

MAHARASHTRA POLLUTION CONTROL BOARD

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No.BO/P&L Divn./B- 288)

To

The Regional Officer
Maharashtra Pollution Control Board
Mumbai /Navi Mumbai/Raigad/Kolhapur/
Amravai/ Thane/ Nagpur/ Pune/Nashik/Chandrapur
Kalyan/ Aurangabad

Kalpataru Point, 2nd 3rd&4th Floor,
Sion Matunga Scheme Rd.No.8
Opp. Cine Planet cinema,
Near Sion Circle, Sion (E),
Mumbai-400 022.
Date:23/05/2009

110606FF0179.

Sub-Compliance of Various Conditions imposed by the Competent Authority on the MPCB and the provisions of EIA Notification 2006 as decided by the Hon'ble High Court of Judicature at Mumbai in the Writ Petition No 7050/2010

Ref - Hon'ble High Court Order dated 1/6/2010 in Writ Petition No 7050 of 2010

The Sarpanch, Grampanchayat Tiroda and others had filed Writ Petition bearing No 7050 of 2010 against the Ministry of Environment and Forest, Govt of India and others, aggrieved by the Order dated 11/09/2009 passed by the National Environment Appellate Tribunal, rejecting the appeal preferred by the Petitioners on the ground that it was time barred by the Limitation. They had preferred the Appeal before the National Environment Appellate Tribunal, challenging the grant of Environment Clearance by the Ministry of Environment and Forest, Govt of India dated 31/12/2008 in favor of M/s Gogte Minerals in Village- Tiroda, in Sindhudurg- District, in the State of Maharashtra, alleging that there are several infirmities in grant of Environment Clearance and non-application of mind etc

The Petition was heard at length. It was observed that the National Environment Appellate Tribunal rejected the Appeal on the ground that the Appeal was received by the Authority on the 222nd days from the date of Environment Clearance and therefore, it was beyond the Jurisdiction of the Environment Authority to entertain the Appeal for disposal on account of its being time barred. However, the Petitioners specifically pointed out that the Environment Clearance was granted subject to the specific conditions, such as making available a copy of clearance to the concerned Panchayat /Local NGO, if any from whom suggestions/representation has been received while processing the proposal, State Pollution Control Board to display a copy of the Clearance at the Regional Officer/ District Industry Centre and Collector's Office for 30 days and also to make available at the Website of the Ministry of Environment and Forest, Govt of India and the State Pollution Control Board.

The Hon'ble High Court specifically observed that the Maharashtra Pollution Control Board in its affidavit has made no averments about the non compliance of condition No (XV) in respect of placing the Clearance on the Website of the Board. Similarly, the Clearance letter was not accessible on the Website of Ministry of Environment and forest, Govt of India and Maharashtra Pollution Control Board. It was also noted that the State Pollution Control Board has admitted that the Clearance letter was not displayed on the Website of the Board. The Court also has taken note of the placing of Clearance on the Ministry of Environment and Forest, Govt of India, Website on or about 13/5/2009, when through inadvertence in the Appeal-Memo, stating that the Clearance was available on the Website in the Second Week of April 2009, but no available on that date. the Hon'ble High Court noted the following important points in favour of the Petitioner's

- i) Hon'ble High Court was of the view that the National Environment Appellate Authority did not consider the question of limitation in its proper perspective and not given any opportunity of hearing to the Petitioner's to show cause as to why the Appeal should not be dismissed on the ground of Limitation.
- ii) The Petitioner's could not be held to be constructively posted with the knowledge of all/or any of those conditions, which mandated that the Environment Clearance was to be displayed on the Website of the Ministry of Environment and Forest, Govt of India and the Maharashtra Pollution Control Board. Hence, the burden was on the Respondents to show that the Environment Clearance was displayed on the Website of the said Authorities--
- iii) The Hon'ble Court accepted the explanation given by the Petitioners for the delay of about 57 days only in filing of the Appeal and come to the conclusion that the matter is required to be sent to the National Green Tribunal established under the National Green Tribunal Act, 2010, for hearing the Petitioner's Appeal on merits, after treating the same as filed within the period of limitation.

A copy of said order is enclosed for ready reference and perusal. You are therefore hereby instructed that in future you shall ensure that the copies of various Environment Clearance granted from your jurisdiction are placed on the Website of the Maharashtra Pollution Control Board by giving a "link : - Various Environment Clearances received from the Competent Authorities under the EIA Notification, 2006 placed for the information of General Public."

You shall also ensure that various conditions of Environment Clearance imposed by the Competent Authorities with reference to the MPCB are being implemented by the Maharashtra Pollution Control Board within the stipulated time. *Order Sent by E-Mail.*

Devale
(D T Devale)
Sr Law Officer

Copy submitted to—Member Secretary, MPCB, Mumbai—for favour of information.

Copy f.w.cs to -

- 1) Joint Director (Air Pollution Control)/ Joint Director (Water Pollution Control)/ Zonal Officer (PAMS)/ Principal Scientific Officer/ Regional Officer (Project and Planning)/ Regional Officer (HQ), MPCB, Mumbai—for information. *Hon'ble H/C Order Sent by E-Mail.*
- 2) Asstt System Officer, MPCB, Mumbai— He is requested to hoist the enclosed Note alongwith the Hon'ble High Court Order delivered by Hon'ble High Court Of Judicature at Mumbai in Writ Petition No 7050 of 2010 for the information of all concerned.