New Delhi. The Appellants have challenged the Environment Clearance granted to M/s.Shivalik Venture (Respondent No.8) for SRA residential and commercial building project at Santacruz (East), Mumbai, as the SRA project was approved vide Letter of Intent dtd.7/9/2009, it falls under EIA Notification dtd.27/1/1994 and thereby they were denied the opportunity of public hearing.

On hearing the parties, the Hon'ble National Environment Appellate Authority come to the conclusion that though the Lol was issued on 7/9/2006, permission for construction was granted on 30/3/2007, which is after the date of EIA Notification dtd.14/9/2006 and thereby, the EIA Notification dtd.14/09/2006 is applicable to the said case. The same stand was also endorsed by the Hon'ble High Court in their order dtd.10/12/2009 in Writ Petition No.2038/2009. The appeal is therefore devoid of sufficient grounds and is unfit for further discussion on merit and the appeal is accordingly not admitted vide order dtd.31/12/2009.

BEFORE THE NATIONAL ENVIRONMENT APPELLATE AUTHORITY
NEW DELHI

DATED 31ST DECEMBER, 2009

PRESENT:

HON'BLE MEMBER J.C. KALA

APPEAL No. 39 of 2009

BETWEEN:

1. Mr. Dattaram Jahardas Tandel
Adult, Indian Inhabitant,
Having address as Room No. 29, Jawahar Nagar,
Golibar Road, Khar (E), Mumbai - 400 054
2. Dr. Azhar Ansari
Adult, Indian Inhabitant, having address as
Shifa Clinic, Golibar Fish Market,
Nehru Nagar, Santacruz (E), Mumbai - 400 054
3. Mr. Mangesh Sonavane,
Adult, Indian Inhabitant, having address as
Karuna CHS, New Ambewadi, Jawahar Nagar,
Golibar Road, Khar (E), Mumbai 400 054
4. Mr. Sagar Kale,
Adult, Indian Inhabitant, having address as
Hanuman Hitwardhak Society, Jawahar Nagar,
Golibar Road, Khar (E), Mumbai 400 054
5. Mr. Rajan Ramchander Patel,
Adult, Indian Inhabitant, having address as
Hanuman Hitwardhak Society, Jawahar Nagar,
Golibar Road, Khar (E), Mumbai 400 054



6. Mr. Simpreet Singh,
Adult, Indian Inhabitant, having address as
C/o Ghar Bachao Ghar Banao Aandolan,
29-30, 1st Floor, Haji Habib Building,
Naigaon Cross Road, Dadar (E) Mumbai 400 014

7. Mr. Rajkumar K. Awasthi
Adult, Indian Inhabitant, having address as
Residing at B/14, Shanti Nagar, CST, Road,
Kurla (W), Mumbai -- 400 070.

... APPELLANTS

AND:

1. Union of India
Through the Additional Secretary,
Ministry of Environment and Forests,
Paryavaran Bhawan, C.G.O Complex,
Lodhi Road, New Delhi -- 110 003
2. State of Maharashtra,
Through Secretary -- Environment Department,
Room No. 217, 2nd Floor, Mantralaya Annexe,
Mumbai -- 400 032.
3. The State Level Environment Impact Assessment Authority,
State of Maharashtra,
Through its Chairman,
Room No. 217, 2nd Floor, Mantralaya Annexe,
Mumbai -- 400 022.
4. The State Level Expert Appraisal Committee,
State of Maharashtra,
Through its Chairman,
Maharashtra State Pollution Control Board,
Kalpatru Point, Sion,
Mumbai -- 400 022
5. The Maharashtra State Pollution Control Board,
Through its Member Secretary,
Kalpatru Point, Sion,
Mumbai -- 400 022



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6. The Chief Executive Officer (CEO),
Slum Rehabilitation Authority,
Grihanirman Bhawan,
Bandra (E), Mumbai - 400 051
7. Mumbai Housing and Area Development Board,
A Unit of MHDA,
Through its Chief Officer,
Grihanirman Bhavan,
Bandra (E), Mumbai - 400 051
8. M/s. Shivalik Ventures,
26, Onlooker Building,
Sir, P.M Road, Fort,
Mumbai - 400 001.

