

Applicant: M.H. Khatke  
Copy Application No. 939117  
Proceeding No. R.C.C. No 199/14  
The date on which the copy is applied for - 7/9/17  
The date on which the application is granted - 7/9/17  
The date on which the copy is for delivery - 12/9/17  
The date on which the copy is received - 12/9/17

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*B.M. Khatke*  
Assistant Superintendent, R.C.C. 199/14  
M. F. C. Court, Nashik-Road  
12/9/17 Maharashtra Pollution Control Board  
V/s  
Shree Buildcon & Associates

Mediation Report

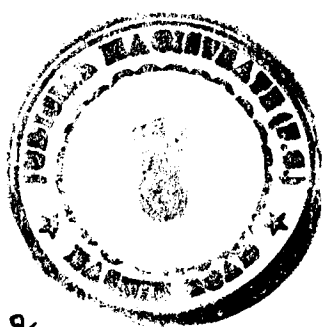
Both parties are present before me. Matter is amicably settled through mediation. Accused is ready and willing to pay penalty <sup>Rs. 50,000/-</sup>. Mediation is successful and parties arrived at settlement amicably. I have annexed the settlement pursis alongwith this report at Art-A which forms the part of this report.

Hence, the matter is send back to the referral Court for disposal of the matter in accordance with law.

Parties are directed to appear before the referral court on 04/10/2016.

Date: 04/10/2016  
Nashikroad

*M.R. Yadav*  
04/10/16  
(M.R. Yadav)  
Mediator Judge  
Judicial Magistrate, F.C.  
Jt. Court Nashikroad



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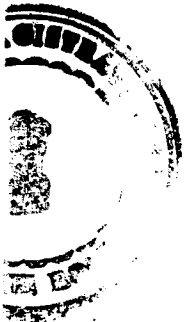
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*B.M. Khatke*  
Assistant Superintendent  
M. F. C. Court Nashik Road  
12/9/17

Order below Exh.1 in RCC No.199 /2014

(Passed on 15.12.2014)

1. This is a complaint under section 15 and 16 of the Environment (Protection) Act 1986 r.w. sec. Environment Impact Assessment Notification 2006. The complainant is the Maharashtra Pollution Control Board, constituted under section 4 of the Water (Prevention and Control Pollution ) Act 1974 and shall be deemed to be the State Board for the Prevention and Control of Air Pollution under the provisions of the Air (Prevention and Control of Pollution) Act 1981. The accused No.1 is the partnership firm constituted under the provisions of Partnership Act and accused No. 1 is represented by accused No.2 and 3. They were nominated for the execution of construction of proposed residential development. (Shree Gajanan Park at Sr. No.258/2/2/1+2+3+258/2/3/3 Devlali). They are directly the incharge and responsible to the company for the conduct of the business of the company. The accused were engaged in the development of proposed residential development project, but they failed to comply the provisions of aforesaid Act and failed to obtain prior environmental clearance from the concerned regulatory authority for the matters following under category-A in the schedule from the Ministry of Environment and Forest, Government of India and for Category-B in the schedule from the State Environment Impact Assessment authority before starting any construction work or preparation of land by the project management.

2. The counsel for complainant argued at length on the point of issue process and it is specifically argued that the activity of accused falls under the category No.8(a) under the schedule in the Notification dated 14.9.2006 they failed to obtain environmental clearance certificate from the regulatory authority and started the actual work of their project. The principal secretary Environment Department by letter dated 22.7.2013 issued proposed directions to the accused No.1 for carrying out the construction without obtaining prior environment clearance from the Government of Maharashtra and thereby violated the provisions of Environment Impact Assessment 2006. The necessary compliance has been made by the complainant and the notice of 15 days was issued to the accused. In the reply accused informed that they had obtained commencement certificate vide order dated 20.12.2010 for built up area 22408.89 sq. meter and started the construction. They had applied for environmental clearance in February 2011. In the hearing given to accused No.1 by the personal secretary, it was observed that the sanction of the plan and commencement certificate was obtained by accused No.1 and thereafter it applied for environment clearance on 22.7.2011, but started actual construction of 21,900 m<sup>2</sup> at the aforesaid site prior to obtaining the clearance certificate. Thereby the accused No.1 committed the offence Puni. U/s.15 of the Environment Protection Act 1986



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readwith Environment Impact Assessment 2006. Hence, the process may be issued under said Act and the accused may be punished.