... RESPONDENTS

Counsel for Appellants : Shri Parvinder Singh Sethi, Advocate

Counsel for Respondents :

1. Respondent - 1 (MoEF) : Not Present
3. Respondent -2 State of Maharashtra (E&F) : Not Present
4. Respondent - 3 (SLEIAA) : Not Present
5. Respondent-4 (SEAC) : Not Present
6. Respondent - 5 (MPCB) : Shri Aftab Alam, Advocate
Shri Mukesh Verma, Advocate
7. Respondent-6, (SRA) : Shri Kailash Pandey for
Shri Sanjay V. Kherde, Advocate
8. Respondent -7, (MHADB) : Not Present
9. Respondent-8, M/s. Shivalik Ventures : Ms. Deepa Chawan, Advocate
Shri Arvidh Gupta, Advocate



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ORDER

This is an Appeal preferred under section 11(1) of the National Environment Appellate Authority Act, 1997 against order No. 21-1141/2007/IA-III, dated 17.08.2009 of Respondent-2 (Secretary - Environment Department, Maharashtra) conveying prior Environmental Clearance for SRA residential and commercial building project at Santacruz (E), Mumbai in favour of M/s. Shivalik Ventures, 26, Onlooker Building, Sir P M Road, Fort, Mumbai - 400 0001 with prayer to cancel and declared the prior EC dated 17.08.2009 granted under EIA Notification dated 14.09.2006 as illegal, null, void and not sustainable in law.

2. The said Appeal was preferred on 14.09.2009 before the National Environment Appellate Authority (NEAA). The Appeal was registered and listed for hearing on admission on 26.11.2009. The counsel for Appellants, Respondents 5, 6 and 8 were heard on admission. Counsel for the Appellants sought permission to file rejoinder to the reply of MPCB. Permission was granted and adjourned the hearing of the Appeal to 21.12.2009 on admission. The case was taken up for hearing on 21.12.2009 and reserved for orders with the direction to file written submission. The Appellants and Respondent - 8 filed their written submission on 29.12.2009.

3. The Appellants have challenged the Environmental Clearance on the main ground that since the Slum Clearance Project was approved vide Letter of Intent dated 7th September 2009, it falls under EIA Notification Dated 27.01.1994 and thereby they were denied the opportunity of mandatory Public Hearing.

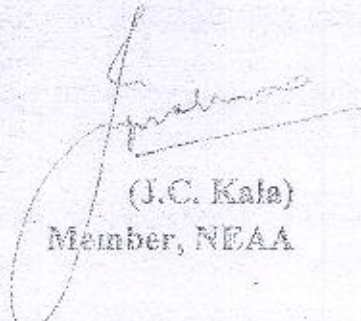


4. The Authority has perused all the relevant records in this regards including the submission of Respondents and find that no doubt the LOI was issued on 7th September, 2006, permission for construction was granted vide Intimation of Approval dated 30th March, 2007 which is after the date of commencement of EIA Notification Dated 14th September, 2006. And therefore, Notification Dated 14th September, 2006 is applicable in the instant case. This stand has also been endorsed by the Hon'ble High Court in their Order Dated 10th December, 2009, vide para 8, in Writ Petition No. 2038 of 2009, which has taken note of other grievances of the Appellant while disposing the petition regarding the same matter.

5. No other issues regarding impact of Project on Environment has been raised by the Appellant. As against, the Authority finds that the Environmental Clearance letter stipulates necessary mitigative measures and safeguards which has not been challenged by the Appellant. Violation of Environmental Clearance conditions as raised by the Appellant during the hearing can be taken up before the appropriate Authority for necessary action.

6. The Appeal is therefore devoid of sufficient grounds and is unfit for further discussion on merit.

7. The Appeal is accordingly not admitted.


(J.C. Kala)
Member, NEAA



2, 20/11/2010
Copy Master
National Environment Appellate Authority
Ground - 2nd Floor, Bhikaji Cama Place
New Delhi-110065