3. I have perused the record filed by the complainant. The complaint is filed alongwith the annexure in which the copy of notification dated 16.4.1987, 14.9.2006 are filed. Moreover, the directions issued by the principal Secretary of Government of Maharashtra dated 24.6.2014 and the copy of directions issued to the project proponent dated 24.6.2014 and 22.7.2013 are filed on record. Moreover, the photo copy of the reply dated Nil of the accused company is also filed on record. All these documents prima facie shows that the accused company started construction on the basis of commencement certificate issued, but without obtaining prior environment clearance from the concerned regulatory authority and actually started the construction total BUA of 21,900 m<sup>2</sup> at the aforesaid site. Thereby, prima faice it reveals that the accused persons are liable to face the trial for the offence Punishable U/s. 15 of the Environment Protection Act 1986 read with the Environment Impact Notification 2006 for carrying out the construction activity at the site without obtaining environment clearance. Prima facie case is made out by the complainant to have a trial on the basis of this complaint against the accused and therefore, process needs to be issued against the accused for the aforesaid offences. Hence, following order is passed.

Order

i) Issue process against accused No.1 to 3 for the offence punishable U/s. 15 of the Environment Protection Act 1986 read with the Environment Impact Notification 2006 on PF.

Date:15.12.2014  
Nashik-road

A H Kashikar  
15/12/14  
(Smt. A.H. Kashikar)  
Judicial Magistrate First Class,  
Nashik-road



12/11/17  
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Att-A

R.C. No. 199/2014

IN THE COURT OF THE CIVIL JUDGE, JUNIOR DIVISION  
OF NASHIK ROAD

Applicant: Shri. M. N. Kulkarni  
Copy Application No. 933117

AT NASHIK ROAD.

Proceeding No. REC. 199/14  
The date on which the copy is applied for - 7/9/17

... Complainant

The date on which the application is granted - 7/9/17 State

The date on which copy is ready for delivery - 12.9.17 Maharashtra Pollution Control Board

The date on which it is delivered - 12.9.17 V/s.

Shree Buildcon & Associates

... Accused

B.M.S.  
Assistant Superintendent  
M. P. C. Court, Nashik Road

MAY IT PLEASE YOUR HONOUR

Application on behalf of ~~Complainant~~ accused as under -

That the said matter has been amicably settled in mediation and the accused is hereby ready and willing to pay the penalty of Rs 50,000/- hence in the interest of justice the accused be released on minimum penalty and the case be disposed off.

Hence this Application

Date - 12/11/2016



AT  
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Att-A

Complainant

Accused

O.S. to say  
BY  
2

[Signature]

तक्रारदार तर्फे जबाब Advocate for Accused

मं: कोर्टने योग्य ते हुकुम पारीत करणेल हरकत नाही.

Xeroxed by [Signature]  
Compared by [Signature]

[Signature]  
P.P. Jark  
Adv. for Complainant  
11/10/16

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B.M.S.  
Assistant Superintendent  
M. P. C. Court, Nashik Road  
12/11/17

Order below Exh. 1 in RCC No.199/2014

This is a compliant filed under section 15 of Environment (Protection) Act, 1986 r/w the Environment Impact Assessment Notification, 2006. In view of settlement as per mediation report below Exh.9 alongwith pursis Art-A the accused are directed to deposit fine of Rs.50,000/- in the office of complainant mentioned in the complaint by cash or cheque/D.D. as per rules and accordingly by order dated 4.8.2017 this court allowed the accused to pay an amount of Rs.50,000/- to the complainant. The accused filed application vide Exh.10 along with copy of cheque of Rs.50,000/- and letter regarding same.

Accused have deposited the amount of Rs.50,000/- by Cheue No. 001609 dated 4.8.2017 alongwith letter dated 4.8.2017 to the complainant's office. The said cheque has been realized in the account of complainant. In view of order below Exh.1 the dispute is settled between the complainant and accused. Hence, the following order.

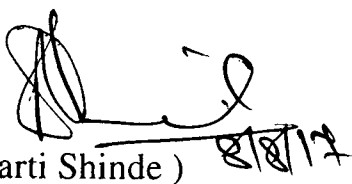
Order

- i) The complaint is disposed-off in view of mediation report Exh.9 and pursis at Article-A.
- ii) The accused No.1 to 3 are discharged from the offence punishable under section 15 of Environment (Protection) Act, 1986 r/w the Environment Impact Assessment Notification, 2006.
- iii) The order below applications below Exh.9 are being treated as part and parcel of this order.

Date : 08/08/20  
Nashik Road.




Accused by  
Compared by

  
( Aarti Shinde )

Judicial Magistrate First Class.,  
(2<sup>nd</sup> Jt. Court), Nashik Road.

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Assistant Superintendent  
M. P. G. Court Nashik Road  
12/9/17